

Union Democracy Review

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Locomotive Engineers:

Suspect merger referendum blocked by federal court

by Carl Biers

Two years after the Brotherhood of Locomotive Engineers recalled their national president precisely because he was pushing for a merger with the United Transportation Union, the new BLE leaders are again seeking to foist an unpopular merger on the members. A caucus, the BLE Democratic Vote Council, charging that a quickie referendum violates both the BLE constitution and federal law, have won an injunction stopping the referendum. The three plaintiffs, Paul Morris, John Karakian, and Tony Smith, are all elected officers of various BLE locals and divisions. They are represented by attorney Arthur Fox, a member of AUD's board of directors.

On September 17, Judge Ann Aldrich of federal district court in Ohio issued a preliminary injunction impounding the ballots cast by BLE members, forbidding their being counted, or the results announced, pending final resolution of plaintiffs' lawsuit.

BLE members fear that their interests will be neglected in the UTU which, with 80,000 members, is twice the size of the BLE. They resist a watering down of their democratic rights: the BLE constitution allows the recall of officers by direct membership vote. The proposed new constitution would allow the executive board to veto any such referendum initiative. They suspect that their leadership is motivated by narrow self-interest: their legal papers charge that BLE President Edward Dubrowski will be rewarded with a \$100,000

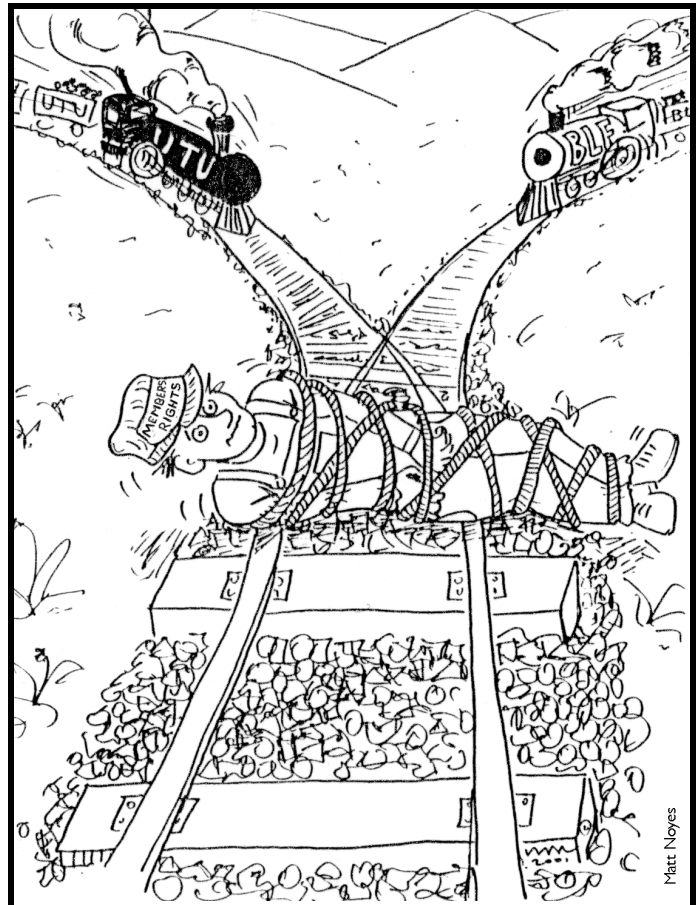
salary increase and vastly superior pension benefits.

Those who filed the suit are convinced that the membership would reject the merger in a fair referendum. But the voting was not by secret ballot but on post cards signed openly by voters without reliable signature verification. There was little time for discussion; balloting would have concluded on the eve of a BLE convention where delegates would have had a chance to debate the issues. Canadian votes would not be counted, an apparent violation of the union constitution; the ballot itself lists an organization that does not yet exist, the BLE-UTU, presumably the name of the new union to be created if the merger is approved, thereby suggesting that the merger is sort of a done deal and the voting merely a formality.

AAA stumbles in railroad election

The American Arbitration Association is counting the ballots in the UTU-BLE merger referendum. Our Association for Union Democracy has often recommended the AAA to unionists as a reliable neutral third party to conduct their officer elections because its deserved reputation for integrity guarantees an honest count. But its involvement in this instance is troubling, precisely because the AAA seems here to depart from, even to violate, its own basic principles.

Note: The AAA undertook only to count the ballots, not run the referendum. There are other more flexible and less dependable outside agencies that will perform



... AAA continued

bits or pieces of an election process, according to the wishes or convenience of their paying clients. The whole process may or may not be trustworthy because only that one part has been scrutinized. Yet the "supervising" agency's name appears to give it all a stamp of integrity. Back in the days when Steelworkers elections were routinely stolen, an outside agency counted ballots, but before they ever got to the counting station, those ballots had already been rendered fraudulent.

The mark of the AAA, which distinguished it from others, was that it would not permit that kind of fraud. It insisted on control of all phases of the voting process from printing to distributing to counting the ballots.

Happily, that principle seems still to guide the AAA. It bills itself as the "premier neutral organization maintaining the integrity of the election process." In a letter posted on its website (www.adr.org), Jeffrey Zaino, AAA election officer, explains in detail that its standards uphold "democratic traditions by protecting the rights of all members in good standing and ensuring voter confidentiality by secret balloting...doing a background check of its clients and personnel to guarantee that no individual involved with the administration has a vested interest in the outcome of the election...[and] prior to each election thoroughly review[ing] both applicable federal law and the bylaws or constitution of its clients."

The complaints in the UTU-BLF referendum raise substantial questions for the AAA: Does it actually abide by those principles in union elections, referendums, and contract ratification votes? If so, how does AAA explain that deviation in the railroad referendum, especially the obvious absence of a secret ballot?

In reply to these questions from AUD, Mr. Zaino assured us that the AAA does, indeed, usually apply its standards in all these type of cases. But, he explained somewhat defensively, the UTU-BLF referendum was an unusual exception. Approached late, the AAA agreed merely to tally the results. He said that in the rare cases where the AAA agrees to relaxed standards, it reveals, in a post election certification, exactly what it did and it did not do. But that leaves union members puzzled: how can they know until the voting is over whether the AAA stamp of approval really means what its letter says?

All election agencies must make the same decision: are they ready to guarantee the integrity of any election they supervise, even at the risk of losing some business?

In 1999, then BLE president Charles Monin sought a federal injunction to block Secretary Treasurer Russell Bennet from processing a recall petition against him. Bennet, represented by Detroit attorney Barbara Harvey, another AUD board member, prevailed in federal court largely because of the clear language in the BLE constitution. Monin was then defeated in the referendum.



The Association for Union Democracy

is a pro-labor, non-profit organization dedicated to advancing the principles and practices of democratic trade unionism in the North American labor movement. It is the premise of AUD that internal democracy makes unions stronger and better able to fight for the rights and interests of working people.

We provide organizing, educational, and legal assistance to union members fighting for greater control of their unions. No other organization is dedicated solely to advancing the democratic rights of union members.

AUD is a non-partisan organization. We do not support or endorse candidates for union office or particular policies within unions. Rather, AUD supports actions which strengthen the democratic process, promoting membership participation, free speech and fair elections, so that union members can set the goals and determine the strategies of their union.

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