

# around the tracks



RAIL, TRAM AND BUS UNION • LOCOMOTIVE DIVISION, NSW BRANCH • ISSUE 8 • MARCH 2006

## Divisional Secretary

We can be certain of one thing in the year ahead – we will be kept very busy dealing with employers' interpretations and manipulations of the new industrial relations laws.

There will be many situations where we will be faced with attacks or attempts to undermine our wages and working conditions. We've had a taste of this recently when the newly merged Southern and Silverton attempted to pressure employees into signing up for individual Australian Workplace Agreements (AWAs) or lose their jobs. Through effective consultation and communication with members at Silverton depots, we were able to determine that employees had a

range of concerns relating to accepting an AWA and were resolute in their determination to protect their conditions through collective bargaining. There are a couple of simple lessons that we can take from this situation:

1. Employers will try to exploit the new industrial relations climate to erode existing wages and conditions.
2. Attempts will be made to make new work proposals attractive to employees.
3. That many of these attempts will be made through propaganda, misinformation and using the new laws to gain changes.
4. That a strong and unified workforce, and effective communication, information and organising across the union can defeat these attacks and are the best way of protecting our current and future conditions.



ALEX CLAASSENS  
Divisional Secretary

The Silverton AWA proposal would not have been rejected without the strong responses and unity of our members.

These attacks will not be limited to one or two companies, or to one sector of our industry, but will increasingly occur in many different guises across the public and private operators. If it is not Silverton, it will be Pacific National, and not to be outdone by their private counter-parts, the public sector in RailCorp are increasingly embracing the methods and opportunities they see under the new anti-worker laws. We will need to remain ever vigilant in monitoring developments

in our areas of work, and ensuring that information and communication of any attacks are shared and responded to as a united strategy to defend and protect all members.

It should be kept in clear focus that the RTBU will do everything possible to resist these assaults and attacks on members' working environment and conditions, and to go about our core business of defending and improving the working lives of our members. We will be sharpening our organising strategies, honing our information, communication and education systems, and continuing to develop effective and strong local workplace networks and structures to ensure that we defeat these attacks. These battles will be fought and won through industrial, political and community campaigns. In all of these, the greatest guarantee of success is the will of all members to stand firm and united against these attacks.

Our Unity is  
Our Strength

## ACTU Campaign Targets Community Education and Key Marginal Seats

*“This is a campaign about people—the hopes and aspirations they have for themselves, their families and for the future of the country—it’s about our values versus theirs, it’s about whether we build an economy that serves society, or whether we are forced to serve an economic juggernaut!”*

This year will see the union movement campaign gather momentum as unions and their supporters mobilise in workplaces and communities to build broad based opposition to the Federal Government’s anti working family laws.

Key elements of the campaign will include a series of advertisements throughout 2006 and 2007 on the impact of the new IR laws on working families in conjunction with press radio and TV ads specifically targeting electors in key marginal Liberal and National party seats.

An online email list of union supporters has been established and there

is now a national grassroots network of **yourrights@work** activists.

The fundamental activity of this grassroots network will be to build *people power* in Australian workplaces and communities. Further rallies will be held to build and demonstrate support for a fair and equitable alternative to the Coalition’s big business agenda.

A key issue in 2006 and 2007 will be the ongoing solidarity and support of workers being victimised by employers exploiting the new IR laws. The union movement must be ready to *name and shame* those employers who try and make a fast buck at the expense of working people. Hence, workplaces in the targeted seats will be particularly important.

We must ensure that coalition MPs are confronted by a concerned and informed electorate with the impact of the new IR laws they have supported. Employers need to be *on notice* that working people will support each other and that the union movement is not going to go away, either at the workplace or from the wider community.

## States to Challenge IR Laws in High Court

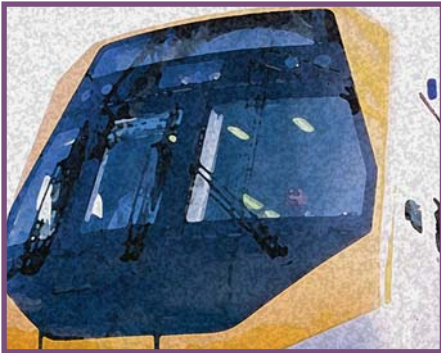
The campaign against the federal government’s IR laws has gathered pace as all state governments except Victoria announce their intention to challenge the laws in the High Court.

The first cab off the rank was the NSW Government which claim the Howard Government has exceeded its constitutional powers by introducing the new laws. South Australia, Queensland, West Australia and Tasmania have now joined NSW.

The Howard Government is seeking to use section s51(xx) (the corporations power) of the Australian Constitution rather than section s51 (xxxv) of the Constitution which specifically deals with industrial relations to override the industrial relations systems of each state. The state industrial relations laws had previously covered the majority of Australian employees.

The new laws will automatically move all businesses that are registered constitutional corporations from state systems into the new federal system. Further, any state industrial laws that currently apply to constitutional corporations will cease to operate.

The High Court challenges are expected to commence in March and will ask the Court to rule on the constitutional legality of a number of aspects of the new laws. While the challenges are important, and we hope they succeed, the reality is that working people cannot rely on the outcome of these challenges to protect our rights and entitlements. It is up to all union members to start to organise in their communities as well as in the workplace.



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# What's the RTBU Doing?

The RTBU will continue to work closely with Unions NSW and the ACTU and participate actively in rallies and actions called by the state and national peak union bodies.

In addition to contributing \$5.50 per member to the campaign, the RTBU will continue to provide information and distribute materials to assist activists and delegates in taking the message to their families, neighbours and to the community groups in which they are active.

The program of workplace meetings will continue throughout 2006 together with regular campaign updates via the RTBU email tree.

The NSW Locomotive Division has already successfully stood their ground against attempts by Southern and Silverton to introduce AWAs, with members refusing to accept the proposed changes.

We can anticipate that Pacific National and other private operators will continue to use the new laws in attempt to break union solidarity and undermine existing conditions.

The RTBU will be monitoring the

behaviour of employers in our industry and providing whatever support members require to resist and fight attempts to erode working conditions.

In this environment, where employers are being egged on by a federal government who is actively looking for union scalps, it is more important than ever that we do not allow ourselves to be provoked by employers looking for a cheap and easy victory.

Workplace activity and organisation is more important now than it has ever been. Thinking strategically about the future as well as the present is the key to defeating the Federal Government's anti-worker and anti-union agenda. It is the members that make this industry run, and their commitment to each other and to the values of collective action will ensure the defeat of our opponents who want to turn the clock back a century.

**The NSW Locomotive Division has already successfully stood their ground against attempts by Southern and Silverton to introduce AWAs, with members refusing to accept the proposed changes.**

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# AWA — NO Way!

The new year has brought some initial indications of how some employers in our industry will attempt to use the new Federal Government “Workchoices” industrial laws to erode existing conditions. It also brings the confidence and knowledge that a united and determined workforce can and will resist and defeat these attacks. Last month RTBU members told their new bosses at Southern & Silverton Rail they would not sign the company’s new Australian Workplace Agreements (AWAs) even after being told if they did not sign there would be not be a job available for them in the new company.

## Sign AWA or the Highway!

RTBU members employed by Silverton Rail were told just before Christmas that the new employer Southern & Silverton would not have a job for them on 16 January 2006 if the existing employees did not sign the new company’s AWA. Silverton had depots in Sydney, Newcastle, Gulgong, Parkes, Narrabri, Broken Hill and Cobar.

The new company’s proposed AWA was ambiguous and lacked detail on a number of key conditions already contained in the current EA. Although the AWA provided for a minor base pay rate rise, this was offset by a loss of significant conditions such as the removal of rostering conditions, provisions for paid public holidays and an extension in the number of

hours worked fortnightly for no additional pay.

**RTBU Locomotive Divisional Secretary, Alex Claassens told the media:**

*“After an initial analysis of the company’s AWA it was clear to the RTBU that the document was short on detail. This company has simply taken the opportunity to use the new Federal industrial laws to hold a gun to the head of RTBU members by telling them to sign the AWA or risk not having a job”.*

RTBU members told the union they wanted to transfer to the new company and remain covered by the conditions contained within their existing agreement, as a result of transmission of business provisions, and then negotiate a new collective agreement. Southern & Silverton rejected this outright stating they wanted everyone on an AWA. The Locomotive Division and its members concluded this was a totally unacceptable proposition.

*Photo: Part of the winning team involved in the Southern & Silverton Rail campaign. (L to R) Dmitri Davies (RTBU Delegate), Sallie Higgins (Loco Organiser), Nick Tesoriero (Organising Works Trainee Organiser) and Glenn Doyle (RTBU Delegate).*



# RTBU Members Achieve The Victory

At an Australian Industrial Relations Commission (AIRC) hearing on 19 January 2006 *Silverton Rail* and *Southern & Silverton* retreated from their "sign an AWA or there's no job" position due to the united opposition from RTBU members. Once the AIRC signalled it was prepared to resolve the matter *Silverton Rail* and *Southern & Silverton* reviewed their position.

*Southern & Silverton* stated it was no longer a requirement for employees to sign AWAs and RTBU members could remain employed under the conditions in their current collective agreement.

The basic point to be taken out of this dispute is that RTBU members were not asking for anything extra. All they wanted was to maintain their existing conditions of employment. **Despite being threatened with possibly no job just before Christmas, the RTBU members stuck together in order to defend their legal rights and entitlements.** The dispute was fundamentally about a prospective employer trying to intimidate employees into accepting lesser conditions than they had already achieved.

The company had no other choice once it realised RTBU members were going to stick together and reject the company's AWAs in favour of trying to negotiate a collective agreement: they had to back down. The RTBU is now seeking to start negotiations with the company for a new EA.

## Alert but not Alarmed!

The situation with *Southern* and *Silverton* is the sign of things to come in the hostile climate created by Howard's new industrial laws. This initial victory demonstrates that the strength and unity of our members is the most effective weapon to combat these assaults. If we remain firm in our opposition to these attacks, and remain focused on protecting and extending members working conditions, we will win more than we will lose.

Workers and employers in our industry and other industries watch these disputes closely and become confident or pessimistic depending on the outcomes. Our win in rejecting the AWA sends a clear message to other employers and members in other sectors of the industry, that we do not have to accept unreasonable changes to our work or conditions. We will continue to fight to protect the future of our members and the industry.

# Diary of a Dispute

## How RTBU Members Defeated Silverton AWA Attempt

During the six or seven weeks from mid-December 2005 to February 2006, RTBU members employed at *Silverton Rail* were faced with a tough ultimatum. The merger of *Silverton* and *Southern* to form *Silverton & Southern Rail* brought with it a taste of the Howard Government's new IR climate and an ultimatum to sign AWAs or potentially lose their jobs.

As has been reported, members at *Silverton* listened to the company's proposals, organised meetings in their workplaces, raised concerns with the company, and through the Union, regularly updated information on developments. A series of workplace meetings were organised at *Silverton* depots, regular News Flashes were sent out to members, and telephone hook-ups with delegates and members were held to discuss and respond to

concerns about the AWA proposals.

The overwhelming response of members was to reject the AWA proposals and to clearly state that they wanted to negotiate a new collective enterprise agreement with the company.

In the face of this opposition from members, and the willingness of members to stick together to push for a collective agreement, the company finally agreed to commence negotiations for a new enterprise agreement.

The company will not abandon its desires or attempts to move the workforce away from collective agreements to AWAs in future. However, for now the determination and united opposition of members has prevented the introduction of AWAs with transmission of business to the new company.

# What's Wrong with AWAs?

Increasingly workers in our industry and other industries will be required to make a choice whether to sign an Australian Workplace Agreement or to remain within a collective bargaining framework. Nobody, including the Union can prevent a union member or any other employee from signing an individual contract with their employer. **However, employees need to understand that once they wander into that wilderness they may never be able to return to the conditions and protections of a collective agreement. A few points to consider about AWAs include:**



- It is a common ploy for employers to offer attractive terms and conditions to lure employees onto individual AWAs. They may offer higher base rates of pay

or improvements in other specific conditions contained in current agreements.

- These attractive lures can be very short-lived and can be more easily

breached or revoked on an individual basis.

- The second AWA is usually the killer. This is when employees are most vulnerable and either take

whatever new terms and conditions the employer chooses to offer or revert to the minimum Standards. That is, all wages and conditions can be significantly reduced or removed from

any new agreement.

- Once an employee takes up an individual contract or AWA, they may be precluded from ever returning to a collective agreement.
- The agreement and negotiations around the agreement where an employee must negotiate all terms and conditions individually with their employer (who will usually offer a *standard* contract that is not negotiable)
- The employee may be faced with expensive and lengthy legal actions to try to force an employer to agree to even abide by the terms of the AWA.
- Individualised agreements can be used to divide a workforce and raise secrecy and suspicion amongst employees who may be on a range of different wages and conditions for the same or similar work.
- AWAs and individual contracts can exclude unions from the negotiation process and further

reduce the power of employees to effectively negotiate the best outcomes.

- It is very easy to give up existing conditions in exchange for possible short-term gain. It is much more difficult to ever regain these entitlements in a hostile one-on-one negotiation between an individual and a company.

The only effective way of maintaining a strong collective agreement base that safeguards the wages, conditions and entitlements of all employees, is for employees in workplaces across the industry to remain united in their resolve not to gamble on AWAs.

Most of the existing conditions in our industry are the result of many hard fought battles over the past 150 years. Each and every railworker has a responsibility not to trade against this legacy for personal short-term gain, and to attempt to preserve and improve these conditions for future generations of railworkers.

## A Strong Union For a Strong Future

**The Locomotive Division has been reviewing its structure in order to better develop workplace organising processes that are more effective and reflect the needs of local workplaces.**

Last year's Divisional Conference identified the need to continue and extend our internal restructure process. To ensure that local workplaces are well organised and better resourced, and that we are in a strong position to deal with some of the changes and attacks on working conditions through the Federal Government's "Worchoices" Industrial Relations changes.

A more active and relevant approach was needed to ensure that local workplace issues were actively pursued and resolved and that our activist network had to be extended and strengthened as an effective way of defending members across the industry.

The strength and future of our union will depend on how well we are organised at a local level, and how effectively workplace activists can mobilise members in defence of attacks and

in improving wages and working conditions.

*The Locomotive Division is continuing to put in place measures to strengthen our workplace networks and protection of all members. These include:*

- **Improved communications through newsletters and bulletins such as *Around the Tracks*, *Loco Express*, as well as improvements to our website and email networks;**
- **Regular workplace meetings to inform and to gain members' feedback;**
- **Improved consultation and participation of members in EA negotiations;**
- **Employed an additional Divisional Organiser;**
- **Developing training programs and resources to support workplace union activists;**
- **Replacing rigid sub-division structures with Depot and Workplace Organisers and Organising Committees to strengthen the union in each workplace.**

The changes will continue to build on foundation to restructure the Division in ways that can effectively meet the challenges ahead.

# Agreements Under "Workchoices"

The new laws are aimed at breaking down collective bargaining, union involvement in agreement making and to encourage an individualised agreement system through AWAs.

Collective bargaining through enterprise agreements can still be made under the new legislation, but it is now easier for employers to opt out of the terms of the agreement, to unilaterally terminate the agreement with 90 days' written notice, and more difficult for employees and unions to seek remedies for breaches of the agreement.

Agreements must not contain content that has been "prohibited" such as union leave provisions, restrictions on labour hire, union involvement in dispute resolution, paid union meetings and so on.

Agreements no longer need to be certified by the AIRC, but rather lodged with the Office of Employment Advocate with a declaration by the employer.

Employers can make AWAs as a condition of employment for prospective employees

Workplace agreements can now be terminated "by approval" (that is, by notice provided for

in the agreement for when it expires, or "unilaterally" by one of the parties to the agreement. Unilateral termination can be done in one of two ways.

1. Where agreement provides for a manner of terminating the agreement after the nominal expiry date, takes effect once a declaration to terminate is lodged with OEA. The relevant parties must be given 14 days' notice of the intention to lodge a declaration of termination.
2. The second method of termination is to give 90 days' notice.

Once a workplace agreement is terminated (and before another comes into operation) employees revert to the terms and conditions of the Fair Pay and Conditions Standard and any "protected award conditions".

## Transmission of Business

The new legislation offers purchasers of established businesses the option to make agreements with employees on their own terms. The "Workchoices" legislation limits the binding operation of previous agreements or awards to those employees transferring to the new company (not new employees), and only apply for a period of up to 12 months.

A transmitted agreement will cease to operate if replaced by an AWA or collective agreement, even within the 12 month period. After this time employees can be pressured to enter a new agreement or to revert to the minimum provisions in the Fair Pay and Conditions Standard.

Awards or agreements will not transfer to the new employer if no employee accepts employment with the new employer.

Generally, accrued entitlements do not transfer to a new employer, unless the new and old employers agree to the transfer of certain entitlements upon transmission of business.

## Have Your Dues Direct Debited

We have been asking members to organise for their union dues to be direct debited from their bank accounts. With the new industrial laws it is more important than ever that the deduction and payment of union dues from wages is not at the whim of employers.

We urge all members to organise a direct debit of their union dues as a matter of urgency. The Locomotive Division has made an arrangement with Encompass Credit Union to facilitate this, but members can have their dues debited from the bank account of their choice.

To organise your direct debit contact the Locomotive Division on (02) 9264 3400 or download the forms from our website: [www.rtbu-locomotive.asn.au](http://www.rtbu-locomotive.asn.au)

## Union Dues to Increase

Members are reminded that the Locomotive Divisional Conference held last year recommended that union dues increase to meet the greater demands on the Union in the coming period. This is particularly true with the introduction of the new industrial relations laws and the increased legal work and organising work required to defend attacks and to maintain effective working conditions through negotiating enterprise agreements.

The restructuring efforts within the Locomotive Division of additional organisers, increased resources to support strengthening local workplace networks all require funds to achieve these outcomes.

It is anticipated that Union Dues will increase to \$10 per week for Locomotive Division members from the beginning of the financial year from 1 July 2006.