



THE DAVIS-BACON ACT: A CLOSER LOOK

Statement by
Dr. Anthony P. Carnevale, Chair
National Commission
for Employment Policy

Presented to
United States Senate
Labor and Human Resources Committee
on
S. 141

February 22, 1995

The notion that Davis-Bacon wage protections are inefficient and unfair has become conventional wisdom. Like most widely held assumptions, this one remains largely unexamined. When "everybody knows" and proofs are non-existent or superficial, it is time to look again. As always, a closer look reveals a more complex and, in this case, a more positive reality. This statement is the result of such a review by myself and the Commission staff. I am especially indebted to Marc Baldwin, the Commission's Associate Director for Special Projects, for his initiative and rigor in assisting me in the development of this statement.

The Davis-Bacon Act was passed in 1931 to require contractors to pay certain crafts locally prevailing wages on federal construction projects. Congress intended to reduce inter-regional competition and to limit the role of federal spending in encouraging wage competition. Davis-Bacon regulations currently cover about 10 percent of all construction spending and from 500,000 to 700,000 construction workers (also about 10 percent of the construction work force).¹ My statement argues that Davis-Bacon repeal will result in less cost savings than is currently estimated, will reduce work place safety, and runs counter to policies that Congress should be considering for the construction industry. I support reform of the Act, but not repeal. Moreover, I would encourage Congress to pursue policy options that will have more positive long-term effects in the industry, namely, increased training opportunities and efforts to raise living standards instead of reducing wages.

I would also encourage the Congress to expand the current debate beyond piecemeal consideration of individual labor protections. The current debate over Davis-Bacon and other labor protections speaks to issues beyond the arguments over the effectiveness of particular legislative provisions. The immediate purpose of an economy, after all, is to meet the material needs and wants of the citizenry. Jobs that do not provide a living wage for American families or that encourage the substitution of low-wage labor for skill and technology are not in the long term public interest. Our deliberations on Davis-Bacon as well as other labor protections should include careful assessment of the impact of proposed changes on access to a viable family wage for those affected.

In addition to consideration of impacts of Davis-Bacon on living standards, now and later, we need to approach the debate over Davis-Bacon and other labor protections as a dialogue on the appropriate balance between market forces and American cultural and political values. Most agree that legislative provisions that reduce current or potential productivity ultimately reduce our cultural and political prospects. At the same time, however, market forces can lower wages and reduce economic security below levels required to sustain a culture based on broadly cast middle class status as well as discourage the independence and direct political involvement of individuals. An economy where too many individuals and families exchange their labor motivated by desperation tends to discourage a culture of individualism and broadly based equality and a political system that presumes active participation. "Necessity," as Ben Franklin

¹ Figures calculated by the Department of Labor, Wage and Hour Division.

wrote, "never made a good bargain."

American cultural and political values suggest to me that we need to limit "desperate exchanges" of labor for inadequate wages if we are to sustain access to the broad middle class and retain an appropriate balance between our market economy and our individualist culture and participatory politics. Davis-Bacon and other labor protections are intended to help strike that balance. They are especially important in America where union membership is not available to the vast majority of workers. Individuals by themselves are relatively defenseless against the "desperate bargain" that markets can sometimes force on them. Those in unions can bargain with market forces collectively. Collective bargaining doesn't presume a winner, but it does make for a fairer fight. Those without unions rely on legislative provisions -- including Davis-Bacon -- to set limits on market forces and to remedy market failures. If Davis-Bacon wages fall, other workers' wages within and beyond the construction industry will fall even further. For most Americans, the government is the union of last resort and that simple reality shouldn't be lost as we consider Davis-Bacon and similar provisions that sustain the balance between our economy, culture, and political system.

Finally, work by Stephen Barley at Stanford University, and a host of others, shows that a persistent American cultural bias exists against those without college degrees. Davis-Bacon helps to correct the economic effects of that bias in at least one industry. Simply put, we tend to overpay college graduates and underpay skilled technical workers without college degrees or professional degrees. The wages of non-college skilled workers from technicians in manufacturing to technologists and nurses in health care and the skilled trades worker in construction are not commensurate with their value added and productivity. If we ever hope to create real incentives and options for work and learning among our non-college bound youth, wage differentials like those supported in Davis-Bacon are both powerful material incentives and symbols of cultural value.

Overview of the Issue

Advocates of Davis-Bacon repeal argue that it will reduce construction costs, lower the federal budget deficit, and reduce barriers to work reorganization in the industry. Opponents of repeal and those who favor reform believe that Davis-Bacon encourages productivity and high skill/ high wage jobs in the construction industry, supports living standards, reduces inter-regional competition, and provides needed regulation of labor supply in a volatile industry. The following testimony is intended to expand on these issues.

From this short characterization, it is clear that Davis-Bacon raises fundamental questions about costs and benefits. There is no denying that Davis-Bacon alters price mechanisms, however slightly, and economists like to have prices move freely. But that's only part of the story: the full picture has to include both the costs of allowing

markets to operate without some policy guidance and the benefits of Davis-Bacon to workers, consumers, and the construction industry.

Debate on this issue is not occurring in a vacuum. In all sectors of the economy, the living standards of less educated Americans are on the decline. Davis-Bacon operates in one of the few remaining sectors where workers with limited classroom education can make a living wage and support a family. Moreover, changes in the construction labor market suggest that Davis-Bacon plays a valuable role in recruiting high skill labor into construction trades at a time when low wages have generated a significant skill shortage in the industry.

This statement will look first at the existing estimates of cost savings, suggesting that outdated assumptions and data have resulted in significant overestimates of savings from repeal of Davis-Bacon. Second, it will discuss some important benefits of Davis-Bacon that are being overlooked. Finally, it will highlight ways in which repeal of Davis-Bacon could exacerbate negative trends already underway in the industry.

Critique of General Accounting Office Cost Estimates

Much of the debate about Davis-Bacon repeal has focused on cost savings estimates generated by the General Accounting Office (GAO) in 1979 and the Congressional Budget Office (CBO) in 1983 and 1994. These analyses, in my opinion, have missed some vital issues and fail to account for recent changes in legal and economic conditions.

Perhaps the most frequently cited case for repeal of Davis-Bacon is the 1979 GAO study.² That study concluded, among other things, that (1) changes in the national economy have made the Act unnecessary, (2) administration of the Act is impractical, and (3) wage costs are inflated by the Act. GAO called for repeal of Davis-Bacon and rescission of the Copeland Anti-Kickback Act which required weekly wage reporting. GAO also advocated repeal of 77 related statutes. I will first address the notion that changes in the national economy have made Davis-Bacon unnecessary and then discuss wage impacts. I will return to the question of administration (point 2) in discussing reform options.

The GAO study argues that several economic and legal changes have made the Act unnecessary. As they see it, declining federal spending on construction, the improved unemployment picture which looks nothing like the Depression era, and legal protections that defend all workers make the Davis-Bacon Act unnecessary. On the first point, the fact that federal construction spending is a declining portion of all construction is not relevant; the Act is intended to ensure that federal contracts are not used,

² General Accounting Office, "The Davis-Bacon Act Should be Repealed," April, 27, 1979.

however indirectly, to reduce wages and living standards. The Act never covered all construction workers. It was, instead, a statement about how federal funding should affect workers' living standards. Perhaps most significant, it is an enactment that specifically benefits the living standards of non-college educated skilled workers. Indeed, it is the only federal standard that comes to mind that attempts to encourage both high performance work places and high wages for this skill and income group of American workers. Davis-Bacon has a very limited scope, but the issues it raises go to the heart of the decline in income prospects for so many Americans.³

The fact that federal construction is a small or declining portion of total construction spending must also be considered in a broader context of industrial change. The lesson across many industries is that best-practice firms in small segments of an industry can have far-reaching influence on other firms. The Japanese auto industry, for example, has never captured the majority of the U.S. market, yet their production techniques are constantly debated and emulated by U.S. producers. It may be that the behavior of Davis-Bacon covered firms has a demonstration effect well beyond the scope of the coverage itself.

GAO's second point, the argument about improvement in the unemployment rate, has two sides. The GAO study argues that reduced unemployment makes the Act unnecessary. But a unique feature of the US economy has been a tight labor market that has not resulted in rising wages. As will be discussed below, current conditions of tight labor markets may, in fact, suggest that the Act is more important than ever both to support living standards and to protect skill levels.

Finally, we do not share the GAO's faith that such protections as the Fair Labor Standards Act, the Service Contracts Act, and other legislative enactments that protect labor standards are sufficient substitutes for Davis-Bacon. These protections have never been effectively enforced, whereas Davis-Bacon is a clearer, quantitative standard with strong enforcement. It is also apparent that all such protections are being reconsidered. Faith in work place protections other than Davis-Bacon is almost quaint in retrospect and we cannot support repeal knowing that other work place protections are under intense scrutiny.

On the question of cost savings, the GAO report is far less consistent than the report's conclusions would suggest. One element of the GAO study is an independent evaluation of the Department of Labor's determinations of prevailing wages. They surveyed 30 localities and found that in 12 of them the Labor Department set wage rates that were higher than actually prevailed while in 18 they set lower standards than prevailed. In other words, the Department of Labor set "prevailing wages" at too low a

³ Recent research for the Commission on declining employment prospects includes, Rose, "On Shaky Ground: Rising Fears About Incomes and Earnings", NCEP Research Report 94-02, October 1994.

level in 60 percent of the surveyed localities. Even though prevailing wages were underestimated in the majority of localities, this finding is not discussed in the GAO cost calculations. They instead assume that the findings in 30 jurisdictions will apply to the entire sample of about 10,000 jurisdictions. It is clear that any unbiased researcher would find the sample size far too small to extrapolate to the entire country. With this obviously flawed methodology, the cost increase due to Davis-Bacon is "conservatively" estimated at 3.4 percent.

Beyond this methodological problem, the changing economy has made the GAO cost calculations moot. A key criticism in the original GAO report was that Department of Labor estimates for prevailing wages relied too heavily on union wage rates. The GAO stated that over-estimates of prevailing wages were "usually" based on union rates. The narrowing of union and nonunion wage differentials makes this GAO criticism, and the CBO cost estimates reported below, less relevant. The GAO estimates were also made before the repeal of the "30 percent rule" which favored union wage rates in prevailing wage determinations. The combination of a declining union wage premium and the repeal of statutes that favored union wages in prevailing wage determinations combine to cast significant doubt on the continued relevance of cost savings estimates in the 1979 GAO report.

Cost estimates in the GAO report are also calculated with no concern for productivity differentials that might exist before and after repeal, changes in health and safety costs after repeal, or other complicating factors. For instance, lower wages may reduce productivity by reducing use of labor-saving technology or shifting employment away from more expensive but more productive and higher skilled workers. Workers' compensation claims may rise in a similar way, as less experienced workers replace experienced, safer employees. Careful review of the GAO study and its methodology lead us to conclude that there is severe upward bias in its cost estimates.

Critique of the Congressional Budget Office Cost Estimate

Following the GAO study, the Congressional Budget Office (CBO) produced its own analysis of the cost of Davis-Bacon in 1983, updating its findings last year and estimating that repeal would save \$5.2 billion in outlays over five years.⁴ The basis for the federal budget estimates in the 1983 report was, in turn, a 1982 study by the Department of Labor.⁵ The findings were updated in 1994, but the methodology was not changed significantly.

⁴ Congressional Budget Office, "Modifying the Davis-Bacon Act: Implications for the Labor Market and the Federal Budget," July 1983.

⁵ U.S. Department of Labor, "Final Regulatory Impact Analysis," 1982.

One of the most important factors in estimating the impact of Davis-Bacon repeal is the assumed gap between pre- and post-repeal wages. If one assumes wages will fall dramatically, then initial federal outlays for construction are more likely to fall dramatically as well (though initial gains may be lost with re-work, lost productivity, or increases in other costs). With this pivotal role of wage differentials in mind, the assumptions about wage changes in the CBO estimates are particularly troubling. The 1983 assumptions about wage differentials and accounting costs cannot be used with any confidence in 1995. As in the GAO study, the CBO estimates must be evaluated in light of changes in unionization. In 1983, when the CBO made its initial calculations, union members received 40 to 44 percent higher wages than comparable open shop employees. Most recent Bureau of Labor Statistics estimates place that premium at 29 percent. This change implies that, even if union wages were erroneously used as "prevailing" in largely unionized localities, the savings from using market averages over union rates would have declined by almost one-third.⁶

The CBO also continues to use a 1983 estimate for compliance costs. In 1983, the CBO assumed that Davis-Bacon reporting requirements added .2 percent to construction spending. This estimate is likely to be badly overstated for at least two reasons. First, it assumes that there has been no technological change or learning curve for contractors or government agencies. This is clearly a mistake, though the magnitude of the overestimation can be debated. Second, expressing reporting costs as a percentage of construction spending is misleading. Many of these costs will be fixed costs and will not be a function of construction spending generally. As construction spending rises and falls, the relative costs of contract compliance will rise and fall as a percentage of total spending. Cost savings at current construction levels have not been directly measured. Moreover, since there are likely to be scale economies to contract compliance, we would expect to see paperwork costs fall as a percentage of construction spending as spending rises. The CBO methodology does not allow for such considerations.

The CBO analysis also contains no estimates of the negative employment and revenue implications of repealing Davis-Bacon. The 1983 study includes a section entitled "Employment Effects", but that section doesn't measure all effects. Accurate accounting of the federal budget implications of Davis-Bacon repeal can only be generated using input-output or similar methodologies to model the national, regional, and state employment and income multipliers associated with changes in federal construction expenditures. Without such estimates, discussions of repeal are based solely on assumed declines in outlays without estimates of revenue losses or increased

⁶ Both supporters and opponents of Davis-Bacon sometimes mistakenly think of "prevailing wages" as meaning "union wages". The discussion of union wage premiums in this section should not be misconstrued to suggest that union wages are always prevailing wages under Davis-Bacon. It is, instead, written to suggest that savings estimates based on previous wage differentials will overstate current wage gaps and potential savings.

outlays in other budget areas.

In sum, the CBO calculations are based too heavily on assumptions generated under the economic conditions of 1983, significantly overstating wage differentials. They acknowledge the impact of higher wages on productivity and construction practices, but make no attempt to measure these impacts. They make no attempt to estimate revenue losses, discussing only potentially lower outlays. And they assume constant rates for compliance costs for Davis-Bacon compliance regardless of the level of construction spending or changes in the efficiency of compliance procedures.

Potential Revenue Losses: Evidence from States

Up to this point I have limited my comments to previous studies of cost savings and argued that such studies give less support for Davis-Bacon repeal than might be assumed. Evidence from states that have repealed state prevailing wage laws suggests that even greater caution about repeal is in order. A complete accounting of the impact of Davis-Bacon repeal would have to acknowledge the potential for cost increases both in construction and in other budget areas as a result of repeal.

A thorough econometric analysis of states which have repealed their prevailing wage laws is long overdue. One such analysis, by Garth Mangum and others, provides a model.⁷ Their model is particularly interesting because it is one of the few sources that treats construction wages as both a cost to taxpayers and as a source of tax revenue through income taxes and sales taxes. There is currently no government-sponsored comprehensive estimate of the effect of Davis-Bacon repeal on tax revenues. The Utah study is important because, unlike the CBO and GAO, it includes lost tax revenue and not just lower production costs.

The study estimates that Utah lost \$8.2 million in tax revenue in 1991 as a result of repealing its prevailing wage law. The authors also found an increase in cost over-runs as contractors understated their bids. In the decade before repeal, cost over-runs on state road construction averaged two percent. In the decade after repeal, average cost over-runs were seven percent of the accepted bid.

The Utah researchers also applied econometric analysis to the sample of all states that repealed their prevailing wage laws. This analysis used regression techniques to isolate the effects of changes in overall economic conditions, construction spending, trends in other variables, and the specific impact of prevailing wage repeal. They use this larger sample and range of variables to estimate the potential increase in employment and change in tax revenues due to lower wages following prevailing wage

⁷ Garth Mangum, Peter Philips, Norm Waitzman, and Anne Yeagle, "Losing Ground," February 1995.

act repeal. They found that only very high levels of cost savings and very low marginal tax rates could justify Davis-Bacon repeal on the basis of net cost savings to the federal government. Specifically, they find that if construction cost savings equal three percent and marginal tax rates are 20 percent, the federal government would lose \$572 million in 1994 dollars based on 1991 federal construction expenditures following repeal of Davis-Bacon.

These findings are not definitive since econometric models never capture all variables. They should be approached with as much caution as the CBO and GAO findings. They are important to bear in mind, nevertheless, because of the fundamental issues that they raise. It is, to my knowledge, the only study that contains a significant level of detail in several important areas. This model, unlike previous efforts, accounts for employment change due to potentially increased hiring at lower wages. The model estimates that each \$1,000 in lost earnings results in a 1.3 percent increase in employment. But because wages fall more than employment increases, total income in construction is expected to fall after repeal. It also directly models the tax *revenue*, not just expenditure, implications of repeal. Most significantly, the Mangum model is based on existing evidence from states that have repealed prevailing wage laws, not assumptions about how wage rates and construction costs might behave. Until CBO, GAO, or the National Commission for Employment Policy is called upon to model the repeal of Davis-Bacon with similar complexity, we believe the Utah findings are an important addition to this debate.

Innovative Work Practices

Price mechanisms have deep implications, beyond just cost of wages. Any evaluation of prevailing wage laws has to consider how firms respond to price signals. To the extent that low-wage firms must raise wages to bid under Davis-Bacon, skill complementarities must be exploited and productivity enhancements must be adopted if a contractor is going to make a competitive bid. This sort of pressure on performance is good for the system -- it is good for consumers of new construction and, in the long run, it is good for the industry.

The fact that productivity enhancements are the corollary of higher wages is acknowledged by almost all analysts and quantified by almost none of them. In 1993 testimony, the CBO noted that...

Higher wage rates do not necessarily increase costs, however. If these differences in wages were offset by hiring more skilled and productive workers, no additional construction costs would result. Similarly, the higher wage rates might encourage different, less labor-intensive

construction methods that would offset part of the difference in wages.⁸

In the CBO's account, such influences are deemed possible, but these factors are not measured nor are the dominant influences identified. The GAO's study made no attempt to measure productivity effects and only acknowledged the potential for such factors when confronted by the Department of Labor's criticism of the report. The GAO response noted that "conclusive evidence on this point does not exist" (p. 103). It is our contention that productivity effects are measurable at this time, if not when the GAO report was written. The importance of attempting such measures cannot be overstated in the current debate: With declining union-nonunion wage differentials, modest differences in productivity will make significant differences in cost savings and revenue loss estimates.

Data on highway construction are informative on this point. Research for the Operating Engineers suggests that high wage rates can be more than made up for through productivity gains. Looking at data on federally-funded highway construction between 1987 and 1990, they compared high wage states and low wage states. High wage states had labor costs that were 20 percent higher than low wage states, yet their labor cost per mile was 10 percent lower. High wage states averaged 44 fewer construction hours-per-mile. These findings support more detailed analyses that found higher productivity in unionized construction than in nonunion construction.⁹

Evidence of higher productivity in unionized firms, or negligible negative effects, has been found in most industries.¹⁰ Unions may decrease productivity by restricting work reorganization or through strikes. Unions may also increase productivity directly through labor-management committees and through collective bargaining innovations. They may also increase productivity indirectly by raising wages and thereby fostering technology adoption or work re-organization. Davis-Bacon, by limiting wage competition, plays a similar role in all firms (both union and nonunion) by encouraging the adoption of labor-saving technology and innovative work practices in order to reduce unit-labor costs without reducing wages.

⁸ Statement of Robert Reischauer before the Subcommittee on Labor Standards, Occupational Health and Safety; Committee on Education and Labor; US House of Representatives. May 4, 1993.

⁹ See for example, Allen, "Unionized Construction Workers are More Productive," Quarterly Journal of Economics, May 1984 and Mandelstamm, "The Effects of Unions on Efficiency in the Residential Construction Industry: A Case Study," Industrial and Labor Relations Review, Vol. 18, 1965.

¹⁰ Addison and Hirsch, "Union Effects on Productivity, Profits, and Growth: Has the Long Run Arrived?," Journal of Labor Economics, Vol. 7, No. 1, 1989; Bemmell, "How Unions Affect Productivity in Manufacturing Plants," Industrial and Labor Relations Review, January 1987; Mefford, "The Effect of Unions on Productivity in a Multinational Manufacturing Firm," Industrial and Labor Relations Review, October 1986. A useful overview of studies on both sides of the debate is Belman, "Unions, the Quality of Labor Relations, and Firm Performance," in Mishel and Voos, eds., Unions and Economic Competitiveness, Economic Policy Institute, 1992.

There are currently 14,000 contractors signing on to a statement supporting reform and not repeal of Davis-Bacon. These contractors are, in many ways, the best-practice firms in the industry. Their support for Davis-Bacon indicates that they are willing to compete in ways that do not reduce US living standards. One of them, Thomas Parkinson, President of Burriss Construction in New Jersey, has stated quite clearly why Davis-Bacon regulations are good for the industry. In his January 24, 1995 letter to the National Joint Heavy and Highway Construction Committee he states,

The schools, prisons, and courthouses that we have worked on use expensive and quality materials that require the use of a high degree of skilled mechanics. The Davis-Bacon Act insures that we are bidding on a basis that will allow the use of this skilled labor. To think that merely reducing the cost of labor will provide a cheaper product is ludicrous.

His firm, like any firm that wishes to remain competitive without cutting wages, must adapt productive workplace practices and increase productivity without reducing skill levels.

Work performed under prevailing wage conditions is often said to be of higher quality as well as being produced more efficiently. There is ample evidence for this linkage. An independent audit by the Department of Housing and Urban Development, for example, found a "direct correlation between labor standards violations and construction deficiencies." The cost overruns that many states experienced after state prevailing wage laws were repealed confirm the idea that shoddy work, low wages, and repeal of prevailing wage laws are connected.

Health and Safety

Cost estimates for Davis-Bacon repeal rarely include estimates of increased injury rates and workers' compensation expenditures. A Data Resources Incorporated (DRI) study of Massachusetts acknowledged the link between prevailing wage repeal and "increases in state unemployment compensation and social service expenditures", but did not model the cost.¹¹ CBO and GAO estimates do not acknowledge this factor in their cost estimates. It is undoubtedly true that such costs are difficult to quantify, but that cannot excuse researchers from acknowledging their existence.

It is not hard to see why Davis-Bacon repeal might lead to increased injury rates and workers' compensation claims. Studies of injury incidence show that training, work

¹¹ Data Resources Incorporated, Regional Information Group, "Study of the Economic Impact of Repeal of the Massachusetts Prevailing Wage Law," August 18, 1995. Page 17.

experience, and over-time are key determinants of injury rates.¹² In each case -- through reduced apprenticeship opportunity, through low-skill competition, through production speed-up -- repeal of prevailing wage laws in states would be expected to increase injury rates. A good example of this can be found by comparing injury rates in states before and after repeal of state-level prevailing wage laws. Pipe fitters, a prevalent trade in public works construction, averaged 13.8 injuries per 100 workers between 1978 and 1991 in prevailing wage states according to Bureau of Labor Statistics reports. States that have never had a prevailing wage law had higher injury rates (14.7/100). States that repealed their prevailing wage laws had the highest injury rates after repeal, at 15.4 per 100 workers (Mangum, et al.). This increase in injuries imposes hardship on workers, increases workers' compensation costs, and increases lost work days.

Racial Employment Impacts

Davis-Bacon has recently come under attack as being biased against minority workers. Such criticisms take two forms. First, some argue that Davis-Bacon emerged in a racially divided context and was designed to protect white workers alone.¹³ Second, there is a distressing argument currently being advanced by some that most worker protections -- ranging from the Fair Labor Standards Act to the Occupational Safety and Health Administration -- are a barrier to hiring of minorities and economically disadvantaged workers. The most recent example of this position relates to welfare reform and the drive to reduce workplace protections in order to encourage hiring of disadvantaged women.

On the first point, the legislative record provides ample evidence that the goal of Davis-Bacon was to ensure that the wages of all workers in a given locality were defended from low wage out-of-state contractors, regardless of the race of the contractors or the workers in the locality. Criticizing the Act now on the basis of remarks from a few Congressmen in the 1930s is to rely on little more than guilt by association. The most frequently cited Congressional remarks are by Representative Upshaw of Georgia, who commented favorably on what he assumed would be the racial effects of

¹² See, for example, L.L. Rethi and E.A. Barrett, "A Summary of Injury Data for Independent Contractor Employees in the Mining Industry from 1983 to 1990", US Bureau of Mines, 1993; D. Kriebel, "Occupational Injuries: Factors Associated with Frequency and Severity", International Archives of Occupational and Environmental Health, Vol. 50, No. 2, 1982; J.A. Gaunt, "The Relationship Between Overtime and Safety", NIOSH, 1980; K. Mason, "Some Aspects of Accident Causation Related to Occupation, Age, and Experience of Worker," Workers' Compensation Board, Vancouver, Canada, 1977.

¹³ George Will, "Davis-Bacon and the Wages of Racism," Washington Post, Feb. 5, 1995.

the law.¹⁴ Those who cite these comments neglect to mention that Upshaw was defeated in his re-election bid before the Davis-Bacon Act was passed and that he opposed the Act.

The second criticism is more insidious, calling into question all forms of workplace protection and claiming that any protection from adverse market outcomes works against minority hiring. I do not believe that Davis-Bacon and similar measures to protect workers must be relaxed or dismantled to promote hiring of some classes of workers. I also do not believe that Davis-Bacon should be repealed so that contractors can pay minority workers less than prevailing wages. It is distressing that some groups are advocating that disadvantaged and minority workers should not enjoy the same workplace safety and wage protections as incumbent workers. There are ample means to improve the employability of workers short of allowing dangerous work environments and deleterious competition on wages.

The fact is, there is no evidence that Davis-Bacon reduces minority hiring. Current data sources do not permit accurate accounting either for or against Davis-Bacon. Neither the Wage and Hour Division of the Department of Labor nor the Office of Federal Contract Compliance collect data that is detailed enough on Davis-Bacon contracts. The role of Davis-Bacon in minority recruitment to apprenticeships is also unknown given that the Bureau of Apprenticeship and Training in the Employment and Training Administration has no data on this issue for several large states, including California. This data should be systematically collected and publicly available and such collection and dissemination is long overdue. The fact that such information is not currently available points, once again, to the need to revitalize the nation's labor market information system.

Analysis of the 29 states that have reported data to the Bureau of Apprenticeship and Training is included in the Mangum study. The data are analyzed to identify changes in apprenticeship participation before and after repeal of state prevailing wage laws, controlling for a range of factors. The percentage of all construction workers who were in apprenticeships fell, on average, from 4.3 percent before repeal of state prevailing wage laws to 2.1 percent after state repeal. The data also show a positive effect of prevailing wage laws on minority enrollment in apprenticeships. Minorities were 19.4 percent of all construction apprentices in states that later repealed their state prevailing wage laws, but only 12.5 percent of all apprentices in those states after repeal. Again, these findings are based on a data set that does not include several large states, but it does suggest that critiques of Davis-Bacon based on racial disparities are difficult to defend.

¹⁴ The oft-cited remarks by Upshaw were to his Northern colleagues saying he "smiles over the fact of your reaction to the real problem you are confronted with in any community with a superabundance or large aggregation of Negro labor."

In the absence of definitive data, examples from key institutions are an important additional source of information. The case of the Laborers' International Union of North America (LIUNA) is important to cite. The LIUNA represents many of the lowest skilled job classifications in construction, the same group that Davis-Bacon opponents argue would benefit from repeal. Current experience suggests, on the contrary, that Davis-Bacon supports a diversified labor force in construction. The Construction Craft Laborer Apprenticeship program boasts of local full-year apprenticeship participation that is between 62 and 95 percent women and minority. Steward training under the direction of the LIUNA's Education Department includes emphasis on ethnically diverse work places. Looking to the future, the Laborer's effort, Task Force 2000, is an expenditure of substantial resources to devise strategies to meet the needs of women and minorities through collective bargaining. These initiatives suggest that Davis-Bacon is not a barrier to minority employment. It is part of a system that supports minority apprenticeships and decent living standards after entering the trades.

An Industry in Transition: Why Reform not Repeal

The issue of apprenticeships was raised in the context of minority recruitment, but it goes to the heart of change in the industry. Like so many U.S. industries, the construction sector is undergoing a significant transition. I believe that transition can be guided through policies such as Davis-Bacon reform. Repeal of Davis-Bacon, on the other hand, would encourage the industry to take a low-wage, low-skill path to an uncertain future.

When dramatic action such as Davis-Bacon repeal is being considered, it behooves us to ask what problem is being solved. If the issue is the federal deficit, I believe the cost estimates that currently exist are completely insufficient for estimating the costs and benefits of repeal. If the issue is minority hiring and apprenticeships, I believe, contrary to unsubstantiated assertion, that the current system can be improved without repeal of Davis-Bacon and that Davis-Bacon is, in fact, a force for minority advancement, particularly for defending safe working conditions and living standards. If there is a significant problem that warrants government intervention in the construction industry, the problem is labor shortages and skill shortages. Repeal of Davis-Bacon can play no positive role on this count.

A recent Bureau of National Affairs (BA) publication is informative on this point.¹⁵ The BA report surveyed construction industry employers and workers in key regions of the country. Although originally skeptical, the authors found overwhelming evidence of skill shortages and tight labor markets. Moreover, the source of scarcity in the labor market was clear:

¹⁵ Bureau of National Affairs, Special Report, "Skilled Labor Shortages in Construction: Real or Imagined?," December 21, 1994.

What emerges is a picture of an industry with relatively low wages in which workers no longer compete to get into what had been coveted union apprenticeship programs. At a time when owner emphasis is on fast-track, cost-effective construction and contractors struggle with paper-thin profit margins, the industry finds itself with plenty of concrete and steel but not enough skilled tradesworkers. (p. S-3)

As wages have fallen, labor supply has dried up. As Stacie Addison, executive director of the Associated Builders and Contractors in Western Colorado, puts it, "That's the thing you hear most often, that construction used to be the highest paid, and that's not the case anymore. Apprenticeship wages have not remained competitive with other non-construction wages" (S-19). There is evidence in some states in the BNA survey (Colorado, Florida, Texas) that formerly open-shop contractors are signing union agreements or hiring union labor, paying higher wages but securing the needed employees to perform skilled work.

When the full picture of the industry is taken into account, the drive for Davis-Bacon repeal is particularly misguided. The construction industry is beset with a rising demand for skilled workers, a declining pool of young people who are interested in these jobs, and an aging work force that will be retiring in large numbers over the next decade. In that context, encouraging wage decline and reducing the institutional power of unions and their apprenticeship programs is a drastic error.

Conclusion

Review of the Davis-Bacon Act has convinced me that repeal would be contrary to the interests of construction workers, the construction industry, and living standards in the country. At the very least, this action should not be undertaken without a more current and detailed estimate of the effects of the law. It is not at all clear, given existing estimates, what the benefits of repeal will be. We can, however, see significant costs. Without a more comprehensive examination of the issue, Congress runs the risk of doing to the country what the concluding sentence of the DRI study of Massachusetts warned could happen in that state: "The only clear result of repealing the Massachusetts prevailing wage law would be lower wages for certain Massachusetts residents" (p. 14).

Instead of repeal, reform could generate support among a majority of industry constituencies. With 14,000 contractors on record against repeal of Davis-Bacon, repeal has no such consensus. Consensus could be reached to reduce reporting requirements. These could be made bi-weekly or monthly. The CBO estimates savings at \$260 million over five years if reporting were monthly. It may be prudent to raise the threshold for Davis-Bacon coverage. We urge this committee and others to begin dialogue around such compromises and abandon the more divisive strategy of repeal.

Far more important than Davis-Bacon, Congress needs to think far into the future of the construction industry. This industry is in a profound transition and faces significant labor shortages, primarily because wages and working conditions in this industry have reduced the pool of interested young people. Congressional action around construction trades should address labor supply issues directly. Davis-Bacon repeal takes this industry in exactly the wrong direction. A more positive, long-term response would be to improve apprenticeship opportunities and improve the image of construction work through health and safety improvements and higher wages. Increasing labor supply in this area will, of course, result in lower labor costs through increased supply. But rather than reduce living standards, increasing apprenticeship enrollment can improve future wages, raise construction quality, and improve productivity.