

## The Australian waterfront dispute

# Workers to pay bitter price for MUA's High Court 'victory'

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In an unprecedented judicial attempt to defuse a major political crisis, the Full Bench of the Australian High Court, the country's supreme court, on Monday partially upheld two decisions of the Federal Court ordering the reinstatement of 2,000 sacked waterside workers.

Speaking immediately after the decision, Australian Council of Trade Unions (ACTU) president Jennie George proclaimed the High Court's judgment as proof that the "rule of law" protects ordinary people against corporate Australia.

In reality, those workers who initially cheered the so-called "victory" of the Maritime Union of Australia (MUA) will soon discover that they, and the entire working class, will pay a very bitter price for the agreement reached in the courts.

The court, acting entirely in the interests of corporate Australia, has decided to try to clean up the unholy mess created by the Howard government's reckless approach to "waterfront reform" — and to directly utilise the services of the trade union bureaucracy to do so.

Before the decision was handed down, the trade union leaders, led by George, MUA national secretary John Coombs and ACTU assistant secretary Greg Combet, had already agreed to collaborate in the elimination of at least 200 jobs and the driving up of the cargo container movement rate to the Howard government's benchmark of 25 an hour.

Their only proviso was that workers were first formally reinstated, so that a phoney "victory" could be declared and the picket lines dismantled. As soon as workers are back inside Patrick's gates, Coombs and other MUA officials have pledged to discuss removing "surplus labour" and driving up productivity. Within two or three weeks, hundreds more jobs will be eliminated. In the meantime, no wages will be paid.

George underscored the union movement's commitment to this agenda in her response to the ruling. She praised Coombs for "placing his neck on the line" to achieve "waterfront reform" — a process that has already seen thousands of jobs destroyed on the waterfront.

The essence of the High Court decision is that the MUA and ACTU leaders must guarantee to Patrick's boss Chris Corrigan, the administrators of his asset-stripped labour-hire companies,

the major banks and the government that the union will axe enough jobs and slash the conditions of its own members sufficiently to make Patrick's shell companies commercially viable, that is, profitable. If not, the union will incur multi-million dollar penalties and Patrick's administrators may liquidate the companies.

In other words, the judges have handed over to the trade union bureaucrats the task that the government's ham-fisted and legally dubious operation set out to achieve. Corrigan himself has declared: "It is now over to John Coombs and the MUA to make these companies viable, or face the consequences."

The acutely political character of the High Court decision was underlined by the way that all seven judges of the court were summoned on short notice last week to hear the appeal. For the first time in history, a Full Bench heard a special application for leave to appeal — and then decided to hear the appeal immediately. Normally it takes months, if not years, for the High Court to hear a case.

(To the surprise of legal commentators, the court included the about-to-retire Chief Justice Brennan, who was not scheduled to hear any further cases, and the just-appointed Justice Callinan, who was due to appear as a witness in a separate Federal Court case concerning legal advice he gave before being appointed to the court by the Howard government.)

By a six-to-one majority, the judges dismissed Patrick's appeal against the original reinstatement order of Federal Court Justice North. Only one judge — Callinan — upheld Patrick's case outright.

But of the majority, five judges specifically amended North's orders, to give the corporate administrators unfettered power to either liquidate the companies set up by Patrick's, or dismiss or replace as many workers as they choose. Under North's orders, the administrators were theoretically obliged to re-employ the sacked workers, but had no capital to do so.

Now, as Workplace Relations Minister Peter Reith has stated, there is no guarantee that a single sacked worker will be reinstated. The administrators can freely sub-contract the work, including to the scab workforce organised by the National

Farmers Federation, if the MUA does not deliver the required rates of profit.

Following North's orders, the MUA had already agreed to legally binding undertakings to:

- Prevent all industrial action by the reinstated workers, and
- Indemnify the administrators against any liability for wage payments or other losses (effectively that meant working without pay for a month or more).

Now, the union will be required, in addition, to deliver to the Federal Court by 4pm Wednesday undertakings to also indemnify Patrick's creditors — that is, the seven-member syndicate of big banks — against any losses.

Many workers have treated this pact reached in the courts as a "victory" because they mistakenly identify the MUA and ACTU with the interests of workers. In fact, the High Court decision reflects the understanding, openly articulated by sections of big business, particularly the manufacturing employers, that these organisations remain a crucial instrument for enforcing their requirements.

In the leadup to the ruling, business publications pointed out that the unions had helped administer the destruction of tens of thousands of jobs in areas such as Telstra, the banks, BHP, the public service — and the waterfront itself.

The May 4 *Business Review Weekly* commented that if the aim was to overcome shopfloor resistance to downsizing, contracting out and casualisation, employers had learned that "it often means using unionism rather than fighting it". Even in the stevedoring industry, the article emphasised, the workforce had been halved in 10 years with the help of the MUA. "It was not until Patrick adopted a 'total destruction' management approach — sacking all unionised workers with the backing of the government — that management had to contend with a legal and industrial minefield."

Similarly, an article in the *Australian Financial Review* last weekend emphasised that Coombs had dedicated himself to driving up productivity on the waterfront — the real problem lay with workers on the Melbourne and Sydney docks who had resisted the union's agreements with Patrick's and the other main waterfront employer, P&O.

The High Court's ruling manifests concerns in these ruling circles that in by-passing the unions and embarking on a legally questionable course, the government unnecessarily provoked wider conflicts and set dangerous legal precedents.

In the first place, some of the methods employed by Patrick's — such as secret corporate restructuring — could be used to evade legal liabilities to other business interests, including the banks.

Secondly, the use of uniformed security guards armed with dogs, batons and mace aroused widespread public opposition, so that the operation, designed to be swift and brutal, dragged on for several weeks. Some broader layers, including students, joined pickets, blocking the removal of an estimated 15,000 scab-loaded containers. With doubts hanging over the legality

of the operation, the courts and the police were largely unable to enforce several sweeping injunctions ordering the removal of picket lines.

Given this volatile situation, the judiciary in effect intervened to call in the union bureaucrats to deliver the job cuts and higher rates of output demanded by business.

The fact that many maritime workers have treated Coombs and the ACTU leaders as heroes for pledging to administer the employers' program is a testament to the political confusion that currently exists throughout the working class.

Even where workers initially resist the ACTU's collaboration in the destruction of their jobs and conditions — as some waterfront workers in Melbourne and Sydney have done — they lack an alternative political perspective to that of the union and Labor Party leaders.

After the High Court decision, Coombs called for Reith to be sacked. But if Reith's head were to fall over the government's debacle — and it well might — that would not alter the underlying program of big business and its political representatives. On the weekend, Coombs briefly spoke of defeating the government itself. But what would replace it? The Labor Party leaders are no less committed than the Liberals to imposing the corporate agenda — as they proved for 13 years under the Hawke and Keating governments.

In fact, Coombs and the rest of the Labor Party and union leadership are simply seeking to exploit the Howard government's waterfront imbroglio to demonstrate that the labour bureaucracy offers the most effective means of enforcing profit requirements.

The result will be a monstrous betrayal, with implications for all workers. If the High Court compact is imposed on the sacked Patrick's workers, it will set a precedent for use against every other section of workers, starting with the P & O workers. The MUA has already agreed to cost-cutting negotiations with its chairman, Richard Hein.

The Socialist Equality Party appeals to maritime workers and all workers, students and youth who are concerned by the broader issues raised by the waterfront confrontation to make a critical assessment of this entire experience. It has exposed the political impasse facing the working class, that can only be overcome by building a genuine mass socialist party, one guided not by the dictates of private profit but the fundamental needs and historical interests of working people.



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