

**“FAIR WAGES FOR FAIR WORK”**  
A Public Hearing on Low Wage Work  
by the Education Committee of the  
Rochester and Vicinity Labor Council, AFL-CIO

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In a period of United States history containing lessons for our own, low wage workers rose up in rebellion against the accumulation of excessive wealth by the top one percent, against record income inequality, against poor working conditions, against their impoverishment, and against a government that let these excesses lead to the crash of the entire economy. They engaged in protests, demonstrations, work stoppages, and strikes. This was the 1930s.

Whether truly believing in economic justice or merely to save capitalism from an actual revolution, President Franklin Roosevelt set out to grant some limited power to low wage workers by proposing the National Labor Relations Act (“NLRA” or the “Act”). But to gain Congressional approval, Roosevelt needed Southern Democrats to support the legislation. To get that support, Roosevelt agreed that the NLRA would not cover low wage jobs held primarily by people of color; so excluded from the Act were agricultural workers, domestics, health care workers, employees of non-profit so-called charitable institutions, and others. The Act became law in 1935.

Low wage workers covered by the Act formed unions that accepted this trade off: limited government backing to require employers to bargain and a system of recognition that divided workers into bargaining units, often pitting small groups of workers against large employers.

Nevertheless, this reform brought about the transformation of heretofore low wage factory and transportation jobs into high wage jobs with benefits, pensions, and security - the most important factor in the growth of the American middle class in the post World War II era.

Although the U. S. labor movement never achieved majority status, the impact on market rates was profound far beyond union shops. In Rochester for example, non-union Eastman Kodak had to compete for production workers with unionized General Motors' Delco and Rochester Products divisions, as well as Xerox; these three firms alone accounting for over 15,000 union members at their height.

The National Labor Relations Act, as originally passed, was short lived. It was amended in 1947 by the Taft-Hartley Act which outlawed many forms of worker protest, prohibited supervisors from joining unions, banned communists and those refusing to take a loyalty oath from union office, and weakened finances by allowing states to ban union shop clauses in collective bargaining agreements, the last being known deceptively as "right to work" laws.

The 1959 Labor Management Reporting and Disclosure Act furthered constrained union growth by mandating a whole host of bureaucratic requirements in the operations of unions.

Hostile Federal courts issued rulings that, year after year, added to the destruction of unions; inventing the judicial doctrine of the "duty of fair representation," deciding *Beck v. CWA* against unions, and lately *Harris v. Quinn*, to name just a few.

The union movement, now pushed away from its roots, was not blameless in its own demise. Under conservative leadership, many unions purged their best organizers, leftists of various affiliations, from their ranks in the 1950s and early 1960s. Growth of union membership slowed and then stopped. The AFL-CIO's membership of 13 million at the time of the merger in 1954 did not change for two and one-half decades while the U.S. workforce tripled in size.

There were moments of revival.

Some states passed laws allowing teachers and other government employees to bargain collectively. Dr. King turned from the struggle for civic justice to the struggle for economic justice, but was gunned down while supporting striking sanitation workers in Memphis. Farmworkers organized in California and elsewhere in spite of having no legal protections. Health care workers struck in cities such as New York, San Francisco, and others, forcing Congress to amend the NLRA to include

them in 1974.

By the late 1970s, the decline of labor union membership in the private sector, masked by growth in the public sector, became obvious. Efforts to restore some balance to the NLRA failed due to a record six unsuccessful cloture votes in the U. S. Senate in 1978. The Carter administration did little to help. Labor political activists walked away from Carter's reelection bid, many supporting Ted Kennedy. Ronald Reagan was elected in 1980.

Reagan lost no time in setting an example for business by crushing one of only two unions to have supported his election, the Air Traffic Controllers. Union busting had already become a multi-million dollar industry; Reagan put it on steroids. He appointed a professional union buster to chair the National Labor Relations Board (NLRB), and promoted globalization and its resulting flight of manufacturing jobs overseas. Deregulation of transportation injured those unions as well.

The cumulative result of all these assaults on good union jobs caused the near disappearance of industrial unions in the United States, the very unions who built the American middle class. By the time the Democrats regained control of the White House, after 12 years of Republican rule, another Southern Democrat, Bill Clinton, appointed a commission to study the barriers to worker organizing. The study lasted two years, enough time for the Republicans to seize control of Congress and end any hope of labor law reform. No serious attempt has been made since then.

We get to the 21st century with a radically different workforce, one dominated by services and government employment, many jobs in categories historically and currently excluded from even the weak protections of labor laws. With the underlying cause of wage growth gone, namely healthy unions, working families' incomes have stagnated; excessive wealth is being accumulated by the top one percent; there is record income inequality, poor working conditions, impoverishment of much of the working class, and a government that does little to correct the problem.

Sound familiar?

Last December, the Rochester Area Community Foundation released a study titled "Poverty and the Concentration of Poverty in the Nine-

County Greater Rochester Area.” It was followed in January by the Women’s Foundation of the Genesee Valley report “Improving Economic Self-Sufficiency for Women and Girls: 2014 Update” which used the concept, not of the Federal Poverty Level, but of self-sufficiency, the level of income necessary for a family to live in Rochester without public or other outside assistance. Needless to say, these figures are much higher than the indices of poverty.

In response to the public hand wringing that followed, I wrote an opinion piece published by City Newspaper titled “The Real Solution to Rochester’s Poverty.”

It began with a quote from Nelson Mandela:

“Poverty is not an accident. Like slavery and apartheid, it is man-made and can be removed by the actions of human beings.”

I asserted several premises that are true:

(1) Most poor people work. They work every day. They work very long hours and often work multiple jobs just to make ends meet.

(2) The primary cause of poverty therefore is not a lack of jobs, nor lack of skills and education, nor an alleged ‘culture of poverty’ that renders poor people dysfunctional. It is the fact that the jobs that poor people hold pay low wages.

(3) Poor people in our community have not been passive victims of their own exploitation. They have repeatedly fought back against a lack of respect, bad working conditions, and low wages. I surveyed the half dozen unions who have local organizers in the field and found that four thousand workers, mostly low wage and mostly people of color, in the immediate Rochester area, have tried to form unions and been defeated over the last ten years.

(4) The principal reason for these losses is a well financed, sophisticated reign of terror inflicted on them by a hand full of law firms and consultants hired by employers each and every time an organizing effort occurs. Many area employers go so far as to engage firms for “union avoidance” practices, sophisticated counterinsurgency programs that include selective hiring, anti-union propaganda, supervisory surveillance

techniques, and more.

There was a debate among my staff as to whether I should use the phrase “deliberately engineered” in a sentence in the opening paragraph of my piece that read:

“As community leaders discuss yet another exhaustive study of our region’s poverty, and how our city has become one of the poorest in America, a fundamental fact continues to be ignored: that much of Rochester’s poverty has been quite deliberately engineered by employers and a hand full of law firms dedicated to crushing collective action by local workers.”

Would it look too angry? Too far out? More militant Popper rhetoric that could be easily dismissed?

I won the debate. It became “deliberately engineered” because it is.

When the Unity Health System, now the Rochester Regional Health System, spends hundreds of thousands of dollars to hire the managing partner of the Pittsburgh office of the nation’s leading anti-union law firm to keep low wage nursing home workers poor and without affordable health insurance, what else do you call it?

When Kirkhaven Nursing Home, affiliated with the Presbyterian Church, employs another lawyer-consultant to set up “focus groups” to isolate and psychologically intimidate direct care workers who support unionization, what else do you call it?

When on the very day of an NLRB election at Episcopal Church Home, after passing by administration employees wearing bright red “VOTE NO!” t-shirts, selected employees are diverted to an office to pick up their paychecks and told that their TANF sponsored school benefits might be jeopardized if they choose union. “Now go vote,” the manager says. What else do you call it?

When the Arc of Monroe spends over \$400,000 on out of town thugs to beat back an attempt to form a union by a few hundred low wage group home workers and drivers, what else do you call it?

When the so-called liberals and most elected officials in this town turn a blind eye, when I beg them to intervene and stop the attack on the very lifeblood of our community, low wage caregivers, what else do you call it?

When civil liberties advocates, some from the very law firms who practice these tactics, fail to recognize that when huge numbers of our fellow citizens live in the dictatorship of the workplace, that this is the greatest threat to civil liberties, what else do you call it?

What else do you call it but deliberately engineered poverty in Rochester.

There are dozens more examples. If you think my descriptions are exaggerated or that I am some paranoid lunatic, start by reading Martin Jay Levitt's book Confessions of a Union Buster.

Poll after poll shows that low wage workers want to join and form unions to better their working conditions and lift themselves out of poverty, if only they had a free choice.

So, on the question before us today: "Ways to Lift Low-Wage Workers Out of Poverty," you asked me to talk about organizing low-wage workers.

We first need to find a strategy to deal with the enemy.

Are there ways to neutralize the union-busters? To date, our efforts at dislodging these parasites, once they are in place, has had very little success. Political and community pressure, a call for fair play and conscience, have yielded little in the way of results.

When United Farm Worker (UFW) organizers were being shot for trespass in the fields, Cesar Chavez shifted the organizing to the barrios where the workers lived. When the members of the Memphis local of the American Federation of State, County, and Municipal Employees (AFSCME) walked off the job in 1968, they made it a civil rights struggle in the community.

If we can't win at the workplace because of the boss's superior power and access to the workers, then we need to turn to a community based approach. This strategy implies a very different use of organizer and union officials' time. It means aligning the interests of low wage workers with churches and community based organizations. It suggests a major publicity and educational campaign. It also suggests a different model of union membership.

The union movement must reinvent itself, and do it now! Too few unions devote any resources to organizing low wage workers. Many very

decent, democratic locals in our area are locked in the increasingly difficult battle just to keep their jobs and their hard won benefits.

We can't win on defense.

If union organizing in some form is the only solution to fighting poverty, and I strongly believe it is, then we have to change the way we do business. We need to redeploy our financial resources and staff to reach out to low wage workers in the community. We need to develop and strengthen alliances with other progressive organizations and causes. We need to make worker rights a core principle in civil liberties. We need to clearly articulate our world view, and pose the solution.

The Gamaliel Foundation has a rule for its faith based community organizing chapters when tackling an issue: "It must be broadly felt. It must be clearly defined. It must be winnable."

It is our challenge to come up with such issues and strategies. The Rochester Labor Council has endorsed the "Fight for 15" as one such strategy. We must find more.

We must bust out of the 1935 collective bargaining box that we live in, and stop pitting small groups of workers against increasingly more powerful, large employers. We need to unite large numbers of workers in sectors where we can win.

Collective bargaining still works when enough workers engage management. Service workers at the University of Rochester (UR) present a good local example. They recently won a \$15. minimum wage for every worker with five years of service by March, 2017. They kept their free, comprehensive health insurance. They continued child care support and educational benefits with paid class time. In 2007, we calculated that the value of just their wages and health insurance alone, because they were above the labor market for those jobs, brought nearly \$8 million more into our 500 households in Rochester's southwest neighborhoods (zip codes 14608, 14610, 14619) than they otherwise would have brought home . By 2014, that figure is much higher, and it makes a difference in the quality of life there.

The UR service workers also know that they may speak out about issues at work without fear of reprisal; they have due process rights under their contract. Their attitude is markedly different from non-union workers who react with fear when asked to talk about problems at work.

But these workers are the exception, not the rule, by far, in Rochester, New York. Too few low wage workers are organized. That is our challenge, for those of us who are here today.

The stakes are high: the very fabric of the society that we live in. But what better reason to walk the earth, than to fight for what we know is right.

In his book of essays Divided: The Perils of Our Growing Inequality, David Cay Johnston has a chapter titled “Insights on Inequality” filled with quotes from notable people. Here are three:

“Wherever there is great poverty there is great inequality. For one very rich man there must be at least five hundred poor, and the affluence of the few supposes the indigence of the many.”

- Adam Smith, economist and philosopher, in The Wealth of Nations

“The distribution of wealth is not determined by nature. It is determined by policy.”

- Eric Schneiderman, Attorney General of New York State

“An imbalance between the rich and poor is the oldest and most fatal ailment of all republics.”

- attributed to Plutarch, historian of ancient Greece

Thank you.

### **New local initiatives to organize against poverty in Rochester:**

Rochester and Vicinity Labor Council, AFL-CIO, Education Committee, Public Hearing on “Fair Wages for Fair Work.” November 6 and 8, 2014, Rochester Public Library.

Metro-Justice, Fight for \$15, Public Education Session on “The Fight for 15 in the Context of the History of the Labor Movement.” November 8, 2014, 1199 SEIU Union Office.

Rochester Alliance of Communities Transforming Society



(Roc/ACTS), a Gamaliel Foundation Chapter, “Issues Convention.”  
November 15, 2014, St. John the Evangelist Church.

People Organizing for Worker Empowerment and Respect (POWER), forming a Rochester Workers Center in partnership with The Worker Justice Center (formerly Farmworker Legal Services of New York) and Metro-Justice.

Metro-Justice, Elder Justice Task Force.

Organizing of adjunct college faculty by Local 200 United, Service Employees International Union (SEIU).

Organizing of other low wage workers by Rochester Building Trades Unions, 1199 SEIU United Healthcare Workers East, and other locals.

### **Documents to accompany testimony:**

Rochester Community Foundation and ACT Rochester, “Special Report: Poverty and the Concentration of Poverty in the Nine-County Greater Rochester Area,” (December, 2013).

The Women’s Foundation of the Genesee Valley, “ Improving Economic Self-Sufficiency for Women and Girls: 2014 Update,” (January, 2014).

Jeff Faux, “America Without Unions,” Huffington Post, (February 25 2014).

Bruce Popper, “The Real Solution to Rochester’s Poverty,” City Newspaper, (February 26, 2014).

Velvet Spicer, “Report says Rochester ranks high among poorest metro areas,” Rochester Business Journal, (July 23, 2014).

Rochester and Vicinity Labor Council, AFL-CIO, “Resolution to Fight Poverty, Fight for 15,” (September 11, 2014).

Bruce Popper, “Rochester Labor Day Parade Press Conference Remarks,” (August 29, 2014).

