Australia: Howard's industrial relations watchdog legitimises Cowra sackings

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On July 7, the Office of Workplace Services (OWS) announced that the sacking of 29 workers by Cowra Abattoirs in central western NSW, and the company's offer to rehire 20 of them on inferior pay and working conditions, were legal under the Howard government's new industrial relations laws. The OWS findings, brought down after a lengthy investigation into the Cowra incident, gives the lie to Prime Minister John Howard's claim that workers' rights are protected under WorkChoices, the government's new industrial relations (IR) laws.

The sacking on April 3 of the 29 men, who were employed on the abattoir's pork and beef production line, came just days after the Howard government's new WorkChoices laws became operational on March 31. The company's action gained national media coverage and became a test case for what workers could expect under the government's new industrial relations regime. The media publicity sparked such widespread public condemnation that the government was forced to back an investigation by the OWS, its own IR watchdog. During the course of the inquiry, the dismissals were temporarily lifted.

Howard and workplace relations minister Kevin Andrews claimed that the OWS intervention demonstrated that the new laws "worked" to protect workers' rights. The OWS finding, however, found that the company had acted within the new IR laws and "there was no basis on which to prosecute Cowra".

While WorkChoices abolished previous limited unfair dismissal laws that covered millions of workers in small companies with 20 or less employees, these provisions did not apply to larger businesses. The Cowra finding, however, makes clear that the new laws allow large companies to lay off workers and restructure working conditions simply by claiming that the action was necessary for what is termed "operational reasons". This was the provision used at Cowra and the basis for the OWS ruling that the company acted legally.

Dismissing claims that workers at Cowra were sacked because they were union members, OWS director Nicholas Wilson declared: "My interest is in fact whether or not, in this particular instance, we can say that Cowra breached the law.

"We can't say that. The law requires that it be the sole or dominant reason that there's a connection between the union membership of the people concerned, or between the award coverage they have. We decided it was not the sole or dominant reason for doing so."

In other words, workers can be arbitrarily dismissed, even for discriminatory reasons, as long as the company claims it was not the "sole reason".

Wilson went on to claim: "If a company is masking its real reasons; if it doesn't really have financial reasons or if it really does have an ulterior motive, that will be unlawful." However, because "operational reasons" are so broadly defined in the bill—the definition effectively includes any economic, social or technological reason—proving an "ulterior motive" would be extremely difficult, if not impossible.

While the Australian Council of Trade Unions (ACTU) has made the Cowra sackings a feature of its new anti-WorkChoices advertising campaign and publicly condemned the company's actions, it has no fundamental differences with slashing workers' conditions, as long as this is done in consultation with the unions.

This was made clear by ACTU secretary Greg Combet following the OWS decision. Combet told ABC radio's "World Today": "Under the previous

laws, what we would have done to resolve this sort of problem is to sit down and negotiate with the company about restructuring, something which happened for many, many years in the past."

In line with past practice, the Australian Meat Industry Employees Union (AMIEU) had already begun this process, after the company informed the union on February 16 that it intended to cut jobs and transfer workers from their existing NSW state-based work agreement onto an inferior federal workplace agreement.

The AMIEU was, in fact, negotiating with Cowra Abattoir for a new collective agreement when WorkChoices became operational. The company decided it no longer needed to rely on the unions and turned instead to the new IR laws as a more direct means of slashing jobs and working conditions.

When the abattoir was forced to reluctantly reinstate the workers after the OWS announced its investigation, the AMIEU rushed into discussions with management and agreed to look at substantial changes to work practices, including the introduction of a combined shift on the pig and beef lines to slash jobs. Soon after, the AMIEU announced it had reached an in-principle work agreement which leaves abattoir employees $180 a week worse off. Only 22 workers have been retained and the remaining seven have taken redundancy.

The primary concern of the union bureaucracy, the AMIEU included, is not to defend the wages and conditions of working people, but to ensure that the unions remain in the industrial relations and labor bargaining loop.

In the past, the unions were central to delivering ever-greater workplace flexibility to boost productivity and slash costs in line with employers' demands. Boasting about this collaboration ACTU president Sharon Burrow told workers at an anti-WorkChoices rally in Melbourne on June 28 that, "Even the economists who have got any guts are on your side ... they know that without collective bargaining rights labour productivity is wrecked."

The OWS Cowra findings constitute a green light for other employers to launch vicious assaults on jobs and working conditions. Telstra, Australia's largest telecommunications company, has recently announced that it intends to sack 239 dispatch operators (call centre staff with technical expertise). It will downgrade 92 of these positions, including 60 at its Melbourne Brandon Park office, and offer workers reemployment at $11,000 less a year.

Like the AMIEU, the Communications Workers Union has no intention of organising industrial action to fight the sackings. Instead, it has taken the dispute to the Industrial Relations Commission, claiming that Telstra has breached its enterprise agreement by failing to inform the union before acting. Len Cooper, the union's Victorian secretary, however, has already admitted that this appeal is futile, declaring that the government's new IR laws has "restricted the ability of the commission to act on the breaches".