

An Injury To One Is An Injury To All

# AN APPEAL TO REASON



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Newsletter of the Pennsylvania Federation

September 2004

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## SPECIAL TEAMSTER/BMWE MERGER ISSUE

Dear Brothers and Sisters:

Soon you will receive a ballot in the mail to approve or reject the proposed merger between our Union (BMW) and the International Brotherhood of Teamsters (IBT). The merger documents consist of 331 pages of text. This 331 pages of documents includes a 238 page IBT Constitution and By-Laws that must be read to understand the merger proposal. <sup>1</sup>

**I recommend that you carefully read the material and cast an *informed* vote. Ignore the smoke and mirrors, pretty brochures, videotape and the Swift Boat - like advertising. Decide for yourself, based upon the merger document, if this merger benefits you.**

I have read all of the merger documents and have concluded that this is a very bad deal for the membership of this Union. I would urge you to vote against the merger. Under our by-laws the membership must vote for a merger before it can be completed. You are our last line of defense against this bad deal and I would urge you to inform yourself about it and cast a vote on the future of the BMW.

While the arguments of the need to merge our Union with another are sound, it needs to be the right merger with the right terms. We will only get to do this once and too much is riding on the deal to get it wrong. Because of the financial restructuring that our delegates passed at the 2002 Grand Lodge Convention our finances are doing well and necessary

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1. Hopefully the Grand Lodge will send you all of the merger documents so that you can make an informed decision, however, for those of you who have internet access, these documents are available on our web site at [www.pennfedbmwe.org](http://www.pennfedbmwe.org) in the merger section.

services are being properly funded. We do not have to stand like beggars on a street corner looking for a merger partner on terms that are unacceptable to us. We can demand better terms from a merger partner and have a reasonable expectation of obtaining them.

### **The Grand Lodge is attempting to steamroll the vote without legitimate discussion and debate**

The Grand Lodge officers voted on this deal two weeks ago. While the full-time officers of the Union were provided with copies of the documents, they have not been widely distributed to the membership. This deal is too complicated to simply rush out to the membership without a period of discussion and meetings to make an informed decision. In fact all of the Grand Lodge and System Officers have a meeting scheduled on September 16, 2004 and this agreement could have been debated at this meeting and questions about the agreement could have been answered. The fact that the merger advocates could not wait for a week for this meeting raises many questions.

If the deal is a good one it will stand the test of being mailed to the membership and then discussed and debated over a period of several months at meetings, and in mailings, so that the membership can study it. There is no need to rush this ballot out and insist the membership vote on it unless it cannot stand the test of debate and discussion. Clearly the Grand Lodge wants no real debate on the question and this is reason enough to vote against the proposal. Don't let them steam roll you into making a hasty decision!

### **The IBT merger will deny membership rights to nearly half of the membership**

Under the proposed merger agreement, BMW Unemployment Cards will not be honored to enable a member to stay in good standing. See sections 4.7 and 4.8 of the merger agreement. We are a seasonal craft which results in many of our members taking a furlough during the winter months. Under our current by-laws, these seasonal members can remain in good standing with the union for one year during their periods of furlough by obtaining an unemployment card. This allows our seasonal members (about 40-50% of the Union) to run for office and vote in the meetings.

Under the IBT Constitution, you must have 24 months continuous paid-up membership to hold any office in the Union. Many of our current Lodge officers would not be eligible to hold office. In addition, only members who have paid their dues in the month prior will be permitted to vote on contracts or vote on business at Local Lodge meetings. Members who go out on furlough during the winter months will not be able to vote on ratifications for agreements, Local Lodge elections, strike authorizations, etc. This same rule goes for our members who become sick, injured, or are awaiting the outcome of a disciplinary process. In the IBT, unless you pay full dues when you can least afford it, you are denied the right to participate in it.

Grand Lodge is asking us to ratify a merger agreement that will eliminate basic membership rights for a huge percentage of our members. This is outrageous and wrong, and for this reason we should reject this merger.

**We will not be autonomous; the BMW  
will be subject to the IBT Constitution and  
will not be represented on the IBT Executive Board**

The IBT Executive Board is the governing council of the IBT and has enormous power to resolve appeals and disputes and enact policy to govern the IBT. There is no provision in the merger agreement to give BMW a position on the IBT Executive Board. Without a voice on the Executive Board we have no real power within the IBT and are subject to their decisions without our own representation. While certain provisions make it seem like there is a good deal of autonomy for our own division, there is no power to enforce our autonomy without representation and a voice on the IBT Executive Board. This is because the IBT Executive Board is specifically empowered to hear and DECIDE all internal union charges and appeals and all election questions.

**There are no special funds to establish legal services and  
to fund contract negotiations in the Merger Agreement**

At the 2002 Grand Lodge Convention the delegates restructured the Union's finances by setting up special funds for legal defense and contract negotiations. These are dedicated funds to make sure that there is sufficient money to support these two vital services. The delegates to the 2002 Convention felt so strongly that these services needed to be fully funded that they took this money from our strike fund to ensure proper funding. These dedicated funds disappear in the new by-laws for the BMW Division and the money is simply rolled into the general operations of the Division. The guarantees that we have in the present Constitution and By-Laws - that the vital services of legal defense and contract negotiations would not be cut in a tight money situation - are gone.

**Presenting Merger Agreement as a merger with the Locomotive Engineers,  
or all of rail labor is just not true and borders on fraud;  
the proposed Rail Conference is more smoke and mirrors**

We attempted to have a merger discussion with the Locomotive Engineers (BLE) in 2001, and it did not progress because the BLE could not embrace us as partners and insisted on provisions that would have made us second class members. The current merger agreement gives us a separate department within the IBT. The BLE also has this set-up. There is no merger, only separate departments. The merger advocates say the so-called Rail Conference By-Laws within the IBT put us together with the BLE. Article 6, Section 2 outlines the activities of the Rail Conference and they are not much. The Rail Conference appoints committees, supervises conference employees, approves bills, provides money to those who are in need of it, and calls meetings. The Rail Conference has no more authority than the existing Transportation Trades Department, or the AFL-CIO, to which BMW and BLE already belong.

Perhaps the most disturbing aspect of the IBT Rail Conference is that it has no authority with the IBT. Article 8 of the Rail Conference states:

*“Neither this Conference, nor any of its officers, representatives or employees, has been authorized or empowered to act as an agent of the International Union or any of its affiliated bodies and shall not be deemed an agent for any such body unless expressly authorized in writing by the governing body of such body to act in that capacity.”*

The most that can be said about the Rail Conference is that it is a new structure that will give positions (salaries) and titles to more people with our dues dollars, but has very little authority to accomplish anything. This is more smoke and mirrors.

### **Additional points you may wish to consider in the merger agreement:**

- \* Local Lodge Secretary Treasurers will have to start paying dues which will cause many smaller Local Lodges to disband when no one will do the work to hold the Local together without the dues exemption;
- \* Retirees will no longer be permitted to be Local Lodge Secretary Treasurers which denies us a valuable resource and will also result in more disbanding of Local Lodges;
- \* Disabled members who currently hold State Legislative Director positions, of which there are several, will no longer be able to hold this office. These men work for no salary and provide an experienced and valuable service to the membership which we lose with this merger agreement;
- \* Currently the State Legislative Boards are funded through a dedicated fund based upon the amount of members in the State. This dedicated fund gets rolled into the BMW Division general fund and the IBT assumes control of the State Legislative Boards with no funding guarantees.

### **The Merger Agreement does not address the problems of corruption within the Teamsters, federal domination of the IBT or the lack of Teamster power**

I had my doubts that the IBT was the union with whom we should make a merger, but like everyone else I wanted to see the merger agreement to determine if my initial doubts could be overcome. The IBT has historically been one of the most corrupt unions in the United States. Since the 1950s, most, if not all, former IBT presidents have been criminally indicted and all but one so indicted has been convicted of criminal wrongdoing or plead guilty to criminal violations. The IBT is so corrupt that they were forced to accept a settlement with the United States Department of Justice, called a consent decree, in which an Independent Review Board (IRB), headed up by the former head of the FBI and CIA, could clean up the IBT. This process is paid for by the membership of the IBT and the IBT estimates that this has already cost about 100 million dollars. If we become members of the Teamsters, we will be subject to - and get to help pay for - this investigation process.

The IRB has literally eliminated hundreds of former IBT officers from their positions based on allegations of corruption. The IRB has the right to apply the same special powers they have to remove corrupt officials and members to innocent, honest officials and members. The same rights for innocent and honest officers and members that exist under regular law are not protected under the IRB procedures. While corruption is being combated with membership money, the rights of innocent officers and members are being ignored.

At any time, the federal government can reach out and touch the leadership of the Teamsters in a way that they cannot touch the leadership of any other union in the United States.

We are a craft that is totally dependent on the politicians - the President, members of

Congress, appointed government officials - to produce decent wages, benefits and working conditions. Do we really need the stigma of the Teamsters when we go plead our case with the politicians?

The IBT tried to establish their own internal review process that they hoped could be used to replace the process under the consent decree. They hired a former federal prosecutor named Ed Stier to oversee an internal investigation unit. Ed Stier and his entire team of corruption investigators resigned in protest because the current head of the IBT interfered in their investigations and refused to permit them to act independently. When Grand Lodge negotiated the merger agreement, they never contacted Ed Stier or anyone in his anti-corruption department to discuss this with him. For this reason alone, we should reject the IBT merger.

### **So-called Teamster power is largely a myth these days, and corruption does not produce more for the membership**

Some members may think it is OK to belong to the IBT despite the allegations of corruption, because these tactics produce better wages, benefits and working conditions for the membership. Even if this was once true (which is doubtful), it has not been true for a long time. The IBT has lost hundreds of thousands of members since 1980. They have been unable to organize a single major new trucking company for 25 years. They have been unable to maintain an organizing dominance in trucking (the Master Freight Agreement covers fewer than half as many as it covered in the 1970s). The IBT strike at Overnight Express is as great a loss as the PATCO strike.

There are other issues that need to be discussed. On Amtrak our members are now in their fifth year without a contract renewal. The crafts that have settled on Amtrak have settled for more concessionary agreements than their national unions. We do not have a new agreement on Amtrak because we have insisted on our National contract pattern, which precedent says we are entitled to obtain, and the Bush Administration has used their power to thwart these legitimate contract objectives. The Locomotive Engineers are in the Teamsters and are also going into their fifth year without a contract renewal on Amtrak. This is a perfect example of the kind of problem that they claim they can correct, the BLE Teamsters on Amtrak are not doing any better at the contract table than the BMW on Amtrak.

One of the reasons I was against the Boilermaker merger was because that union was too small and ineffectual to be a good merger partner. The Teamsters are certainly larger and more powerful than the Boilermakers. It is also true that given the laws and the politicians that we have, every union is handicapped in what it can do. Nevertheless, there are a dozen other large unions out there that fight very hard and effectively for their members that don't have the same negatives as the Teamsters. We should be exploring the possibility of a merger with them.

The IBT has been unable to protect their own members in some of the greatest battles of the day - so why should we believe that they will be any better at protecting us? Until these issues are properly addressed, we should reject the IBT merger.

**We need to elect our own legitimate leadership  
before deciding on a merger with another union**

Former President Mac Fleming went out on sick leave in July 2003. This was seven days before the Department of Labor filed a complaint in federal court, alleging that his election and the election of Fred Simpson to the Secretary-Treasurer's position in 2002 violated federal labor law and should be declared null and void. Grand Lodge has just settled the action brought against them by the Department of Labor and has agreed to hold new elections for the President and Secretary Treasurer. It is likely that election will occur later this year or early next year.

When former President Fleming went out on sick leave, Brother Simpson was selected to fill the President's vacancy by the Grand Lodge officers. He then refused to call an election to fill the President's vacancy properly within sixty days as mandated by the by-laws. When he finally scheduled an election to fill the vacancy for June 8, 2004 - nearly a year later - he devised a scheme with the Executive Board to deny the right of all Canadian members to have their votes counted. This action was blocked after I filed suit in federal court.

Recently a hearing was held before a federal judge, as a result of which it seems likely that the vacancy election will occur while the merger ballots are in the mail to you.

We have not had a legally elected leader of this Union since July 2002. We should wait and settle this internal election controversy and ELECT leaders who have legitimate authority without violating federal election laws *before* we put a merger agreement out to the membership. For this reason alone we should reject this merger proposal.

In Solidarity,



Jed Dodd  
General Chairman

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