

Australia: Sacked metal workers continue 13-week long picket

By Chris Sadlier
24 February 2010

Workers at a metal forging factory in Melbourne, Victoria have maintained a 24-hour picket for the past 13 weeks outside their closed factory, Forgecast, in defence of \$4.4 million in redundancy entitlements owed by the liquidated company to 57 employees.

From the outset, the Australian Manufacturing Workers Union (AMWU) and Australian Workers Union (AWU) have isolated the workers by maintaining an extraordinary media and publicity blackout. For weeks the unions failed to issue a public statement or news bulletin about the dispute, ensuring that no other section of the working class learned what was happening.

The workers lost their jobs last November after Forgecast owner Ian Beynon shut down operations and later placed the company into receivership. The Melbourne plant had manufactured automotive parts, door hardware, plumbing fittings, industrial valves and aerospace components.

The receivership process was designed to evade payment of workers' redundancy and other entitlements. Beynon allegedly created what is known as a "Phoenix company" into which he transferred Forgecast's assets. Forgecast is now legally without assets and unable to fully pay creditors. As a result, the factory owner insists that unpaid workers' entitlements are the responsibility of the receiver, BDO Australia.

"I have nothing to do with Forgecast Australia any more," Beynon told the local newspaper, the *Whitehorse Leader*. "Even though I was the owner in the past I have no legal right or responsibility to the company any longer."

The creation of "Phoenix companies" amid corporate failures in Australia is widespread. The *Sydney Morning Herald* commissioned research last November by credit reporting agency Dun & Bradstreet, which found that "43 percent of corporate failures in 2009 involved companies with directors of previously wound-up firms". The article

added: "Phoenix operators close a company one day and open up another soon after with the same assets, often using a similar name, to avoid paying tax and creditors. The illegal activity is reaching epidemic proportions."

Forgecast workers, many of whom have been at the factory for more than 30 years, have been left with nothing. There are no legal requirements for collapsed companies to pay workers their outstanding entitlements before any other creditors, such as banks. The metal workers' only possible financial relief has been the federal government's General Employees Entitlements and Redundancy Scheme (GEERS), designed to assist workers owed entitlements by failed companies. GEERS payments, however, are capped at 16 weeks of pay, plus outstanding annual and long service leave, and do not cover lost superannuation.

This falls far short of what many Forgecast workers are owed. Depending on their length of employment, they are entitled to up to 85 weeks' severance pay. With GEERS payments understood to cover an estimated \$3 million, another \$1.4 million in entitlements remains outstanding. The deficit amounts to more than \$100,000 each for many workers, including some with young families and mortgages. Several are immigrants with limited English-language skills, while the majority are more than 50 years old and have limited prospects of ever working again.

Workers began their picket in late November, maintaining it over the Christmas and New Year period. They have had to apply for welfare payments at the same time, while receiving just \$150 per week from their unions. The workers have received generous support, including food and money, from local residents and small business owners, who learned of the dispute via word of mouth or from the local newspaper. This response demonstrates the potential support within the broader working class, but the AMWU and AWU have ensured

that no campaign has emerged.

The unions are fully implicated in the questionable corporate manoeuvres of Forgecast's owner. The company was first liquidated in 2003 after it lost export contracts to supply car components to the United States. Workers were owed up to \$3 million in entitlements, but again the "Phoenix company" tactic was utilised. Forgecast and the AMWU and AWU eventually agreed to a deal that resulted in the sacking of 50 workers, including some who were on sick leave, with the remaining workers re-employed with inferior working conditions. Those who lost their jobs received only 75 percent of their redundancy entitlements.

In both the 2003 and current liquidations, the unions blocked any struggle in defence of jobs and working conditions. On the contrary, they served as the industrial police force, preventing resistance to the company taking whatever measures it deemed necessary to ensure maximum profits. In 2008 the unions endorsed what amounted to a 10 percent wage cut, with workers forced to accept a four-day week. Workers were told that this was to be a temporary measure necessitated by lower supply orders, but the reduced hours remained in place until November last year when they were all finally sacked.

Now the unions are again seeking to demonstrate their value to corporate Australia by enforcing an "orderly closure" at Forgecast. Workers told the *World Socialist Web Site* that before the picket, the unions had been in discussion with Forgecast to get rid of 20 to 25 jobs.

A number of workers on the picket line are becoming suspicious over the unions' role, demanding that officials come to the picket and explain why they have been left to fend for themselves.

Carlos Rendich, a tool maker and a shop steward, told the WSWS that he had worked at the factory for 34 years. "We have been here since November 26 last year because the boss decided to make the plant insolvent. We are committed to stay here until we get what we are looking for. I stand to lose 69 weeks in payments. The boss says that he does not have the money to pay us, but this is not a good reason not to pay us. It is not the first time he has done this. Five years ago he did exactly the same thing and 50 people lost their jobs," he said.

Another picketer, Bob Parkinson, said: "Why should a businessman for the second time run a company down to liquidation and not pay the ATO [Australian Tax Office] or the employees and be able to walk away scot free? The Labor government hasn't done anything to protect

workers' rights, superannuation or redundancy payments. We don't know why they haven't changed the laws. I'm sure it will be questioned at the next election."

The unions have attempted to divert the picket into a manoeuvre to pressure the Rudd government into reforming redundancy and insolvency legislation. AMWU national secretary Dave Oliver put in an appearance at the protest on February 9 to declare: "The union is fighting for a proper workers' entitlement scheme that will ensure this never happens again. That's the message we'll be taking to the federal government in the lead up to the federal election, and we'll be highlighting your plight and the plight of other workers facing the same situation."

In other words, the unions hope to use the Forgecast workers' struggle to persuade the Labor government of Prime Minister Kevin Rudd to make minor concessions in order to prevent the emergence of any independent struggle by workers to defend jobs, conditions, and entitlements.

The Labor government has nevertheless given no indication it is willing to change the existing arrangements, which continue to be stridently defended by big business. The Australian Chamber of Commerce and Industry this month warned of increased business borrowing costs if workers' entitlements were granted equal status with the loans of secured creditors, such as banks, in company failures.

The *Australian* reported on February 18: "A spokesman for Workplace Relations Minister Julia Gillard said the government had no plans to change the ranking of creditors and was committed to the existing GEERS scheme for workers' entitlements. 'The government is happy to discuss further ways to safeguard workers' entitlements but has no plans to change the ranking of creditors,' the spokesman said."

To contact the WSWS and the
Socialist Equality Party visit:

<http://www.wsws.org>