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Labor Watch

The Sinking Ship of Cabotage

How the Jones Act lets unions and a few companies hold the economy hostage

By Malia Blom Hill

Summary: *The Jones Act is a 1920 law that protects the U.S. maritime industry from competition. It also raises costs for many other industries, keeps foreign ships from helping when disasters like the BP oil spill strike, and seems to be slowly killing the very industry it's supposed to protect.*

Unions and special-interest businesses block repeal of the Jones Act, which raises the costs of shipping and sometimes has bizarre effects.

It's just a few lines of legislation, but it makes it necessary for Jacksonville, Florida, to bring in coal from Colombia rather than from American mines; it requires Maryland and Virginia to bring in road salt from Chile rather than Ohio; and it makes it cheaper for livestock farmers to buy feed from grain farmers in Argentina and Canada than from Americans. It has helped put many new ventures out of business, from an artisan pastry manufacturer in Hawaii to a new, German-backed shipping concern in the Northeastern U.S. It slowed down the response to the BP oil spill. It even played a role in preventing a cruise ship passenger from boarding the ship he missed in Miami when it stopped in Key West.

Welcome to the surreal world of the Jones Act—the little piece of shipping legislation that manages to spawn all those bizarre situations. Debate over the act involves a tangle of contradictory claims with regard to labor unions, national defense, economic viability, international trade, the maritime industry, proper responses to emergencies and natural disasters, the future of the merchant marine, and the cost of living including the price of gasoline.

Billions of dollars in potential profit are at stake in this fervent debate, as well as the future of the shipping industry and the idea of free trade itself. Opponents of the Jones Act see it as a significant burden on the American economy. But as one observer noted, the dedication of Jones Act supporters is "almost religious."

The support of unions is critical to the survival of the Jones Act—support from the Maritime Trades Department of the AFL-CIO, the

International Longshore and Warehouse Union (the Longshoremen), the Sailors' Union of the Pacific, the American Maritime Officers, the International Organization of Masters Mates and Pilots, the Seafarers International Union, the Marine Engineers Beneficial Association (MEBA, the oldest and largest maritime union in the U.S., representing both engine and deck crewmembers), and the Inland Boatmen's Union (representing primarily tug and barge and ferry workers). The breadth and depth of this coalition makes it a formidable force. In concert with the shipping companies themselves, the unions work swiftly and decisively to oppose any Jones Act reform, even smaller changes that might serve as slippery slopes to reform.

Power and protectionism

Blame for the Jones Act goes back to one Alfred Thayer Mahan. Mahan's 1890 work on naval warfare, *The Influence of Sea Power upon History*, is generally credited with shaping modern American naval and maritime strategy. In particular, Mahan stressed the importance of both a strong navy and a healthy maritime industry, describing peaceful shipping and commerce as the source of seapower: "Can this navy be had without restoring the merchant shipping? It is doubtful. History has proved that such a purely military sea power can be built up by a despot, as was done by Louis XIV.... Experience showed that his navy was like a growth which having no root soon withers away."

Alternatively, one can blame Wesley Livsey Jones, a U.S. Senator from Washington state from 1909-33. Jones used Mahan's writings on the national defense implications of the commercial shipping industry to justify creating the provision that bears his name. To Mahan's arguments, Jones added a healthy dose of economic protectionism, the primary purpose of which, to Jones and his constituents, was to ensure that citizens and businesses in Alaska would remain dependent on the shipping interests of his constituents in Seattle and the rest of Washington. (Jones was a supporter of what we today call Big Government; his electoral defeat in 1932 is generally attributed to his strong support for Prohibition.)

The result of his work was the Jones Act, as Section 27 of the Merchant Marine Act of 1920 is known today. The act relates to cabotage, the transport of goods and passengers between different ports or destinations. It states:

> No merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of the title 46), or a subdivision of a State, shall be transported by water, or by land and water, on penalty of forfeiture of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury, or the actual cost of the transportation, whichever is greater, to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported), between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 808 of this Appendix or section 22 of this Act.

The essence is that all goods carried by water between U.S. ports must be shipped on U.S.-flag ships that were constructed in the United States, are owned by U.S. citizens, and crewed by U.S. citizens or permanent residents. Supporters of the Jones Act argue that all these provisions are necessary to support the U.S. maritime industry, both to strengthen national defense and to prevent the job losses that would occur if these protectionist measures were lifted. Opponents of the Act, by contrast, argue it has failed to protect our maritime industry—and possibly hastened its demise—and that the economic devastation we should be concerned about already occurs because of the act.

The economic argument

Economic evidence abounds that the Jones Act harms business and the U.S. economy. Nearly every independent study of the act's effects finds it creates expensive barriers to trade. In 1995, a report from the U.S. International Trade Commission, an independent agency, found the Jones Act costs the U.S. economy at least $2.8 billion annually and its removal would lower domestic shipping prices by 26%. A 2013 report on global trade and its barriers from the World

Editor: Steven J. Allen
Publisher: Terrence Scanlon
Address: 1513 16th Street, NW
Washington, DC 20036-1480
Phone: (202) 483-6900
E-mail: sallen@CapitalResearch.org
Website: www.CapitalResearch.org

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Economic Forum, in collaboration with Bain & Co. and the World Bank, described the Jones Act as "the most restrictive of global cabotage laws and an anomaly in an otherwise open market like the United States." The report called on the U.S. to set a global example in opening markets by enacting reforms, albeit mild reforms.

The economic distortion caused by the Jones Act—that is, the higher cost of shipping goods between U.S. ports—leads to a number of absurd situations, such as the case of Hancock Lumber in Maine, which couldn't find a U.S. ship to transport its product from Maine to Puerto Rico, and so was forced to truck lumber to Florida and barge it from there. The act drives up the cost of fuel in states like Massachusetts, because of the added expense of using only American-flag vessels to ship fuel from the Gulf of Mexico to northeast states and the West Coast.

The closing of Sunoco's refineries in the Northeast illustrates this problem. ''If we could get that cheaper American oil in our Northeast refineries, we would have been using it,'' said Thomas Golembeski, a spokesman for Sunoco. Jones Act restrictions made it necessary to use more expensive fuel from Europe and Africa in those refineries, ultimately rendering them unprofitable.

And then there are the less obvious economic costs of the Jones Act, such as when American companies lose business to foreign competitors that can offer better deals due to lower shipping costs. Terry Miller and James Carafano of the Heritage Foundation point out, "The real costs of Jones Act protectionism are even higher when you take into account the distortions of trade that cost American firms and workers the ability to compete fairly for American contracts. For example, U.S. scrap iron, a vital ingredient for American steel plants, is shipped from U.S. coastal areas to Turkey, or to Taiwan, or to China, rather than to other U.S. ports, because the Jones Act makes such U.S.-to-U.S. shipping prohibitively expensive."

Particularly hard-hit by the Jones Act are non-contiguous U.S. territories and states, such as Hawaii, Puerto Rico, and Guam. With few alternate means of transporting goods, the impact in those areas on the cost of living and the cost of doing business is significant. A series of studies from the General Accounting Office during the great Jones Act debates of the 1980s and '90s found that the Act costs residents of Hawaii, Puerto Rico, and Alaska between $2.8 billion and $9.8 billion a year over what the freight rates would be without the Jones Act.

In 2012, the Federal Reserve Bank of New York reported on the impact of the Jones Act on Puerto Rico, calling the act a likely factor in the high cost of shipping to Puerto Rico and in the fact that Puerto Rican ports lag behind other regional ports in activity level. The report stated, "It costs an estimated $3,063 to ship a twenty-foot container of household and commercial goods from the East Coast of the United States to Puerto Rico; the same shipment costs $1,504 to nearby Santo Domingo (Dominican Republic) and $1,687 to Kingston (Jamaica)—destinations that are not subject to Jones Act restrictions." The reference to Jamaica is not an accident. Over the last decade, the Port of Kingston, Jamaica's principal port, has overtaken Puerto Rico's top port, San Juan, in total container volume, even though Puerto Rico has a higher population and a larger economy. During that period, Kingston's volume more than doubled, while San Juan's fell 20%.

Countless stories exist of the economic hardship and business obstacles caused by the Jones Act's cabotage provisions. The artisan pastry company mentioned above was called The French Gourmet and was named "Exporter of the Year" in 1997 by the U.S. Small Business Administration for its success in creating a global demand for its frozen pastry dough. Exports made up approximately 70% of its sales. By 2012, however, The French Gourmet was forced to shut its doors. "We used to pay just over $4,000 to ship a 40-foot freezer container to Dubai," the company's CEO, Patrick Novak, told *Hawaii Business*. "In a matter of three years, shipping the same container now costs $11,500. How do you tell your customer on the other side that your shipping costs have almost tripled? It wiped us out."

"It's a simple situation where basic economic freedom and the good of the local economy go hand-in-hand," noted Richard Rowland, president of the Grassroot Institute of Hawaii, a state think-tank that supports repealing the Jones Act. "Greater competition in shipping would bring down prices and make the business climate more investor-friendly. Really, the only one being helped by the Act are the shipping interests." Jones Act opponents in the non-contiguous states have long argued for a full or partial Jones Act exemption for their regions. Citizens and small businesses in Hawaii have asked courts to void the act as unconstitutional, while a pending effort seeks support from Alaska and Puerto Rico for an anti-Jones lawsuit.

Former U.S. Rep. Ed Case (D-Hawaii) has highlighted the problems

the act causes for businesses in the non-contiguous states. "Even today, Big Island ranches must charter a weekly 747 out of Keahole Airport to get their cattle to the mainland because that's cheaper than Jones Act shipping. There's something wrong with that picture."

Jones Act supporters claim losses due to the Jones Act are greatly exaggerated, that the true costs are minimal and worth it. They cite a 2003 report from the Maritime Cabotage Task Force (now known as the American Maritime Partnership), a collection of maritime interests such as shipping companies and unions) that puts the price of the Jones Act to Hawaii citizens at a mere $7.5 million per year, or $5.52 per person. Matson, Inc., one of the largest domestic shipping companies, cites a Price Waterhouse Coopers study to claim the act contributes over 23,000 jobs to Hawaii, along with labor compensation of more than $1.1 billion a year. Gary Ferrulli, defending the act in the *Journal of Commerce*, wrote, "Assume a price of $2,500 per 40-foot container for loads of soda, beer or canned fruits and vegetables. Each 40-footer holds about 2,000 cases of 24 cans per case. The additional cost of 20 percent equates to about one cent a can. If it were bags of rice to Puerto Rico, it would be about the same one cent per pound of rice. So much for consumer savings."

That certainly gives a better impression than the figure of more than $7.5 million a year. However, even if the calculation is correct, it fails to count the hidden economic impact, such as the failed companies and lost business mentioned above. Nor does it clearly show the total impact on Americans who consume more imported goods than one pound of rice per year.

Even the companies and unions that seem to benefit from the Jones Act may not be that much better off. That's because—as often occurs in cases of protectionism, government subsidies, bailouts, and other forms of "crony capitalism"—the ultimate result is becoming dependent on government favors. The U.S. shipbuilding industry has been left dependent on Jones Act support. A 2001 Commerce Department study found that U.S. shipyards build only about one percent of the world's large commercial ships, with few ships ordered from U.S. shipyards other than for cabotage. U.S. operators of ships in cabotage have an incentive to keep using old vessels rather than replace them with relatively high cost vessels built in the U.S.

Special-interest support

To the labor-industry coalition that protects the Jones Act, any proposal perceived to open even the smallest window to reform is opposed with vigor. In 1997, an effort to change maritime passenger law to help the cruise ship industry (and create more waterfront work for American cities) ran into the might of the maritime unions, which feared that allowing foreign-flag cruise ships to dock at two American ports in a row would be the wedge for total Jones Act reform.

Pro-Jones lobbying has been effective, as has political spending by maritime unions through their PACs. Between 1995 and 2000, four bills were introduced in the House and Senate to repeal the act, and three more were introduced to amend the construction and ownership provisions. None advanced. In 2010, Senators John McCain (R-Ariz.) and Jim Risch (R-Idaho) introduced the Open America's Waters Act, a bill to repeal the Jones Act. It failed.

The McCain-Risch legislation came in the wake of the BP oil spill, which was seen as a major threat to the Gulf of Mexico, to the environment, and to industries like fishing and tourism. The spill certainly got the public's attention and put a spotlight on problems caused by the Jones Act, as foreign-flag ships were kept away from efforts to deal with the spill. The Obama administration hesitated to grant a broad Jones Act waiver to aid in the clean-up effort—an action that previous administrations had taken, almost as a matter of course, in times of serious emergency. Critics charged that the Administration's hesitancy resulted from union influence. Some said the President would prefer to slow the clean-up rather than risk upsetting unions.

The maritime coalition of unions and industry dismissed the critics, claiming the coalition didn't oppose Jones Act waivers where necessary, and anyway, sufficient Jones Act ships were on hand for the clean-up. The MEBA union called critics' charges "misinformation." Ken Wells, president of the Offshore Marine Service Association said, "We want to make crystal clear that in no way, shape or form are we taking any action that hampers the spill cleanup effort. However, this should not become an excuse for foreign companies to take advantage of this tragic accident for their own gain or for opponents of the law to try to undercut it."

A spokesperson for the Maritime Cabotage Task Force even claimed the blanket waiver granted after Hurricane Katrina "accomplished nothing that couldn't have been accomplished with the regular process."

Andrew Langer, president of the Institute for Liberty, disagreed. He

wrote that the Jones Act explains

> why skimmers from the Persian Gulf, the heavy-duty ships that have proved themselves capable of cleaning up disasters like the one currently facing the Gulf, aren't employed here doing the vital work for which they're built. What's more, it's why they're not on their way.

Langer asked whether the decision not to waive the Jones Act was

> directly tied to protection of union jobs and, by extension, political allies? Using foreign technologies manned by foreign crews will, after all, necessarily keep union bosses from cash they so desperately need going into a tough election season.

This is political cronyism of the worst sort. It is bad enough the president's economic recovery plan was convoluted and weighted towards payback of labor unions; worse still are the bailouts being directed toward private and public sector union pensions. Now we have an entire region's ecological and economic existence being held hostage to the president's pro-union myopia.

Brian Wilson of Fox News noted that the act was blocking help to the Gulf. Although some foreign technology was being used—3,000 meters of containment boom from Canada, 4,200 meters of boom plus two skimmers from Mexico, eight skimming systems from Norway, three sets of rigid sweeping arms from the Dutch—those devices were used only after being transferred to U.S. vessels. Meanwhile, Wilson wrote, "Some of the best clean-up ships, owned by Belgian, Dutch and the Norwegian firms are NOT being used. Coast Guard Lt. Commander, Chris O'Neil, says that is because they do not meet 'the operational requirements of the Unified Area Command.' One of those operational requirements is that vessels comply with the Jones Act. 'Yes, it does apply,' said O'Neil. 'I have heard no discussions of waivers.'"

James Carafano of the Heritage Foundation also blamed unions. No waiver were granted "because this is a big thing for unions," he said. "The unions see it as ... protecting jobs. They hate when the Jones Act gets waived, and they pound on politicians when they do that. So ... are we giving in to unions and not doing everything we can, or is there some kind of impediment that we don't know about?"

"Building specialized clean-up vessels in the U.S. is too expensive because of high union labor costs, and unions don't want ships built with foreign labor to be used in U.S. waters.... We sympathize with the President's lament on Monday that 'I can't dive down there and plug the hole. I can't suck it up with a straw.' But there's no excuse for turning away ships that can clean up the oil merely because that might offend Mr. Obama's union friends," a *Wall Street Journal* editorial argued.

Even the *Washington Post* acknowledged in an editorial, "The Jones Act may or may not have achieved its original purpose [maintaining a dependable merchant fleet], but shipping businesses and labor unions love the way it shields them from foreign competition."

After a number of Jones Act supporters lost their seats in Congress during the mid-term elections of 2010—elections in which Tea Party reformers dominated the political debate—lobbyists for the maritime industry "went legislator to legislator" to lobby for the act. Their message, according to Matson CEO Matthew Cox: "the domestic industry has a fleet of 40,000 vessels and barges, supports 500,000 jobs, has an annual economic impact of $100 billion, pays $11 billion in taxes and provides $29 billion a year in wages and other compensation."

Former Hawaii Gov. Linda Lingle (R), a Jones Act supporter, suggested repealing the act could put American shipping companies out of business. That, she said, could have domino effects such as an economic turndown in Hawaii that leads shippers to stop shipping there. Senator Mazie Hirono (D-Hawaii) voiced a similar concern: "Relying on foreign shippers that can easily decide a stop in Hawaii is not profitable, or who would charge us big fees to veer off their major routes, doesn't guarantee that our hotels and shops have the food and goods they need to support our economy and communities."

In response, Michael Hansen of the Hawaii Shippers Council, who supports reform, points out that the investment required for foreign shippers to enter the market in a hypothetical Jones Act-free economy would make such companies unlikely to abandon that investment. Nor, he argues, would domestic shipping companies be chased out of the market altogether; they would merely have to lower their prices to remain competitive.

In fact, the evidence suggests a little competition could make a big difference in the right direction. For years, Hawaiin shipping was essentially a duopoly, with Horizon Lines and Matson dominating the business. But in 2005, Pasha Hawaiian Transport

Lines began regular roll-off, roll-on service between Hawaii and San Diego. (Roll-on, roll-off or "ro-ro" refers to the use of vessels designed to carry wheeled cargo such as trucks or railroad cars, rather than lift-on, lift-off vessels that use cranes to load and unload cargo.)

"The effect of Pasha's presence in the market was immediate," wrote Stephanie Nall in *Pacific Shipper*. "Matson dropped its rates on automobiles to match Pasha's level and has been adding ro-ro capacity to its fleet. In 2006, Matson's container volume to Hawaii was down 1 percent from 2005 levels, its vehicle business was off 20 percent." (A Matson spokesman, while not discounting the impact of competition, attributed the drop

in its vehicle business to a decline in replacement rates from car rental agencies in Hawaii. This explanation, though, doesn't fully account for the coincidental timing of the lower rates or the drop in volume.)

In any case, most supporters of the Jones Act do not stake their argument purely on economic impact. Rather, they point to the importance of protecting America's ship-building and commercial fleet. A few also emphasize the need to maintain the sector's skilled labor. As former Maritime Administrator John Graykowski put it, "The policy rationale for the Jones Act is still valid. Pure economic theory is great, but there are other reasons to do things than pure economic theory and what's cheaper. I've never bought into the argument that repeal of the Jones Act would provide net gains for the country."

The protection effect

This brings us back to Alfred Thayer Mahan, William Jones, and their contention that national security requires a strong maritime industry. The argument has a certain logic. Who will our nation rely on in wartime if not on our homegrown shipping industry? "The Jones Act ... plays a critical role in protecting our national security by helping us maintain our ability to build, crew and deploy U.S. ships when they are needed," insists U.S. Rep. Colleen Hanabusa (D-Hawaii).

But does it really? For protectionist legislation, the act has done an abysmal job of protecting that industry. Again, the U.S. shipbuilding industry represents only about one percent of the world market for ocean-going commercial vessels. By every possible measurement, the U.S. maritime industry has been in a long, ignominious decline. In 1946, there were more than 2,300 American cargo ships carrying nearly half of all imports and exports involving the U.S. Forty-five years later, there were only 360 such vessels in service. By 2000, there were only 250, hauling only three percent of American imports and exports. And in 2007, the U.S. ocean-going fleet was down to less than 200. Nor was this drop accompanied by a decline in international trade; quite the opposite.

As for preserving those essential maritime jobs? The Jones Act battles in Congress during the '90s demonstrated that the act hadn't managed to prevent 40,000 longshoremen and 40,000 merchant seamen from losing their jobs. Nor were the shipyard workers immune; more than 60 American shipyards had gone out of business (with another 200,000 jobs lost). The U.S. International Trade Commission report at the time estimated that Jones Act repeal would affect about 2,450 laborers in the coastwise shipping trade and would cost only 36 jobs in the shipbuilding industry.

If our seapower is really tied to the strength of our domestic maritime industry, we are in trouble. As Michael Perry, an engineering officer on one of the few U.S. flag ships, said in a 2001 *Los Angeles Times* report on America's declining merchant marine, "We have the most powerful Navy in the world and one of the smallest merchant fleets.... How can we be so shortsighted?"

The U.S. military shares Perry's concern. A 2008 article on the merchant marine in *Joint Force Quarterly* wrestles with the problems caused by the Jones Act. With the Navy's Military Sealift Command now the largest U.S. employer of merchant seaman and only a handful of commercial shipyards still capable of producing ocean-going vessels (and those surviving primarily on government work), the idea of a thriving maritime industry that can operate as the backbone and source of U.S. military seapower is absurd.

There is little comfort in the belief that those U.S. ships and shipyards are more technologically advanced than their foreign rivals. Jones Act defenders sometimes suggest that without its protections, commercial

shipping would become the domain of rusty, dangerous ships, possibly manned by pirates. In truth, the greater concern is the state of the U.S. flag fleet. The high cost of repair and replacement under the Jones Act means the U.S. Jones Act fleet is among the world's most aged.

The source of support

Despite the strong case against the Jones Act, efforts to reform or repeal it have been unsuccessful, and opponents are not optimistic. Sen. John McCain, a consistent critic, said in 2011, "I would like to see the Jones Act repealed, but I don't think that's likely…. I don't think I would get 20 votes if I were to bring it to the floor."

The Jones Act lobby is a rare case of industry and labor working a shared purpose—to defeat any attempt to reform the protectionism and subsidies the maritime industry enjoys. For years, this powerful lobby even enjoyed the advantage of its own Congressional committee (the Merchant Marine and Fisheries Committee, which has now been absorbed into the House Committee on Natural Resources). Both unions and shipping companies have also benefited from the influence of generous political action committees. Merchant marine and longshoreman unions contributed over $2.4 million to candidates in the House and Senate between 2006 and 2012. (Some of the biggest recipients of their generosity include Sen. Hirono at $103,500; Rep. Bishop (D-N.Y.), $54,000; and Rep. Hanabusa, $51,500.)

They have much to lobby for. Years of government subsidies allowed unions to push for ever higher wages, even while the cargo ships themselves became less globally competitive. In the early 1990s, a U.S. Maritime Administration report found that a U.S. cargo ship's monthly labor costs were three times a European vessel's and ten times a Bahamian one.

Finally, one more group with deep pockets and political clout wants to keep Congress from touching the Jones Act: lawyers. That is, personal injury lawyers who bring suits for seamen under Jones Act provisions. As Michael Hansen explains, these trial lawyers fear that reforming the act's cabotage sections could also lead to re-examining the seamen's rights provisions and thus damage the lawyers' lucrative business.

When the issue of waivers to the Jones Act comes up in times of national emergency—as it did during the BP oil spill in the Gulf, after Hurricane Katrina, and after Storm Sandy—the Jones Act lobby is loath to support even these temporary exceptions, rightly seeing them as an admission that the act prevents efficient action. So deeply do these maritime interests oppose reform that Stuart Theis, executive director of U.S. Great Lakes Shipping Association, compared the act to the Holy Grail, saying, "Dedication to the Jones Act is really quite almost religious, I guess." Economist Gary Hufbauer used this metaphor: "It's the Maginot Line of this industry because foreign-manned and operated vessels are just much more competitive than the U.S. fleet."

Where do we go from here?

Reform seems to have little or no chance, politically speaking. Another gloomy thought: It's possible that if the Jones Act were significantly reformed during an administration like the present one, so hostile to trade and free markets, the reform could backfire by bringing in new executive branch regulations on shipping and cabotage.

Perhaps the most sensible course is a series of reforms aimed first at allowing U.S. shipping companies to become more competitive in the global market and easing the pressure the Jones Act causes to American business—especially those in the non-contiguous states. The ultimate goal would be to render the Act unnecessary or moot, but unless the political climate changes substantially, the best strategy may be to carve out reforms that can lessen the economic damage caused by the act and put the U.S. shipping industry on a course toward real economic viability—viability, that is, independent of any special protection by the government.

Malia Blom Hill is Director of Policy for the Grassroot Institute, a Hawaiian think tank.

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LaborNotes

At one workplace in **San Francisco**, 94% of union members, represented by the **Communication Workers of America Local 1021**, voted to go on strike. The workers had been working without a contract since September, as the employer sought concessions on pensions and healthcare. In 2009, the employer was the target of picketing after it laid off one-third of its union staff. And who is this greedy, anti-union employer? The **Service Employees International Union** (SEIU).

In **Los Angeles**, **Tyrone Freeman**, former head of the 180,000-member SEIU **Local 6434**, was convicted on 14 criminal charges, including embezzlement, tax fraud, and mail fraud. He was accused of such crimes as converting union money to personal use and shaking down union members for political contributions and "volunteer" work. He faces the possibility of decades in prison.

Venezuelan strong man **Hugo Chavez** poured his country's oil wealth into the struggle against capitalism and the **U.S.** When he died, a group called the **Bolivarian Circle of New York** held a memorial celebration for "our comrade." Which group offered the Circle its offices on West 43rd Street? SEIU **Local 1199**.

"The **AFL-CIO** is in survival mode," reports ***Politico***. "Over the next six months, the group will engage in an unprecedented self-evaluation that will result in a new strategic plan," including alliances with non-union workers and making unions more like political action committees. It will also use "worker centers" that "allow employees to organize in many of the same ways unions do, but without going through all of the processes to become officially unionized."

Bernie Marcus, co-founder of the **Jobs Creators Alliance** and former CEO of **Home Depot**, notes in a ***Wall Street Journal*** op-ed that a recent survey "of 600 small businesses with 100 or fewer employees revealed that 70% of their owners feel **Washington** is hostile to their efforts to create jobs." Meanwhile, the **National Labor Relations Board** continues to ignore a federal court ruling that invalidated **President Obama**'s "recess appointments" (made when the **Senate** wasn't in recess). Marcus says the unconstitutional appointments "inhibit job creation by fostering workplace uncertainty," such as by allowing micro-unions (in, say, just the shoe department of a department store); forcing workers to vote on unionization 8-10 days after a union petition is filed; reinstating workers who endangered patients by sabotage; and requiring employers to collect union dues after a collective bargaining agreement expires.

Historically, no teachers' union at the state level has been more powerful than the **Alabama Education Association**. AEA even played a major role in the nomination of the current Republican governor, **Robert Bentley**, spending $3 million to trash his GOP primary opponent. That makes the state's recent passage of a school reform bill particularly significant. If it survives a court challenge, the **Alabama Accountability Act** will give parents of children in failing schools a tax credit of up to $7,500 for private school tuition, or the option to send their kids to a different public school. One sign pro-reform forces are learning the political game: the measure was concocted in a conference committee that was supposed to iron out differences between versions of a bill that didn't include school choice.

Thomas Perez, the President's pick for Secretary of Labor, is an in-your-face leftist. A former aide to Sen. **Ted Kennedy** (D-Mass.), Perez served under **Gov. Martin O'Malley** (D) as **Maryland**'s labor secretary. In that state he campaigned for drivers' licenses and in-state tuition for illegal aliens. He was a board member of **Casa de Maryland**, an advocacy group for illegal aliens funded by **George Soros** and **Hugo Chavez**. (For more on Casa de Maryland, see our sister publication *Organization Trends*, September 2012.)

Perez currently heads the civil rights division of the **Justice Department**, a division that has been accused of harboring extremists who believe that equal-rights laws should not be applied equally. (The ***Washington Post*** reported last year on "deep divisions within the Justice Department that persist today over whether the agency should . . . enforce laws without regard to race.")

After Perez's division dropped a voter-intimidation case involving the **New Black Panther Party**, a case the department had already won, Perez and his colleagues repeatedly interfered with efforts by the **U.S. Commission on Civil Rights** to investigate the decision. They withheld requested documents and even withheld a *list* of those documents. They ordered government lawyers not to testify (some did so anyway, at great risk to their careers).

During his tenure at Justice, Perez also attempted to enable vote fraud by attacking voter ID laws; accused schools of racism for having higher rates of punishment for students in some racial groups; waged war on programs for gifted students; targeted **Maricopa County, Arizona Sheriff Joe Arpaio** for his tough treatment of illegal aliens; and worked to intimidate banks into giving mortgages to people who can't afford to pay them off. (What could possibly go wrong with *that*?)