status. His legal theories and writings provided the foundation for the most progressive aspects of our present-day legal system. He will be remembered as a man whose sole responsibility was defending the rights of all individuals, including the poor, the disenfranchised and the vulnerable. Justice Brennan fought for the rights of those individuals who did not have a voice in the legal system, and who were subject to inequitable treatment in our country's courts.

I am deeply grateful to Justice Brennan for his years of hard work and struggle, particularly during his latter years on the Supreme Court when his voice was one of the few that cried out against reactionary judicial activism. Justice Brennan's legacy is epitomized by the Frederick Douglass quote, ''Without struggle there is no progress.'' Thanks to the dedication of Justice Brennan to truth and justice, we are making progress in perfecting our system of justice and individuals are realizing something that is rightfully theirs—justice. Goodbye and God speed, Justice Brennan.

Mrs. MEEK of Florida. Mr. Speaker, Justice Brennan served on the Supreme Court for 34 years, from 1956 through 1990. By the general public he is remembered for his concern in protecting the rights of individuals who were not powerful. I will speak of that in a moment. But first I want to speak about him as a person.

I never met the Justice, but I think I would have liked him as a person. Let me give you one anecdote about him as a person. His office had a manual, and one item in the manual concerned the Justice's coffee. It said that every morning one clerk should prepare a cup of decaffeinated coffee with no milk or sugar and give it to him at 9 a.m. Every day he would say ''wonderful.'' One day the office coffee machine broke, and so the Justice and his clerks went to the cafeteria to get morning coffee. The Justice poured himself a cup of caffeinated coffee and put milk and sugar in it. His clerks said they thought he liked his coffee decaf black with no sugar. And he replied, ''no. I always take it this way.'' He had never told anyone in his office for more than 8 years about how he really wanted his coffee.

His decisions were controversial when he wrote them. Now they are accepted as being obvious. Look at just two of them.

In 1962, in Baker versus Carr, he changed the political landscape by declaring that Federal courts could review State legislative decisions on the boundaries of legislative districts so that everyone's vote would get equal weight in the legislative process.

Look at the facts as presented in that case. Since 1901 the Tennessee legislature had rejected every legislative attempt to change the boundaries of its own legislative districts. During that 60-year period Tennessee's population had grown and its distribution among the counties had shifted.

In 1946 the Supreme Court had decided, in Colegrove versus Green, that Federal courts should not enter the ''political thicket.'' So the lower Federal court told the Tennessee plaintiffs that the Federal courts could not help them.

Justice Brennan persuaded six of his colleagues that the lower Federal court was wrong to throw out this particular case. He said that the failure to adjust the Tennessee political boundaries to reflect the changes in population since 1901 violated the equal protection clause of the 14th amendment.

We know that the rich and powerful have their interests amply represented in the legislative process. All that the poor have is their vote. Letting the legislature set the boundaries for its own districts, without anyone looking over their shoulder, perpetuated the balance of political power from long ago.

Let me turn now to the second example of his concern for those without political power. In 1970, in Goldberg versus Kelly, his opinion for the Supreme Court held that welfare beneficiaries could not lose their benefits without first getting both a notice telling them why they would lose their benefits and a hearing where they could present their side of the conflict.

This city is full of lawyers and lobbyists who make sure that no wealthy person or corporation loses his Federal benefits without first being able to present his case—even if that takes years of litigation. Justice Brennan merely said that poor people should have some of the same rights as the wealthy. Yet back in 1970 this notion was so new that he could only persuade four of his colleagues—a bare majority of the Supreme Court.

In conclusion, Mr. Speaker, these two decisions were, when they were made, controversial. But now we realize that they improved the quality of life for ordinary people, and the Nation did not come apart. In fact, the Nation is stronger because of Justice Brennan's having served this country.

Mrs. CLAYTON. Mr. Speaker, last week, this Nation suffered a great loss.

And because of that loss, those who favor freedom and believe in individual rights and civil rights will not soon recover.

However, while we lament the loss of Justice William Brennan, Jr., we also rejoice in his life—a life during which he spent more than three decades on the United States Supreme Court.

This son of Irish-Catholic immigrants, Justice Brennan worked as a waiter to pay for his last year of law school.

Born of modest means, he refused to accept mediocrity. He had hopes and dreams. He had goals. He had vision. He dared to be different and determined to make a difference.

His classmates at a Newark, NJ, public school complained that because he took home so many of the academic awards, there were none left for others.

His zeal for learning and his zest for excellence carried him through college—the University of Pennsylvania—and Harvard Law School, and those qualities characterized his entire legal career.

But, despite his Ivy League education, he never lost touch with the average person.

To him, every ordinary person was special, and every special person was ordinary.

Perhaps it was because his father once worked as a coalheaver in the brewery, or because matters of concern to labor were central to his upbringing, but Mr. Justice Brennan had a way with words that gave life and meaning to the Constitution of the United States.

It was Brennan who authored the important and far-reaching decision in the case of Goldberg versus Kelly, the welfare reform mandate of the 1970's.

Congress can learn much from that 30-year-old decision.

In Goldberg, the Court rules that even those on welfare were entitled to due process rights—even those on welfare had the same Constitutional protections as everybody else.

We could have used Brennan's wisdom and insight when we considered welfare reform.

He also wrote the Court's opinion in Johnson versus Transportation Agency, a decision that brilliantly outlined the need and value of affirmative action.

But, I remember him most for the case of Baker versus Carr.

In North Carolina, my State, some argued to the Court where Brennan spent much of his adult life that the very document that gives us rights—the United States Constitution—somehow takes those rights away.

Sometimes, Mr. Speaker, I wonder, what the Court would do with the redistricting cases if it still had the magnetism, the persuasiveness, the foresight, the imagination, the ability to see beyond what is immediately in front, that Mr. Justice Brennan, the author of the principle of one person, one vote had.

I wonder what the state of Federal elections would be today if the Supreme Court still had among its Justices, the very man who believed and convinced a majority of others, that traditional practices must give way to individual principles.

Mr. Speaker, Mr. Justice Brennan distinguished himself as a jurist, making his mark in many places, leaving his permanent imprint on the sands of time.

Tirelessly, he was a role model for role models, and a champion for all.

He has left us, but I believe he has gone to another place, not to quit, but to fight another fight, to write another opinion, to run another race.

Mr. Justice Brennan, we will miss you, but, we know you will not be far away. Your written opinions, like the philosophy shared with you by your father, will one day inspire another Justice of your fabric, of your intellect, of your quality.

☐ 2115

THE BUDGET AGREEMENT AND THE SITUATION FOR ORGANIZED LABOR AND WORKING FAMILIES UNDER THE 105TH CONGRESS

The SPEAKER pro tempore [Mr. METCALF]. Under the Speaker's announced policy of January 7, 1997, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, today, July 29, is being celebrated as a day when a bipartisan compromise reached its climax in the 105th Congress. We have agreement on a tax bill, an agreement on an expenditure bill, and probably before we recess on August 1 we will vote on those two agreements, and there is a great deal of joy in both the majority and minority camp about this. I am not certain that I join the celebration wholeheartedly. There are some great disappointments. But nevertheless, it does demonstrate that it is possible to achieve a bipartisan consensus on some very complex matters.

We must remember that the majority party closed down the Government in 1995 over the matter of the budget and the tax package. The Speaker's statement that politics is war without blood was on everybody's lips at that time. We went to war.

So we have achieved by negotiation instead of political war a great compromise; and whereas that compromise leaves some of us disappointed on some things like the school construction, which has been left out completely, the President's initiative for school construction was a measley $5 billion over a 5-year period, nothing like the $120 billion that we need across the country to replace infrastructure in schools, but it was a beginning. Even that small beginning of $5 billion over a 5-year period was left out, and I am disappointed by that.

I am heartened by the fact that at least empowerment zones for inner-city communities was left in, is left in. I do not know the details at this point. I would like to see the details before I rejoice too loudly, but that is in. So there is reason to applaud a negotiated compromise.

I would like to appeal to the majority party to follow suit and let us have a negotiated set of processes related to the way organized labor is treated. The one place where there appears to be no hope of negotiation, no hope of civility in this 105th Congress is when it comes to the attack on organized labor and working families and the means that working families have to fight for themselves.

Nothing has changed since the last Congress. The 105th Congress is as bad as the 104th Congress. I would like to make an appeal that we lay down our guns and stop the war, and let us come to some kind of way of dealing with the working families and their needs, as we have with the tax package for the rich and some other important items that have recently been negotiated.

Mr. Speaker, I sit as the ranking member of the Subcommittee on Workforce Protection, so I am on the firing line with the hearings and the preparations for more wars and the attack on the Department of Labor. I am right there where I see that the 105th Congress' strategy is the same as the 104th Congress when it comes to labor.

We have seen already a passage of the TEAM Act, we have seen already passage in this House of the bill to eliminate overtime, cash payment for overtime. There is a change in the Fair Labor Standards Act, a radical change, taking away the dollars that working people need and offering comp time instead, and giving the power certainly to the employer to decide whether you get paid in comp time or get paid in cash. So that was certainly a blow to working families.

Fortunately, that has not passed in the other body yet. We hope it will never pass, or if it passes, the President will veto it. But that is out there. It was the first bill that they led off with in terms of an attack on working people. Of course, since then there has been a new threat in terms of a large amount of money; $1.4 million was voted to investigate labor unions.

There was some other language used to describe what was intended, but out of a slush fund that we always objected to of $7.5 million, I think, more than $7 million was set aside in the legislative budget to take care of emergencies. It turns out that the definition of one emergency was an effort to go after labor unions and restrict their political activities.

We know what that means because we had at least two hearings already, which have demonstrated that the majority party wants to place restrictions on labor unions that are not placed on other organizations in America. No other entities are asked to do the kinds of things that they are trying to make labor unions do. We do not ask corporations to do the kinds of things with respect to their political positions that we are now demanding that labor unions do.

The thrust of it is that no labor union will be able to take a political position and use the funds that are at their disposal without having the approval of every member of the union. Each member would have a chance to withdraw his money if he disagrees with the position taken by the leadership of the union.

What other organization in America operates that way? You have majorities, you have votes, you have leadership elected, you have positions taken, and the minorities in organizations have to abide by those positions. So why should labor unions be treated any differently?

The thrust of this special fund for investigation of the labor unions will be to find ways to penalize them and intimidate them to backing down on taking a strong political position. That is just another battlefield that they will not leave in peace is the effort to destroy the Davis-Bacon Act and all the benefits that the Davis-Bacon Act has brought to us.

Davis-Bacon was attacked in the 104th Congress. There was a relentless war waged against Davis-Bacon. We hoped it sort of would not flare up again in the 105th Congress. We hoped that something had been learned about working people and what you have to do to support working families.

Part of what you have to do to support working families is to hold onto legislation and protections like the ones that are provided in the Davis-Bacon Act. But no, the attacks have come again and there is an attempt to go after the Department of Labor, the way it enforces Davis-Bacon, as an attempt to saddle the Department with numerous burdens related to the Davis-Bacon Act.

At the same time they are cutting the budget and reducing the number of employees. They generate a crisis and then they take advantage of the crisis generated by having an evaluation of the situation, an accounting, an audit, finding things wrong, and then blaming the system and the act itself as the generator of the things that have gone wrong.

We have a case in Oklahoma being blown out of proportion. Very few fraud cases have ever been found during the history of Davis-Bacon, but now we have a case that is being taken as a cause celebre and blown up out of proportion to make it appear that all of Davis-Bacon is corrupted. That is not true at all.

Davis-Bacon was enacted in 1931. It is a simple act requiring that contractors on federally funded construction projects pay their workers no less than the wage rates that prevail in the local area on the same type of construction. The act does not require contractors to employ the local work force, and it does not require that the work force be paid in accordance with local labor standards. It does what it says. It requires that they be paid at wage rates which are in keeping with the wage rates that are paid at the local level.

Davis and Bacon were two legislators who were both Republicans. They were Republicans seeking to do what all of us claim we think is important, is a priority. That is, protecting our working families. Davis-Bacon developed the legislation because they saw workers moving about from one part of the country to the other, following big Federal contracts and employing labor gangs to maximize the profits of the contractors on these big Federal jobs, and they threw out of kilter the wage structure at the local level when they did that. They drove down the wage structure of the local level. They threatened workers and families. They threatened the stability of certain communities.

So these middle-class legislators, Republicans, developed a sensible law to stop the exploitation of the big Government contract by greedy contractors. The same goal that was realized in 1931 is the goal that Davis-Bacon still realizes when it is applied in 1997. Repealing Davis-Bacon would result in lower wages for half a million Americans. The attempt now is to repeal Davis-Bacon.

One of the reasons that the school construction initiative had a problem here in the House of Representatives was that certain people attacked the school construction initiative through their attacks on Davis-Bacon. They charged that any new school construction would be out of proportion, would be higher costs than necessary because if it was federally assisted, they would have to use the Davis-Bacon Act to cover the workers, and that will drive up the costs.

We have studies that show that that is not the case at all. There is no proof that the cost of building schools goes up as a result of paying prevailing wages under Davis-Bacon. In fact, there is some evidence that shows, some studies, that show that the cost is less when you use Davis-Bacon prevailing wage workers. You get a different quality of workers, you get a different productivity, you get a different efficiency, and as a result, the cost actually sometimes goes down.

Nevertheless, there are those who said, we want to repeal Davis-Bacon,

and they make it appear that construction workers who are covered by Davis-Bacon are earning large sums of money, out of proportion to their worth. The truth of the matter is that construction workers who have some of the most difficult jobs in terms of just hard labor, in terms of danger, they are the ones who have benefited most from the establishment of OSHA, the Occupational Safety and Health Administration.

The safety factors have changed radically as a result of Federal intervention in the workplace to establish certain safety standards, so construction workers are much safer today than they were before, but it is still a risky job. Construction workers, they work on risky jobs, they work on dirty jobs, they work on jobs that have not benefited a great deal from automation.

On a hot day when they have to go out and work in the construction industry, there is no way you can press a button and have a computer take the place of a human being in that hot sun. There is no way you can press a button and have a computer take the place of a worker that is called upon to make a difficult haul into some tight quarters and deliver some kind of heavy load. There are all kinds of situations in the construction industry that probably never will be automated.

Nevertheless, despite the fact that the danger still persists, the wages have gone down. The stagnation of American wages at the lower levels, workers have experienced stagnation, and it has impacted on construction workers a great deal. So they do not earn any more money than they did 10 or 20 years ago. Relatively speaking, they have lost.

They will lose even more if we repeal the Davis-Bacon Act. It is estimated that more than one-half million construction workers in the United States have received prevailing wages under the Davis-Bacon Act. Because the Federal Government must put primary emphasis in awarding contracts on the lowest bid, market forces would put contractors to lower wages in order to try to make the lowest bid, driving wages down, if you did not have the Davis-Bacon regulations.

A study by the University of Utah indicates that repeal of the Davis-Bacon Act would lower the wages of construction workers, which in constant 1982 dollars have been on a downward trend anyhow since 1972. They would be lowered by 5 percent if we repeal the Davis-Bacon Act. All construction workers would go down. For construction workers who have annual average earnings of $27,500, this could result in the loss of nearly $1,400 in income annually.

□ 2130

Construction workers have an annual average earning of $27,500. This means that when we lump the bricklayers, plasterers and the sheet metal workers and all of them together, that is what they come out with, an average of $27,500 annual earning, which is very low considering the kind of work they are called upon to do. It is quite low. They have not moved and kept up with the inflation rate as it is. And if we have a further impact on those wages, they would go down even further.

Davis-Bacon has brought some stability but it has not really been a factor which has led to some kind of increase in the wage rates of the workers. At least the stability is there, to some degree, and they have not been eroded further.

There are those who say Davis-Bacon is a discriminatory act which certainly has hurt minorities a great deal. This is a widespread belief among the minority community, that Davis-Bacon has some impact on the problem that minorities have had in the construction industry.

Minorities have had problems in the construction industry, that is true, for various reasons that should be dealt with one by one. There is a long history of a fight to get justice in various construction unions, and that is one fight. Davis-Bacon really did not contribute to that very much.

Davis-Bacon was designed to stop traveling labor gangs who would underbid the local workers. Many of those traveling labor gangs were not minorities. The notion they would bring in minorities is not true at all, because bricklayers and steam fitters and a number of other crafts and trades were not even allowed to practice in the South. A black could not become an electrician, so black electricians could not go north and underbid white electricians.

It was not a black-white situation that was corrected or held in check by Davis-Bacon. It was a situation where underbidding was taking place without regard to race. So Davis-Bacon did not exacerbate or contribute at all to discrimination in the construction industry.

What it has done over the years has been a positive benefit, often a positive benefit to minorities. The intent of the Davis-Bacon Act was to protect workers and employees by giving local labor and local contractors a fair opportunity to obtain Federal construction projects. Davis-Bacon benefits minority workers by seeking to ensure that all employees, regardless of race, shall be paid at least the locally prevailing wage.

According to former Secretary of Labor Ray Marshall, the workers most often victimized by unscrupulous contractors are minority workers. Davis-Bacon is an integral part of ensuring a decent life for the hard working men and women in the construction industry.

I do agree that minorities are the ones who are victimized the most by unscrupulous contractors, and the most unscrupulous contractors are those who are fighting to get rid of Davis-Bacon. They are also fighting to get rid of unions at the same time.

Davis-Bacon also lessens the exploitation of unskilled and semiskilled labor, of which 35 percent are women and minorities. It ensures if these workers are paid less than the prevailing wage, they must be enrolled in an apprenticeship or training program that will help them develop their skills and increase their marketability.

According to former Secretary of Labor John T. Dunlop, formal training programs are essential to recruit and train minorities for the construction industry. If Davis-Bacon were repealed, contractors would have less incentives to enroll workers in training programs.

I cannot stress that too much. I know of numerous situations where unions that were closed 10 years ago to minorities in New York City have been open for some time through their apprenticeship programs and now they actively recruit minorities. In fact, I think there is a bit of a boom on right now and they cannot find enough apprentices.

If Davis-Bacon were repealed, contractors would have less incentives to enroll workers in training programs. In fact, there are other studies that show the contractors that do not want Davis-Bacon, who really would like to have a free-for-all, the contractors who are most anti-union are the ones who have phony apprenticeship programs. They either have no apprenticeship programs or they deliberately enroll people as apprentices and do not bother to provide any training. When they do not provide training, the apprentices drop out and they just hire more people and exploit them also.

The enactment of some 60 related statutes since the passage of the Davis-Bacon Act of 1931 provides strong evidence that Congresses and Presidents of both parties believe that the Davis-Bacon Act provides beneficial and nondiscriminatory protections.

Historically, as I said before, this was a Republican initiative, has been supported by Democratic Congresses, Democratic Presidents, and we would like to get back to having the majority party understand that in their war against labor, maybe they should cease the whole war, but certainly there are certain battles that should not be fought, and the battle against Davis-Bacon is one of those battles that ought to cease immediately.

Available data simply refutes the argument that Davis-Bacon operates in a manner that discriminates against minorities and women. In fact, there is no difference in the employment of minorities and women by Federal construction contractors and contractors which do not do Federal work. Davis-Bacon does not have any impact on the number or the percentage of minorities employed by contractors.

By the way, Davis-Bacon has been endorsed by various civil rights organizations, including the NAACP.

Now, Davis-Bacon also represents something that the majority party repeatedly claims they want to see happen. They argue in the TEAM Act, the

TEAM Act, in my opinion, is an attempt to establish company unions, but in the opinion of the majority Republicans the TEAM Act is an attempt to get better labor relations between management and labor.

They argue for that in the case of OSHA. Instead of OSHA being an enforcement agency which hands down decisions about safety on the workplace, they want the relationship between employers and their employees to be paramount in deciding what is safe and what is not safe, how it is reported, what is enforced. They want a partnership with OSHA in working out these kinds of agreements.

And it all seems quite reasonable, and it has some merit, but when it comes to recognizing that Davis-Bacon has achieved a harmony between workers and contractors, and we have a situation now where here is a Federal program which is supported by both contractors and the workers, it is supported by both contractors and the unions. One intent of the Davis-Bacon was to ensure that local contractors have a chance to obtain Federal construction work.

So contractors understand that they are put in a better position. This is contractors who really want to do the right thing; contractors who care about workers, contractors who care about their local neighborhoods and their local communities, contractors who want to establish stability, contractors who want to do quality work and who want to make certain that their reputations are not ruined by slipshod work or maybe dangerous kinds of construction. These kinds of contractors have a chance as a result of Davis-Bacon regulations.

If Davis-Bacon did not exist, many local contractors would not be able to compete with outside contractors who use less costly labor from outside of the community, and they are able to underbid them. They did come in and do often shoddy work or less credible work, but that is only known afterward.

In my community there is a parkway which runs down almost the center of my district, and Eastern Parkway, in the renovation and the rebuilding of Eastern Parkway we had the streets dug up at least three times. One contractor did such shoddy work, he had to go back and redo it. And in the process of trying to redo it, he went bankrupt and we had to get a third contractor to come in and actually complete the job. It went on and on for three times as long as it should have gone on because of the fact that we had this contractor coming in who did not know what he was doing. This was a situation which was compounded by the fact that the contractor and his workers were not qualified.

If Davis-Bacon did not exist, many local contractors would not be able to compete. And in certain kinds of situations, this would be happening all the time.

At congressional hearings on the Davis-Bacon Act, we have had in the past year many contractors who expressed support for Davis-Bacon. They say that Davis-Bacon leads to high productivity. For example, one contractor stated that he found that the Davis-Bacon Act,

> By eliminating wages as a competitive factor, creates a level playing field in which to compete for government contracts that provides an opportunity for companies like mine to compete with large and small contractors on the basis of our management ability and high productivity.

I think that I have established the fact last year in discussions that we have a positive union worker-management relationship fighting to keep a program that provides better construction for us in America. It really is something to consider.

I think we also better consider the fact that the quality of the labor force has been hard hit by this drop in construction wages relative to other wages that have gone up. We may have a crisis created soon if we do not have Davis-Bacon contractors who are stabilizing the situation, mainly by their relationship to their apprentices and training programs, and are serious about developing people who can take the places of the journeymen and being able to continue high quality work.

The Davis-Bacon Act does not automatically increase the cost of construction for the Federal Government. This is a myth that goes on and on. And as I said before, studies have shown this has not happened. Lowering wages does not necessarily lead to lower costs.

The people who underbid the Davis-Bacon contractors are the contractors who do not mind Davis-Bacon and who are in many cases using union labor. They come in and they are able to employ people at lower wages, but they end up having to employ more people or they end up having to redo the work that they did and they end up creating situations which are more costly.

Equating wage reductions with dollar-for-dollar savings is inaccurate because it fails to take into account other factors that may affect cost, such as the relationship between productivity and wages. This is a crude methodology at best. The Congressional Budget Office states that higher wage rates do not necessarily increase cost. If these differences in wages were offset by hiring more skilled and productive workers, no additional construction costs would result.

So the people who fight Davis-Bacon, the contractors who are well organized in trying to at this point get a repeal of Davis-Bacon, are people who use the crudest kind of cost savings, employing low-cost workers, but they end up having to pay more anyhow in other ways; redoing the work or hiring more workers, et cetera.

Davis-Bacon does not require payment of union wage rates. One charge that the majority party is making, one charge that we have to deal with on the Subcommittee on Workforce Protections repeatedly is that Davis-Bacon contractors and the unions are in cahoots with the Labor Department, and this all is designed to keep up high wage rates as a part of a union conspiracy.

Davis-Bacon wage determinations apply to over 3,000 U.S. counties and they apply to four types of construction: building, heavy, highway, and residential. And of the 12,500 wage schedules issued by the Department of Labor, only 29 percent require Federal contractors to pay collectively bargained rates across the board; 48 percent of the wage schedules establish minimum rates that are all nonunion, and some are a mix of union and nonunion rates that make up the remaining 23 percent.

Perception that the Davis-Bacon rate is usually the union rate is a carryover from the days more than a decade ago when the prevailing rate was set based on the rate paid to 30 percent of the workers of a classification. Since 1983, however, union rates are found prevailing only when the rate is paid to 50 percent of the workers in a particular classification.

These are myths that are deliberately continued. I am repeating myself from last year because in a new Congress they continue to try to push these myths forward.

The myth that the Davis-Bacon Act requires that all contractors must pay union wages even when the average wage in an area is below the union rate is a myth that is deliberately kept going and they know it is false.

☐ 2145

Of the 12,500 prevailing wage schedules issued, only 40 percent of the wage schedules are non-union. Mixed schedules are 23 percent, as I said before. There is also another myth, that the Davis-Bacon Act is inflationary, it adds billions of dollars to the Federal budget. The payment of prevailing wages does not inflate costs. It does prevent costs from being cut at the expense of the employees' wages.

The director of the Congressional Budget Office, as I said before, has stated that higher wages do not necessarily mean higher costs. A 1992 study commissioned by the International Union of Operating Engineers compared the average cost per mile of highway and bridge construction in five high-wage States to five low-wage States and found that the construction costs per mile were actually lower in the high-wage States. This is a 1992 study.

There is another study that was done in 1994 in New Mexico which talked about the charge that school construction costs are driven up by Davis-Bacon, and I am going to discuss that study in a minute. It shows the same thing that the highway studies showed, that it does not drive up the cost. The school construction study actually

shows that the cost under Davis-Bacon was lower in many cases, and they give square footage costs that are pretty dramatic.

The Davis-Bacon Act is poorly administered and the wage determinations are woefully out of date. That is the latest and strongest charge that the Department of Labor is kind of under siege to change its method of doing its studies, and probably there is room for a lot of improvement. The biggest improvement would come if we had more funds devoted to the wage and hour administration and they can hire more staff.

The same majority party that is attacking the Department of Labor, driving down its budget wants more and more improvements in the way they do carry out all of their functions. But in this particular function in particular, certainly they do better if they had better staff. There are some attempts underway to reengineer the way they do the studies. At the same time, there is consideration that the Bureau of Labor Statistics may take a greater role in this.

All of that is positive. Why not let it take place without having it take place under the pressure of the war against Davis-Bacon? Let us negotiate. Let us have a truce. Let us have a period of a couple of years to work out these matters and not use a battering ram to try to force the repeal of Davis-Bacon by highlighting every little detail that has gone wrong in the administration of it.

The wage and hour administration made a number of improvements in the administration of the Davis-Bacon Act over the last few years, including making wage determinations available on line through Federal World, a computerization of the wage determination updating system, and improved training and outreach efforts of wage and hour would like to be able to conduct more surveys. However, the resources are limited. Thus, the survey program is carefully planned to target those areas where the most Federal construction is planned and where there is evidence that wage patterns have changed.

They have to pick and choose carefully because they have limited resources. One way to deal with this problem is if you are really concerned about updating and making more effective and efficient the wage and hour approach to setting the Davis-Bacon wage levels, then you should provide more funding for this activity in the Department of Labor.

To the extent that wage rates are out of date, that usually results in wage rates that are too low rather than too high. We are moving on all the time in determination of the cost of living. When we do not do these studies that set the wage rates on a regular basis, then what we are doing is hurting the workers and not driving up the cost of production. We might be helping the profits of the contractors. Wage and hour explore new ways to reinvent the process to make it work even better.

The purpose for the Davis-Bacon Act is as great today as when the act was first passed. The competition for working in the construction industry remains intense. The aftermath of the Los Angeles earthquake, for example, construction workers and contractors from outside the area sought to bid for the extensive work by offering lower rates. Unlike private industry, the Federal Government and most Federal assisted entities must place primary emphasis in awarding construction contracts to the lower bidder. And it is difficult, if not impossible, for an agency to award to the contract slightly higher because the contractor does better work. The Davis-Bacon Act encourages contractors to compete based on efficiency and equality rather than the one who pays the lowest wages.

As I said before, if you link all of this attack on Davis-Bacon and the attack on labor unions to some of the developments that are taking place here in the Congress today, then I think that one of the best linkages would be the failure of the school construction initiative that the President puts forth to pass a mere $5 billion over 5 years did not make it in this present package. And one of the reasons was that there was a great attack on the school construction initiative because of certain powerful groups charging that Davis-Bacon regulations would drive up the costs of school construction.

A study done completed in 1994 by Professor Peter Phillips of the University of Utah Economics Department shows that it is not only not true, just the opposite may be true. This study compares public square foot construction costs in five southwestern intermountain States that have State prevailing wage laws with four other States in the same region that do not have State prevailing wage laws.

For example, the five have-law States that do have prevailing wage laws are New Mexico, Texas, Oklahoma, Wyoming, and Nevada. At the time of this study, Oklahoma still had a prevailing wage law at the State level. The four no-law States, these are States that do not have State prevailing wage laws, obviously, I guess you know that if it is a federally assisted project, then it would have to have the Davis-Bacon Act, the Federal prevailing wage laws applies. But many States have their own laws; and Arizona, Utah, Idaho, and Colorado are States that at that time did not have such laws.

These States, often used by New Mexico, which is one of the have-law States in making other kinds of comparisons in their education system. For example, teachers' salaries are compared with these States. So they decided to compare the physical facility cost.

During the time period of the study, which ended in 1994, they found that elementary schools cost $6 per square foot less in the five States that had prevailing wage laws, the elementary school construction was $6 per square foot less. Middle school construction cost was $11 per square foot less in the States with prevailing wage laws. And high school costs were also $11 per square foot in the States with prevailing wage laws. Warehouse costs, they noted, I suppose in connection with schools they need to have warehousing for equipment, et cetera, warehouses $35 per square foot less in the States with prevailing wage laws. This is a summary of what the study found. It is a very thorough study which talks about various aspects of the Davis-Bacon law as it was applied in these situations. And I think it is important to note, because those of us who feel that the school construction initiative was important are not going to give up. We have to come back and wage the war to get these school construction initiatives back into the Federal budget.

Now, of course, the Federal budget should not take care of the building of schools at all levels. The Federal Government should not foot the total cost, and nobody has said that at all. States and localities will have to pay the bulk of the school construction costs.

Right now there is consideration in the New York State Legislature of a bond issue, it probably is going to be on the ballot in November, to build schools. It has popularity throughout the entire State, both the big cities and the rural areas, and upstate, downstate, throughout New York State there is a feeling that we have got to have some help in constructing some new schools, repairing some other schools. The process cannot go forward unless we have a new infusion of money. I think $1.5 million is the amount that is going to be on the ballot in New York State.

Across the country, other States will have to take initiatives. Localities will have to take initiatives. But there is need to have help from the Federal Government, also. The initiative proposed by the President of $5 billion over 5 years was a small one but it was a stimulant and it would encourage. Because the way that was going to operate, part of it required that you have matching funds at the local and State level.

There was some hope that part of it would be an outright grant that big cities like New York, Philadelphia, big inner-city communities with horrendous problems in their facilities would be able to get some outright grants. However it is fashioned, the Federal initiative is still needed. And it is a great tragedy that part of the reason that an initiative was left out of the budget and has gone down temporarily is the fact that charges were levied at it, that it would be very costly to have schools constructed with Federal money involved because Davis-Bacon prevailing wage regulations would apply.

That is not true. It would not drive up the cost of school construction

automatically. In fact, one of the few studies, thorough studies on record demonstrate that that is not the case. This is the study that I am reading from by Professor Peter Phillips of the University of Utah. And I quote from a section of Professor Phillip's work where he quotes another professor's summary of a study done at North Carolina State University by another professor, Steven G. Allen, who is published in the Quarterly Journal of Economics, an article entitled Unionized Construction Workers Are More Productive.

In this study, Mr. Allen is quoted as follows: ''Apprenticeship training in hiring halls probably raise union productivity compared to non-union workers, while jurisdictional dispute and restricted work rules lower that same productivity. Using broad methodology, and union productivity measured by value added employee is 44 to 53 percent higher than non-union.''

Let me repeat that. ''Union productivity measured by value added employee is 44 to 53 percent higher than non-union.'' The estimate declines to 17 to 22 percent when estimates of inter-area construction price differences are used to deflate the value added.

Basically, there is an increase in the value of the productivity of the union workers over the non-union workers. In other words, prior to adjusting for differences in regional cost of living and differences in regional construction material cost, union construction labor in the 1970's, which was the period of the Allen study, was roughly 50 percent more productive than non-union labor.

The wage rates and the material costs of the BLS in regional cost study were not altered to factor in the effect of differences in regional cost of living. Thus the, BLS study is quite consistent with Allen's work and their conclusions are similar. Wage rate differences are 50 percent across regions with differences in productivity and cost of living may not alter labor costs as a percent of total cost. Within a region such as New Mexico, for example, or intermountain west, where the cost of living and the material cost of construction are similar, 20 percent differences in wage rates and construction can be offset by differences in productivity between union and non union labor. Union contractors have greater economies of scale. This gives them a cost advantage in large commercial office buildings. But in school and hospital construction, non union contractors have lower cost at all output levels. Despite the cost differences, profits of non-union contractors and school and hospital construction are no higher than those for union contractors because the burden of higher contractor costs have shifted.

There are some other quotes in here about training. In the study done by Professor Phillips. He says that because of the non-union employer prices, new hands, and discounted wages that shield the employer from investing in human capital of new workers, the employer does not screen new workers extensively to forestall subsequent turnover.

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''Failure to preselect new workers for aptitudes and attitudes consistent with a long-term attachment to construction work adds to the turnover among nonunion construction apprentices. In contrast, the joint apprenticeship boards of unions and union contractors do considerable preselection for both aptitude and attitude before letting a candidate into an apprenticeship program. This is because both the union contractors and the unions will invest in the union apprentices' training. Not wanting to lose their up-front investment, they seek to eliminate exit once the apprenticeship is begun.

''In the nonunion sector, workers may also leave apprenticeships if it becomes apparent that the employer offering training at a discounted wage is not delivering on the training that he promised to provide. Because employers are able to discount wages of apprentices below their current worth to the employer, it is tempting to engage in bait-and-switch tactics whereby training is promised but not delivered. Unscrupulous nonunion employers and contractors regularly do a bait-and-switch tactic by promising training and not delivering it. By saving on training costs, the employer can earn an additional profit from employing green hands at discounted wages. In the union sector, because employers and union journeymen invest in the training of apprentices, bait-and-switch tactics are less attractive. Because the apprentices' wage is not discounted as much below what they can earn elsewhere, the apprentices are not tempted to leave. Thus, economic theory predicts the observed pattern whereby the nonunion sector must begin training five apprentices to graduate one journeyman while the ratio in the union sector is close to one to one. Their investment can be as low as one to one.

''In basic terms, nonunion contractors have difficulty training because, one, the relationship between the contractor and the construction worker is often brief. This leads to a free-rider problem. Why should I train you when you are likely to go down the road and work for my competitor? I would just be helping him out and not myself. And, two, without an apprenticeship coordinator, there is no one policing the training to insure that on-the-job training takes place and is of decent quality.'' Thus, some contractors are tempted into what I said before was bait-and-switch, where they swindle apprentices out of their labor.

Let me just conclude my quotes from this study with this last statement on plausible savings on total construction costs. I am reading from a study that relates to Square Foot Construction Costs for Newly-Constructed State and Local Schools. I am reading from this because of the fact that the charge has been made that Davis-Bacon will inflate school construction costs and that charge was made so effectively until it helped to defeat in the negotiation the President's initiative on school construction funding. That initiative would have provided $5 billion over a 5-year period. Let me just quote from the study on plausible savings on net total construction cost.

''A plausible scenario is to assume that generally on public works projects, total compensation as a percent of net total construction costs range somewhere between 20 and 30 percent. That is total compensation, wages, no higher than 30 percent. If you repeal the prevailing wage laws, you would probably drive wage rates down by around 10 percent. On the face of it, this would result in a 2 to 3 percent total cost savings on a public works construction. However, as total compensation declines, the crew mix is likely to shift to a less skilled labor force. Now it takes more workers to complete the same job. Indeed, some proponents of prevailing wage law repeals make that argument explicitly.''

Some people say that it is better to have more construction employment by not having prevailing wages. But that backfires in terms of the quality of the work.

''Because crew size will rise as wage rates fall, net total cost savings will not fall as the wage rates fall.'' The important point they are making here is that ''the true potential cost savings will be much smaller than the fall in the wage rates, and it may be negligible. The only way to know is to measure in practice comparative construction costs under legal environments with and without prevailing wage laws, controlling for other factors such as building type and regional differences in cost-of-living.''

But the basic statement here is that it is not true. Wages are only between 20 to 30 percent of cost of construction of schools. Period. If you attempt to lower those costs by eliminating Davis-Bacon, all you do is lower the wage rate for the workers without really lowering the costs any more than 3 percent, if at all. What you do is run the risk of shoddy construction.

I would not want my children to go to a school that was built by a greedy contractor using nonunion labor, cutting corners, and not only having to use more workers but using workers who are basically careless and do not particularly care about what they are doing. I think that the danger of things happening with that building, that school building, are far greater, of dangerous kinds of accidents happening, faulty connections with the wiring, the water system being poorly connected. There have been cases where we have had the system in the bathroom connected to the drinking water; all kinds of mishaps have happened because of

unscrupulous practices of contractors trying to save money by using the lowest paid labor.

What I am saying is that the war against organized labor, the battle against Davis-Bacon certainly should be waged without destroying the school construction initiative. I think we should cease the war, we should have a truce. Just as we have come to some kind of bipartisan agreement on taxes and on the budget, let us come to an agreement that working families are not going to be put under the gun by the majority Republicans. Working families are not going to have to face situations where already stagnant wages in the construction industry are going to be pushed down further by the assault on Davis-Bacon. Working families should not have to face the assault on OSHA where the safety in the workplace, including construction workers, is lessened because of the assault on the Government agency responsible for enforcing safety regulations.

There was a study done, released a few days ago by a totally objective, highly credible body, the American Medical Association, which shows that 70,000 people were killed or injured in the workplace last year. Seventy thousand people were killed or injured in the workplace. Those figures are very close to the figures that are offered by the Department of Labor. The figures offered by the Department of Labor through OSHA are disputed. The majority Republicans on the Subcommittee on Workforce Protections insist that these figures are not valid, and they want to discount them. Here we have somebody totally out of the loop. I do not think the Department of Labor is biased toward unions or biased toward anybody. They are Government civil servants who do a good job and their figures are always accepted as being as close to the truth as you can get. However, here is another body, the American Medical Association, that has come up with a set of figures which is even greater. I think the Department of Labor statistics were still in the 65,000, 68,000 range. Here the American Medical Association has published figures which show 70,000. Their figure is about $110 billion was lost in the workplace as a result of safety problems and health problems. This is the American Medical Association, not the Department of Labor, not the AFL–CIO, they have their own figures; but the American Medical Association.

Let us stop the war on OSHA. There are good reasons to stop the war on OSHA. Let us stop the war on Davis-Bacon, stop the war on OSHA, stop the war against workers' overtime. Let us have a truce and let workers be paid in cash, those that want to be paid in cash, and if you want to go for upper middle income or the upper income, and they want time off, we can arrange to give them time off without jeopardizing the overtime payment in cash for people who are lower down.

We can stop the war on labor by not going forward with this $1.4 million slush fund that has been set up to investigate labor unions. Let us stop the war on labor in terms of trying to drive them into a situation where they have to go to their membership and get approval from every single member before they can take a political position. The political positions do relate to the welfare of the workers. If they are in a union and they vote to elect officers and the majority rules and whatever the majority decides to do, then that majority ought to be supported; or at least you cannot have a revolution of a minority of a few people dictating what positions that the majority takes. We do not do that in corporations, we do not do that with any other organization in our society; churches. Nobody is required to have total unanimity on positions before they can take a position, political or otherwise.

We should stop the war on Davis-Bacon by blowing up out of proportion a few incidents that relate to fraud and abuse. We have an Oklahoma case as I mentioned before, a single incident in Oklahoma is being used as an ongoing investigation to condemn an entire system based on an investigation involving only three possible fraudulent wage submittals. These allegations of widespread fraud have no single shred of proof. They have not been able to document any widespread fraud.

It is important to note that since the inception of Davis-Bacon, approximately six cases of fraud have been alleged and brought to the attention of the Department of Labor. During the last 33 years, prior to the new Oklahoma allegations, not one fraud-related survey case was brought to the Department of Labor for investigation. Since 1992 only one formal request for reconsideration of a wage decision has been received by the Department of Labor.

A recent GAO investigation showed that there have been many mistakes made in the surveys done by the Department of Labor but none of them were done intentionally. They have no evidence of fraud. By the way, many of the mistakes were made by employers who had payrolls and payroll sheets in front of them and they were supposed to get data from those sheets, and they made mistakes in submitting that data, not the unions and the workers as has been alleged.

Let me conclude by saying that it is unfortunate that the war against Davis-Bacon and the war against working families resulted in a casualty in the budget, the School Construction Act. There is a cause and effect there that I insist exists, that the overwhelming sentiment among the American people is that they want to do things for education. They would like to see schools revitalized. A flimsy charge that the cost of school construction would be driven up by Davis-Bacon and therefore we should not have Federal assistance with school construction would not survive unless it was pushed very intentionally, prosecuted and pushed very intentionally by the majority. Let us have a truce, let us do what we have done in the case of taxes and the budget and have a bipartisan approach to working out labor-management problems. Let us end the attack on labor, let us retire the slush fund and use it for some better purpose, and by all means let us not continue to perpetrate the myths that Davis-Bacon is an evil, that Davis-Bacon has not benefited not only the workers in construction but also the communities where they work as well as the American people as a whole.

A HISTORIC ACHIEVEMENT

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of January 7, 1997, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes.

Mr. SHAYS. First let me thank the gentleman from Washington [Mr. METCALF], Speaker pro tempore, as we have the opportunity to address this Chamber for continuing to serve at a late hour here. I do not intend to take anywhere near the hour that would be allotted to me. I do know the House is going to be in session tonight as we wait for the rules, so our staff will be staying around for a bit. But I have not really had much opportunity to address this Chamber in a special order. Tonight is a night I am really grateful to have this opportunity.

I am grateful to have this opportunity because I think of the historic achievement that has been agreed to between this President, a Democrat President, and this Congress, a Congress controlled by Republicans, a Congress filled with 435 men and women of both parties, but a party in control of this Congress, the Republican Party.

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I think in terms of my history as I was growing up and as a student in high school and college and thinking about our Founding Fathers, and they designed quite a system. They designed a system where you would not only have competing interests in a Chamber and in another Chamber, the Senate, and this check and balance with the judiciary, but you would have an executive who would not have the ability to do everything he or she wanted, a Congress that does not have the ability to do everything it, the majority party, wants. This is a system designed by our Founding Fathers, and they wanted it to be exactly what it is, a system that does not allow one unit, one branch, to gain too much power or one group within a branch to gain too much power.

So what did we have after the 1996 election? We elected a Democrat President. Frankly, by an overwhelming number the American people elected such a President, and they elected a Republican Congress, maybe not by the same margin, and they said very clearly in their message that they wanted us to work together.