# Australian union hoses down another entitlement dispute

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The recent deal ending the seven-week long dispute at Maintrain, the Sydney company that services the New South Wales passenger train fleet, demonstrates one thing all to clearly. The campaign currently being conducted by the Australian Manufacturing Union (AMWU) and the metal trades group of unions is not aimed at establishing a universal scheme to protect worker's accrued entitlements in the event of company bankruptcies.

The Maintrain dispute was billed by the AMWU as a "spearhead" for Manusafe, a union-backed fund to protect entitlements in the manufacturing and metal industries. Workers walked off the job in July, demanding that thousands of dollars in accrued entitlements, including long service leave, annual holiday pay and severance pay, be placed in Manusafe and that the company establish a 1.5 percent payroll levy to cover future entitlements.

While the strike remained low-key and largely ineffectual the union was happy to allow it to drag on. As soon as it threatened to disrupt the State's train services, the AMWU quickly agreed to a formula to shut down industrial action and get the entitlements issue out of the public spotlight.

Under conditions of an impending Federal election and widespread hostility among workers towards the State Labor government, Labor party and union officials were concerned that the dispute could spark wider industrial action and jeopardise big business support for Labor's electoral ambitions.

The State Labor government paid Bob Hawke, former Labor prime minister and once head of the Australian Council of Trade Unions, a handsome $25,000 "mediation fee" to broker a deal. Hawke spent three days negotiating with the AMWU and Maintrain management to cobble together an outcome. On August 27, over 200 striking Maintrain workers were urged by union officials to accept the complex deal hatched during the bizarre three-day process.

Under the agreement, the State government will allow Maintrain to use just over half an existing $5.5 million bank "performance guarantee" to cover entitlements up to the present time. The bank guarantee was to ensure that Maintrain kept maintenance schedules and insurance against damage to plant and machinery at the state-owned maintenance centre leased by the company.

The company also agreed to establish arrangements with a designated trust fund by January 1 to cover long service and annual leave entitlements six months in advance, with the government "underwriting" Maintrain's severance pay arrangements.

In exchange, the AMWU dropped its demand for the company to place a 1.5 percent payroll levy into the union sponsored Manusafe fund. The union also substantially reduced its original pay claim, cutting it from 8 percent annually for two years to 9.2 percent spread over 21 months.

Two weeks before the settlement at Maintrain the AMWU and the Australian Workers Union also struck a deal at Sydney car component manufacturer Tristar, after a dispute there closed down production in the country's four car plants. Tristar agreed to a $1.2 million insurance package to cover the workers' entitlements for two years and the union backed away from demands for Manusafe levies and cut its pay claim by 6 percent, thus helping to fund the insurance cover.

The growing demand by workers for entitlement protection has built over the last decade as hundreds of companies have gone to the wall. Thousands of permanent jobs have been destroyed and many workers robbed of accrued annual and long service leave, severance payments and other entitlements.

In some cases employers have deliberately established shelf companies without assets, in order to avoid paying out entitlements when they liquidate their businesses. In all bankruptcy cases workers' entitlements are not guaranteed, with workforce claims at the end of long lists of secured creditors.

Moreover, the recent collapse of One.Tel, the country's third largest telco, and now Ansett, the second largest domestic airline, make clear that more major bankruptcies are in the pipeline with millions of dollars of workers' entitlements under threat.

Under these conditions the unions are acutely concerned that they will be unable to contain and control future disputes. For years the union leadership have prevented any defense of jobs by diverting struggles over factory closures and downsizing into demands for increased severance pay and other entitlements. This control mechanism has now been weakened by the realisation that these legal entitlements are not sacrosanct.

As one AMWU organiser recently admitted the unions decided to assist the ING Group (formally the Mercantile Bank) to set up Manusafe after increasing demands from members "fed up with companies robbing workers of their entitlements".

While the AMWU, which will have several positions on the fund's board of management, has a specific interest in pushing Manusafe, it has readily adapted to employer opposition and dropped demands that they sign up to the fund. In fact, dumping the demand for Manusafe has been a key factor in ending disputes in sensitive industry sectors.

The Australian Industry Group (AIG), representing many manufacturing employers, has advised its members to accept other arrangements, such as insurance cover and bank guarantees, rather than sign up to Manusafe, which it claims would cost manufacturers collectively over $8 billion annually.

The AIG is particularly concerned that under Manusafe, entitlements such as long service leave will be placed in a common manufacturing industry fund allowing the accrued amounts to follow workers from one job to the next. Currently workers are paid long service only after being continuously employed at a company for 10 years. Short-term employment, as well as the deliberate practice of some employers of offloading workers before the 10-year qualifying period has meant that approximately 85 percent of accrued long service leave is never paid out in the manufacturing industry. Tens of millions of dollars remain in company coffers.

By agreeing to various unrelated arrangements such as insurance bonds and bank guarantees, the AMWU is informing the employers that it has no intention of fighting for entitlement portability in the industry now, or in the future.

The complex financial arrangements being accepted by the unions to end industrial action continue to leave workers exposed. Extracting compensation from an insurance company is difficult at the best of times. This process will be even more difficult during bankruptcy proceedings.

In late August the AIG backed an appeal in the Industrial Relations Commission (IRC) by Transfield Pty Ltd to stop a strike over the entitlements issue. The IRC ruled that including Manusafe in a new enterprise work agreement was not allowable under the Federal Workplace Relations Act because "it did not pertain to the employment relationship". The unions could not legally take industrial action on the issue.

The ruling was welcomed by AIG's chief executive Bob Herbert as a "death blow" to the union-backed scheme. "Its game, match and set," Herbert crowed. "This will mean its (Manusafe's) ultimate demise."

While the union announced it would appeal the decision in the IRC, it is unlikely to mount any industrial challenge to the ruling. As in the past, the AMWU will accept the decision of the court and then use the ruling to restrict any future activity by workers on this issue.