

Written Testimony of David Montgomery

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RE: SB 5741

**AN ACT CONCERNING THE PREVAILING WAGE
THRESHOLDS**

I reside at 150 Roydon Road, New Haven, Connecticut 06511. I am an emeritus professor of history at Yale University, where I taught courses and seminars on the history of American labor, and the author of numerous books and articles on that subject. I am also former President of the Organization of American Historians. On this occasion I am not writing on behalf of that organization or of Yale University. The views I express are my own and not necessarily those of any institution or organization.

Prevailing wage laws have made a significant contribution to the welfare and prosperity of our state and of the United States as a whole for more than one hundred years. The history of state and federal legislation on the subject is worth considering as this committee debates a proposal to increase the threshold for application of the law by 150 per cent.

Prevailing wage laws were first enacted by state legislatures. Kansas led the way with the first statute requiring companies bidding for government contracts to pay wages no lower than those prevailing for each category of manual worker in the area where the construction was to take place. It passed that law in 1891. Before the decade out, New York had adopted a similar law, and by 1914 Idaho, Arizona, New Jersey, and Massachusetts had followed suit. Not only did legislators see fit to adopt such laws in very different parts of the country, but also those who did so came from both major parties and several smaller ones. The similarity of the early statutes reveals quite different states had found the same remedy for chaotic and often corrupt dispensation of public construction contracts.

Bipartisanship also shaped the federal law of 1931 – the Davis-Bacon Act. Its initiator was a Republican Congressman from Long Island, Robert Bacon. Since 1927 he had been seeking legislation that would protect his constituents from the loss of jobs and earnings made possible by construction firms that brought low-paid workers from afar and housed them in temporary shacks. His proposal for a law requiring firms bidding for contracts on public projects to pay wages that would “comply with the local standards of wages and labor prevailing in the locality where the building construction is to take place” earned the support of newly-elected Senator James J. Davis, who had been U.S. Secretary of Labor under President Calvin Coolidge. The law passed both houses without opposition in 1931 and was signed into law by President Herbert Hoover. The Davis-

Bacon Act established the model for the six state laws enacted the same year and the 26 others that followed. Connecticut passed its prevailing wage law in 1933.

Requirements that contractors pay the local prevailing wage affect all bidders alike. Moreover, the many different skills involved in building projects and the networks of subcontracting often found there mean that the prevailing wage is not a single rate, but a variety of wage and benefit scales based on the occupations involved, the geographic area, and the nature of the project itself. The "wage" established by the United States Secretary of Labor includes both the hourly rate of pay for each job and the cost of fringe benefits, which are so important in disputes of our own time. Since 1977 the Connecticut Department of Labor has used the rates established by the federal government for each county in the state.

State and federal laws addressed the same problems. By the twentieth century government agencies could award contracts for construction or repair only on the basis of competitive bidding. That requirement gave a great advantage to firms that paid their workers the least. Contractors who could bring in workers from other parts of the country, rather than pay wages for various grades of labor that were customary where the job was done, could reduce their costs at the expense of the local population. Local citizens, who paid taxes to support the project and for whose benefit it was supposedly undertaken, thus found themselves out of work or forced to accept lower earnings. Moreover, contractors paying substandard wages also had high accident rates, often produced defective work, and demonstrated an unusually high level of cost overruns. What Representative Bacon had found on Long Island in 1927 was little different from the conditions that inspired the Minnesota legislature to adopt its own "Little Davis-Bacon Act" in 1973: low-paid workers from out of state had cost many Minnesotans jobs on a large construction project for the university.¹ Just as the state was losing good jobs in manufacturing because companies were moving operations to other parts of the world, so construction firms, though they could not move the project, moved the source of their employees.

Such considerations prevailed in 1988, just as they had in 1931 and 1973, according to a report from the U.S. House Committee on Education and Labor. It called the Davis-Bacon Act "as important today as it was" when it first passed, and it explained that the law exists "not only to promote both public safety and welfare, but also safeguard taxpayers from the predatory practices of unscrupulous contractors and the unwitting damage caused by unskilled workers."²

Ever since the 1960s the people of Connecticut and their state and local government officials have been deeply concerned by the steady loss of jobs that had sustained a decent family life for working people and the prosperity of local small business. Here as elsewhere in the country the gap between rich and poor has widened,

¹ Minnesota Department of Labor and Industry, A Guide to Minnesota's Prevailing Wage (St. Paul, 2002), p. 2.

² House Committee on Education and Labor, Report on Davis-Bacon Amendments, 100th Congress, 2nd Session, February 9, 1988, p. 15.

while the middle-class standards of which we had boasted since World War II were steadily eroded. The living standards that union scales and prevailing wage laws had safeguarded in the building trades attracted able men and women from all walks of life.

During the 1970s the Associated Builders and Contractors, the Business Roundtable, and other groups mounted a many-faceted assault on those standards and on prevailing wage laws. They relentlessly attacked state laws first as a cause of inflation, then when inflation rates subsided, as a burden on the taxpayer, as obstacles to affordable housing, and as bulwarks of outrageously high incomes for a privileged minority of workers. In eleven state legislatures, they carried the day, winning repeal of prevailing wage laws. All but one of them were in the South and West. Even Kansas, where the legislation had been born, fell before the public relations assault. The voters of Massachusetts brought a halt to the campaign's success in 1988, when they decisively defeated a referendum to repeal their state's prevailing wage law.

Where the lobbyists could not win repeal, they focused their fire on raising thresholds. Connecticut's General Assembly excluded more and more projects from the law's coverage by raising the threshold for new construction from \$5,000 (1961) to \$50,000 (1979), \$200,000 (1985), and the current level of \$400,000 (1991). The exemption level keep going up despite the finding of the Connecticut Department of Labor in 1996 after a thorough investigation that the impact of prevailing wage requirements on taxpayers was negligible, that local authorities and contractors increasingly often evaded the law, and that "*the program review committee finds no relationship between the thresholds and the rate of inflation.*" On the contrary, the review committee recommended that the state's differential between renovation and new construction be eliminated and that the General Assembly "**establish a single threshold of \$250,000 for all types of public construction projects.**"³

The bill currently before the Committee ignores both these recommendations, the dire need to save good jobs in Connecticut, and the long history of prevailing wage legislation. The General Assembly should not raise the legal threshold to the point where it virtually nullifies the prevailing wage law, as Senate Bill 5741 would do. On the contrary, it should revisit and adopt the recommendations of the Department of Labor's 1996 report.

³ Connecticut Department of Labor, Legislative Review and Investigations Committee, Report, pp. 3, 21, 22. <http://www.cga.ct.gov/pri/archives/1996pwWageFinalReport.htm>.