

Clinton says, fair labor standards cover workfare

by Marianna Wertz

The Clinton administration made a major break from the welfare policy of the Conservative Revolution in Congress on May 16, when White House domestic policy adviser Bruce Reed announced, in an interview with the *New York Times*, that the administration's "reading of the Fair Labor Standards Act is that it covers workfare recipients." He explained that this meant, at the very least, that workfare laborers should receive minimum wage. The White House later confirmed to *EIR* that the President does indeed support the Labor Department's finding, that all the protections of the Fair Labor Standards Act should be applied to workfare laborers, not just the minimum wage.

The issue is a crucial one, as nearly 2 million people are in the process of moving from welfare to work under the Temporary Assistance to Needy Families (TANF) program, which was established last year by the welfare reform legislation that Clinton signed into law in August. Many of these recipients are working in public sector jobs and are receiving only their welfare checks as pay; they have none of the standard protections other workers enjoy. The average cash welfare benefit is about \$370 a month, which for a 35-hour week averages to about \$2.50 per hour. Minimum wage, by contrast, is now \$4.75 per hour.

The welfare reform legislation, part of the Gingrichite "Contract on America," was hurried through Congress last year to provide a platform for the Gingrichites to run on in the November elections. Clinton signed it into law despite a loud outcry within his own party, including from then-Labor Secretary Robert Reich, but the President promised he would "fix it" if he were reelected. This decision is clearly part of "fixing" it.

Unlike prior welfare laws, the 1996 welfare reform legislation was silent on the question of whether the Fair Labor Standards Act applies to welfare recipients who work. That

determination was left to the Labor Department.

Labor Department spokesman Scott Sutherland told this news service on May 20, "We were asked to provide a legal analysis [of the applicability of the Fair Labor Standards Act] to the White House and we've done that." He explained that "all the issues in the Fair Labor Standards Act will apply to people on workfare," including the right to be paid for overtime work, to receive workmen's compensation and unemployment insurance, and to organize into labor unions. "Everything a normal worker would be provided" applies to workfare laborers under this ruling, he said.

The Bush crowd responds

Welfare reform was a key aspect of the "Contract on America," with the holier-than-thou name, Personal Responsibility Act. Indeed, it was one of the few parts of the contract which actually passed into law. So it is no surprise that the Conservative Revolutionaries reacted with venom upon hearing Clinton's ruling.

The *New York Times*, which has editorialized in favor of paying workfare laborers below minimum wage, quoted Heritage Foundation spokesman Robert Rector, who called the decision a "gangland execution of welfare reform," because, in his twisted reasoning, it would make remaining on welfare as attractive as holding a low-wage job. Rep. E. Clay Shaw, Jr. (R-Fla.), the main author of the welfare bill, said the decision "could drastically cut back the hours that welfare recipients are required to work"—i.e., they can only be required to work for the value of their check.

Texas Gov. George W. Bush, whose scheme to privatize the screening process for welfare eligibility was rejected by the Clinton administration earlier this month, responded to the ruling at a May 16 press conference. "I strongly disagree with the welfare decisions coming out of this current White

House. . . . This is a White House that has said repeatedly it would let states run themselves. Yet, here is another example of the Clinton administration not letting Texans run Texas, interfering with our abilities to move people from welfare to work."

Bush blamed "big labor" for Clinton's ruling. "The AFL-CIO continues to make welfare policy for the United States," he raved, adding, in the illiterate style he probably inherited from his father, "By the White House cratering [sic] to it, it has made it more difficult for Texas to realize our objective of helping people become less dependent on the welfare system and encouraging people to work."

Labor claims 'victory'

It certainly is true that organized labor has been fighting for this determination since before the welfare legislation was passed. Not only is the finding crucial, from the standpoint of organizing welfare recipients into unions, but millions of new workers flooding into the job market, forced to work at below minimum wage, are already beginning to lower the wage level across the board, particularly in such large cities as New York and Baltimore, where welfare recipients are taking over jobs formerly held by municipal employees.

In Texas, AFL-CIO lobbyist Rick Levy responded to Governor Bush with very blunt words: The ruling "doesn't have anything to do with 'cratering' into labor unions," Levy said, "but has everything to do with recognizing the dignity and respect of the working poor. You can make people slaves for what in Texas amounts to slave wages for about \$180 a month. I call that welfare for corporations who have access to near-slave labor."

In interviews with *EIR* on May 17, two labor leaders, who are outspoken opponents of using workfare workers as slave labor, immediately praised Clinton's decision. Stanley Hill, executive director of District Council 37 of the American Federation of State, County and Municipal Employees (AFSCME), the umbrella union representing 250,000 non-uniformed municipal workers in New York City, called it a "very good decision" and very much needed. "We shouldn't resort to exploitation of workers who are on welfare. . . . We have to give them dignity," Hill said.

Henry Nicholas, an international vice president of AFSCME, president of the National Union of Hospital and Health Care Employees (a division of AFSCME), and head of the hospital workers in Philadelphia, said that the Clinton announcement is a "victory" for the labor unions, which have been fighting for this since Clinton signed the welfare bill. He urged that Clinton publicly go beyond the minimum wage issue, and support the entire gamut of rights spelled out in the Fair Labor Standards Act.

Both labor leaders warned of a storm of reaction against the decision. "It'll be a heavy summer," Hill said, predicting a "lot of fighting in Congress and from some governors."

In 1996, before the welfare law was passed, AFSCME

issued a fact sheet on "Welfare Reform and Fair Treatment," which stipulated that any reform must ensure that the Fair Labor Standards Act is applied to recipients forced to work:

"The issue of fair treatment for all workers is a serious concern for AFSCME. As welfare recipients move into 'workfare,' a two-tier set of labor standards looms on the horizon. Under AFDC [Aid to Families with Dependent Children], workfare recipients were guaranteed at least minimum wage initially and a prevailing wage after nine months. The new program, Temporary Assistance to Needy Families (TANF), is silent on these issues. Yet, by the year 2002, TANF will move approximately 2 million people from welfare into workfare. . . .

"As welfare reform takes shape at the state level, AFSCME will work to ensure that workfare participants are considered 'employees,' making them eligible for basic worker protections, including: minimum wage/overtime requirements; worker's compensation; coverage under the Family and Medical Leave Act and anti-discrimination laws; OSHA [Occupational Safety and Health Act] protections; the right to be organized and represented by a union; and unemployment compensation. Without these protections, the nation will face a downward pressure on the wages, benefits, and working conditions of all workers as the labor market is flooded with low-wage workers."

Prevailing wage in New York

In addition to the Clinton administration's ruling, a decision handed down by Manhattan Supreme Court Justice Jane Solomon on May 12, would force New York City to pay its 38,000 workfare recipients at least minimum wage, if not higher, for the work they now do for their welfare checks. The ruling, which has been appealed by Mayor Rudolph Giuliani, stipulates that the city must obey state law and pay workfare laborers whichever is higher—the minimum wage or the "prevailing" wage—i.e., the wage normally paid laborers in that trade.

The net effect of the ruling would be to drastically shorten the hours worked by welfare recipients, who now work an average of 26 hours per week in jobs once done by city workers. Under Solomon's ruling, they would work only as many hours as it takes to pay off their welfare checks at the higher pay rate. Marc Cohan, attorney for the Welfare Law Center, called it a victory for welfare recipients, who would better use the time in job-training classes or at job interviews than doing workfare tasks.

This ruling, along with Clinton's, is now subject to political counterattack, if Congress and state legislators decide to write legislation denying minimum wage and other protections to workfare recipients. Whether they can get away with it is entirely up to the American people, who must decide if this nation will continue to tolerate falling wage levels and outright slave labor, or will support the right of all Americans who work to receive the full protection of the law.