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Labor Watch

Above the Law

Unions are often exempt from laws on extortion, identity theft, and whistleblower protection

By Kevin Mooney

Summary: *At the moment, labor bosses are demanding exemptions from the pains of the Obamacare law they fought to enact. But that's just the latest in a long list of laws that unions are allowed to skirt.*

Regarding union violence, AFL-CIO President Richard Trumka (*bottom photo*) once noted that, "if you strike a match and put your finger in it, you're likely to get burned."

It's illegal for you to use violence or the threat of violence for economic gain. It's unlawful for you to steal someone's identity. If you try to freeze out competition to obtain a monopoly, regulators may come down on you. If someone in your organization exposes you for wrongdoing, that whistleblower is protected from retaliation.

On the other hand, if you're a union boss, sometimes those rules simply don't apply. You're exempt from many laws that apply to regular people.

In recent months, a lot of attention has been focused on the unions that pushed Obamacare into law but now receive waivers and demand long-term exemptions from its onerous provisions. But the idea of union exemptions isn't new; it's a long-standing practice that unions often stand above the law and need not obey the rules that apply to the rest of us.

Union exemptions range from cases of trespassing to whistleblower protections to antitrust laws. Perhaps the most shocking example is unions' exemption from federal laws against the use of violence.

Violence and the *Enmons* case

That exemption stems from the Supreme Court's interpretation of the Anti-Racketeering Act of 1943, known as the Hobbs Act.

That law forbids the obstruction of interstate commerce by robbery or extortion. It's the main federal law against extortion (economic gain through violence). Unions' exemption is rooted in the 1973 *Enmons* case, in which the Supreme Court ruled that unions are exempt because the law simply doesn't apply when unions are seeking "legitimate" union objectives.

The case involved three members of the International Brotherhood of Electrical Workers (IBEW) who were indicted for firing high-powered rifles at three utility company transformers. The oil that drained from one of the transformers blew up a substation. The U.S. District Court in Baton Rouge, Louisiana, dismissed the charges against the IBEW, arguing that the actions were not illegal since they were done to obtain legitimate union objectives. Writing for the 5-4 majority, Justice Potter Stewart put the onus back on Congress for creating a loophole in the Hobbs Act.

He wrote that, because the Hobbs Act bans the "wrongful" use of force in obtaining wages and other things of value, it does not ban such actions unless they are wrongful. Since unions can legitimately strike to ob-

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tain higher pay and benefits, unions have a "legitimate claim" to those improvements, and since those claims are legitimate, the Hobbs Act does not apply. Dissenting from the *Enmons* decision, Justice William O. Douglas, a liberal but a staunch civil libertarian, objected that "The Court today achieves by interpretation what those who were opposed to the Hobbs Act were unable to get Congress to do."

Thousands of violent acts have gone unpunished as a result of *Enmons*. For example, the National Institute for Labor Relations Research identified 8,799 incidents of union-related violence between 1975 and 1998. Less than 3% of these incidents resulted in convictions, according to the Institute.

Mark Mix, president of the National Right to Work Committee, recently described a Philadelphia case involving the sort of union violence protected by *Enmons*:

> The city's construction trade unions targeted brother developers Matt and Mike Pestronk, who founded Post Brothers Construction, when they started converting an old factory building into an apartment complex.
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> After construction began, Philadelphia Building Trades Union militants planted nail "bombs"—nails welded together in a ball—to puncture tires of vehicles driving to and from the company site, pouring oil in front of the loading dock, blocking site deliveries, and shoving security guards simply because the Pestronk brothers hired non-union workers.
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> Worse, union thugs stalked the brothers' wives and female employees, disseminated sexually suggestive materials and threats aimed at the brothers' wives, and physically assaulted a nonmember construction engineer when he arrived at the work site.

Former U.S. Attorney General Ed Meese, a member of the board of the Capital Research Center, testified about the *Enmons* problem (and a legislative proposal to fix it) before the Senate Judiciary Committee in 1997:

> The bill before you today, the Freedom from Union Violence Act of 1997, is an effort to correct the misuse of one of the many special protections granted to labor officials in the United States—in this case, the use of violence without fear of reprisal, to achieve what the Supreme Court has called "legitimate union objectives" . . . This exemption permits union officials, alone among corporate or associational officers in the United States, to use violence and threats of violence to life and property to achieve their goals.
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> This exemption from normal standards of the federal criminal law is otherwise foreign to American law. In no other context has Congress said that "the ends justifies the means" as it applies to a particular class of criminals or organizations.
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> Nevertheless, the Supreme Court's 1973 *Enmons* decision stated—many have argued, contrary to congressional intent—that union officials are protected from the Hobbs Act when their goals are "legitimate union objectives." Instead of judging the nature and quality of the act itself, the Enmons decision looks to the goal of the perpetrator of union violence to determine whether, under the Hobbs Act, that violence is wrongful or [is considered] "extortion," within the meaning of the Act. It is or should be disturbing to all who value public order in a constitutional republic that the high Court has taken the position that some acts of violence for economic gain are "wrongful," while others . . . are somehow not "wrongful."

Meese noted examples of union violence such as the pelting of delivery truck drivers with bricks and the burning of more than 50 trucks during a strike at the *New York Daily News* and IBEW violence that shut off electricity to thousands of Alaskans in the middle of winter.

> The fruit borne by the *Enmons* decision is continued and escalating violence in order to achieve union goals, particularly as organized labor becomes more frustrated by a declining membership and declining relevance to the modem American economy.
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> Congress' failure to act since 1973 has spawned escalating rounds of union violence. In 1989 and 1990, in the coal fields of Virginia and West Virginia, millions of dollars in state taxpayers' money was spent in an ultimately unsuccessful effort to contain the violence of militants of the United Mine Workers of America. Federal officials were virtually impotent in this interstate campaign of terror.
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> Illustrative of the need for federal action, state officials fared no better. In the midst of the dispute, the companies targeted by the violence pursued contempt remedies under Virginia law. The local circuit court judge also attempted to vindicate the rights of the people of the Commonwealth of Virginia for the violence perpetrated against them, imposing against the UMW contempt fines in the tens of millions of dollars, payable to the affected counties, when the UMW refused to stop the violence. However, as to the companies' injuries, all was forgiven when the strike was settled. The judge appointed a special master to collect fines payable to the counties from the UMW and its militant officials, but the Supreme Court reversed the decision of the Virginia Supreme Court and refused to enforce the fines on technical grounds.
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> In 1993, truck driver Eddie York was murdered for crossing a UMW picket line in West Virginia. No state charges were brought against Jerry Lowe, the killer who left York's child fatherless and his wife widowed. And the federal government? It charged a murderer with "incapacitating a driver on a federal road." Even that federal charge would have been untenable had Mr. York been shot on a state-funded road.

The president of the United Mine Workers at the time of the events described by Meese? Richard Trumka, now the president of the

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AFL-CIO. When a journalist asked Trumka about the violence, he suggested that it was justified: "I'm saying if you strike a match and put your finger in it, you're likely to get burned."

The *Enmons* case affects federal law, but the spirit of *Enmons*—the idea of special exemptions for unions from anti-violence laws—affects state governments as well. In a report entitled *Sabotage, Stalking & Stealth Exemptions: Special State Laws for Labor Unions*, the U.S. Chamber of Commerce noted that states provide "carve-outs" for unions—sabotage exemptions in Wisconsin and Washington state, stalking exemptions in Pennsylvania, California, and Nevada, exemptions regarding threats of bodily injury in California and West Virginia, and so on.

"The most glaring examples of union favoritism under state laws tend to occur in criminal statues and allow individuals who engage in truly objectionable behavior to avoid prosecution solely because they are participating in some form of labor activity," the Chamber reported.

Trespassing and strike violence

Laws that give special treatment to labor unions are often blamed on Franklin Roosevelt and the New Deal, but the Norris-LaGuardia Act (like the Davis-Bacon Act) was the product of the Republican administration of Herbert Hoover. Some of the effects of the Norris-LaGuardia Act, as noted by Charles Baird, director of the Smith Center for Private Enterprise Studies at California State University at Hayward:

> The NLA prohibited federal judges from issuing injunctions to interrupt strikes—even violent strikes . . . . The most basic function of government in a free society is to protect people against trespass, aggression, and violence, yet [that section] is still the law of the land. . . .
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> The NLA gave legal standing to strangers in labor disputes. Thus, a company with 150 employees on strike and 700 employees that wish to continue to work can be forcibly shut down by 5,000 picketers sent from union headquarters. These NLA provisions clearly violate voluntary exchange rules regarding property rights, trespass, and contract.
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> The NLA insulated labor unions as organizations from prosecution for any acts committed by individual members and officers. If picketers murder or maim a replacement worker who crosses a picket line, the on-strike union cannot be blamed. If the perpetrators are apprehended by local officials and convicted by local courts, no punishment may be imposed on the union. In other words, the common law doctrine of *respondeat superior* or vicarious responsibility was made inapplicable to unions.

Norris-LaGuardia is federal law, but with regard to union exemptions for trespassing, state officials have followed suit. In California, for example, union operatives who trespass on property are exempt from criminal sanctions. Consequently, they can interfere and intimidate businesses and their customers without fear of any legal reprisals.

Case in point: In October 2008, members of the United Food and Commercial Workers Union targeted a Ralphs store and picketed on a sidewalk owned by the store. The picketers harassed employees and customers. The store sought an injunction, but a California court upheld two state statutes that restrict the availability of injunctions against picketing by labor unions on private property. Ralphs and several trade associations argued that the state laws are discriminatory because they permit trespassing on private property by unions to engage in expressive activities such as picketing, but not by any other organizations, and that the state laws result in a violation of constitutional property rights. The union won, and the Supreme Court recently declined to review the case.

Be careful blowing that whistle!

Consider the case of a union officer called out for financial transgressions that betray the trust of the members—depleting the union's general treasury, making political contributions in excess of legal limits, and using union funds to pay for personal expenses. Normally, honest employees who report such illicit activities are protected from retaliation, but not in this case.

The case involved the United Food and Commercial Workers (UFCW) Local 700 in Indianapolis. On August 19, 2005, three officials—Rian Wathen, the director of collective bargaining; Peggy Collins, a vice-president; and Herman Jackson, the organizing director—presented the local's executive board with allegations against C. Lewis Piercey, the president, and Richard Fitzgerald, the secretary-treasurer.

The next day, Piercey fired the whistleblowers. At first glance, that would seem to be illegal. Whistleblower protections are part of laws ranging from the Americans with Disabilities Act to the Superfund law to the Sarbanes-Oxley Act that deals with corporate accounting practices. Federal employees are covered by a separate Whistleblower Protection Act. And the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), which was intended to fight union corruption, seems to provide whistleblower protections in cases involving unions.

But union employees lack the usual protections. The Supreme Court ruled (*Finnegan v. Leu*, 1982) that whistleblower protection law applies to rank-and-file union members, but not to employees of the union itself, except in cases involving expropriation of pension funds. As James Sherk of the Heritage Foundation puts it: "Nothing in the law shields union officials from retaliation for whistle-blowing, even though they are the people most likely to uncover corruption." Although Congress didn't explicitly exclude union employees from whistleblower protections, it "simply never passed separate whistle-blowing laws to cover them."

Sherk concluded:

> One group of employees is conspicuously absent from whistle-blower protections: employees of labor unions. Existing whistle-blower provisions prohibit retaliation against an employee for reporting violations of the laws that the employer is included in. So unions cannot fire employees who report their unions for dumping toxic waste or using child labor. Unions rarely break these laws. . . . The Office of Labor-Management Standards convicts about 100 union officials a year for embezzling or misappropriating funds. The people most likely to witness such abuses are union employees. The law puts them in an impossible situation: If they keep silent, they can be sued for breach of their fiduciary duty. But if they speak up, they can be fired.

Expanded whistleblower protections, Sherk noted, "would benefit rank and file members by discouraging corruption and violation of the fiduciary responsibility by union officers—for example, dipping into money for

'job training' for personal benefit. Whistleblower protections would encourage union employees to come forward and expose corruption without risking their jobs. This directly uncovers corruption, and the greater likelihood of getting caught also discourages wrongdoing."

As Sherk reported, the executive board of Local 700 found the allegations highly credible and voted unanimously to suspend Piercey and Fitzgerald pending a union trial on the charges.

Piercey ignored the suspension and called the police when the executive board tried to remove him from the building. The police took his side, and he remained in office—with full access to records and documents—for four months before the trial. Normally, the union trial would be held before the executive board, but the International UFCW intervened and selected officers from other UFCW locals to hear the case. This jury acquitted Piercey and Fitzgerald. However, the International UFCW subsequently placed the local in trusteeship, removed the president and secretary-treasurer from office, and required them to pay restitution for some expenses. Wathen, Collins, and Jackson were not re-hired. Piercey was subsequently placed on the payroll of the International UFCW.

As this case shows, cronyism and corruption is endemic to labor unions. People who work for unions have inside information that is critical to the fight for openness and honesty. Strong whistleblower protections would encourage them to come forward, to protect members' interests from corrupt union officials.

Identity theft and SSNs

Even in right-to-work states, union bosses have ways to maintain the upper hand against workers who choose to be independent and free from organized labor. In 2007, a group of 33 AT&T employees in North Carolina resigned from the Communication Workers of America Local 3602. Under the state's right-to-work law, their right to withdraw from the union and stop paying union dues was protected. Nevertheless, the local's president, John Glenn, retaliated. He posted the names and Social Security numbers of the withdrawing employees, along with their pay category, on a public bulletin board at the company's facility in Burlington. After the AT&T workers filed complaints with the National Labor Relations Board, the union reached a settlement with the workers and sent them letters of apology.

Hey! Where's my pension?

Union officials' funds in better shape than those of rank-and-file members

A key selling point for union membership is often the guarantee of a pension that will finance a secure retirement. Yet there's a problem with union pensions. According to the government's Pension Benefit Guarantee Corporation (PBGC), the average union pension has the funds to cover only about 60% of what is owed to plan participants.

Under federal law, pension plans with less than 80% of the assets needed to cover current and future liabilities are labeled as "endangered," while those that dip below 65% are identified as "critical," which means that the average union pension plan is well below the "critical" threshold.

When pension promises cannot be met, PBGC steps in to fulfill the obligations.

If a single-payer employer plan is forced to terminate, PBGC assumes control. With multiemployer plans, such as those typically negotiated with unions, PBGC provides financial assistance, but allows the plan to remain an independent entity.

Both union and non-union multi-employer plans are in bad shape. The Government Accountability Office (GAO) recently issued a report with the title "Timely Action Needed to Address Impending Multiemployer Plan Insolvencies." Manhattan Institute scholar Diana Furchtgott-Roth (author of the lead article in the May 2013 *Labor Watch*) analyzed a document known as Form 5500, which pension plans must file with the Internal Revenue Service and the Labor Department, and found that union-sponsored plans are in even worse shape than non-union plans.

On the other hand, pension plans *for union officers* remain healthy and well-funded even as rising liabilities threaten to consume the plans of their rank-and-file counterparts. This disparity became evident to Furchtgott-Roth after she examined 30 staff pension plans and compared them to the largest 46 rank-and-file pension plans. The staff pension plans used in her study included affiliates of national unions such as AFSCME, the American Postal Workers, and the Graphics Communications Conference of the Teamsters. The rank-and-file plans covered a wide variety of unions including the Teamsters, the SEIU, the UAW, the Communications Workers, the Steelworkers, and the AFL-CIO.

"On average, the rank-and-file plans had 79% of the funds needed to satisfy their obligations," Furchtgott-Roth concluded. "Nine of the plans were fully funded, and 24 were less than 80% funded. Eleven of those 24 were less than 65% funded, and four were listed by the Department of Labor as being in critical condition. The 30 officer funds were on average 93% funded. Nine were fully funded, and eight were less than 80% funded. Of the eight, two were less than 65% funded."

Again: rank-and-file plans were 79% funded; union staff plans, 93% funded. Almost one-quarter of the rank-and-file plans were in extremely bad condition (less than 65% funded), while only two out of 30 staff plans were in such a state. Thus, she concluded, "These data suggest that staff pensions may be better funded than rank-and-file pensions."

Where retirement is concerned, union officers are still capable of taking care of themselves; the average members, not so much.

The employees were also protected, it seemed, under the North Carolina Identity Theft Protection Act, which was passed to protect employees and consumers from inappropriate disclosure of personal information such as that posted by Glenn. So the employees filed suit against Local 3602, invoking the Act. In response, the union argued that the main federal law regarding unions, the National Labor Relations Act, pre-empted state law, and the courts ruled in favor of the union. Last year, the U.S. Supreme Court refused to intervene.

Corruption database, unions excluded

The Office of Labor-Management Standards (OLMS), part of the Labor Department, is the federal agency responsible for enforcing the key provisions of the Labor-Management Reporting and Disclosure Act. OLMS investigates embezzlement allegations, extortionate picketing, the deprivation of union members' rights by force or violence, and fraud allegations in union officer elections. The agency also facilitates the public disclosure of annual financial reports unions, conducts compliance audits of labor unions and seeks civil remedies for violations of officer election procedures. During the George W. Bush Administration, OLMS worked tenaciously to expose the actions of union officers who misallocated union funds. In October 2008, the agency celebrated its 900th criminal conviction for the decade.

Don Todd, a Labor Department official in the Bush (43) administration, discovered another exception for unions during the current administration. In keeping with President Obama's promises of government transparency and his Open Government Directive, the Labor Department created a searchable database of its enforcement activities. When Todd reviewed the database, he discovered that the information about union corruption available in the OLMS was omitted. To find out why, Todd filed a Freedom of Information Act (FOIA) request on behalf of Americans for Limited Government, which resulted in an admission that the data should have been included.

Since OLMS is responsible for administering and enforcing most provisions of the LMRDA anti-corruption law, the omission of its enforcement data is significant. The database snafu is consistent with the attitude toward union transparency in the Obama administration. Bush's Secretary of Labor, Elaine Chao, pushed a variety of measures to enhance transparency—measures that were quickly rescinded when the first Obama Labor Secretary, Hilda Solis, took office.

"During the presidential transition period [between Bush and Obama], the AFL-CIO provided the Department with a roadmap of changes to reduce labor organization transparency," Nathan Mehrens, a Bush-era labor attorney, said in congressional testimony. "It appears that the Department has been using this roadmap as their guide."

Hypocrisy on antitrust

Some exemptions are critical to the very existence of labor unions. One such exemption is from laws that are intended to ban monopolies. The Sherman Antitrust Act of 1890 states that "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce . . . is hereby declared to be illegal."

Yet the Clayton Antitrust Act in 1914 exempts unions from anti-monopoly laws. Labor bosses who forcibly drive out independent employee bargaining groups have had the ability to operate as monopolies with legal cover. The critical passage included in Section 6 of the Act declares that "the labor of a human being is not a commodity or article of commerce. Nothing in the antitrust laws shall be construed to forbid the existence and operation of labor [organizations]; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws."

Subsequent pieces of legislation, including the Norris-LaGuardia Act (1932) and the National Labor Relations Act (1935), promote and protect unions as combinations of workers in restraint of trade. As noted by labor economist Charles Baird:

> [A]ntitrust law is a particularly egregious example of government hypocrisy because Congress has exempted unions. That is how the U.S. Supreme Court interprets the Clayton Act (1914) and the Norris-LaGuardia Act (1932). Moreover, Congress has gone further with the National Labor Relations Act (NLRA) [1935], which promotes and protects unions as combinations of workers in restraint of trade.
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> Economists define a cartel as an agreement among sellers (or buyers) of a product or service to eliminate or restrict competition among its members. For example, if General Motors, DaimlerChrysler, and Ford attempt to fix prices and assign sales quotas, that organization would be a cartel and illegal under the Sherman Act. (Whether it should be is another story.)
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> Similarly, if the employees of General Motors, DaimlerChrysler, and Ford organize to fix wages (set a standard union rate) and set up job demarcations (specify who does what work) that organization would be a cartel. Using ordinary English, the worker cartel (union) would be a combination in restraint of trade, but it would not be illegal under the Sherman Act.
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> The Clayton and Norris-LaGuardia Acts give unions a statutory exemption regarding specific "anticompetitive" activities, including secondary boycotts, picketing, and strikes. Whenever unions undertake other activities that are not specifically exempted, but which are "anticompetitive," they, too, are declared exempt simply because they must be in order to make the NLRA effective.

Baird added that "A basic principle of the rule of law under the U.S. Constitution is equal treatment under the law. . . . There is not supposed to be one set of rules for some and a different, contradictory set of rules for others. But when it comes to antitrust, courts routinely ignore the rule of law. . . . Hypocrisy replaced the rule of law."

Conclusion

These are just a few of the double-standards and legal advantages that make union bosses less accountable to the law. Unions' status as "above the law" did not arise naturally, but as the result of unions' political power. They are the result of deliberate public policy decisions—decisions that could be reversed. Rank-and-file union workers, especially those in the private sector, have a significant stake in reforming labor laws that now benefit a privileged few at the expense of those they claim to represent.

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LaborNotes

In **Wisconsin**, **U.S. District Judge William Conley** has upheld the labor-law reforms put into effect by **Gov. Scott Walker** (R). The reforms appear to be having some effect. The ***Milwaukee Journal-Sentinel*** reported earlier this year that tens of thousands of teachers and other government employees had left their unions. According to **Reuters**, 2011 and 2012 elections that involved 207 school districts, 39 municipal units, and six state units resulted in the decertification of 13% of unions and their affiliates. And, in one of the state's largest jurisdictions, members of the **Kenosha Education Association** voted last month to abandon the union.

In **Indiana**, a **Lake County Superior Court** judge struck down the state's right-to-work law, claiming that it violates the state constitution's requirement for just compensation for services. (The Indiana law forbids unions from receiving compensation for certain services to non-members.) The law will remain in effect while the ruling is appealed.

In **Michigan**, on the other hand, the state **Court of Appeals** upheld, by 2-1, the application of the state's new right-to-work law to civil service employees represented by unions. **State Attorney General Bill Schuette** praised the ruling, saying the law will ensure that "public-sector employees will receive the same freedoms and choices as private-sector employees."

For its educational efforts on the right-to-work issue, Michigan's **Mackinac Center for Public Policy** has been nominated for this year's **Templeton Freedom Award**, which honors the work of free-market think tanks. (The Center's director of labor policy, **Vincent Vernuccio**, wrote the lead articles in the December 2012 and September 2013 issues of *Labor Watch*.) Another recent honor for Vernuccio: being spat upon by union thugs who violently disrupted a **Vancouver, Washington** seminar on labor issues where he was the main speaker.

The struggle between education reformers and teachers' unions isn't limited to the United States. Despite street protests led by the teachers' union known as **CNTE**—protests in which teachers armed themselves with rocks and bricks, blocked streets, and took hostages—the **Mexican Congress** overwhelmingly approved measures supported by **President Enrique Peña Nieto** under which, in the words of **Mary Anastasia O'Grady** of the ***Wall Street Journal***, "Teachers will be evaluated on their performance for the first time, and graduates from schools other than the teachers' university will be eligible for hire, which will introduce competition to the system. Teachers will no longer be allowed to sell their posts or pass them to a family member. Full-time union activists will no longer be allowed to collect a teaching salary."

In contrast to the situation in Mexico, teachers' unions in the U.S. have an administration that is on their side. The **Justice Department** has sued the state of **Louisiana** to stop the state from distributing school vouchers in districts that remain under desegregation court orders. The rationale: the program, by letting African-American students escape failing schools, will make those schools less black. **Gov. Bobby Jindal** (R) called the department's action "shameful." Agreeing with Jindal was—believe it or not!—the ***Washington Post***, which observed: "Nine of 10 Louisiana children who receive vouchers to attend private schools are black. All are poor and, if not for the state assistance, would be consigned to low-performing or failing schools with little chance of learning the skills they will need to succeed as adults." The *Post* called the Justice Department's action "appalling," "absurd," and "bewildering, if not downright perverse."

Millions of Americans have had to deal with the devastating effects of Obamacare, but some people get special treatment. Waivers were granted to unions representing 544,000 members. Unions want a "fix" so that they aren't hurt so much by the program, but the reported cost of that change works out to $16 billion for 2014 and increasing amounts each year after. At the recent **AFL-CIO** convention, it took heavy lobbying by the White House to stop the group from calling for outright repeal. Instead, the resolution, which the ***New York Times*** called "sharply worded," merely called for changes in the program. (A separate resolution called for the negotiation of "trans-gender inclusive health care" for union members and their dependents, which, in the case of sex changes, can easily cost more than $100,000 per person.)

Regarding the President's claim that Americans who like their healthcare plans will be able to keep them, the head of **UNITE HERE**, the first union to endorse Obama, said that government rules "will make it completely impossible to live up to" that promise. The head of the **United Food and Commercial Workers** called the keep-your-plan pledge an "untruth." And the **International Longshore and Warehouse Union** has pulled out of the AFL-CIO entirely, based on the latter's support for Obamacare and for the administration's version of immigration "reform." (Speaking of immigration, **Labor Secretary Tom Perez** said recently that the legalization of illegal aliens is "God's will.")

Recall that AFL-CIO president **Richard Trumka**, in 2010 remarks at **Harvard**, accused Obamacare opponents of being racists and said he personally witnessed an example on the day of the key vote in the House. "I watched them spit at people. I watched them call **John Lewis** the N-word." In fact, Rep. Lewis, a hero of the civil rights movement, never claimed to have been called that word, and recordings of the event showed no protesters spat or used racial epithets.

CRC's Haller intern Paul McGuire contributed to this report.