



ACT REPORT

VOLUME 4, NUMBER 11

A PUBLICATION OF THE AFFILIATED CONSTRUCTION TRADES FOUNDATION

NOVEMBER, 1995

Two Year FOIA Effort Successful; FBI Forced To Show Documents

ACT'S CASE against the Federal Bureau of Investigation (FBI) has reached a turning point.

Charles Haden, Chief Judge of the United States District Court, Southern District of West

Virginia, ordered the FBI on Nov. 6 to immediately begin processing the FOIA requests.

Judge Haden told the FBI it had delayed too long and he would no longer tolerate it.

"The important thing in this

case is the fact that ACT took on the FBI, a huge federal organization, and did not give up," said Steve White, ACT director.

The case began in May of 1993 when Tim Millne, former ACT fair contracting representative requested contract documents from the FBI under the federal Freedom of Information Act (FOIA).

ACT asked for public documents regarding the bureau's contract with George Hyman Construction Co., including

wage rates, a list of sub-contractors, the notice to proceed, and a variety of payroll requests.

Hyman Construction was the general contractor for a \$77 million phase of the FBI's criminal justice and fingerprinting records facility at Clarksburg.

Since that time ACT has recovered approximately \$60,000 for workers cheated by contractors on the project. More investigations are pending.

The records are needed to verify violations regarding

worker pay or benefits by Hyman construction, subcontractors, or other prime contractors on the project.

ACT filed a federal lawsuit in July of 1994 to force the FBI to disclose the documents.

"We have had to fight every inch of the way against a huge bureaucracy. When we battle the next governmental organization they will look at our record and see that we don't back down, no matter how big they are," White said.

Workers Comp, Pulp Mill

ACT Gets Free TV To Air Issues

BOTH HERE in West Virginia and on a national level ACT received free television coverage recently.

A new Charleston/Huntington area talk show, West Virginia's Talking, taped two shows in late October, both of which concerned issues ACT is involved with.

The show, hosted by Pam and Richard Lindsay, airs on Sundays at noon on WSAZ Channel 3.

Both shows, intended to be

half hour programs, were instead made into two part series, with a total of four half-hour, worker-oriented programs.

The first topic to air was the two-part series concerning Workers Compensation and its recent legislative changes. They aired November 5 and 12.

Roy Smith, secretary-treasurer of the West Virginia Building and Construction Trades Council and Joe Powell, president of the West Virginia AFL-

Continued on page 4

ACT Uncovers 'Massive Corporate Welfare'

Comp Tab Shifts To Public

MASSIVE corporate welfare hidden in the Workers Compensation bill passed during the 1995 legislative session was uncovered by ACT.

During testimony before an October legislative interim committee ACT revealed the \$110 million per year shift of money from employers to taxpayers.

"Under the new law," said Stuart Calwell, ACT attorney, "because fewer will qualify for workers' comp disability, some people who would have qualified will now draw only from social security."

ACT experts documented the shift to taxpayers. The people who qualified for workers' comp total disability in 1994, but would not under the 1995 law, would cost the Social Security Administration \$110 million. In 10 years that's more than \$1 billion.

State officials admit Social Security will pick up a larger part of the tab because of the

new workers' comp law.

"That's how they 'saved' the workers' comp fund -- business quit paying injured people," Calwell said.

The extent of taxpayer cost that will come from increased welfare, medicare, hospital and other tax funded programs that will be forced to pick up the slack has not yet been calculated.

The workers comp law was transformed with literally hundreds of small changes, with each of those changes working to reduce the number of injured people who qualify for benefits according to Calwell.

"It redefines injury in such a way that no one can qualify for compensation. If they're not defined as injured, they can't get paid," he explained.

"In the beginning of this century, a deal was made between business, labor and government," said Calwell.

"The government said 'We won't let you be sued, Mr. Employer, by an injured worker if you will agree to pay into the workers' compensation fund.'

"Now employers have broken their part of the deal. Not only are they protected from being sued, they're not paying

Continued on page 2



BLOWING UP BALLOONS promoting union building and construction trades workers were ACT Northern Representative Steve Montoney (right) and a volunteer. The two were at the 59th annual Forest Festival in Elkins, Randolph County, recently.

Inside The ACT Report

AFL-CIO Issues	Pg. 2
Levy Goes Union	Pg. 3
Tool Boycott	Pg. 3
Boycott List	Pg. 3
Jobs Act Update	Pg. 4
Pritt Fundraiser	Pg. 4
AFL-CIO President	Pg. 4

Taxpayers Facing Workers Comp Bill

Continued from page 1
for injured workers," Calwell continued.

"Instead, business wants the

state, or taxpayers, to pay their share. Companies make a profit on a worker, injure him, and then don't pay workers' com-

pensation."

Calwell labeled the bill a "billion dollar corporate bailout".

Part of the argument to pass

the legislation so quickly was the declaration that the Workers Compensation Fund itself was on the verge of bankruptcy,

which is not true, he said.

"If there was a problem it was because the commissioner failed to collect from employers," Calwell said.

Laws were in place requiring employers to pay into the fund, they simply were not enforced.

For example, a 1993 law required Commissioner Andy Richardson to tell employers how much they owed the fund. Those were to be reported to the performance council set up to review workers compensation.

"He didn't do it," Calwell said. "He missed the deadline in 1995 and got the legislature to repeal the law, so he never did get figures on the status of the fund.

"Time and time again Workers Comp has either been unable to come up with facts and figures or produced faulty data.

"We challenged his bogus figures on Social Security and he didn't respond -- evidently because he doesn't have the data.

"For two or three years," he said, "the Caperton administration strung the performance council along and at the last minute had lawyers for business write up a new comp law.

"Two of the most powerful lobbyists in the state -- Governor Caperton and Richardson, were on business' side," he said.

"They did all they could to increase business profits at the expense of injured workers."

Legislators asked Richardson to respond to ACT's research. At their November interim meeting, Richardson's response didn't address the Social Security shift or ACT's claim Workers Comp's figures were bogus.

The ACT Report

A monthly publication of the Affiliated Construction Trades Foundation, an association of West Virginia building and construction trades local unions, with offices in Charleston and Clarksburg.

Officers: Bruce Tarpley, President; Dave McComas, Vice President; Willard "Bubby" Casto, Financial Secretary; Roy Smith, Executive Director; Steve White, Director.

Charleston Phone (304) 345-7570
Clarksburg Phone (304) 624-0682

AFL-CIO RESOLUTIONS FOR 1996

The following resolutions were adopted at the 1995 West Virginia AFL-CIO Convention held in October.

WORKERS COMPENSATION

IN 1913, West Virginia instituted a system of "working man's" compensation to provide for a worker and his family in the case of a disabling on-the-job injury. Protected, too, were employers who understood the potential risk of common-law suits and expenses arising from legal challenges by injured workers.

Over the 82 years that the West Virginia Workers Compensation Fund has been in existence, management has repeatedly tried to steal from workers and their families the protections they deserve.

In 1993, corporate interests made a tactical move to "cooperate" with organized labor in order to achieve Workers' Compensation reform. Business and labor agreed to establish the Performance Council and maintain a 50% Workers' Compensation benefit to permanently totally disabled retirees to supplement So-

cial Security.

Unfortunately, that "cooperation" was short-lived. Armed with false figures and bogus arguments regarding the solvency of West Virginia Workers' Comp, big business came back

for the kill in 1995. The Chamber of Commerce, the Manufacturer's Association, the Coal Association, anti-worker law firms, and others, mounted an attack on working families unlike anything seen in years.

West Virginians suffer enough by working in the fifth most deadly state in the nation, yet businesses pay premiums which are 46th lowest in the country.

The result was a 150-page bill that was passed by the House and Senate in eight days. Among the provisions was establishment of percentage (50%) to determine permanent and total disability.

for the kill in 1995. The Chamber of Commerce, the Manufacturer's Association, the Coal Association, anti-worker law firms, and others, mounted an attack on working families unlike anything seen in years.

benefit (when their spouse dies from a non-work related injury) to assist them in their time of greatest need.

West Virginians suffer enough by working in the fifth most deadly state in the nation, yet businesses pay premiums which are 46th lowest in the country.

Improved competition, it's clear, comes from a safer workplace that lowers business costs and fosters employee morale.

DAVIS-BACON

THE 1931 Davis-Bacon Act was a law that was not only one of the nation's oldest federal fair labor standards statutes, but was specifically designed simply to outlaw wage exploitation in federal construction contracts by preventing the federal government from undercutting local area labor standards.

By establishing a wage-rate floor, the law provides local builders with a fair chance to compete for government projects on the basis of skill and efficiency rather than losing this work to disreputable competitors who would underbid them solely on the basis of paying substandard wages.

The government and taxpayers in turn are protected from fly-by-night contractors whose substandard wages would attract substandard workers -- the likely consequences of which would be shoddy construction work requiring still more tax dollars for higher repair costs and additional maintenance over the life of the project.

The most serious attacks on Davis-Bacon law began in 1982 with regulations implemented by President Reagan's Secretary of Labor.

These regulations seriously weakened the fair-wage determination mechanism as well as damaged the effective enforce-

ment of law.

By establishing a wage-rate floor, the law provides local builders with a fair chance to compete for government projects on the basis of skill and efficiency rather than losing this work to disreputable competitors who would underbid them solely on the basis of paying substandard wages.

ment of law.

These actions were followed in 1986 by an unsuccessful Reagan Administration proposal to establish by regulatory action a new two-tier, Davis-Bacon contract threshold level.

In 1987, Attorney General Edwin Meese continued the

Reagan Administration's attack on Davis-Bacon by drastically limiting the application of the prevailing wage provision in the Housing and Community Development Act of 1974.

The Housing Development Act provides that "work financed in whole or in part with assistance

received" under that act is subject to its prevailing wage provision, yet the Attorney General has ruled that the provision does not apply to construction projects where federal funds are used to purchase land, fixtures, or services.

In the last several years,

congressional conservatives, backed by anti-union groups such as the Associated Builders and Contractors, have escalated their campaign to repeal the Davis-Bacon Act altogether.

To advance proper reform, the West Virginia Building and Construction Trades Council endorses S. 1183.

This action is desperately needed by workers in the building and construction trades. Therefore, be it

RESOLVED, That this 20th Constitutional Convention of the West Virginia AFL-CIO urges, in its strongest possible manner, our senators and representatives to oppose any effort to destroy the protections contained in the Davis-Bacon Act;

And be it further

RESOLVED, That the West Virginia AFL-CIO urges the West Virginia congressional delegates to support meaningful and beneficial Davis-Bacon reform legislation, as is found in S. 1183.

Protection for Petersburg on the Potomac River

Union Builder Gets \$8 Million Levy Contract

AN \$8 MILLION flood protection levy in Petersburg, Grant County, has gone to a union contractor despite protests from the county commission and a 'lowball' bid \$1.3 million under the Army Corps of Engineers estimate.

The levy will be on the south branch of the Potomac River and will provide flood protection for Petersburg.

Kiewit Construction Inc., of Baltimore, Md. was named the contractor for the project.

"Charles J. Merlo, Inc., a Steelworker outfit from Mineral Point, Pennsylvania, 'lowballed' the project," said Steve Montoney, ACT's northern representative.

"His bid of \$7.25 million came in way under the Corps' esti-

mate of \$8.6 million, which didn't include a profit margin. It was a major screw-up."

ACT has monitored the project from the outset and questioned Merlo's pre-qualification when his bid came in so low.

"I wrote the Army Corps about pre-qualification because I wanted to know how Merlo could have made such a big mistake if he was as qualified as Kiewit. I found out Merlo had done only about \$500,000 work for the Corps, whereas Kiewit had done millions for them."

Merlo admitted that he made a mistake on his bid and requested the chance to re-bid for a higher amount which would take care of the mistake, Montoney said.

"I think because of ACT's

scrutiny, which they were definitely aware of, the Corps turned him down," he said.

A third bidder, Heeter, Inc. a non-union contractor of Spencer, WV was the highest bidder with \$9.2 million.

Kiewit, had the best responsible bid at a 5% profit margin.

"We kept putting the pressure on the Corps to make sure it was a straight-forward bid and they stuck with the original bid," he said. "Merlo then dropped out because he couldn't stand behind that low bid."

Montoney said the Grant County Commission was upset

that this project went union.

"They're still upset about me keeping the pressure on them about the hospital, and because the commission had a stake in this project -- a substantial percentage of money for it had to come from the county."

Continued on page 5

Donates 50 Cents For Each Sale

Black & Decker Tools Aid Anti-Union Fund

BLACK & DECKER, a big name in power tools, has established a program to donate money to the anti-union Associated Builders and Contractors training program fund.

With every purchase of the company's line of DeWalt industrial power tools, a 50 cent donation will be made to the ABC training fund.

"Union workers and contractors have spent million of dollars building the best training programs in the world. Now Black & Decker wants to reward the ABC for a few piece meal programs that seldom graduate anyone," said Steve White, ACT director.

According to a company spokesperson, Black & Decker kicked off the promotion with a \$150,000 contribution to the ABC fund.

"We believe in training and apprenticeship. We pioneered it and we proudly set the standards. Unfortunately the ABC

wants to undercut our training efforts just like they undercut our wage and benefit standards.

"The ABC is first in line for a government handout or grant and eager to take corporate money. These unfair corporate and governmental subsidies makes it harder for legitimate training programs to compete," said White.

"Around the holidays, a lot of people are buying power tools for gifts, I hope they avoid DeWalt and Black & Decker."

To write, call or fax Black & Decker to let them know how you feel about the company's support of anti-union training programs contact:

*Nolan D. Archibald,
President
Black & Decker
701 Joffa Rd.
Towson, MD, 21286
Phone: (410) 716-3900
Fax: (410) 716-2933*



APPAREL & ACCESSORIES

ACME BOOT COMPANY
Western-style boots: Acme, Dan Post, Dingo labels
■ *Steelworkers*

DECKERS CORPORATION
Sandals: Deckers, Sensi, Teva
■ *Machinists*

F.L. THORPE & CO.
"Original Black Hills Gold Jewelry"
■ *Steelworkers*

HOWE K. SIPES CO.
Athletic apparel (chiefly baseball and softball uniforms, satin and wool jackets). Label: Howe Athletic Apparel
■ *Electronic Workers*

BUILDING MATERIALS & TOOLS

ACE DRILL CORP.
Wire, jobber & letter drills, routers and steel bars
■ *Auto Workers*

BROWN & SHARPE MFG. CO.
Measuring, cutting and machine tools and pumps
■ *Machinists*

LOUISIANA-PACIFIC CORP.
Brand name wood products: L-P Wolmanized, Cedartone, Waferwood, Fiberpine, Oro-Bond, Redex, Sidex, Ketchikan, Pabco, Xonolite
■ *Carpenters and Woodworkers (IAM)*

ROME CABLE CORP.
Cables used in mining and construction industry
■ *Machinists*

SOUTHWIRE CO.
Commercial and industrial wire and cable
Do-it-yourself brand Homewire
■ *Electrical Workers*

APPLIANCES & FURNITURE

LAKEWOOD ENGINEERING & MFG.
Electric fans and heaters for homes
■ *Teamsters*

SILO, INC.
National retailers of electronic equipment and appliances
■ *Teamsters*

TELESCOPE CASUAL FURNITURE CO.
Lawn, patio, other casual furniture. Brand name: Telescope
■ *Electronic Workers*

FOOD & BEVERAGES

BRUCE CHURCH, INC.
Iceberg Lettuce: Red Coach, Friendly, Green Valley Farms, Lucky
■ *Farm Workers*

CALIFORNIA TABLE GRAPES
Table grapes that do not bear the UFW label on the carton or crate
■ *Farm Workers*

COOK FAMILY FOODS, LTD.
Hams and ham steaks: Cook's Blue Bird, Fire Side, Lancaster, Nottingham, Shaws, Sherwood, Super Tru, TV's labels
■ *Firemen & Oilers*

DIAMOND WALNUT CO.
Canned and bagged walnuts & walnut pieces
■ *Teamsters*

MOHAWK LIQUEUR CORP.
Mohawk labeled gin, rum, peppermint schnapps, and cordials
■ *Distillery, Wine & Allied Workers*

TYSON/HOLLY FARMS CHICKEN
Chickens and processed poultry products
■ *Teamsters*

TRANSPORTATION & TRAVEL

ALITALIA AIRLINES
Air transportation for passengers and freight
■ *Machinists*

BRIDGESTONE/FIRESTONE, INC.
Tires. Brands include: Bridgestone, Firestone, Dayton, Triumph, Road King, Roadhandler
■ *Steelworkers*

GO-MART GAS
Gasoline sold at Go-Mart convenience stores and truck stops
■ *Oil, Chemical & Atomic Workers*

KAWASAKI ROLLING STOCK, U.S.A.
Railroad cars
■ *Transport Workers*

MICHELIN
Michelin brand tires
■ *Steelworkers*

RON JAWORSKI'S STADIUM HOLIDAY INN
Hotel in Philadelphia
■ *Hotel and Restaurant Employees*

MISCELLANEOUS

BELL ATLANTIC/NYNEX MOBILE SYSTEMS
■ *Communications Workers and Electrical Workers*

BLACK ENTERTAINMENT TELEVISION
BET cable television, Action pay-per-view, Bet on Jazz
■ *Electrical Workers*

R.J. REYNOLDS TOBACCO CO.
Cigarettes: Camel, Winston, Salem, Doral, Vantage, More, Now, Real, Bright, Century, Sterling, YSL/Ritz; Tobaccos: Prince Albert, George Washington, Carter Hall, Apple, Madeira Mixture, Royal Comfort; Little Cigars: Winchester
■ *Bakery, Confectionery & Tobacco Workers*

Sweeney Elected AFL-CIO Head; Pledges Change

THE NATION'S AFL-CIO has elected a new president.

John J. Sweeney, head of the Service Employee's International Union, was elected to replace Lane Kirkland who had been president since 1979.

United Mine Workers President Rich Trumka was elected Secretary-Treasurer.

The four-month campaign was the first contested election in its 40-year history.

Sweeney pledged to bring "massive efforts in the training of organizers, changing the face of our leadership and working together with our activists."

Joe Powell, President of the West Virginia AFL-CIO, at-

tended the four-day meeting and voted in the election.

The media reported that some union presidents were talking of withdrawing because of Sweeney's use of delegates from regional federation councils to control the convention floor.

Powell said he thought nothing would come of those threats.

"If the labor movement needs anything it's unity, and I would presume that will override any issues that might tend to divide them," Powell said.

Powell said Sweeney will direct the AFL-CIO in the right direction. "I think he'll do a good job. The need for organizing is essential and a priority," he added.

Union/Contractor Leaders Sponsor Event

Labor Raises Pritt \$31,000

CHARLOTTE PRITT, the AFL-CIO endorsed candidate for governor, raised over \$31,000 at a fundraiser held for her by Wetzel "Corky"

Harvey, the turnout was "fantastic." He said more than 460 people attended.

Harvey said it was promising when people from all parts of the

someone who is so intelligent and such a hard worker herself. It's easy to campaign for her."

Harvey said union members should help Pritt because "She's someone who believes what we believe."

"She's not as liberal as the press makes her out to be. She knows what it's like to live on unemployment. It will be the first time one of us, not a millionaire, is elected."



CHARLOTTE PRITT, CORKY HARVEY ANTICIPATING VICTORY

Harvey, business manager of the Laborers' District Council and Jim Cerra, President of the West Virginia Construction Council.

The fund-raiser dinner was held Oct. 23 in Charleston.

state came to show support for Pritt's campaign.

"We had people from Brooke, Wayne, Mercer, Fayette and Ohio counties among others," he said.

"If people are willing to drive that far for a fundraiser they're going to work very hard for her."

Harvey said Pritt already has 4,000 volunteers signed up for her election campaign.

"One volunteer is worth 10 paid workers because volunteers work so much harder," he continued.

"It makes it easy to work for

Levy

Continued from page 3

"John Van Fossen, the project coordinator for the Corps, told me the commission asked the Corps to throw out all bids and re-bid because a union contractor had got the job and indicated they would in fact rather pay more money for Heeter just because it was a non-union outfit," said Montoney.

"If only those county commissioners could figure out that unions are called 'locals' because they're local, and unions use local people, unlike at the Grant County hospital, that 'Virginia-give-away'.

On that project they just keep digging the hole and I keep throwing the dirt on top of them."

Comp, Pulp Mill On TV

Continued from page 1
CIO were invited to represent labor's side of the issue.

To represent the other side, a representative of the Workers' Compensation office, the Chamber of Commerce, and legislators who championed the comp bill were invited to the taping. None showed up.

"The fact that the Chamber of Commerce didn't show up ob-

viously indicates a weakness in their presentation and an awareness that their arguments lack credibility," Powell said.

The second issue taped concerned the proposed pulp & paper mill slated for Apple Grove, Mason County.

ACT attorney Stuart Calwell was a panelist with Agricultural Commissioner Gus Douglas, Janet Fout of the Ohio Valley

Environmental Council, and Bill Maxey of the Division of Forestry, Department of Natural Resources.

The taping will be made into two shows to air in December.

"Both episodes of 'West Virginia's Talking' that union officials were involved in turned out to be very much in our favor," said Smith.

"We come prepared, we have the experts needed to get the facts, and the other side doesn't like it.

"This amounts to a lot of good exposure for ACT and the issues we are fighting for."

ACT received even more free coverage on a national level when a representative of Nickelodeon, the children's cable channel, contacted the foundation for a news story about the pulp and paper mill.

The six minute news segment aired nationwide, November 12, on Nick News.

Non-Profit
U.S. Postage
PAID
Permit No. 88
Chas., WV 25301

ACT Foundation
523 Central Avenue
Charleston, WV 25302
(304) 345-7570

JOBS ACT UPDATE

The West Virginia Jobs Act would require projects funded by state tax dollars to hire 90 percent of workers locally. B.B. Smith, ACT legislative representative has visited 29 county commissions to lobby for passage of a resolution supporting local hiring.

County Resolutions Passed

Doddridge	Ritchie	Harrison	Raleigh
Clay	Wirt	Lincoln	Hardy
Grant	Preston	Marshall	Tucker
Fayette	Wood	Wetzel	Lewis
Wayne	Taylor	Calhoun	Tyler

Braxton

County Resolutions Rejected

Putnam Jackson

County Resolutions Pending*

Boone	Cabell	Mason	Monongalia
	Kanawha	Randolph	

Counties Next On Agenda*

Webster	Summers	Berkeley	Monroe
Roane	Barbour	Greenbrier	Gilmer

*Members from these counties are encouraged to attend the County Commission meetings with Smith. Call (304) 455-5500.