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1980

Review of The Landrum-Griffin Act: Twenty Years of Federal Protection of Union Members' Rights, by J. R. Bellace and A. D. Berkowitz

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Recommended Citation

St. Antoine, Theodore J. Review of The Landrum-Griffin Act: Twenty Years of Federal Protection of Union Members' Rights, by J. R. Bellace and A. D. Berkowitz. *Indus. & Lab. Rel. Rev.* 33 (1980): 571-2.

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does not wish to rely upon the regular union representative.

The final chapters of the book deal with such procedural matters as the preemption doctrine and exhaustion of internal remedies, topics of greater interest, I suspect, to lawyers than to the general reader.

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The Landrum-Griffin Act: Twenty Years of Federal Protection of Union Members' Rights. By Janice R. Bellace and Alan D. Berkowitz. Philadelphia: Industrial Research Unit, The Wharton School, University of Pennsylvania, 1979. xiv, 363 pp. \$15.00.

In the innocent closing years of the 1950s, the American public fastened on union democracy as the most burning issue of the day. No other subject produced as much mail for Congress. The 229-201 count by which the Landrum-Griffin bill was substituted for the House Labor Committee's bill on labor-management reporting and disclosure constituted the largest total vote in the history of the House of Representatives. Significantly, however, that vote had little if any bearing on union members' rights. What distinguished Landrum-Griffin from the Committee's bill was its stiff new curbs on picketing and boycotts. As Senator John Kennedy's advisor, Archibald Cox, caustically observed, business groups backing the legislation had no genuine interest in labor reform. They simply wished to exploit the public outrage over the McClellan Committee's exposures to strengthen management's bargaining position in relation to labor.

The ultimate shape of Landrum-Griffin was a legislative irony. It would never have been but for a bizarre coalescence of liberal concern about certain specific malpractices uncovered in a few (essentially five) unions regarding trusteeships, elections, and finances, and of conservative concern about trimming the supposedly overweening power of big labor. The greater, and happier, irony, as the present volume attests, is that a basically antiunion measure has substantially promoted the cause of union democracy while doing at worst small damage to the structure of organized labor.

Bellace and Berkowitz have provided us with a comprehensive, thoughtful, and reasonably balanced survey of the Landrum-Griffin Act's

first twenty years. This is a lawyers' book, though informed laypersons should not find it hard reading. It systematically examines the court decisions under the five principal titles of the Act dealing with internal union affairs. This emphasis on legal analysis means, however, that scant attention is paid to the impact of the legislation on the day-to-day operations of the great mass of unions that never get involved in litigation. For the latter, one must turn to an empirical work like Doris McLaughlin and Anita Schoomaker's *The Landrum-Griffin Act and Union Democracy* [also reviewed in this issue—Editor].

For Bellace and Berkowitz, the major deficiency in the administration of the statute would appear to be the enforcement policies of the Department of Labor. Once a union member files a charge with the department challenging an election, for example, the Secretary is supposed to become the member's "attorney"; in practice, assert the authors, the member "has lost control of his suit" (p. 281). The department is also strongly criticized for refusing to investigate complaints prior to the holding of an election. Special poignancy is lent this objection by an extensive discussion of the department's aloofness during the bitter, and eventually fatal, contest between W. A. (Tony) Boyle and Jock Yablonski for the presidency of the Mine Workers in 1969. The authors do not mention, however, that union leaders list as one of their chief, continuing concerns the department's practice of conducting "spot" audits of randomly selected organizations under the reporting provisions of the statute. Finally, the authors quite rightly fault the Act itself for providing as the sole remedy for an invalid election a rerun that may be long delayed, overly costly, and often inadequate.

In addition to recommending amendment of the enforcement provisions of the elections and reporting titles, Bellace and Berkowitz urge that the Secretary of Labor, as well as individual members, be authorized to sue for breach of fiduciary duties by union officials or to remedy a pattern or practice of union interference with members' so-called "Bill of Rights." On the whole, the authors conclude that the courts "have taken a protective view of individual rights but have recognized the institutional requirements of the union." "Overall," they feel, the Act "has withstood the test of time remarkably well."

Perhaps the most provocative thoughts in the book come toward the very end. Citing Richard Lester's shrewd observation that a trend toward centralization in the American labor movement would be accelerated by federal intervention, with consequent loss of local union autonomy, the authors suggest that further regulation of

union institutions would produce only diminishing returns at substantial cost in voluntary self-regulation. That wise comparative scholar, Otto Kahn-Freund, said it all twenty years ago: "We must beware lest, by overemphasizing the need for public, legal guarantees of union democracy, and by forcing upon [unions] a democratic structure, we shall destroy their democratic autonomy." The present work, unfortunately, is short on such long views. I should have liked, for instance, some evaluation of the belief of such experts as mediator William Simkin that Landrum-Griffin has contributed to rank-and-file rejection of sensible contract settlements, and of the fears of others that the Act has discouraged able young workers from aspiring to careers as union leaders. Nonetheless, Bellace and Berkowitz have still presented the best overview to date of the evolving federal law of internal union affairs during the first two decades of Landrum-Griffin.

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The Landrum-Griffin Act and Union Democracy. By Doris B. McLaughlin and Anita L.W. Schoemaker. Ann Arbor: The University of Michigan Press, 1979. vi, 288 pp. \$22.50.

This book is the outcome of a research project financed by the U.S. Department of Labor (DOL) and designed to examine the effectiveness of the Landrum-Griffin Act, with particular emphasis on determining the impact of the Act on furthering internal union democracy, the effect of court decisions in adding flesh to the bones of the language of the statute, and the role of the Department of Labor's enforcement in protecting individual members' rights.

After considering and rejecting a statistical approach because, among other things, "even the most basic statistical data were unavailable," the personal interview was chosen as the fundamental research tool. The data base for the study thus consists of some 150 interviews, approximately 80 of which were with lawyers, officers, and staff members of twelve national unions; 20 with dissident union members and their advocates; 30 with Department of Labor enforcement staff; a dozen with management spokesmen; and four or five with academics. The unions involved, which ranged in size from under 250,000 to over 750,000 members, included five in the manufacturing industries, four in con-

struction, two in the service industries, and one in the public sector. The authors claim that collectively these unions represented some 36 percent of all union members covered by the Act in 1973.

In addition to these extensive personal interviews, the authors formulated questions that were included in three University of Michigan Survey Research Center surveys. In this way they obtained information from some 677 union members, both in and out of the unions studied, they would not otherwise have had.

The study consists of seven chapters, which cover Title IV (Elections), Title I (the Bill of Rights), Title III (Trusteeships), Title II (Financial reporting), Title V (Fiduciary responsibility), enforcement by the Department of Labor, and over-all impact of the law. The Title VII amendments to Taft-Hartley are not covered in the study.

Two-thirds of the volume is devoted to the text of the study. The remaining third consists of appendices, which include the text of the Act; a six-page memo on the methodology of the study (which really ought to be read first); copies of questionnaires used for interviewing union lawyers, union officials, DOL field office staff, and rank-and-file union members; and, most interesting of all, a forty-page analysis, largely statistical, of the data obtained from the three surveys of rank-and-file union members. Here is something for the quantitatively inclined to sink their teeth into!

Landrum-Griffin is a hard Act to follow, analytically speaking, because in the absence of adequate statistics—a defect the Department of Labor could surely remedy if it wished—analysts must fall back on methods, such as the personal interviews used here, the subjectivity of which tends to weaken the force of their conclusions.

But even allowing for the constraints imposed on them by this methodology, the authors' conclusions regarding the impact of the Act seem innocuous indeed. In assessing the law's overall effect, for example, they conclude that Titles I, III, and IV have been "beneficial," and Title II "favorable." In addition, they conclude, "The single most important impact of the Act arises from the fact that it exists. It serves as a legal foundation upon which an aggrieved member can build. It does, however, still require that a member have the courage to do so."

On the other hand, the authors' appraisal of Department of Labor enforcement is more forceful; they have made a number of specific recommendations for improvement, some of which have already been adopted.

The volume as a whole produces few new insights and the reader must work hard to find them. Generally speaking, it tends to confirm the prevailing wisdom. While one recognizes that