Landrum-Griffin Act at 50: Has It Been Good or Bad for Unions?

written by Herman Benson | January 26, 2011

AS SOON AS I ACQUIRED the hefty 2005 edition of *The Oxford Companion to the Supreme Court of the United States,* I lugged it onto the coffee table and opened to its comments on two fascinating cases: Marbury v. Madison and the Dred Scott decision. Then turning to Labor, the subject that preoccupies me, I discovered to my amazement that in all its densely packed, double-column 1,200 pages, dealing with the Court from day one, there was nothing about the Labor-Management Reporting and Disclosure Act of 1959 [LMRDA] or any of the landmark Supreme Court case that elaborated it, not a reference, not a word, not a single index listing.

The adoption of the LMRDA was one of those watershed moments in labor legislation. In 1959, by providing a measure of protection in federal law for union democracy, the act encouraged dissidents, reformers, radicals, and mainstream unionists who resisted repression, stolen elections, or corruption in their unions. By its impact on major unions, it has transformed the atmosphere in the labor movement. In all the ebbs and flows in the years that followed, despite periods of feeble enforcement, the law helped make internal union democracy, while still embattled, a morally respectable, defensible, and righteous cause in unions.

How explain so conspicuous an omission by the 362 *Oxford* contributors? Inexplicable, except perhaps that these are academics far removed from the nitty-gritty of union life. And so to test my own disappointed reaction, I turned to four authors whose labor writings I respect as independent-minded, provocative, informative: two writers are *Labor Notes* radicals, a third is mildly to *Dissent's* left, and the fourth, perhaps microscopically to its right. (I hope I characterize them justly if not with scientific accuracy.) On the LMRDA, like the *Oxford*, they, too, turned out to be unexpectedly disappointing.

In his *Embedded with Organized Labor*, Steve Early writes about almost everything that interested him in a lifetime of union-related activity. No mention of LMRDA. In the 600 pages of two interesting volumes, Kim Moody ranges widely though recent labor history only to devote a few words to say that the LMRDA and Taft-Hartley were two pieces of legislation opposed by the labor movement, noting that "the object" of the LMRDA was "to weaken the power of unions in relations to employers."

In his book: *American Workers, American Unions, 1920-1985* — another of my favorite labor works — Robert Zieger skirts by the LMRDA, commenting that it "left untouched the main features of Taft-Hartley and imposed stiff requirements of disclosure and standards of conduct that tightened the web of legalistic complexity already choking the labor movement." Which is the sum total of all he writes about the law, even though it is so important a factor in the period he covers.

In 2002, with over 40 years of LMRDA experience behind him, in his *State of the Union: a Century of American Labor,* Nelson Lichtenstein refers to the LMRDA as "…a 1959 law bearing the names of Robert Griffin, a Republican from Michigan and Philip Landrum, a Democrat from Georgia, Its very name [popularly, the Landrum-Griffin Act] therefore embodied the anti-unionism of the coalition of Northern Republicans and Southern Democrats who had enacted Taft-Hartley and campaigned against monopoly unionism in the 1950s. Landrum Griffin tightened restrictions against secondary boycotts and gave the Labor Department greater power to regulate union financial

affairs. But the most ideologically significant sections of the law was a union member ‘bill of rights’ whose meaning encapsulated an essentially right-wing understanding of union dynamics."

It is difficult for me to understand how after the experience of all those years, Lichtenstein, whose works I especially admire, could write such a paragraph. Without thought, he must have been saving time by recopying old notes.

LMRDA Title I, aptly entitled the "Bill of Rights," protects civil liberties of members in their unions — free speech, right to form caucuses, to distribute literature. (One weakness: it is enforceable mainly by private suit, which is ordinarily too expensive for victimized rank and filers.) With good intentions, Title III aimed to protect subordinate union bodies from repressive trusteeships imposed arbitrarily by internationals. (But it is so poorly formulated that it has proven to be a failure.) Title IV, which requires "adequate safeguards to insure a fair election," protects the right of candidates to campaign freely. It has been effective in providing recourse against the most arrantly stolen elections. (Its weakness is that it generally requires enforcement action of the U.S. Department of Labor and does not provide routinely for private suit. Consequently, decisions of the DOL are subject to political pressure.) Titles II and V and other sections require unions to provide members with financial and other information about their operations. "Miscellaneous" Section 610 makes it a criminal offense to deprive a member of LMRDA rights by violence or threats of violence. It is simply not enforced. In the labyrinthine course of hearings and debates on LMRDA legislation, union antagonists did succeed in introducing a number of amendments to the Taft-Hartley law that made it more oppressive to unions. But these were unrelated barnacles fastened on to the main body of legislation that have had no relation to LMRDA enforcement.

Top union leaders, almost unanimously, with the honorable exception of the UAW, ended up publicly hostile to the LMRDA precisely because its bill of rights did offer some federal protection for the democratic rights of members in their unions. In the fifty years that followed, the politically correct official labor establishment policy has been unwaveringly consistent. In every LMRDA case that has come before the federal courts, where the democratic rights of union members were at stake, the official labor line has been hostile to the expansion or protection of those rights and on the side of limitation or repression. If I have overlooked even a single exception, I would feel indebted to any scholar who could reveal it. LMRDA enforcement has weakened the authoritarian control of leaders over members; it has enhanced the rights of members over their leaders. It has required unions to reveal on multiple forms how they spend most of the members’ money, including a listing of officers’ salaries; they naturally find this requirement repellent and burdensome. It may dilute the power of their reputation among their constituents; but it leaves intact their power to represent members against employers.

Representative Landrum and Senator Griffin did end up as the LMRDA’s official sponsors, but that sponsorship hardly made the law a product of the Republican-Southern Democratic coalition. For one thing, in the give-and-take negotiations over the formulations of its provisions the law went though many versions and had shifting sponsors, including John F. Kennedy.

(In 1977, the president of the International Brotherhood of Electrical Workers ruled that members of IBEW Local 1547 in Alaska had no right to vote on ratifying their union contract. They sued in Federal court against their president — and lost. However, two congressmen submitted affidavits on their behalf, supporting their right to vote. One was Robert P. Griffin, senator from Michigan, who wrote that the LMRDA "was designed to broaden and extend — not to deny — the principles of democracy to membership in labor organizations." The other was Phillip Landrum, retired representative from Georgia, who wrote that he interpreted the LMRDA to mean "that each union member has a legal right to vote on matters that affect him, including collective bargaining agreements." Would we expect something different from flaming liberals? Even conservatives can be

counted on, at times, to speak out for civil liberties. That's one of the features of democracy in the United States.)

In the context of 1959, those who voted for the LMRDA were a disparate left-to-right bunch motivated by a mixed bag of objectives, principles, prejudices and whatnot. The bill of rights in its essentials, so intolerable to labor leaders, was first proposed by the American Civil Liberties Union and inspired by Clyde W. Summers, later a leading director of the Association for Union Democracy. Both the U.S. Constitution with its bill of rights and the LMRDA with its bill of rights might have a hard time assembling a majority if they were put to a vote in Congress today. In any event, by now the conflicting motives of those who voted in 1959 are now irrelevant. What is relevant is how it worked out. None of the horrors of the bill of rights, hysterically predicted by labor officials, have come to pass — unless you consider that the requirement that unions give extensive financial information to their members is a weakening assault on the labor movement. There are weaknesses: The law has loopholes and it is not enforced vigorously enough.

The Effect on Life in the Labor Movement

BEFORE LMRDA, members who criticized their officers could be — many were — disciplined on charges of slander for criticizing their leaders. Union elections were stolen without recourse for the victimized membership. Supporters of opposition caucuses could be expelled on grounds of dual unionism or disruption. Members who went to court or government agencies in quest of recourse against injustice could be disciplined if they failed to go through months or years of futile internal union procedures. Local dues could be raised and assessments imposed without membership input. Union leaders could hold office for decades without elections; locals could be put under trusteeship forever and their treasuries plundered. In some unions you could be disciplined for circulating an internal union petition. And more of the same. The LMRDA made all this illegal. This law, like all others, is often violated in spirit and in fact. But the practices are illegal and avenues of enforcement are available.

Robert F. Kennedy, a Democrat who served as counsel during the McClellan hearings of 1957-1959 and not part of any right wing reactionary congressional coalition, wrote that the committee had received an estimated 112,000 letters from unionists, mostly rank and filers, complaining of abuses in their unions. Even after allowing for the normal quota anywhere of career malcontents, that's a lot of people. The adoption of the LMRDA in late 1959 gave vent to legitimate pent up dissatisfaction in some unions and triggered an explosion of organized opposition to corruption and of demands for democracy.

In the Painters union in New York City, organized crime control over District Council 9 was shaken by Frank Schonfeld's reform victory as secretary treasurer after a long campaign that began in 1962, a victory made possible by the LMRDA. In the union's San Francisco Bay Area, Dow Wilson led a successful insurgent campaign in Painters District Council 8. The LMRDA stopped the union from expelling him. He had taken the first step toward organizing a national insurgency when he was murdered in 1966.

In 1960, in the new spirit of the times, an insurgent Better Union Committee won 7 of the 15 spots on the international executive committee of the United Papermakers and Paperworkers Union. They accused the leadership of sweetheart dealings with employers; they called for the adoption of a Public Review Board modeled on the UAW; they proposed that the AFL-CIO Ethical Practices Codes and a bill of rights for union members be written into the constitution, and for a Bill of Rights for union members. Frank Grasso, a vice president who later helped lead the insurgents, wrote in 1957, "Sincere trade unionists must rally to the cause of union democracy which is today in a period of

great crisis."

In the early 1960s, in the Brotherhood of Pulp, Sulphite, and Paper Mill Workers, an insurgent caucus, the Rank and File Movement for Democratic Action rallied support among locals and members. It warned the union (prophetically) about the incipient dangers of corruption in the union and called for a more democratic system of electing international officers, for an ethical practices code, and, like its counterpart in the Paperworkers, for a UAW-type Public Review Board. By 1964, the Canadian locals split off to form their own union and the locals on the West Coast broke away, formed their own independent union, and won collective bargaining. rights for 22,000 workers in the area. Fifteen locals of the International Association of Machinists in California, in 1961, joined to organize the IAM Membership Committee for Sponsoring Grand Lodge Officers, explaining that members "should have more than one candidate … to choose from." Roy Brown, West Coast vice president, drummed out of the administration official family, ran as insurgent candidate for general secretary treasurer and got about 27 percent of the votes. Following his defeat for the international post, the IAM's California Conference of Machinists elected him to its full time job of secretary treasurer.

These and other evidences of the renewed stirrings of union democracy were characteristic of the period immediately following the adoption of the LMRDA in late 1959. A fuller record is available in *Union Democracy Review* published in those years, 1959 to 1972. The law proved effective enough to spur reformers and rebels into action, but not enough to sustain them. The momentum was lost; flowers bloomed, most of them to fade. For a time, these movements had succeeded in shaking up the bureaucratic establishment in a few major unions. However, apart from Frank Porter, an exceptional labor writer for the *Washington Post*, the progressive media, the liberal and radical intellectuals, the labor historians remained indifferent or uninformed about reformers in unions those days. But things changed dramatically around 1972 with the revolt in the United Mine Workers.

In May 1969, Joseph ("Jock") Yablonski announced that he would run against Tony Boyle for president of the United Mine Workers. John L. Lewis had retired in 1960; Boyle took over in 1963. Yablonski, part of the UMW leadership under Lewis, was still a member of its international executive board when he decided to oppose Boyle. "Union democracy is the single most important issue in the campaign for election of a new UMW president," he wrote, " I challenge you [Boyle] to grant full democracy to the UMW by removing your autocratic grip on the districts." In an election riddled with fraud, Yablonski was credited with 37 percent of the vote; but, with his election challenge pending before the DOL he remained a potent threat to the Boyle regime. As 1969 ended, Yablonski, along with his wife and daughter were murdered. (Later Boyle was convicted for orchestrating the murder and died in prison.)

Yablonski's murder did not end the UMW reform movement. His followers rallied in caucus to form the Miners for Democracy (a right protected by the LMRDA.) Joe Rauh, the eminent civil rights and labor attorney who had initially represented Yablonski, assembled a group of liberal attorneys into the Washington Project. (One was a young attorney named Richard Trumka.) With foundation backing, they provided pro bono legal support to the Miners for Democracy that enabled the insurgent miners to enforce their full their rights under the LMRDA (A.K.A. Landrum-Griffin.) In Federal court under the LMRDA, they restored autonomy to districts that had been under trusteeship for decades, Under the terms of the LMRDA, they processed a successful election appeal to the Labor Department; in Federal; court, the judge ordered a new election under conditions that made it one of the most democratic union elections on record. With their rights spelled out — and enforced — under the LMRDA, the insurgent Miners for Democracy swept the election in 1972 and ousted the murderous Boyle. These events provided spectacular evidence of the power that can be mobilized on behalf of union democracy by a three-part combination of elements: insurgent

unionists, liberal/civil libertarian allies, and the authority of Federal law, in this case the LMRDA.

The victory of the insurgent miners inspired reformers in other unions. The interest of writers, intellectuals, and liberal foundations had been stimulated by the miners, and soon they had more to think about. In 1972, deploying all the skills, experience, and connections that had served the miners so well, Joe Rauh, by then an enthusiast of what he saw as the union democracy movement, represented Ed Sadlowski in a successful challenge to a stolen election in the Steelworkers union. In a rerun election supervised in 1975 by the Labor Department under the terms of the LMRDA and with his rights to a fair election protected by the Federal law, Sadlowski the insurgent was easily elected as regional director of the 125,000-member Steelworkers Chicago-Gary Region 31, the largest in the union, a powerful base for possible future advance.

The reform victory in the Miners union and Ed Sadlowski's big win in the Illinois Steelworkers kindled illusions: If you could change the Miners and perhaps the Steelworkers, then the labor movement and, who knows? maybe even the nation. Illusions yes, but the LMRDA inspired illusions that had consequences.

In 1977, when Sadlowski ran for president of the Steelworkers at the head of an insurgent slate, a group of eight liberal foundations came up with over $100,000 to finance a Fair Election Project to enforce Sadlowski's LMRDA rights to campaign and to try to assure an honest count. He lost. Nevertheless, the Association for Union Democracy, which had administered the Steelworkers project, was able to expand operations in 1980 when most of those foundations contributed $100,000 to a three-year organizational campaign. In the spirit of the times, Arthur Fox formed the Professional Drivers Council, which later merged with the Teamsters for a Democratic Union. *Labor Notes* was founded as a network of union activists for more militant policies and was soon attracting hundreds of union activists to its national conferences.. The National Lawyers Guild set up a new National Labor Law Center to defend the rights of dissidents in the labor movement. You could count on a whole group of young labor lawyers around the country for pro bono legal representation in union democracy cases. From Chicago, the Midwest Center for Labor Research began publication of its *Labor Research Review*, which provided a forum, free from official labor control, for discussion by union activists, local leaders, and labor educators. The Nader-inspired Public Citizens Litigation Group initiated its own union democracy litigation program staffed by two young attorneys, Arthur Fox and Paul Levy. They represented reformers around the country pro bono and both joined the AUD Board of Directors. The Association for Union Democracy, which had been languishing since its founding in 1969, got a major infusion of moral support — and money — that enabled it to spring to life.

BUT AS THE YEARS LEAFED BY, it became clear that the labor movement would not be transformed by idealistic reformers and that what lay ahead was the familiar, hard, long term, slogging quest for social justice. In 1984, recalling how he helped the miners win their battle, Joe Rauh summed up his own experience, "After helping to clean up a union, you get an overblown reputation. Everybody thinks you can do that kind of thing over and over again, but it's not easy to repeat."

Most of the foundations drifted away and turned back toward mainstream liberal and charitable causes. Public Citizen cut back and finally abandoned its union democracy project. *Labor Research Review* was shelved. The National Lawyers Guild — a weather vane for the thinking of that loosely defined "progressive" community, had second thoughts. After three years, the NLG went through a minor crisis and dissolved its union democracy-oriented National Labor law Center (which bequeathed its printed literature to the Association for Union Democracy.) Dan Siegel, a Guild attorney who opposed the dissolution explained, "It's not easy to make a living representing rank-

and-file caucuses; and few unions, even progressive ones, are willing to hire lawyers with a reputation for suing unions." And so many of those idealistic young attorneys drifted away. They grew older, with families. Their idealism took a slightly different tack as they continued to do fine work for the labor movement, now at a secure living wage for established unions. But there seemed no urgent justification for squandering talents on an insurgency that promised no near-term sweeping results.

However, although the pro-labor "community" outside and around the labor movement — the liberals, radicals, civil libertarians, progressive foundations — was losing interest in union reform, insurgents inside the labor movement — and some local leaders — their rights bolstered by the LMRDA, remained alive and active. In the IBEW, a young electrician named Dan Boswell, who had been removed from the executive board of New Jersey Local 164, fined, and suspended because he criticized union policy, went into federal court under the LMRDA with the help of AUD and forced the union to remove provisions in its international constitution — illegal under the LMRDA — that had authorized repressive penalties against thousands of IBEW members in the previous ten years. In the years that followed, dissidents mounted two formidable challenges to the IBEW international leadership.

In 1989, when marine engineers faced a corrupt officialdom, their insurgent caucus leaders came across 1972 news clipping about the miners and AUD, where they learned about their election rights under the LMRDA. Two years later they won their battle, and the crooked officers were convicted in Federal court. Tim Brown, backed by a Federal court decision under LMRDA, campaigned successfully for president of the Masters, Mates and Pilots; Jerry Tucker was elected UAW Regional Director in a rerun election supervised by the DOL under the LMRDA. When the election was stolen in the big healthcare Local 1199 in New York, the DOL ran a new election that permitted the opposition to take back their union. Examples can be multiplied, illustrating that even in those days when there was a disconnect between union dissidents and potential allies outside the labor movement, the LMRDA continued to bolster union members' rights. On the other hand, there are still no credible reports of even a single incident where LMRDA enforcement has undermined the labor movement.

In all this time, the outside liberal community had lost interest, But the scene changed in 1989. As part of a national campaign against organized crime in America, the Department of Justice had sued the International Brotherhood of Teamsters. The consent decree that settled the case subjected the union to a monitorship under the jurisdiction of a Federal judge and asserted that union democracy was an essential element in keeping the union free of mob domination. And so, while an Independent Review Board concentrated on getting rid of crooks, the union was compelled to change its constitution to provide for the direct election of international officers by membership referendum. A Federal judge took control of international elections away from the union hierarchy and shifted it to court-appointed election monitors. Candidates got the right to campaign freely and were guaranteed an honest count.

Utilizing rights newly guaranteed under the consent decree, Teamster for a Democratic Union, which had been battling for years essentially as a marginal gadfly, blossomed out into a full-fledged opposition movement with growing influence. By 1991, TDU was able to provide the indispensable rank-and-file support that was decisive in defeating the old guard and electing Ron Carey as IBT president at the head of an insurgent slate.

The election of Ron Carey shifted the balance of power in the AFL-CIO. With the support of the giant IBT in 1995, John Sweeney could lead the successful opposition to the Lane Kirkland regime in the AFL-CIO. By 1995, Andy Stern was girding up his SEIU for his own minor civil war against Sweeney. In the course of these events, insurgency has become almost an acceptable commonplace

in the American labor movement, and everyone seems to consider it normal to exercise all the rights inscribed in law by the LMRDA.

At the root of the big disputes in the unions these days, is the search for some way to reverse the declining strength of the labor movement and revive its power as a force for social justice in America. Out of those debates one notion stands out clearly, not only as an idea but as a practice. To meet the power of organized and centralized big capital, it is argued, the labor movement must itself become centralized and its leadership internally unified and coordinated, speaking with one monolithic voice to the membership inside and to the public outside. In this view, the locals, once viewed as the living heart of union life, are reduced to administrative shells or reconstructed into sprawling bureaucratic monstrosities. Leaders give lip service to the ideals of union democracy; they make no frontal assault on the LMRDA and seem reconciled to its provisions; But, they find openings to make an end run around its requirements and evade its democratizing spirit.

Locals are merged into district councils where their autonomy disappears and members lose their right to vote on dues; they are denied the right to elect council officers who wield powers once reserved to locals. Recalcitrant locals are trusteed in violation of the spirit, if not the technical language, of the LMRDA. The law calls for the "equal right" of members to run for office and participate in union business. That right is adulterated by meeting attendance and continuous good standing rules which "equally" limit rights to a selected few. Due process becomes a mockery when trial committees are composed of political appointees. Members are denied the right to vote on ratifying union contacts. Stewards and business agents are appointed, not elected.

These practices flow from a philosophy that has been familiar in centuries of debates over the principles of government. It is the idea that all power must be arrogated to an all-wise leadership which bestows the benefits of civilization upon a grateful, but passive, constituency. In national life, we have mostly moved away from such conceptions. Even those who still cherish such ideas are reluctant to profess them overtly. In the labor movement, however, such notions remain respectable and, in some sections, dominant.

An alternative view, what now even seems like an old-fashioned traditional view, sees the power of the labor movement arising from bottom up out of the activity, initiative and loyalty of the grassroots membership: union democracy helps unleash that power.

The hostility of mainstream labor leaders to the LMRDA, especially to its bill of rights is easy to understand. Union democracy makes them uncomfortable and so they are especially distrustful of union democracy enforced by the power of federal law. But the distrust of the LMRDA by independent-minded liberal, left wing, radical progressive supporters of the labor movement, inside unions and out, is a matter of another kind. Mostly, they are constitutionally suspicious of conservative, bureaucratic, or capitalistic government and fear that reliance upon the government weakens the power of rank-and-file action from below. That’s what they think. But in practice, progressive leaders of union insurgencies make use of the LMRDA, but they remain reluctant to mention it. It’s like a Victorian attitude toward sex: everyone does it but no one talks about it.

Has anyone ever claimed that government action in Brown v. Board of Education or the Voting Rights Act undermined or disoriented the struggle for civil rights.? Why should the cause of union democracy be any different? The LMRDA has given an impulse to insurgency and continues to bolster it.

In the labor movement today the need for effective leadership and the requirements of a robust democracy are not necessarily mutually exclusive. Why, for example, does strong leadership require that the right to run for office be limited to a favored few? Why can’t labor unions, in confrontation

with big capital, tolerate the creation of a supreme court, totally independent of the union power structure, to provide recourse to members against abuse in their unions? Why must a leadership, because it is burdened with great social responsibilities, be endowed with the autocratic right to discipline and dispose of its critics?

In any event, as the labor movement wrestles with the great issues of the day, the rights of members in their unions does receive protection under the LMRDA, and a growing number of unionists are learning how to use those rights for a voice in determining the future of their labor movement. The need is, not to disparage the law, but to strengthen it and to better enforce those rights.

Footnotes