

Opinion of BREYER, J.

## SUPREME COURT OF THE UNITED STATES

No. 97–463

TEXTRON LYCOMING RECIPROCATING ENGINE  
DIVISION, AVCO CORP., PETITIONER v. UNITED  
AUTOMOBILE, AEROSPACE AND AGRICUL-  
TURAL IMPLEMENT WORKERS OF  
AMERICA, INTERNATIONAL  
UNION AND ITS LOCAL 787

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE THIRD CIRCUIT

[May 18, 1998]

BREYER, J., concurring in part and concurring in the judgment.

I agree with pages 1 through 5 of the Court’s opinion. I also agree with the Court that the Union failed to show (or even to allege) a significant likelihood that it would strike and that Textron would then sue it for breach of its collective-bargaining agreement. See *ante*, at 8–9. I write separately, however, because this factual circumstance has more significance than the Court’s opinion suggests. See *ante*, at 5–7. Indeed, in my view, if the Union had shown that a strike and consequent employer breach-of-contract lawsuit was imminent, then the Declaratory Judgment Act, 28 U. S. C. §2201, would have authorized the District Court to adjudicate this controversy. Unlike the Court, I would not leave the matter undecided.

My conclusion flows from the following two legal propositions: *Proposition One*. The Declaratory Judgment Act permits a federal court to “declare the rights and other legal relations of any interested party” as long as there exists an “actual controversy” that is “within [the] jurisdic-

tion” of a federal court. 28 U. S. C. §2201(a).

*Proposition Two.* Section 301 of the Labor Management Relations Act (LMRA), 29 U. S. C. §185(a), permits a federal court to adjudicate *both* an employer’s claim that a contract’s (*i.e.*, a collective-bargaining agreement’s) “no strike” clause forbids an ongoing strike *and* the related Union defense that it is free to strike because the contract itself is invalid. See *ante*, at 5; Brief for Petitioner 29 (“[B]efore enforcing an agreement, courts must adjudicate affirmative defenses such as fraud . . . in the collective bargaining process”); Brief for United States as *Amicus Curiae* 13–14; *Kaiser Steel Corp. v. Mullins*, 455 U. S. 72, 85–86 (1982).

*Proposition One* means that the Declaratory Judgment Act gives a federal court the power to declare the “rights” and “legal relations” of both union and employer where the “controversy” described in *Proposition Two* is “actual,” *e.g.*, where the strike and consequent employer lawsuit is imminent. Moreover, this Court has pointed out that “[f]ederal courts have regularly taken original jurisdiction over declaratory judgment suits in which, if the declaratory judgment defendant [such as the employer here] brought a coercive action to enforce its rights, that suit would necessarily present a federal question.” *Franchise Tax Bd. of Cal. v. Construction Laborers Vacation Trust for Southern Cal.*, 463 U. S. 1, 19 (1983). Hence the characterization of the Union’s “no valid contract” claim as a “defense” that could not *independently* support §301 jurisdiction is beside the point. See *ibid.*; *Public Serv. Comm’n of Utah v. Wycoff Co.*, 344 U. S. 237, 248 (1952) (in declaratory judgment context, “it is the character of the threatened action, and not of the defense, which will determine whether there is federal-question jurisdiction in the District Court”); see also 10A C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* §2767, p. 741 (2d ed. 1983) (“federal nature of the right claimed not to exist is crucial to jurisdic-

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tion”).

This conclusion draws support in principle from the Declaratory Judgment Act’s basic objective, which is “to permit adjudication of either party’s claims of right.” *Franchise Tax Board, supra*, at 19, n. 19. And the conclusion draws support in practice from the prevalence in the lower courts of “reverse” declaratory judgment actions that focus upon a party’s likely defense, including actions found in contexts such as that now before us. See, e.g., *El Paso Bldg. & Constr. Trades Council v. Associated Gen. Contractors of Am.*, 376 F. 2d 797, 799–800 (CA5 1967) (union threatened to strike, then filed declaratory judgment action for determination of contract’s validity, and court took jurisdiction under §301); *McNally Pittsburg, Inc. v. International Assn. of Bridge, Structural, and Ornamental Iron Workers.*, 812 F. 2d 615 (CA10 1987) (where actual controversy existed with union, employer allowed to seek prospective declaration that contract was invalid); *Mobil Oil Corp. v. Oil, Chemical and Atomic Workers Int’l Union, AFL-CIO*, 483 F. 2d 603 (CA5 1973) (same), rev’d on other grounds, 504 F. 2d 272 (1974) (en banc). Cf. *Walker Process Equipment, Inc. v. Food Machinery & Chemical Corp.*, 382 U. S. 172, 176 (1965) (one likely to be sued for patent infringement “need not await the filing of a threatened suit by the patentee; the validity of the patent may be tested under the Declaratory Judgment Act”).

I cannot find any reason for an exception that would forbid “reverse” declaratory judgment actions in labor law contexts such as this one. To the contrary, this Court has suggested that the availability of declaratory judgment actions furthers the LMRA’s basic purposes. See *Textile Workers v. Lincoln Mills of Ala.*, 353 U. S. 448, 454–455 (1957) (§301 designed to promote “industrial peace” by “provid[ing] the necessary legal remedies”); *id.*, at 455–456 (quoting from floor statement of Representative Barden, 93 Cong. Rec. 3656–3657 (1947), that “the section . . . contem-

plates not only the ordinary lawsuits for damages but also such other remedial proceedings, both legal and equitable, as might be appropriate . . . [including a suit] under the Declaratory Judgments Act in order to secure declarations from the Court of legal rights under the contract”; *Smith v. Evening News Assn.*, 371 U. S. 195, 199 (1962) (“[Section] 301 is not to be given a narrow reading”). And the National Labor Relations Board, in an *amicus curiae* brief, tells us that such an action would not interfere with its administration of federal labor law. See Brief for United States as *Amicus Curiae* 27 (“The Board . . . has concluded in this and other cases . . . that a suit under Section 301(a) to declare a contract voidable based on fraud in the inducement does not unduly intrude upon its authority”).

Thus Declaratory Judgment Act jurisdiction would lie in a case like this one, *provided however* that the declaratory judgment plaintiff demonstrates an “actual controversy.” 28 U. S. C. §2201(a); *Aetna Life Ins. Co. v. Haworth*, 300 U. S. 227, 239–240 (1937). The Union failed to make any such showing here, and for that reason I agree with the Court’s ultimate conclusion.