Before

FACT-FINDING PANEL

DEPARTMENT OF LABOR

WATERFRONT EMPLOYERS ASSOCIATION OF THE PACIFIC COAST

AND THE

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION

Statement of
Waterfront Employers Association of the Pacific Coast

GREGORY A. HARRISON,
MARION B. PLANT,
BROBECK, PHLEGER AND HARRISON,
Counsel for
Waterfront Employers Association
of the Pacific Coast

San Francisco, April 29, 1946

PARKER PRINTING COMPANY, 545 SANSOME STREET, SAN FRANCISCO

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Before Fact-Finding Board Appointed by the Secretary of Labor Involving Disputes in the Longshore Industry of the Pacific Coast

Statement of the Waterfront Employers Association of the Pacific Coast

After many months of careful consideration of what lies ahead for the Pacific Coast shipping industry the Employers have formulated proposals which represent the maximum of what the industry can give in the way of wage adjustments and still retain any chance of surviving as a vigorous privately operated instrument of the national welfare and safety. The convictions of the men charged with the management and operation of the industry are based upon years of experience and months of study of what the future holds. Their responsibilities cannot be discharged by departure from their convictions as to the proper course to be followed. In recognition, however, of the vital interest of government and the public in the present dispute we do our best in the pages which follow to set forth fairly and accurately the pertinent facts so that government and the public may be informed of them through the medium of this Board.

The subject of this investigation is the wage rates and employment of waterfront workers, longshoremen and dock workers on the Pacific Coast and dock clerks in California. All of these groups are part of the shipping industry on the Pacific Coast. The shipping industry has its own peculiar problems; the history and practices on the Pacific Coast are different from those which prevail elsewhere in the industry.

Shipping on the Pacific Coast

Steamship service on the Pacific Coast consists of the intercoastal, coastwise, Alaskan, island and foreign trades.

The domestic trades including coastwise, intercoastal, island and Alaskan have always heretofore constituted the great bulk, perhaps eighty per cent of shipping activity and employment on the Pacific Coast. In earlier years, the coastwise trade was by far the most important trade. But, in more recent years coastwise traffic dimin-

ished and intercoastal trade became the dominant activity and source of employment. The island trade in Hawaii has long been significant. But, foreign trade as a source of employment has never, except for the war years, been an important factor.

In the carriage of cargo by sea, in every trade, the greatest single cost is that involved in the loading and discharging of vessels. The loading of vessels at the point of origin and discharge at destination is the function of the ship. The work is performed by longshoremen and dock clerks or checkers. In the intercoastal trade the cost of loading and discharging cargo is approximately 41.2% of operating revenue. In the Pacific Coast Island trade and in the coastwise and Alaskan trades, the relative cost of loading and discharging is even greater.

In addition to the loading and discharging of cargo which is at the cost of the ship itself, it is necessary that cargo be placed upon the piers and terminals by the cargo owners themselves in order to effect delivery to the ship prior to loading; and after cargo has been discharged, it must be received and removed by the cargo owner.

This work is done for the account of the consignor or consignee. The transferring of cargo to or from railroad cars, barge or truck and the moving of cargo across the piers and docks is done by carloaders and dockmen. Although such work is not carried on at the expense of the ship, it is a cost which attaches to the movement of cargo and it is a barrier of cost to be surmounted by shippers and the public when availing themselves of water transportation facilities.

Representation of Employers and Shore Workers in Pacific Coast Shipping

Since 1934, both employers and shore workers in shipping have been thoroughly organized for purposes of collective bargaining representation.

The shipping employers of longshoremen and other dock workers are represented in each of the four principal shipping areas of the Pacific Coast by corporate agencies. In the State of Washington excluding the Columbia River, it is Waterfront Employers of Washington (herein referred to as the "Washington Employers Association"); in the State of Oregon including the Columbia River

ports in Washington, it is the Waterfront Employers Association of Portland (herein referred to as the "Portland Employers Association"); in California it is the Waterfront Employers Association of California, acting for Northern California Employers in the Northern California areas and for Southern California Employers in the Southern California area. The latter Association is referred to as the "California Employers Association."

These associations of employers act for their respective associations in the negotiation of contracts for their respective members with port groups of employees, carloaders, dock workers and ship clerks or checkers on a port area basis.

Waterfront Employers of the Pacific Coast is an association of employers on the Pacific Coast which acts for its members in the negotiation and administration of a coast longshore contract. It embraces within its membership virtually all private employers of longshoremen on the Pacific Coast.

The Coast Longshore Contract

In 1934, the International Longshoremen's Association, (I.L.A.) an American Federation of Labor Union, called a strike against Pacific Coast employers of longshoremen. The strike ended on August 7, 1934 with a return to work agreement to submit the issues to the National Longshoremen's Board appointed by the President. The award of the Board rendered October 12, 1934 constituted a series of agreements relative to longshore work between the International Longshoremen's Association and the Employer Associations of the four principal Pacific Coast ports, Seattle, Portland, San Francisco and Los Angeles.

The 1934 award remained in effect until October 29, 1936 when a second strike occurred which lasted until February 4, 1937 when a new contract was made. Soon thereafter certain of the local longshore unions changed their affiliation from the I.L.A. to the International Longshoremen's and Warehousemen's Union, C.I.O., hereinafter referred to as the I.L.W.U., and the I.L.W.U. was certified by the National Labor Relations Board as the collective bargaining representative of longshoremen in all Pacific Coast ports except Olympia, Tacoma, Port Angeles and Anacortes. Accordingly, on July 15, 1938 the contract was amended as to all of the ports

excepting the four just mentioned, to substitute the name of the I.L.W.U. for that of the I.L.A.

On September 30, 1938 the Employers and the I.L.W.U. entered into a new longshore contract to remain in effect until September 30, 1939 and from year to year thereafter subject to termination annually. The new contract was executed on behalf of the Employers by the Coast Employers Association.

On December 20, 1940 the Coast Employers Association and the I.L.W.U. entered into an amended contract effective till September 30, 1942, subject to renewal from year to year thereafter unless terminated.

Thereafter, two wage increases were made, one by voluntary agreement, and the other by arbitration award. With those changes, the 1940 contract remained in effect until September 30, 1944 when it was terminated by the parties' failure to agree upon changes proposed by the I.L.W.U. The parties continued to operate under the terms of the contract and the dispute was heard by the National War Labor Board which issued its directive order on August 18, 1945 directing a wage increase and other modifications of the contract. The parties are today governed by the 1940 contract continuing from day to day as modified by the wage increases above mentioned and the changes incorporated therein from the National War Labor Board Directive of August 18, 1945.

The Longshore Contract for Tacoma, Port Angeles and Anacortes

After July 15, 1938 when the I.L.W.U. was substituted for the I.L.A. in the Coast longshore contract, the I.L.A. continued to act for longshoremen in the ports of Tacoma, Port Angeles, and Anacortes. It still does.

The 1934 award, as amended by the 1937 contract, remained in effect at the ports just mentioned until 1940. The wage scale in that contract was later amended on successive occasions to correspond with the wage schedule under the contract in which I.L.W.U. is a party.

The I.L.A. contract was terminated on September 30, 1941 upon failure of the parties to agree on new I.L.A. proposals. On March 3, 1942 the parties (the I.L.A. and Coast Employers Association

acting on behalf of the employers) entered into a new contract, to remain in effect until September 30, 1942, and from year to year thereafter unless terminated by notice.

The 1942 contract remained in effect until September 30, 1944 when it was terminated by reason of the failure of the parties again to agree upon modifications proposed by the I.L.A. Following issuance by the War Labor Board of its directive order of August 18, 1945 the I.L.A. contract was amended to embrace the same wage increase as had been ordered by the Board in the I.L.W.U. case.

In the meantime the I.L.A., like the I.L.W.U., had given notice in 1945 of its intention to make demands for further wage increases and contract modifications. The negotiations which followed resulted in the execution on March 30, 1946 of a new collective bargaining contract to remain in effect until September 30, 1946, and from year to year thereafter unless terminated in the manner specified. By the terms of the contract, the I.L.A. was granted a wage increase of 18¢ per hour, plus an additional 5¢ per hour in lieu of pay vacations, making a total rate of $1.38 per hour. In return, the I.L.A. withdrew its demand for paid vacations, and pledged itself to remove all restrictions upon production.

Port Contracts for Carloaders and Dock Workers—I.L.W.U. Ports:

Since 1934 there have existed separate contracts in each of the ports, relative to carloading and dock work. Carloading or dock work, like longshore work, involves the handling of cargo, but differs from longshore work in that longshore work involves the handling of cargo in the loading and discharge of ships, whereas carloading work involves the handling of cargo upon or about the docks, and the loading and discharging of rail cars to and from the docks. In the case of outgoing cargo, the work of the longshoreman begins where the work of the carloader ends, and in the case of incoming cargo, the work of the carloader begins where the work of the longshoreman ends.

Prior to 1938, the various port carloading contracts were with the I.L.A. In 1938, the I.L.W.U. was substituted for the I.L.A. in all of the ports except those of Tacoma, Port Angeles and Anacortes,

where the contracts continued to be between the port employer associations and the I.L.A.

Carloading and dock work has always heretofore been performed, in part at least, at rates less than those prevailing for longshore work. Up to this very time, car and dock work has been carried on without the use of liftboards at rates 10¢ per hour less than the longshore rate of pay and certain premium rates of pay applicable to longshore work have no application to dock or car work.

All of these contracts, were terminated as of September 30, 1944 by failure of the parties to agree upon modifications proposed by the respective unions. Following issuance of the War Labor Board's directive order of August 18, 1945 in the I.L.W.U. case, by voluntary agreement, the carloaders were granted the same increase as had been ordered for the longshoremen, to wit, 5¢ per hour. The result was the longshore wage was the rate for dock work with liftboards, and 10¢ per hour less than that for handling cargo without liftboards.

Prior to that wage increase, the respective unions gave notice of their intention to demand further wage increases and contract changes, just as they did in the case of the longshoremen. The negotiations with the I.L.W.U. led to a stalemate.

While the Association and the I.L.A. reached agreement, no agreement has been reached between the Association and the I.L.W.U., and negotiations have reached an impasse. The I.L.W.U. is demanding a new contract on a coastwise basis incorporating therein the same proposals as those relating to the longshore contract.

The I.L.W.U. has not pursued negotiations concerning a new coastwise contract for carloaders. Instead, it has preferred to confine negotiations to the terms of a new longshore contract, deferring the agreement for carloaders for later consideration. As a result; the employers have not heretofore had occasion to state a definite and final offer of settlement of the dispute affecting carloaders, although indications have been given of the position which the employers would take.

The Contracts Covering Ship Clerks in Northern California and Southern California

As in the case of the carloaders, there have in the past been separate contracts for each of the four port areas of Washington, Oregon, Northern California and Southern California relative to ship clerks. Prior to 1938, all of the contracts were with the I.L.A. In 1938, however, the I.L.W.U. was substituted for the I.L.A. in the Northern California and Southern California contracts. The clerks' contracts in the States of Oregon and Washington remained with the I.L.A. and are with the I.L.A. at the present time, although the I.L.W.U. has recently claimed that it represents the clerks in Oregon.

The San Francisco Clerks' Contract was terminated as of September 30, 1944 by reason of failure of the parties to agree upon modifications which had been proposed by the I.L.W.U. However, the parties continued to operate under the contract and the matter was certified to the War Labor Board, which issued its recommendations on November 13, 1945, recommending an increase of 5¢ per hour, or a total wage rate of $1.20 per hour, and recommending various other changes in the contract.

In the meantime and while the matter was pending before the War Labor Board, the clerks in Northern California and Southern California like the I.L.W.U. longshoremen gave notice of their intention to make further wage demands and to ask for other modifications in the contract. A new contract incorporating the provisions recommended by the War Labor Board was executed in San Francisco on March 28, 1946. On the same day San Francisco Clerks presented the Association with their new demands and on April 8, 1946 the Los Angeles Clerks presented similar demands. It was these demands that gave rise to the present impasse.

The I.L.A. Clerks' contracts for the Oregon and Washington ports were not terminated at the same time as the San Francisco contract, but remained in effect and will remain in effect until September 30, 1946. However, the Association is prepared to grant the clerks in those ports and the Los Angeles clerks as well, the 5¢ per hour wage increase that was granted the clerks in San Francisco by the War Labor Board, and as a practical matter any wage increase which may result from the present negotiations will affect the wage rates in other ports.

WAGE ISSUES

(1) Wages of longshoremen.

The I.L.W.U. proposes for longshoremen a straight time rate of $1.50 per hour for a six-hour day between the hours of 8 a.m. and 5 p.m. It also proposes overtime for all work performed on Saturdays as well as for work performed on Sundays as at present and a minimum pay of four hours for reporting.

The Employers have offered for longshoremen an increase of 18¢ per hour straight time, or a total wage of $1.33 per hour. In the alternative the Employers have offered $1.38 per hour with the elimination of vacation privileges. They have also offered overtime for Saturday work as such.

(2) Carloaders.

The Union proposes that the longshore wage rates with Saturday overtime and a minimum of four hours for reporting shall apply also to all carmen and dock workers, thus eliminating an historical differential of 10¢ between the longshore rate of pay and the rate for car and dock work when lift boards are not used.

The Employers are prepared to offer the same rate of pay for dock work and carloaders as applies to longshore work, with Saturday overtime as such.

(3) Clerks.

The Clerks' Unions in Northern and Southern California respectively presented proposals corresponding on the subject of wages to the longshore proposals excepting that the basic rate proposed is $1.62½ per hour straight time with overtime payable for Saturday work as such, and a minimum reporting time of eight hours.

The Employers have not heretofore made any formal offer respecting the clerks wage adjustments, but now propose $1.38 per hour straight time with vacations or $1.43 per hour without (Los Angeles clerks now receive 5¢ per hour in lieu of vacations), and overtime for Saturday work.

All of the wage offers of the Employers are expressly contingent upon the adoption of satisfactory provisions looking to a restoration of reasonable efficiency and to the enforcement of the respective contracts by providing for financial responsibility for losses result-

ing from violations. The Employer proposals exceed the levels prescribed by national policy.

The wage proposals of the Employers are not predicated upon any belief that they are justified by the economics of the industry or other conditions. On the contrary, these wage proposals are made solely in recognition of the national policy for wage adjustments in the reconversion period.

The Employers' Wage Proposals Exceed the Levels Required by National Policy:

Whether one adopts as the standard for wage adjustments the trend in living costs since January 1, 1941 or the adjustments which have been currently made by industry and accepted by labor, the proposals tendered by the Coast Employers Association are more than adequate.

The most recent data furnished by the U. S. Bureau of Labor Statistics shows that the cost of living index for the United States as a whole is 129.4 based on the 1935-1939 index of 100. As of February 15, 1946 the index figure for San Francisco is 133.4 (source: U. S. Bureau of Labor Statistics).*

A review of wage increases for longshoremen, carloaders, dock workers and clerks shows that with the addition of offers of the Employers the rates in every case will exceed those prevailing January 1, 1941, by more than the 33% (see Appendix A).

The basic longshore rate of pay on January 1, 1941, was 95¢ per hour. Even acceding to the unwarranted claim that a wage increase of 5¢ per hour given in February, 1942, is to be treated as

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* The 33 per cent figure is given official endorsement for wage increase purposes by Section (305), Title 32, Chapter XVIII, Part 4001, which reads as follows (having been released by the Economic Stabilization Directors on March 8, 1946):

"In any case in which it finds that no applicable pattern of wage or salary adjustments was established during the period between August 18, 1945 and February 14, 1946, the appropriate wage or salary stabilization agency shall approve a wage or salary increase which it finds necessary to correct a maladjustment which would interfere with the effective transition to a peacetime economy and which is further necessary to make the average increase since January 1, 1941 in wage or salary rates of employees in the appropriate unit equal the percentage increase in the cost of living between January 1941 and September 1945. For the purposes of this section this percentage increase in the cost of living shall be deemed to be 33%."

a 1941 rate of pay, the $1.33 hourly rate now offered by the Employers about equals that permitted by national policy. But, adding to the rate now offered the effect of Saturday overtime pay also offered by the Employers and the vacation costs added since January 1, 1941, as well as other wage increases for work on special commodities, it is apparent that the offer of the Employers upon its face far exceeds the limit prescribed by the national policy.

Turning to the history of wage rates for carloading and dock work, we find that the increase in straight time wage rates is even greater when the Employers' offer is considered. For, in addition to the 38¢ increase from 95¢ to $1.33 per hour given longshoremen, one must add an additional 10¢ per hour for dock or car work without the use of lift boards. The wage increase for this work since January 1, 1941, exceeds 50%. And again, to this enormous increase must be added the benefits of vacation pay and the Saturday overtime pay now offered by the Employers.

Car and dock work is performed by the same group of men that perform longshore work. Thus the longshoremen as a group participate in the benefits resulting from rates offered for car and dock work, which rates represent increases since January 1941 far exceeding 50%.

The history of the wage rates for Ship Clerks shows that on January 1, 1941 the Clerks in San Francisco were receiving $1.00 per hour with vacations of one and two weeks annually and in San Pedro a basic straight time rate of $1.05 without vacations. This differential of 5¢ per hour straight time represented the agreed cost of vacations and, so, with allowance for the vacation rule which prevailed only in San Francisco, rates were at parity.

The current offer of $1.38 in San Francisco substantially exceeds the 33% increase in living costs since January 1, 1941, and when overtime for Saturday work as such is added it can conservatively be stated that the offer now made to San Francisco Clerks is far beyond the national pattern.

In Los Angeles the same is true, in that the current offer represents a 38¢ increase since January 1, 1941, and here again there must be added the factor of Saturday overtime as such.

This Board is enjoined by the Secretary's Order of Appointment to conform to the national wage stabilization policy; it is clear that

this Board must find that the Union's proposals far exceed the permissible limits of national policy and that the Employers' offer conforms thereto and more; no recommendation is permissible under the Board's appointment which would exceed the Employer proposals on wages.

Turning now to the adjustments currently being made by industry and labor in the country at large and in the Pacific Coast area, it is plain that the offers of the Coast Employers Association more than equal the adjustments generally adopted.

Nationwide data on adjustments, either in terms of percentage or cents per hour straight time, recently published by the National Industrial Conference Board (Appendix B), and a summary of significant adjustments recently adopted on the Pacific Coast (Appendix C), demonstrate that the offers to dock labor by Pacific Coast Employers clearly exceed the adjustments commonly accepted by industry and labor as in conformity with national policy.

Railway employees have just been awarded increases in wage rates amounting to 16¢ per hour through decisions of arbitration boards acting under Railway Labor Act. This is a significant and controlling illustration of the application of the national reconversion wage policy, especially so in light of the competitive relationship between rail transportation facilities and the most important domestic steamer lines.

The Board must therefore find in conformity with its appointment that the Employer proposals accord with national policy and that Union proposals exceed them and its recommendations must therefore approve the wage position of the Employers.

Precedent in the Industry Justifies the Employers' Proposal:

The Union attempts to ignore national policy and to assert that New York precedent in the longshore industry requires the Board to recommend rates of pay in excess of those proposed by the Employers. It urges that an arbitration award in New York requires recommendation and approval of a new longshore wage rate of $1.40 per hour not retroactive, or $1.38 retroactive.

The New York award obviously is not a Pacific Coast precedent.

But, the Pacific Coast does furnish a precedent for the Employer offer, in the form of a collective bargaining agreement executed on March 30, 1946, between the Coast Employers Association and the I.L.A. governing longshore, car and dock work in Tacoma, Port Angeles and Anacortes, in the State of Washington.

That agreement adopts a new straight-time wage rate for all longshore and car work of $1.38 per hour without vacations (5¢ per hour being in lieu thereof) with Saturday overtime. As will be noted hereafter, that agreement gives to the Employers assurances in respect to production, and with them, hope of a recovery sufficient to justify the wage adjustments given.

The wage rates established by that contract represent the maximum rates permissible under wage stabilization policy. This is demonstrated by the action taken on those rates by the Wage Stabilization Board for the Twelfth Region. The Board disapproved the rates specified in the contract as exceeding national policy in that the hourly wage rate of $1.38 was in excess of permissible limits. Reconsideration is now being given on the ground that 5¢ per hour of the new rate is in lieu of vacations enjoyed elsewhere on the Pacific Coast by longshoremen. The action of the Twelfth Regional Board was not the action of the Employers. On the contrary, it represents the impartial and detached judgment of a government bureau, and the joint action of labor, management and government.

This Board must therefore find that equity in the longshore industry on the Pacific Coast demands that not more be granted the I.L.W.U. than what has been offered by the Employers. It must find that anything exceeding those proposals is contrary to law, and its recommendations must be made accordingly.

Analysis of the New York contracts and wage structure reveals that the Union's arguments regarding so-called parity are specious. The earnings of a New York longshoreman, with a normal eight hours of work between 8 a.m. and 5 p.m., will almost exactly correspond with the earnings of a Pacific Coast longshoreman for the same hours, under the Employers' wage proposal ($11.98 for Pacific Coast longshoremen against $12.00 for New York longshoremen).

The Union attempts to show disparity by hypothetical and untrue assumptions upon which are imposed statistical calculations, all of

them reducible to the simple fact that the overtime rate in New York will be 18¢ in excess of that on the Pacific Coast.

The attempts to assume the performance of excessive hours of overtime for the purpose of developing the alleged disparity between Pacific Coast and New York rates are not founded upon fact. No information is available concerning the amount of overtime work in the New York area. No information is available concerning actual average earnings of New York longshoremen.

On the Pacific Coast, however, now the war period is past, the percentage of overtime work is declining steadily, and even including overtime work between 3 p.m. and 5 p.m. on week days, the percentage of overtime presently being performed is below 40% of the total in all ports; when due allowance is made for overtime work performed between 3 p.m. and 5 p.m. Monday through Friday, the percentage of hours to which overtime rates will apply on the Pacific Coast becomes relatively small.

And, how can the Union argue that wages and conditions on the Pacific Coast should correspond with those in New York when it persists in refusing to accept the New York arbitration Award in toto. The 8-hour day prevails in New York. The Pacific Coast Union refuses to adopt it. So long as it continues to refuse, equality of wage rates is impossible and equality of earnings for any specified span of hours is impossible.

The Union argues for a New York rate applicable to eight hours as the basis for a Pacific Coast rate applicable to six hours and persistently refuses to consider numerous additions to the longshore rates on the Pacific Coast not payable under the New York Award.

For example, on the Pacific Coast many special cargoes carry rates in excess of the basic longshore rates, in contrast to only a few in New York. These additions to the longshore rates of pay on the Pacific Coast are valuable additions to the wage rates, not enjoyed by longshoremen in New York. There are forty-one so-called special penalty rates on the Pacific Coast and only nine in New York.

In New York there are no premiums payable for special job assignments and for alleged special skills. Contrast the following statement of premium rates exceeding the basic longshore rate on the Pacific Coast with their absence in New York.

COMPARISON OF SKILL DIFFERENTIALS*—PACIFIC COAST & NEW YORK

PACIFIC COAST		*NEW YORK*
State of Washington (except Columbia River Ports)		
Burton man	10¢	None
Donkey driver	10¢	
Winch driver	10¢	
Hatch tender	10¢	
Sack turner	10¢	
Side runner	10¢	
Blade trucker	10¢	20¢ (Aboard ship)
Boom man	10¢	
Stowing machine driver	10¢	
Lift jitney driver	10¢	
Portland, Oregon & Columbia River District Ports (1)—Southwestern Oregon Ports		
Gang boss	15¢	20¢ (Coos Bay)
Burton man	10¢	
Winch driver	10¢	
Hatch tender	10¢	
Sack turner	10¢	
Side runner	10¢	
Boom man	10¢	
Stowing machine driver (includes donkey driver, bull winch driver)	10¢	
Lift jitney driver	10¢	
Crane chaser	10¢	

(1) When an extra man is employed at the S.P. Siding Open Dock in Portland, Oregon, as a utility man (as defined in the Labor Relations Committee Minutes of March 13, 1945) he shall receive 10¢ straight time.

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* All rates quoted for Pacific Coast are straight time rates for the first six hours between 8 a.m. and 5 p.m. Monday through Saturday. During all other hours the overtime rate applies.

San Francisco	
Gang boss	10¢
Winch driver	10¢
Southern California	
Burton man	10¢
Winch driver	10¢
Hatch tender	10¢
Guy man	10¢

On the Pacific Coast longshoremen of more than one year's service are entitled to two weeks vacation pay annually as contrasted with one week for New York longshoremen.

These are only some of the several advantages which prevail under the Pacific Coast Agreement. And, they do not include the advantages enjoyed by Employers under the New York Agreement in their ability to discipline and discharge longshoremen for misconduct, a privilege and a right directly related to efficiency and production but not enjoyed by Employers on the Pacific Coast.

The right to select men and to hire steady men, a factor directly related to efficient production, is reserved to the Employers in New York but denied to them on the Pacific Coast.

One cannot place exact value upon or accurately weigh the effect of these differences on earnings of Pacific Coast employees or on costs of Pacific Coast employers any more than one can accurately define the effect of the six-hour day thereon. But, one can readily see that a straight time wage of $1.33, with a six-hour day, weighted by 3¢ per hour for a one week's vacation advantage, and with any measurable allowance for the other wage advantages on the Pacific, is more than the equivalent of the $1.40 per hour which the Union has attempted to justify.

The Economics of the Industry Justify None of the Union's Wage Proposals

The new agreement for the I.L.A. ports in Washington gives unqualified recognition to the special need in this industry for a reduction in cargo-handling costs. In that agreement there is a joint

pledge for restored production to revitalize the industry and thus offer some prospect of earnings from which increased wages can be paid. In that agreement the need for greater flexibility in the assigning and shifting of employees is recognized (Appendix A, Section 8). The history of Pacific Coast shipping plainly demonstrates that a constantly growing cargo-handling cost, resulting from increased wage rates and reduced efficiency, has had and is continuing to have the effect of diminishing the fleet, reducing service and curtailing employment.

Since the strike of 1934 the progressive effect of these conditions is demonstrated in the reduction of the coastwise steam schooner fleet from 68 to 6.

Coastwise general cargo service is a thing of the past with the disappearance of the fleets of the Pacific Steamship Company and the Los Angeles Steamship Company which were formerly engaged in the general passenger and cargo traffic, coastwise.

The liner service, intercoastal, of the Panama-Pacific Steamship Company is no more. The White Fleet of the United Fruit Company has disappeared from the Pacific. The combination of cargo and passenger liners of the Grace Line no longer call at Pacific Coast ports.

And the prospect ahead is even more discouraging.

It will not be denied that under present tariff ceilings intercoastal trade cannot be resumed at a profit; it will not be denied that even under prevailing costs coastwise shipping has no future. The Alaska lines are today operating at costs which far exceed gross revenues.

With these conditions, it is apparent that even the Employers' proposals leave little hope for maintaining the work opportunities that existed before the war.

An impartial study of this condition is presented in a document "Crisis in the Domestic Shipping Industry" prepared by Paul F. Lawler, Research Fellow of the Harvard University Graduate School of Business Administration. This study was prepared at the request of and under the auspices of the War Shipping Administrator of the United States. As this study shows, the single largest factor of cost in coastwise and intercoastal steamship service is cargo handling, approximating 41% of gross revenues, and by far the greater part of this cost consists of longshore wages (page 269).

It is apparent that in this situation the Employers' proposals to adjust wages are based, not upon any prospect that the industry is prepared to assume them, but solely under compulsion of national policy. And it is submitted that any larger increase will be detrimental, not merely to the industry, but to the public in curtailed service, and to the men in diminished earnings.

It was for just these reasons that the offers of the Employers Association were expressly conditioned upon the adoption of provisions looking to some restoration of the cargo-handling efficiency that formerly prevailed and to enforcement of contract provisions to eliminate the costly effect of job-action and illegal strikes. In that manner only does the industry see any prospect ahead of restoring its former vigor.

Certain Representations Made on Behalf of the Union

In an effort to justify its wage demands the Union argues that the earnings of individual longshoremen are today abnormally low.

Assuming this to be the proper subject for fact finding in this proceeding, one must first consider that shipping has not yet returned to normal; that it is just now passing out of war service and that there has been no restoration of normal conditions in any of the ports. It would be obviously unsound to establish a wage policy for permanent application based upon a temporary condition of transition from war to peace.

There has in fact been a reduction in earnings as there has been in other industries. But, that reduction furnishes no justification for the Union rejection of the Employer offer of 18¢ per hour and its demand that longshoremen receive more favorable treatment than has been accorded other workers in the country. The fact is that upon the basis of the Union's own exhibits the Employers' offer would result in earnings substantially higher than those of 1942. Thus, application of the offered rate of $1.33 per hour to the last periods shown in Union exhibit 13 would produce earnings of $271.45 per four-week period as against $262.46 per four-week period in 1942.

A large measure of the blame for reduced earnings under present wage rates must be assumed by the Union. The shipping industry

was entirely devoted to the war effort and on the Pacific Coast was compelled to assume functions and carry out activities which were excessive because of war needs. The employment of longshoremen for the war period far exceeded the normal needs of any Pacific Coast port.

But, the Union has been unwilling to recognize the return to peace and to cooperate in the elimination from the industry of excessive numbers of men whose employment was justified solely in the war effort. A reduction in employment has occurred in all similar industries such as shipbuilding and aviation.

Comparison between the number of men required in the principal ports on the Pacific and their earnings before the war and the excessive numbers which the Union persists in retaining now that the war is ended and now that work opportunities in several of the ports are far below what may later be expected, shows that low earnings are largely attributable to excessive numbers of employees.

The Increase Granted Sea-faring Personnel Furnishes No Basis for the Union's demands

The Union has pointed to the large increase which has occurred in terms of percentage in the wage rates of sea-faring personnel since January, 1941. That increase resulted largely from the $45.00 per month added to the monthly wage by the War Labor Board in August of last year. The two principal considerations given weight by the board in ordering the wage increase were the fact that the voyage bonus was about to be eliminated and the claim of the Union that wage rates were substandard. The claim regarding substandard wages was that the hourly wage rate for seamen, estimated by dividing the monthly salary by 240 hours and excluding the factor of lodging and quarters, was below the minimum wage of 55¢ per hour prescribed by the Fair Labor Standards Act. The Board calculated that the increase of $45.00 per month ordered by it would result in a wage for unlicensed personnel approximating 55¢ per hour. The increase in terms of cents per hour approximated 18¢.

It is difficult to understand what rational comparison there can be between a group which the War Labor Board held to be receiv-

ing substandard wages and a group such as the longshoremen who are in a higher wage bracket. Certainly it is difficult to understand how the wage increase of approximately 18¢ per hour granted seamen can justify the longshore Union's demand for a wage increase in a much greater amount.

The Union's Demands are not Justified by the Hazards of the Industry

Admittedly the industry is a hazardous one, but this is not a new condition. The hazards of the industry have not increased in recent years; on the contrary they have steadily decreased since long prior to 1934. The work of the Association and of its Accident Prevention Bureau, as well as the accident prevention work of its members, has been the principal factor in diminishing the hazards of the industry.

Inasmuch as the hazards of the industry are by no means a new thing but have long existed we do not understand how they can be made the basis for adjustment in wage rates. The present wage rates and those which proceeded them have taken full account of industrial hazards. Many pages of the transcript of the hearing before the National Longshoremen's Board in 1934 were devoted to this very matter.

If industrial hazards have any significance in the present proceeding, that significance lies in the fact that the hazards are less on the Pacific Coast than anywhere else in the country (see Union exhibit 25, page 4). If the element of hazard is to be given weight in determining what wage increase should be recommended, then it follows that the difference in hazard between the Pacific Coast and New York is alone sufficient to call for lower wage rates on the Pacific Coast.

Productivity as a Wage Factor

The history of production in the industry gives no justification for the Union's wage proposals.

The wage offers of the Employers are conditioned on proposals calculated to correct economic ills of the industry which themselves are incompatible with wage increases. All of the Employer's

offers are conditioned upon the adoption of remedies for the present unproductive quality of longshore work and for chronic work stoppages in violation of contract.

The cost of cargo handling on the Pacific Coast has been materially increased in recent years much more by the decline in the productive efficiency of longshoremen than by wage increases. This condition has directly added to cargo-handling costs, in many instances more than doubling them. Indirectly, the volume of cargo carried and the costs of carrying it have been affected by interruptions and threatened interruptions to continuous scheduled steamship service.

In the treatment of some of the remedies sought for this condition, its extent and nature will be examined more carefully. It is important, however, in the consideration of wage adjustments to note that a constantly increasing level of wages cannot long co-exist with constantly decreasing productiveness and efficiency. There comes a time when a ceiling in rates has been reached because the cellar in poor production has been hit.

In the manufacturing industry at large an increasing level of wage rates has been characteristically accompanied by increased production and lowered unit cost. The experience has been the opposite in Pacific Coast shipping. In the steamship industry the most important single factor in the service, the handling of cargo, has continuously represented an increasing item of relative cost.

An examination of the history of the industry in this respect will show a deplorable condition and will lead to the obvious conclusion that any increase in wage levels must be accompanied by measures which will enable the industry through restored production to meet the wage bill.

The Attempt of the Union to Secure Wage Increases for Work Already Performed and Paid for

When the I.L.W.U. notified the Association of its desire to demand further wage increase, it proposed that the existing contract be continued in effect pending negotiations and that any increase which might be granted be made retroactive. The Association promptly ad-

vised the Union that it was willing to continue the contract in effect, but that it would not agree to any retroactive wage increases.

The contract has been continued in effect, and during the period that has elapsed since October 1, 1944, the wage rates have been fixed and determined by the contract. The wage provisions of the contract have been as binding upon the parties during that period as have any of the other provisions. Yet the Union still demands a retroactive wage increase and asks this Board to recommend, in effect, that the wage provisions of the contract be set aside and ignored.

There is no peculiar significance to the date, October 1, 1945, which the Union chose for its demands. The contract has been in effect on a day to day basis ever since September 31, 1944. October 1, 1945, does not represent the termination date of the longshore contract or of any of the other contracts before this Board. All of the contracts, excepting only the Los Angeles Clerk's Contract, were terminated as of September 31, 1944, and have been continued in effect on a day to day basis since that date. They will continue in effect in their present form until terminated by one of the parties or until superseded by a new contract. To grant the Union's demand for retroactivity would be to say that the Employers have been bound by the contracts but that the Union has not, and that it is free to demand more than that to which the contracts entitled them.

Furthermore, in the case of the clerks, no wage proposals of any kind were made to the Employers until this month. The demand for retroactivity, therefore, is a demand that the Employers pay retroactive wages for a period prior to the time that any proposals of any kind were made.

The Union has charged the Employers with stalling. The fact of the matter is that the Union has at all times insisted upon demands which the Employers regarded as excessive and unreasonable and which the Employers could not accept. If refusal to accede to such demands constitute stalling, then and then only have the Employers been guilty of stalling.

In the earlier stages of the current negotiations for longshore adjustments, the I.L.W.U. presented to the Employers proposal which would have virtually shut down the shipping industry on the Pacific Coast at all times except during the daytime hours, Monday through Friday. Although emergencies, so-called, were excepted, the Union

proposed that this continuous transportation industry should, in contrast to all others, discontinue service except at prescribed hours. In the face of need to expedite passengers and cargo, maintain schedules and reduce the expense incident to idle facilities and accruing wages to crews, these proposals were promptly rejected. They offered no basis for negotiation.

Yet, not until December of 1945 did the Union deviate even in part from that position as it affected longshoremen. And, in the proposals which are presented to this Fact Finding Board for consideration it still proposes that cargo work shall cease where its continuation would mean to commence work after 7 P.M. and before 7 A.M. To this moment, this industry has not been formally offered by the Union a wage adjustment which would permit the continuance of transportation service by water on the Pacific Coast in keeping with the practices necessarily observed here and elsewhere in the world. This represents no bargaining in good faith and in the absence of bargaining in such good faith, no wage settlement with the Union has been possible to this date.

Yet, the Union relies upon this deliberate deferment of settlement of the wage question as its basis for imposing on the industry an enormous wage penalty for work already done under the terms of contracts continued by mutual agreement.

The Union relies upon the fact that it was a practice of the War Labor Board to refer wage adjustments back to the prior contract termination date. Whatever justification existed for that policy of the War Labor Board, such justification does not exist now. That Board relied in part on the so-called "no-strike" pledge of organized labor. But that pledge disappeared long prior to October 1, 1945. Whatever war necessities may have contributed to this policy of the Board have not existed since October 1, 1945. War Labor Board delay itself contributed to the Board's policy on this subject. The Board was not dealing with cases in which prior contracts had been continued in effect by voluntary agreement, freely reached. It was dealing with cases in which continued operation under the old contract had been forced upon the parties by war-time policy.

None of those considerations exist now. There is no basis in equity for conferring upon these workers a wage rate in excess of that agreed for the work already performed.

The Union urges that the equities and merits of the question must be disregarded on the ground that the cost will be defrayed from the public treasury through reimbursement to the contractors. Assuming that it is legitimate to impose on the public treasury a charge which is illegitimate when applied to private parties, a premise which an agency of the United States cannot readily accept, the premise is false.

Granted that government procurement agencies will in this instance, as in the most recent example in the industry, accord reimbursement to contractors performing longshore work under cost-plus-fixed-fee or commodity rate contracts of the expense incident to retroactive wage adjustments approved by Federal authority; the fact remains that a large amount of the longshore and carloading work carried on since October 1, 1945, has been performed for Employers under tariff rates subject to public regulation. In all such cases the procurement agencies have declined and will decline reimbursement for the reason, among others, that such reimbursement would be illegal. And, as the evidence shows the volume of longshore work carried on under these conditions has been such that some of the contractors, in the absence of prospect or possibility of reimbursement, face bankruptcy if retroactivity is granted. Let us pass from longshore to carloading and dock work. There we find that throughout the Pacific Coast this work since October 1, 1945, has been performed in a large measure, and in ever increasing proportions, under tariffs approved and established by the regulatory bodies of the respective states or the United States Maritime Commission. If retroactivity were granted, the Employers in all such cases would be compelled to pay enormous sums for car and dock work without possibility of recovery.

In the shipping industry there is a peculiar inequity in retroactive wage adjustments. Longshore work is performed for, and at the cost of, the ship. Commonly it is done by stevedore contractors who necessarily furnish labor and service at current costs. When the work of loading or discharging is done, accounts are settled, and the ship sails —perhaps never to return. And, the contractor is left with the prospect of retroactive burdens but no prospect of reimbursement. The vessel has received the freight, which covers also the cost of loading and discharging; it has departed; and the contractor is left to face

wage liabilities although the service performed was for the ship alone, and the cost of such service was almost entirely wage cost.

Such are the reasons that the shipping industry has consistently declined to consider retroactive wage obligations.

In this respect the industry may be likened to ship building and building construction industries, in both of which the historic policy of organized labor has recognized the necessity for contractors to enter into engagements for construction based on current labor rates and with assurance that such rates will continue until the completion of pending contracts. Thus, more reasonable unions have realized the need for industry to survive in the interest of labor as well as management, and have voluntarily accorded to industry the ability to contract even for the future with firm reliance on the continuance of prevailing labor rates until existing commitments have been fulfilled.

All that shipping asks is that completed transactions shall not be subjected to ex post facto penalties which cannot be foreseen or calculated and which cannot be anticipated by increased tariff rates.

The Union has failed and still fails to make proposals susceptible of serious consideration. In the matter of car and dock work no proposals whatever were presented until December of last year. In the case of the Clerks, no proposals whatever were presented until the current month. And the proposals of car and dock work, and for the clerks, when finally presented were subject to the same objections as the longshore proposals.

It is fantastic to suggest that wage proposals presented for consideration by the Employer within the past few weeks should be deemed to have been made, considered and become effective as of seven months ago.

Wage adjustments in the I.L.A. ports of Puget Sound are not retroactive, and we are aware of no reason why the I.L.W.U. should be treated differently.

The Union's proposal to Grant a Differential to the Hatch Tender in San Francisco

No differential has ever been paid to the hatch tender in San Francisco. A differential is paid to the hatch tender in Los Angeles and Seattle because the hatch tender is also the gang boss in those ports.

In San Francisco there is a gang boss in addition to the hatch tender, and the gang boss received the differential.

The Union basis its demand that the San Francisco hatch tender be paid a differential upon the fact that a differential is paid in Seattle and Los Angeles. But the Union is unwilling to accept with the differential the accompanying conditions which conditions in San Francisco exist in the other two ports. It is unwilling to eliminate the unnecessary gang boss in San Francisco and to permit his functions to be performed by the hatch tender as in Seattle and Los Angeles. It insists that San Francisco employers be denied the advantages of the Los Angeles and Seattle practice but that they nevertheless be required to pay the premium for those advantages.

The same proposal was made by the Union before the War Labor Board, was fully considered with full knowledge of the facts, and was denied. If the proposal was without merit eight months ago—and the War Labor Board held that it was—then it is without merit now. There has been no change in circumstances which would justify any different conclusion than that reached by the War Labor Board, and the mere lapse of eight months obviously has not operated to render meritorious what was lacking in merit before.

The Union's Proposal for a Four-hour Guarantee

The loading and discharging of ships on the Pacific Coast involves a substantial number of short jobs, particularly in the smaller ports. This results from the nature of the trade and not from any deficiency of planning on the part of management. Furthermore, it frequently—indeed, consistently—is necessary to ask that the hiring hall dispatch a gang or gangs to perform one, two or three hours' work in finishing up a job which has been in progress for some time. This necessity arises from the fact that longshore gangs frequently refuse to return after a meal period to finish one or two hours' of work on the vessel, from the fact that gangs working at night likewise often refuse to finish an hour or so of work, and from similar situations in which either the working rules or job action require the employer to call gangs from the hiring hall rather than finish the job with gangs already working.

The necessity for calling gangs from the hiring hall for short jobs, or to finish jobs nearly done, would be greatly diminished if the employers were permitted to employ steady gangs who would be available for such work. But steady gangs are denied the employers, and the employers must rely exclusively upon the hiring hall for their men.

The Union insists that it be given, and it in fact is given, all of the longshore work on the Coast. It insists upon being given the short jobs as well as the long jobs. And it now proposes that the employers, while compelled to use its members for short jobs, be nevertheless penalized for doing so.

Again, the Union's demand is predicated almost entirely on the rule in effect in New York under the Davis' Award. The New York rule, however, is subject to many qualifications, the meaning of which is unknown to us. Furthermore, we have no knowledge, and there is no evidence, of the impact of the rule on New York operations, or of the other working rules and conditions of which the rule is a part. Only this much can be said with any degree of certainty about New York: it is the largest port in the world and handles tremendous volumes of cargo, and it is extremely unlikely that short jobs are anything like the important and unavoidable factor that they are on the Pacific Coast.

This again is another instance which the Union seeks to import from the New York contract an isolated provision deemed to be advantageous, while rejecting other and related provisions of the contract and working rules, which cushion and condition the provision in question.

VACATION ISSUE

The War Labor Board's order of August 18, 1945, directed the parties to enter into negotiations for a one week vacation provision. As a result of the negotiations which followed, the parties, on March 18, 1946, executed an agreement which provided not only for the week's vacation directed by the Board, but also for a two weeks' vacation after two years of service. In the meantime, while the parties were engaged in liberalizing and effectuating the War Labor Board order, before the vacation agreement had been executed, and, of course, before there had been an opportunity to place the agreement in operation, the Union made demands for even greater liberality.

The Union's demand for reduction of the qualifying hours for longshoremen and dock workers was first made on December 31, 1945. The demand on behalf of the clerks was not made until this month. The number of hours now required to qualify for a vacation is 1500. Figures are not available for Los Angeles, but in 1939 the average hours worked exceeded 1500 in the other three principal ports. There is no reason why a longshoreman who is willing to work and makes himself available for work cannot obtain work in excess of 1500 hours in any of the four principal ports, unless the Union persists in its insistence that excessive numbers of men be kept on the registered lists. The requirement of 1500 hours of work was fixed by the War Labor Board upon recommendation of the Panel, which gave the matter thorough consideration. The present provision is far more liberal than provisions found in other industries, for the standard provision in other industries requires continuous service, whereas the provision ordered by the War Labor Board and to which the parties agreed only a month ago does not require continuous service; on the contrary a longshoreman, as demonstrated by the evidence, may make himself available for work, or not, just as he pleases.

The Union proposal that a longshoreman or dockman be credited with one and one-half qualifying hours for each overtime hour worked was first made on January 21, 1946. The corresponding proposal on behalf of the clerks was not made until this month. The proposal, when analyzed, is simply a proposal for further reduction in the number of qualifying hours. During the course of a year all of the men, with few exceptions, work approximately the same proportion of overtime and straight time hours. The few exceptions arise from the fact that some men seek work during overtime hours in preference to straight time hours in order to get the higher rate of pay. Even such men, however, do not work exclusively during overtime hours, and if they work more than others during overtime hours it is because they deem it desirable to do so. The proposal is simply one for a general reduction in the number of qualifying hours required, the reduction to be accomplished in a manner which would tremendously complicate the employers' problems in administering the vacation provision.

The proposal that a longshoreman or dock man be credited with any hours worked as a clerk was first made on January 21, 1946. The corresponding proposal by the clerks was not made until this month.

The proposal when analyzed amounts to a proposal that one employer be forced to pay for vacations of employees in the employ of another employer. Many employers of longshoremen never employ clerks and many employers of clerks never employ longshoremen. Furthermore a man does not work interchangeably as a clerk and as a longshoreman; a clerk works exclusively as a clerk and never as a longshoreman or as a car or dock worker, and a longshoreman works exclusively as a longshoreman or as a car or dock worker and never as a clerk.

The proposed provision would come into play only on those infrequent occasions when a man gives up his work as a clerk and takes up the work of a longshoreman or vice versa. We are aware of no reason why employers who have had the benefit of only a few hours of a man's work as a longshoreman should be required to give him a paid vacation because he has worked as a clerk for some one else. Nor are we aware of any reason why a man employed as a clerk who voluntarily leaves that employment without working the number of hours necessary to qualify for a vacation should nevertheless be credited with the hours work; to give him such credit would be in effect to eliminate the requirement of a certain qualifying number of hours and would be to say that a man should be given pro rata vacation for each hour worked even though he works only a single hour.

In practice only a few men would benefit by the Union's proposal and a burden all out of proportion to the benefits conferred would be imposed on the employers. In administering the longshore provision, vacation pay is assessed against the employers of longshoremen in proportion to the total hours of work performed for each employer. The Union proposal would necessitate investigation of each man to ascertain whether he had worked as a clerk and the number of hours so worked, and would require the imposition of a special assessment against the employer for whom he worked.

The present vacation provision is far more liberal than the provisions prevailing in American industry generally. The standard vacation plan which has resulted from the activities of the War Labor Board is one week after one year and two weeks after five. The present provisions of the longshore, carloaders and clerks contracts call for one week after one year and two weeks after two years. The standard vacation plan in other industries requires continuous service. The present vacation provisions in this industry do not require continu-

ous service. The standard vacation provision in other industries requires that the qualifying period be worked for a single employer. The present vacation provision in this industry contains no such requirement.

As for New York, this is an instance in which the Union does not care to mention the New York contract. The Davis award grants only one week's vacation no matter how long the man has been employed. Furthermore, to become entitled to the vacation the man must have been employed for the qualifying period by a single employer and he is not entitled to be credited with time worked for other employers.

The Union's proposal can be said to be justified only if all sense of proportion is lost.

THE UNION'S PROPOSAL REGARDING NIGHT WORK

The Union proposes in effect that no longshoremen, car or dock workers or clerks can be called upon to start work during the period between 7 P.M. and 7 A.M. This provision if granted would mean that the industry would have to close down during a substantial portion of each night. No vessel arriving in port in the late afternoon or early evening could start loading or discharging cargo until the next morning. And vessels already in port would have to arrange their ordering of men so as to have the last gangs report at 7 P.M. and would be able to load or discharge cargo only so long as the gangs reporting at that time were willing or able to work.

There is absolutely no precedent for the Union's proposal. Shipping is a transportation industry and as such is a continuous service industry. In this respect it is no different from railroad and trucking industries. A shutting down of the shipping industry at night would be just as impracticable and incompatible with the public interest as would be the shutting down of the railroad or trucking industries at night. Nowhere else in the world are ships prevented from working at night and to the best of our knowledge no such restrictions have ever been even proposed.

It is true that it is not always necessary for a vessel to work at night, and performance of unnecessary night work is discouraged by application of the overtime penalty; but when night work is necessary then it obviously should not be prohibited. Vessels must maintain schedules

if they are to perform their obligations to shippers. The winds and tides and complexities of operation impose obstacles to the maintenance of schedules which frequently can be surmounted only by loading and discharging cargo at night. If the vessel cannot work at night then it cannot make up time lost because of conditions at sea or because of other matters beyond the control of careful management. If vessels cannot work at night, the crew's wages are lost as is also the value of the vessel and of the dock at which it is berthed during the time that it lies idle; cargo commitments are not fulfilled, demurrage occurs and other expenses and liabilities resulting from delays incurred.

Even if it be assumed that an industry exists only for the benefit of the men whom it employs, the fact still remains that the industry will not long exist if the men give no consideration to the welfare and needs of the industry.

THE PROPOSAL OF THE EMPLOYERS TO ASSURE CONTRACT COMPLIANCE

In the interest of putting an end to the work stoppages and other contract violations which have plagued the industry ever since 1934, the Association has insisted during the recent negotiations that the next collective bargaining contract contain a provision expressly empowering the arbitrator to award damages for breach of the contract. In this connection, the Association proposes the following provision:

> "The power of the Coast Arbitrator to hear and determine complaints of either party concerning alleged violation of the provisions of this agreement shall include the power to award compensatory damages to the injured party, or to any of its members who are injured. In the event of any violation of this agreement by either party, the Coast Arbitrator, at the request of the other party, shall proceed to assess and award such damages. The award shall run against the Union or the Employers, as the case may be".

The Association has insisted upon the foregoing provision because it has been convinced by twelve years of distressing and costly experience that in such a provision lies the only hope of obtaining observance of the provisions of the collective bargaining contract by the I.L.W.U. The provision is necessary because work stoppages in violation of the

contract have been, and are, chronic, because such work stoppages represent waste which the industry cannot afford, and because all other remedies have failed. Let the facts speak for themselves:

The 1934 Award of the National Longshoremen's Board made provision for a grievance procedure culminating in arbitration; it further provided that the employees should perform all work as ordered by the employer and that any grievance resulting from the manner in which work was ordered to be done should be submitted to the grievance procedure. It was the clear intendment of the Award that there should be no work stoppage, that in the event of a dispute between the parties, the dispute should be resolved through the grievance procedure, and that, in the meantime, work should continue as ordered by the employer.

If there was any doubt as to the meaning of the Award, that doubt was resolved less than two months after the Award was rendered by Harry Hazel, Arbitrator for the Port of Bellingham, who, on December 1, 1934, held that the longshoremen were in violation of the contract in refusing to work certain ships as ordered in that Port. A month later, Judge M. C. Sloss, Arbitrator for the Port of San Francisco, who also acted as arbitrator of basic questions affecting all ports, held the longshoremen in violation of the contract for refusing to perform certain work as ordered at San Francisco. In his decision, Judge Sloss elaborated upon the meaning of the provisions above mentioned, stressing the fact that they prohibited work stoppages and required that work proceed as ordered by the employer pending submission of disputes to the grievance procedure. In this connection he stated:

> "The essential fact is that the men refused to go on doing the work in the manner directed by the employers. Did they have the right, under the award, to so stop work, or was it their duty to present their contention regarding the size of the load to the Labor Relations Committee, and if necessary to the arbitrator, for decision, and to continue working pending such decision?
>
> "As indicated by me at the first session, it seems clear that, under the Arbitrators' Award of the National Longshoremen's Board, the men are required to continue at work in the manner directed by the employer until any complaint that they may have regarding such manner of doing the work is adjudicated as provided in Sections 9 and 10 of the Arbitrators' Award. This con-

clusion is inherent in the very nature of an agreement for arbitration, which seeks to avoid the interruption of the orderly processes of industry by substituting peaceful methods of conciliation or adjudication for the dislocation and strife incident to strikes or lockouts. It is fortified and confirmed by the specific provisions of the Arbitrators' Award of the National Longshoremen's Board. Section 11 (b) provides that:

> " 'The employees must perform all work as ordered by the employer. Any grievance resulting from the manner in which the work is ordered to be performed shall be dealt with as provided in Section 10';

"Section 10 (together with Section 9) gives the Labor Relations Committee (or the Arbitrator, if the Committee should fail to agree) authority to 'investigate and adjudicate all grievances and disputes relating to working conditions'. Section 11 (d) provides that:

> " 'The employer shall be free, without interference or restraint from the International Longshoremen's Association, to introduce labor saving devices and to institute *such methods of discharging and loading cargo as he considers best suited to the conduct of his business,* provided such methods of discharging and loading are not inimical to the safety or health of the employees'.

"These clauses of the Arbitrators' Award make it plain that the employer is given the authority, in the first instance, to direct the manner in which work is to be performed and to prescribe methods of discharging and loading cargo. The employees, under Section 11 (b), 'must perform all work as ordered by the employer'. If any grievance is claimed to arise from the employer's directions in this regard, such grievance is to be settled by the Labor Relations Committee or the arbitrator."

In the face of the foregoing decision, the Union immediately embarked upon a program of job action and other work stoppages. On December 2, 1935, the day following rendition by Mr. Hazel of the decision above mentioned, the Maritime Federation of the Pacific, of which the Longshoremen's Union was the moving force, passed a reso-

lution adopting job action as an instrument of Union policy to be used to impose the Union's own contract interpretations and to gain concessions not granted by the contract. The pertinent portion of the resolution, which was printed in the Waterfront Worker, a publication of the San Francisco longshoremen, was as follows:

> "WHEREAS we believe and have demonstrated on numerous occasions that Job Action rightly used with proper control has been the means of gaining many concessions for the Maritime workers on the Pacific Coast, and
>
> WHEREAS Job Action is and should be action taken when any maritime group desires to gain a concession without openly resorting to a strike, and
>
> WHEREAS in order to eliminate confusion and to insure coordination in the best interests of all Maritime groups concerned it is apparent that an organized procedure for Job Action must be laid down by this Convention, there be it
>
> RESOLVED that the term "Job Action" shall mean only action taken by any maritime group in attempting to gain from their employers some concessions not specifically provided for in their respective agreements or awards; and "Job Action" shall also mean action to enforce the award or agreement to the best interests of the maritime group concerned, or to prevent employers from violating agreements or awards."

In an explanatory article printed along with the resolution, the Waterfront Worker stated:

> "We resort to job action on individual ships or docks when and where we are not prepared or the time is not ripe to organize and gain support for striking an entire steamship line, a port, or a whole coast."

It may be added that job action was not, and is not, a substitute for strike action designed to gain a more favorable collective bargaining contract. Job action is a device used to flout the terms of existing collective bargaining contracts, to obtain concessions which are denied by the contract, and to by-pass the arbitrator in imposing the Union's own interpretation of the contract.

Following the adoption of the foregoing resolution, longshore work stoppages were epidemic. By April, 1936, when Judge Sloss resumed his position as arbitrator after having resigned in protest against the

Union's disregard of the contract and its arbitration procedure, there had been 440 major work stoppages, all in violation of the contract, at the four principal Pacific Coast ports. These work stoppages took place not only in the face of the above mentioned decisions of Mr. Hazel and Judge Sloss, but also in the face of numerous other decisions rendered during that period.

The longshoremen were held guilty of work stoppages in violation of the award by Gordon S. Watkins, Arbitrator for the Port of Los Angeles, on March 11, 1935; by M. C. Sloss, Coast Arbitrator, on March 19, 1935; by Eugene Daney, Arbitrator for Southern California, on April 17, 1935; by M. C. Sloss, Coast Arbitrator, on September 27, 1935; by M. C. Sloss, Arbitrator for the Port of San Francisco, on October 5, 1935; and by Harry Hazel, Arbitrator for the Port of Seattle, on November 12, 1935. Some of the foregoing arbitration decisions were entirely disregarded by the Union and were completely without effect. None of them had any effect beyond terminating the particular work stoppage which had given rise to the arbitration. Work stoppages continued unabated.

The disregard by longshoremen and the Union officials of the terms of the 1934 Award, and the repeated work stoppages in violation of that Award, made it clear at an early date that the Award would have to be given teeth if it was to effectuate its purpose of insuring the settlement of disputes by arbitration, rather than by job action with consequent disruption of operations. Accordingly, Judge Sloss, in a decision issued September 27, 1935, suggested "that the establishment of rules providing appropriate penalties for violation of the award on either side is a proper matter for consideration by the Labor Relations Committee". Thereafter, the employer members of the Labor Relations Committee proposed penalties. The Union members of the Committee would not agree, and when the employers called for arbitration, the Union refused to arbitrate, taking the position that the Arbitrator was without jurisdiction and that it was for the Union, and not the Arbitrator, to decide the jurisdictional question. The result was the resignation of Judge Sloss who, at a hearing held on November 15, 1935, expressed himself as follows:

> "I don't know that there is anything more that I can say. I have expressed my views on the matter, and I think that further action is strictly up to the parties. I think that we have reached

a point where, as Arbitrator, I can render no further useful function in this matter, and I will have to report accordingly to the Department of Labor. I do not see what else I can do."

Work stoppages continued. On April 14, 1936, the matter was brought to a head in San Francisco by the refusal of longshoremen to work the steamship Santa Rosa. The employers, being without other recourse, suspended relations with the Union, and a tie-up of the Port of San Francisco ensued. The tie-up was ended by an agreement executed April 21st, 1936, in which the Union promised to abide by the provisions of the Award of the Longshoremen's Board, and by the decisions of arbitrators thereunder, and in which it was agreed that Judge Sloss should resume his position of Arbitrator for the Port of San Francisco and of basic questions affecting all ports. Before Judge Sloss would agree to resume his position, he insisted upon guarantees that the Union would abide by his decisions, and particularly the decisions to the effect that there should be no work stoppages. The conditions upon which he was willing to resume his position were outlined by Judge Sloss in a letter addressed to the parties on April 20, 1935, as follows:

"4. The terms and conditions upon which I am willing to resume my duties as arbitrator are:

"(a) That both parties, i.e. the Waterfront Employers Association and Local 38-97, shall resume relations with the purpose and intent of living up to the terms of the Award, including the provisions for arbitration, in all respects and in good faith.

"(b) That all awards heretofore made, or that may hereafter be made, by me as arbitrator, shall be promptly obeyed and complied with, in letter and in spirit. Awards of the arbitrator have not been so complied with in the past. The employers were at fault in failing, until after a considerable delay, to observe the award made with reference to retroactive pay. On the other hand, the I.L.A., and its members acting collectively, have consistently and repeatedly disregarded the awards of the arbitrator on two important questions:

"(1) The ruling that the Union, or its members acting collectively, have not the right to refuse to do work, or to stop work, because of any dispute regarding conditions, but that it is their

duty to continue to do the work, as directed, pending the settlement of the controversy in the orderly method provided by the Award of the National Longshoremen's Board, i.e., through the Labor Relations Committee or through arbitration. This presents the issue of 'job action', a procedure which is inconsistent with the carrying out of the Award.

"(2) The refusal to handle 'hot cargo', i.e. cargo affected by some controversy involving labor disputes outside the scope of the Award of the National Longshoremen's Board. The rulings of the arbitrator on this question have not been accepted and the Union and its members have maintained their position that they will not handle such cargo so long as it remains under the ban imposed by other labor organizations."

In the agreement of April 21, 1936, the guarantees requested by Judge Sloss were given, and the Port of San Francisco was reopened. But only ten days after those guarantees were given, they were violated by a work stoppage of longshoremen in the Port of San Francisco. In the words of Judge Sloss:

"We are only ten days after the agreement was signed, and we again find ourselves in a situation where job action is resorted to."

He declared:

"The understanding reached on the 21st of April was incorporated in a written agreement; that agreement contained the undertaking of all parties to live up to the terms of the Award, and specifically to accept and abide by the terms and the conditions which I had stated as the terms and conditions upon which I was willing to resume my duties as arbitrator. One of them was the acceptance of, and obedience to, the rulings made by me regarding job action, which is stated in my letter, and again in the agreement of April 21st, to be a procedure which is consistent with the carrying out of the award.

"Now it seems to me perfectly plain the action that has been taken in this instance is a violation of that agreement, and a violation of that understanding, and it presents an objection under which I am not willing to proceed as arbitrator unless the action is immediately remedied."

It was only after Judge Sloss threatened again to resign, that the work stoppage was terminated.

But while the particular stoppage was terminated, that was all that was accomplished. Work stoppages continued, as numerous as before, in San Francisco and other ports, until October, 1936, when a coastwise strike was called over the terms of a new contract. Figures are not available for San Pedro, but during the five-month period ending with the strike and beginning with April 21, 1936, when Judge Sloss resumed his position upon a solemn promise by the Union that it would abide by the Award and Arbitrators decisions, and that there would be no further work stoppages, there were 21 work stoppages in the Port of San Francisco, 36 work stoppages in the Port of Portland, and 50 work stoppages on Puget Sound, or a total of 107 work stoppages in the three ports.

The strike which began in October of 1936, was terminated by execution of a collective bargaining contract on February 4, 1937, by the terms of which the Award of the National Longshoremen's Board was amended in certain respects and, as so amended, was renewed. The provisions prohibiting work stoppages and requiring that disputes be submitted to the grievance procedure were strengthened and continued in effect. However, the execution of the agreement did not mark any change in the conduct of the Union. On the contrary, work stoppages continued all up and down the coast as they had in the past. At San Francisco alone there were 22 work stoppages during the five-month period from February 7, 1937, to July 7, 1937. The stoppages occurred under varying circumstances and upon varying pretexts. However, they all had one thing in common; they all were in plain violation of the contract provision prohibiting work stoppages and requiring that disputes be submitted to the grievance procedure. Many of them not only were in plain violation of the contract and of the general principle laid down by the arbitrator that there should be no work stoppages, but they were exact repetitions of stoppages which had occurred in the past, and which had been held to be wrongful.

An example was the repeated refusal of the longshoremen to pass picket lines not resulting from any legitimate labor dispute between the Employers and any Union, such as hot cargo or secondary boycott picket lines, jurisdictional picket lines, demonstration picket lines and others. On September 27, 1935 Judge Sloss, Coast Arbitrator, held

that the longshoremen were in violation of the contract in refusing to pass a picket line established to enforce a boycott against cargo which had been moved by certain river boats. Nevertheless on March 4, 1939, it was necessary for Samuel B. Weinstein, Arbitrator for the Port of Astoria, to hold that the longshoremen were in violation of the contract for refusal to pass a demonstration picket line. On March 11, 1939, it was necessary for Mr. Weinstein, acting as Arbitrator for the Port of Portland, to hold the longshoremen in violation of the contract for refusing to pass a demonstration picket line. On March 12, 1939, it was necessary for Irvin Stalmaster, Arbitrator for Southern California, to hold the longshoremen in violation of the contract for refusing to pass a demonstration picket line. On May 17, 1939, it was necessary for Mr. Morse, as Coast Arbitrator, to hold the longshoremen in violation of the contract for refusing to pass a so-called "ghost" picket line which had been removed by court order. On July 1, 1939, it was necessary for Van C. Griffin, Arbitrator for the Port of Seattle to hold the longshoremen in violation of the contract for refusing to pass a demonstration picket line. On July 20, 1939, Mr. Morse, acting as Arbitrator for the Port of Eureka, held that the longshoremen were in violation of the contract for refusing to pass a picket line of the Fort Bragg local of the Union, which picket line itself was in violation of the contract. On October 7, 1939, Mr. Morse, acting as Arbitrator for the Port of San Francisco, held that the longshoremen were in violation of the contract for refusing to pass a picket line established through collusion of the longshoremen and checkers. And on March 2, 1940 he found it necessary to hold the longshoremen in violation of the contract for refusing to pass a jurisdictional picket line. Each of these refusals was of course a direct flouting of the first decision upon the matter and of each of the other decisions just mentioned which preceded the particular refusal. Nor did the refusals represent simply the ill-advised conduct of the particular individuals involved. On the contrary, the refusals were the product of a considered union policy adopted and maintained in the face of Judge Sloss's decision. The matter was summarized by Irvin Stalmaster, Arbitrator for Southern California, in a decision rendered July 17, 1939, as follows:

> "What seemed at first to be only the action of a few longshoremen individually violating the Basic Agreement, now develops to be action approved by the union leadership. There is evidence

of a consistent and studied effort to sanction illegal stoppages where 'demonstration' picket lines are involved.

* * *

"While the arbitrator was considering the reasonableness of the request to have the matter referred back to the Union, the real cause of the stoppage came to light, when Mr. Bridges stated flatly not only that the union would not punish members for respecting a demonstration picket line, but that the union would resist and 'battle', if necessary, for its 'right' to avoid passing demonstration picket lines whenever in its judgment it felt it should do so.

"6. The effect of his statement at the hearing was not only an approval of the conduct which had several times been found to be illegal by arbitrators, and not only was it revealed that such action of the men was based upon definite policy of the union itself, but notice was given that if the award was against the union, it would be repudiated, to the extent, if necessary, of resorting to a 'fight'."

It is pertinent to note that Mr. Stalmaster in the foregoing decision penalized the longshoremen who had engaged in the work stoppage by suspending them from the registered list for one week, during which week they were not supposed to be dispatched. Notwithstanding the decision, the Union proceeded to attach one of the so-called penalty men to each gang dispatched from the hall. When the employer refused to take the penalty man the entire gang refused to work. As a result a tie-up of the Port of Los Angeles ensued. Mr. Morse the Coast Arbitrator subsequently held that the contract did not authorize imposition of penalties against the individuals in the type of situation before Mr. Stalmaster and in effect over-ruled Mr. Stalmaster's decision. However, the Stalmaster decision and its aftermath demonstrated the ineffectiveness and impracticability of penalties against individual longshoremen for work stoppages in pursuance of Union policy. To suspend all of the employees in a port would be to defeat the purpose of penalties.

The various arbitrators under the contract were, without exception, impressed with the need for some provision which would do away with job action and insure compliance with the contract and arbitrators' awards rendered thereunder. As already noted, Judge

Sloss, on September 27, 1935, had suggested the establishment of rules providing penalties for violation of the contract and Mr. Stalmaster attempted to impose such penalties. Harry Hazel, Arbitrator for the Port of Seattle, in a decision rendered July 20, 1936, suggested that the Union itself would impose penalties upon longshoremen engaging in job action. Wayne L. Morse, in an award rendered February 27, 1939, stated that if job action should continue it would be "only fair to allow damages to the injured party in accordance with proof of damages which may be established at a subsequent arbitration hearing." However, the only course which the arbitrators found open to them was to resign in protest against the Union's conduct. Mr. Morse himself followed this course on October 9, 1939, when he tendered his resignation because of the continuance of work stoppage in violation of an award. In this telegram of resignation to the Secretary of Labor, he stated the reason for his action as follows:

> "Failure of District Officers and members of International Longshoremen's and Warehousemen's Union to abide by my Award of October 7, 1939, makes it necessary for me to hereby submit to you my resignation as Coast Arbitrator, local arbitrator for San Francisco and Portland."

At the time of his resignation he stated orally:

> "I certainly could not in the interest of arbitration and in the interests of my professional self-respect and professional pride sit in an arbitration hearing when a few blocks away an award, which I know to be honest and impartial, an award which is based upon the record made by the parties before me, stands violated."

Mr. Morse resumed his position when the work stoppage thereafter was terminated and he was promised that there would be no further such occurrences, but, unfortunately, the promise meant no more than the promise which had been given Judge Sloss.

The only effect of Mr. Morse's resignation was the termination of the particular work stoppage at which it was directed. Work stoppages continued as in the past. Thus, the longshoremen continued to engage in job action for the purpose of obtaining con-

cessions denied by the contract and enforcing their own views as to the manner in which work should be done, (see decisions of Wayne L. Morse, Arbitrator for the Port of Portland, February 10, 1940, and February 12, 1940; decision of Wayne L. Morse, Arbitrator for the Port of San Francisco, August 16, 1940; decision of Wayne L. Morse, Coast Arbitrator, August 25, 1940, all holding the longshoremen to be in violation of the contract for work stoppages of the type just mentioned), and in work stoppages arising out of jurisdictional disputes with or between other unions (see decision of Van C. Griffin, Arbitrator for the Port of Seattle, October 28, 1939; decision of Wayne L. Morse, Arbitrator for the Port of San Francisco, March 2, 1940; decision of Wayne L. Morse, Arbitrator for the Port of Portland, June 24, 1940, all holding the longshoremen in violation of the contract for the work stoppages of the type just mentioned).

This country's entry into the war resulted in a diminution, although not a cessation, of work stoppages. But it took the War to accomplish this result. The Union's record of contract observance up to the beginning of the war was accurately summarized by Paul Eliel, public member and Chairman of the Pacific Coast Maritime Industry Board, in a statement issued July 20, 1942, as follows:

> "The eight years that have elapsed since 1934 have been years of turmoil, of struggle and strife, in every port on the Pacific Coast. Innumerable stoppages prior to the outbreak of the war, and particularly before December, 1940 made all operation of waterborne commerce uncertain. Prolonged strikes in single ports and over the whole coast only tended to widen the breach between workers and their employers. The fact that during this period of eight years hardly a day passed but what some stoppage took place in violation of the contract—stoppages either on a single ship against a company or against an entire port—only served to highlight the precarious foundation upon which efforts to establish peaceful and enduring relations had been built."

As above stated, there was a diminution of work stoppages following this country's entry into the war. Work stoppages however did not by any means cease. For example, in early 1943 the Navy

and other government agencies desired to increase the size of cement sling loads in order to speed up the shipment of this much needed cargo to various points in the Pacific. Mr. Eliel ruled that a sling load of cement should consist of 30 sacks. The Union refused to abide by that ruling. The ruling was followed by work stoppages up and down the Coast and by the Union's demand for Eliel's resignation. Mr. Eliel, however, was supported by Admiral Land, Administrator of War Shipping Administration, and refused to resign.

Prior to the end of the war, the arbitration machinery of the contract, which machinery had been suspended while the Maritime Industry Board was functioning, was again placed in operation, and Stuart L. Daggett was appointed Coast Arbitrator. With the end of the war, job action and other work stoppages forthwith resumed their former tempo. The Union waited only until August 22, 1945, four days after the end of the war, to call a stop work meeting in San Francisco. Beginning September 20, 1945 stop work meetings were held the third Thursday of every month in Seattle. In Los Angeles, stop work meetings were held on October 3, 1945 and on February 5, 1946. At Everett beginning October 1, 1945, stop work meetings were held the first Monday of every month. At North Bend effective March 1, 1946, the Union passed a rule that all Saturday work would stop at 4 P.M. At Seattle, ever since the war, the Union has enforced an unilateral ruling that the port close down every Sunday.

In late November, 1945, the Union decided upon a one-day coastwise work stoppage to take place on December 3, 1945, for the purpose of influencing governmental action in the return of the troops from overseas. On December 1, 1945, Mr. Daggett rendered a decision in which he held that if the threatened work stoppage was carried out, it would be a clear violation of the contract and of numerous prior arbitration awards issued thereunder. The Union paid no attention to the decision, other than to write Mr. Daggett a letter challenging his integrity, indicating that his decision would not be observed, and withdrawing pending cases from arbitration. The work stoppage took place as scheduled, and Mr. Daggett resigned, thereby becoming the third Coast Arbitrator to do so. In his letter of resignation addressed to the Secretary of Labor, Mr. Daggett stated the reasons for his resignation as follows:

"I submit herewith my resignation as Impartial Chairman under the contract between the International Longshoremen's and Warehousemen's Union and the Waterfront Employers' Association of the Pacific Coast.

"This resignation grows out of the following series of events:

1. During the week ending December 1, 1945, the International Longshoremen's and Warehousemen's Union announced its intention to cease work for a 24 hour period on December 3.
2. Acting under Section 9 of the contract between the parties, the Employers alleged violation of the Agreement and invoked arbitration.
3. The date for hearing on the alleged violation was set for December 3. The Union refused to appear, although it presented, by telegram, its view that there was no basis for a hearing, since no violation had as yet occurred.
4. The arbitrator decided:
    a. That he had no power to issue an order;
    b. That stoppage of work if it occurred, would constitute a violation of the Agreement.
5. On December 3 the threatened work stoppage occurred.
6. By letter dated December 4 and received December 6 the Union advised the Arbitrator of non-confidence and withdrew pending cases.

It is evident, from the facts submitted, that the position of Impartial Chairman in Coast cases can now be better occupied by some other person than myself."

Unfortunately, the only effect Mr. Daggett's resignation was to free the Union of an arbitrator who had rendered himself objectionable to the Union by indicating an intention to enforce the contract. Job action and other work stoppages continued, and still continue, to be instruments of Union policy, and those instruments are fully used. Thus, in a bulletin issued January 29, 1946, the I. L. W. U. Regional Director for the States of Oregon and Washington announced:

"Local 40 (clerks) is fighting shoulder to shoulder with the Longshoremen and Bosses (foremen) to create greater working opportunities for its members. This has already brought results.

"Though there are less ships berthing in Portland now than during the war, as a result of recent job action to enforce certain working conditions, more Checkers are working. This job action was fully supported by the Longshoremen and the Bosses".

On January 1, 1946, the longshoremen tied up the Port of Hueneme, California, with a work stoppage designed to enforce the employment of additional men. The work stoppage continued until January 16, 1946, when Harry Rathbun, who had been appointed to succeed Mr. Daggett as Coast Arbitrator, held the Union in violation of the contract and ordered work to be resumed.

On January 23, 1946, the dispatcher in Seattle refused to dispatch men to work cargo on a certain Army barge because an ILA foreman was employed on that job. The refusal continued for two more days. On January 23rd, the same day as the foregoing work stoppage in Seattle began, the Union tied up a vessel at Port Gamble, Washington, with a work stoppage designed to force employment of an I. L. W. U. rather than an ILA foreman. On January 29th, at Port Gamble, the Union tied up a second vessel with a work stoppage designed to force employment of an I. L. W. U. rather than an ILA foreman. On January 30th, Mr. Rathbun held the Union in violation of the contract by reason of the Port Gamble stoppage, and ordered work to be resumed. Nevertheless, on March 12, 1946, the Union in Seattle tied up a vessel for four days with a work stoppage designed to force employment of an I. L. W. U. rather than an ILA foreman, and work was resumed only when the employer hired an I. L. W. U. foreman to stand by while the ILA foreman directed the work.

On January 23, 1946, pursuant to the policy announced in the Union bulletin above quoted, the longshoremen tied up a vessel in Portland, and on January 27th tied up a second vessel, with a work stoppage designed to enforce the employment of a checker (clerk) for every gang of longshoremen. On February 1st, Mr. Rathbun found the Union in violation of the contract and ordered

that work be resumed, but work was not resumed because the I. L. W. U. foreman thereupon walked off the job. Three weeks later the longshoremen engaged in an identical work stoppage involving two vessels at San Francisco, forcing the vessels to sail without their cargoes. When on April 11, 1946, the arbitrator under the Portland checkers' contract held that the employers were obligated to employ only such checkers as they deemed necessary and were not obligated to employ a checker for every gang of longshoremen, Michael Johnson, I. L. W. U. Second Vice President, advised the press that the decision was "phoney" and that "the Union would not recognize it" (San Francisco News, April 11, 1946, P. 5). On April 23rd, in Portland, at the same dock that was involved in Mr. Rathbun's decision and in the decision under the checkers' contract, the checkers again refused to work unless a checker was employed for every gang of longshoremen; and on April 22nd the longshoremen again refused to work unless checkers were employed. The work stoppage still continues at the time this statement is written.

Arbitrators under the contract have repeatedly held that it is a violation of the contract for the longshoremen to engage in a work stoppage for purpose of exerting pressure on government authorities. It was because of the Union's disregard of just such a decision that Mr. Daggett resigned. Yet on April 12, 1946, at Coos Bay, a Dutch ship employing a Chinese crew was tied up by refusal of longshoremen to work the vessel unless immigration authorities would permit the crew to come ashore. The vessel was forced to sail without its cargo.

Arbitrators under the contract have repeatedly held that work stoppages arising out of jurisdictional disputes with or between other unions are in violation of the contract. Yet, on April 21, 1946 at Vancouver, Washington, the longshoremen refused to load cargo which had been delivered to the dock on liftboards by the California Packing Corporation unless they were first permitted to remove the cargo from those liftboards and place it upon liftboard of the stevedoring contractor. It was only by acceding to this demand that the employer was able to load the vessel. This same vessel then went to Portland where on April 23rd it was tied up by the work stoppage of checkers and longshoremen already described.

The Arbitrators under the contract have repeatedly held that the Union is in violation of the contract when it refuses to pass a jurisdictional, demonstration, or secondary boycott picket line. Yet, beginning midnight on April 20th, in Seattle, all Alaskan vessels were tied up by refusal of the longshoremen to pass picket lines established by Alaskan cannery workers. The work stoppage continues at the time this statement is written.

There is the story. Since the end of the war there have been more than 70 job action and other work stoppages in clear violation of the contract. Arbitration decisions, when they have had any effect whatever, have been effective only to terminate the particular stoppages which gave rise to the arbitrations. The resignation of Mr. Daggett did no more good than had the resignation of his predecessors. Mr. Rathbun has taken many days away from his work at the Stanford University to hear evidence and pass judgment on work stoppages only to see his decisions flouted and identical stoppages repeated within a few days. The industry has suffered direct losses of hundreds of thousands of dollars in tied-up dock facilities and vessels, idle crews, demurrage and other costs, and has suffered indirect loss in unknown amounts due to the reluctance of shippers to avail themselves of facilities so uncertain as those offered by the Pacific Coast shipping industry.

It is apparent that a remedy is badly needed. Arbitration decisions simply holding the Union in violation of the contract have not served to end work stoppages; there have been more than forty such decisions, involving every conceivable kind of work stoppage, but work stoppages continue. Resignation of the arbitrator has proved equally ineffective. Penalties against individual longshoremen for obeying the dictates of Union policy are not only unjust but are impractical, for it is not feasible to penalize individually all of the employees in an industry. Union liability for compensatory damages to be assessed by the Arbitrator is the only remedy left, and it alone contains promise of the orderly observance of contractual obligations. The experience of the past twelve years permits of no other conclusion than that work stoppages in violation of contractual obligations will continue to be the bane of this industry until and unless the Union is apprised that every such violation will be followed by an award of damages.

THE EMPLOYER PROPOSALS LOOKING TO IMPROVED PRODUCTION

In the interest of restoring reasonable production, the Association has conditioned its wage offer upon the adoption of certain contractual provisions, hereinafter particularly discussed, designed to remove artificial barriers to efficient operation. Again, a reference to the history of the past twelve years should be all that is required to demonstrate the vital need that exists for improved production.

The Proposal of the Employers to Restore Reasonable Efficiency

An inseparable companion of the I. L. W. U. job action program has been a steady decrease in longshore efficiency. Each work stoppage, of course, in itself has meant decreased efficiency. But aside from that, the very purpose of most of the job action has been the imposition of restrictive work rules and practices. Thus, although the 1934 award and all subsequent contracts provided that the employer should be free, without interference from the Union, "to introduce labor saving devices, and to institute such methods of discharging and loading cargo as he considers best suited to the conduct of his business", every effort that any employer has ever made to introduce labor-saving devices or to improve work methods has been met with bitter resistance by the I. L. W. U.

Contrary to the Union claim of favoring mechanical devices to improve production the opposition to liftboards is typical of their true position. The introduction of liftboards in 1938 was followed by work stoppages up and down the Coast. It was necessary to proceed to arbitration at Los Angeles, and on April 15, 1938, Albert A. Rosenshine, acting as arbitrator for the Port of Los Angeles, held that the use of liftboards was proper and that the longshoremen were obligated to do the work. Notwithstanding this decision, opposition to the use of liftboards continued, and it was necessary to have another arbitration to put an end to a work stoppage in Seattle (see Award of Albert A. Rosenshine, acting as arbitrator for the Port of Seattle, July 26, 1938). A third arbitration was necessary before the matter was finally settled (see Award of Wayne L. Morse, Arbitrator for the Port of Los Angeles, September 21, 1938). But while the right

of the employer to use liftboards was thus established, the I. L. W. U. has continued, with a substantial degree of success, to resist their use. Thus in San Francisco and at Port Hueneme, the employers still are forced by restrictive working rules to use the thirteen or sixteen men gang, although in liftboard operations several members of the gang have nothing to do and are idle. The War Labor Board Order of August 18, 1945, providing for the substitution of ship gangs has not yet been placed in effect in either port. And at this very moment in San Francisco, the I. L. W. U. is insisting that six, rather than four, men be used in discharging cars with liftboards, and its members are refusing to work unless six men are employed. By such practices, the whole purpose of the liftboard as a labor-saving device is, of course, defeated.

The case of the liftboard is merely illustrative. The Union has consistently since 1934 opposed improvement of cargo-handling methods and the elimination of restrictive work rules and practices, and has sought by job action and other means to impose still further restrictions upon production. Thus resort has repeatedly been had to job action for the purpose of forcing employment of more men than needed (see, e. g. Award of Harry Rathbun, Coast Arbitrator, Feb. 1, 1946; Award of Wayne L. Morse, Arbitrator for the Port of San Francisco, Aug. 16, 1940; Award of Wayne L. Morse, Arbitrator for the Port of San Francisco, Feb. 27, 1937; Award of Van C. Griffin, Arbitrator for the Port of Seattle, December 20, 1938), for the purpose of imposing limitations upon the size of sling loads (see, e. g., Award of Perry D. Tull, Arbitrator for the Port of Portland, August 4, 1936; Award of Harry Hazel, Arbitrator for the Port of Seattle, July 20, 1936; Award of Paul C. Dodd, Arbitrator for the Port of Los Angeles, May 26, 1936; Award of M. C. Sloss, Arbitrator for the Port of San Francisco, January 4, 1935), for the purpose of preventing men from being used where needed (see, e. g., Award of Samuel B. Weinstein, Arbitrator for the Port of Portland, January 20, 1939), and for other similar make-work purposes.

In a few instances, as in the case of sling loads, the employers made concessions to buy peace. In other instances, the Union has been able to impose its will by continued unilateral action. Restrictive work rules based upon obsolete cargo handling methods

have been continued in effect and further restrictions have been imposed. The result has been a steady and disastrous decline in the efficiency of cargo handling operations.

In 1940, matters had reached a state where the I. L. W. U. itself was forced to recognize the truth of the foregoing statement. The contract executed on December 20, 1940, provided in section 12 for "a survey looking toward the restoration of reasonable efficiency", and for a wage increase of 5¢ per hour if on February 1, 1941, "reasonable rates of production and efficiency (excluding comparisons prior to January 1, 1935) have been restored and reasonable compliance with this contract has been provided by the Union". During the interval between the execution of the contract and February 1, 1941, there was a virtual cessation of work stoppages and some slight improvement in efficiency. The employers, although by no means satisfied with that slight improvement, granted the wage increase of 5¢ per hour*. No sooner had the wage increase been granted, than matters became as bad as ever.

> "This Arbitrator, as the result of his several years experience in arbitrating disputes within the industry and observing work practices in various ports of the coast, wants to say very frankly, here and now, that there is merit in the employers' contention that the longshoremen have not fully performed their

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* The Association's letter granting the increase reads as follows:

"In compliance with the provision of the Longshore Agreement which requires a wage review at this time, the Waterfront Employers grant the increase of 5¢ per hour straight time ($1.00) and 10¢ per hour overtime ($1.50), effective midnight February 20, 1941, although the Union has not fulfilled all of its obligations upon which the right to a wage increase is conditioned.

"The Waterfront Employers are glad to acknowledge a steady decline in work stoppages by the Union and its members, which gives assurance of stability to Pacific Coast shipping. But there has been no appreciable restoration of reasonable efficiency on the job nor is there evidence seemingly of a willingness on the part of your Negotiating Committee to agree upon those Coast Working and Dispatching Rules which will make such restored reasonable efficiency possible for the future, and the slow-down still continues.

"The increase is granted in the expectation that the I.L.W.U. and its members will provide a fair day's work in the future and cooperate to establish Working and Dispatching Rules for the Coast which will help to restore reasonable efficiency, without the necessity of arbitration. These are obligations of the I.L.W.U. The Waterfront Employers will continue to insist upon them."

work efficiency obligations under their collective bargaining contract. The Arbitrator appreciates the fact that the charge of a 'Slow Down' arouses resentment in the ranks of the longshoremen. Generally, the practice of name calling has that effect and the Arbitrator does not propose to approach the problem from that angle.

"But he does intend to call a spade a spade, and he wished to make perfectly clear to the longshoremen and their leaders through this decision, that based upon his experience in the industry as Arbitrator of a large number of cases, he is satisfied that certainly by the time the parties signed the agreement of December 20, 1940, there was a need for a restoration of reasonable efficiency in the performance of longshore work and a need for a more reasonable compliance with the provisions of the previous collective bargaining contracts. It doesn't help the cause of industrial harmony within the industry to deny those facts.

"The negotiations leading up to the contract of December 20, 1940, the language of Section 12 of that agreement, the minutes of the labor relations committee, the publications of the Union, the correspondence between the parties, the testimony of witnesses, the records of previous arbitration cases, the observations of the Arbitrator on the waterfront, all supported the inescapable conclusion that there has been a need for an improvement in the work efficiency of longshoremen."

Mr. Morse expressed the hope that the wage increase which he was granting would prove an "incentive to labor" and that the parties would be able to "agree to a modification for the duration of the war of such working and dispatching rules as interfere with a maximum of efficiency in handling cargo on the waterfront".

The question whether Mr. Morse's hope was realized was answered by Admiral Land, Administrator of the War Shipping Administration, who in a letter to the Maritime Industry Board dated April 7, 1934, stated the following:

"The Chairman has been too considerate of the longshoremen. He has been unwilling to press needed corrections hard enough. His policy of going slowly to secure eventful voluntary acceptance of changes of rules, which have been agreed to

> under the collective bargaining agreement, or, of practices, which have grown up over the years, was continued far beyond the point when it should have been obvious that such a policy had to be abandoned.
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> "The union members have failed to grasp the purpose for which the Board was created and the only methods by which those purposes could be realized. They have not only offered, but have pressed again and again, proposals which, when they were not trivial, were almost absurd. They have defended practices which were questionable in time of peace but which are without justification in time of war. They have spoken frequently of sacrifices, have expanded on their willingness to abandon all practices which were a bar to better production, but have frequently opposed many proposals which would have affected production favorably."

Needless to say, the ending of the war did not bring about a change in Union attitude; longshore efficiency is now at its lowest. The case histories of sugar and copra are illustrative. There are so many variable factors affecting the handling of most cargoes that it is sometimes difficult to demonstrate conclusively that decreased production is the fault of the longshoremen. Not so in the cases of sugar and copra. The sugar discharging operation on San Francisco Bay and the copra discharging cargo operation in San Francisco and Los Angeles are exactly the same today as they were 12 years ago. The only variable factors have been the longshoremen, their practices, and rules. During those 12 years while wage rates have been undergoing a 52.3% increase there has been a decrease of 71.1% in the tonnage of sugar discharged per man hour at Crockett and a decrease of 67.4% in the tonnage of sugar discharged per man hour at San Francisco. Since 1935 there has been a decrease of 24.6% in the tonnage of copra handled per man hour at San Francisco and a decrease of 45% in the tonnage of copra per man hour handled in Los Angeles. The decrease has been steady and uninterrupted down through the years.

We do not hope that the ills of the industry can all be corrected by changes in the collective bargaining contract. We do believe,

however, that some degree of improvement can be achieved. Illustrative of what can be done is the contract executed on March 30, 1946 for the ports of Tacoma, Port Angeles, and Anacortes by the Waterfront Employers Association and the ILA, District No. 38. Section 2 of that contract provides as follows:

> "Section 2 (a). The parties recognize that shipping cannot successfully continue without reduction in costs of cargo handling. To that end the Union and the Employers pledge their best efforts and that of their members to more than offset the wage increases resulting from this agreement by reduction in cost through increased production, recognizing that increased production per man hour is essential to the fulfillment of this pledge. The responsibility for enforcement of this agreement is accepted by both parties, who believe that the same can be fairly administered and will work to their mutual benefit. It shall be the obligation of the respective parties to discipline their members for infractions of this agreement.
>
> "(2) Any restrictions on production by either party are to be eliminated to the end that full production may be restored and should any provision of this agreement result in such restriction, appropriate amendment thereof shall be made."

The contract and working and dispatching rules incorporated therein provide for and permit the employment of steady men by the respective employers and recognize the right of the employer to "order, assign, shift and release men" as needed. In the latter connection, Section 8 (c) provides:

> "Employers shall be free to shift men or gangs who are suitable for the work from ship, scow or barge to dock, or from dock to ship, scow or barge and between various types of work. Men or gangs may be transferred from one employer to another on the same ship. Men may be shifted from one dock to another while in the employ of the same employer."

The contract imposes no limitations whatever on the size of sling loads.

The Association's proposals to the I. L. W. U. which we are about to discuss in detail do not go nearly as far as those to which

the I. L. A. agreed and represent merely the minimum of what must be done if the Pacific Coast shipping industry is to have any chance of standing on its own feet under a period of increased wage costs.

Restoration of Steady Employees

The Association has asked the restoration of steady employees, and in this connection proposes a provision as follows:

> "Each employer shall be entitled to employ, and the Union shall make available to the employer, such steady men as the employer may desire to employ, and men so employed shall not be subject to rotation through the hiring hall."

The proposal has been rejected by the Union.

Prior to 1934, each employer had regular longshoremen and car-loader employees to whom the employer was able to furnish steady employment and who formed the nucleus of his labor force. At times when a particular employer's volume was greater than his steady employees could handle, such employees were supplemented by casual employees who worked first for one employer and then for another, as their services were required. The casual labor force was a supplementary force, and a supplementary force only. For their basic work needs, the employers relied upon their steady employees who were familiar with the respective docks upon which they were employed, and with the cargoes and practices peculiar to those docks, and with whose abilities the respective employers were acquainted. These employees inevitably were more efficient than the casual workers, and their presence inevitably increased the efficiency of the casual workers when casual workers were employed.

In 1934, the Union embarked upon a campaign to casualize all waterfront labor. It proceeded first with the elimination of steady or preferred gangs of longshoremen at the various ports, and by early 1939 was able to boast in a bulletin issued by it, that San Francisco was the only port "where preferred gangs are still in existence." In April of 1939 the Union, at its Convention in San Francisco, adopted a resolution "advocating the elimination of preferred gangs". At a meeting of the San Francisco longshoremen's local shortly thereafter, a motion was placed "that all gangs should go casual tomorrow". Following the adoption of the foregoing

motion, all steady or preferred gangs disappeared from the San Francisco waterfront.

Following close upon the elimination of steady gangs was the elimination of individual steady dock employees, both longshoremen and carloaders. By 1938, such employees had been eliminated in all ports but San Francisco. Their employment continued in San Francisco until February 13, 1946, when the San Francisco local of the Union adopted a resolution calling for the elimination of all steady dock employees. By the following Monday, all such employees had left their jobs and had begun reporting to the hiring hall to be dispatched as casuals.

At the present time, there are no steady longshore or carloader employees on the Pacific Coast.

The Association's present proposal is a modest one, calling only for a restoration of steady dock employees and of an employment relationship which is regarded as normal in all other industries. Every dock has its own peculiar problems and practices arising from the nature of the particular trade in which it is used and from other variables. It goes without saying that greater value is received from a steady employee who is familiar with the problems, practices and routine of the dock, and with whose aptitudes and limitations his supervisors are acquainted, than from a casual employee who may not work more than a week on the particular dock in a period of months.

That steady employees, as contrasted with casual employees, are an aid to efficient operation—indeed, are essential thereto—accords with universal industrial experience. We know of no other industry which is completely casualized, and we know of no other Union which regards casualization as a virtue. The stevedoring industry itself employs steady workers everywhere in the country except on the Pacific Coast.

It is the firm conviction of the Association and its members that while a certain amount of casual labor is necessary to meet variations in the flow of cargo as among the respective employers, casualization beyond the point necessary for that purpose is detrimental to everyone concerned, and that a return of steady employees is essential to the health of the industry.

Restoration of Special Gangs

The Association has insisted during the negotiations upon the restoration of special gangs. In this connection it proposes the following provision:

> "The respective employers shall be entitled to have dispatched to them such special gangs as they may designate for the handling of particular types of cargo. Special gangs shall be dispatched as ordered by the respective employers, and if already engaged on jobs other than their special work, shall be taken off such jobs for the purpose of being so dispatched".

There are a number of cargoes, such as steel, sugar, copra, lumber, pineapple and bulk cargoes, the handling of which involves the use of peculiar techniques or knowledge not used or needed in connection with other cargoes. The problems presented by these peculiar cargoes were met in the past by so-called special gangs which, though rotated as casual gangs through the hiring hall, specialized in a particular type of cargo and worked on other types only when not needed for their specialty.

During the period that steady gangs were being taken away from the employers, special gangs likewise virtually disappeared. Today, on the San Francisco waterfront, the only special gangs left are the shoveling gangs which handle bulk cargo.

The restoration of special gangs is important for reasons which are apparent and we need add nothing more to what has already been said.

Affirmation of the Right to Shift Men

During negotiations, the Association has insisted upon affirmation of the employer's right to shift men from hold to dock, dock to hold, hatch to hatch, and to otherwise use them where their services are required. In this connection the Association proposes the following provision:

> "The right of the employer, in his discretion, to shift men from hold to dock, dock to hold, and hatch to hatch, and to otherwise use them where their services are required, is recognized and affirmed."

It is settled that the employers have the foregoing right under the contract as it now reads. Thus, on April 15, 1993, Samuel B. Weinstein, Arbitrator for the Port of Portland, held that the longshoremen were in violation of the contract for refusing to work when the employer ordered men from the hold to the dock, and that the employer has a right to distribute the members of the gang as he sees fit. On February 10, 1940, Wayne L. Morse, as Arbitrator for the Port of Portland, held that employers had the right to shift gangs from one hatch to another, and on August 16, 1940, as Arbitrator for the Port of San Francisco, he held that employers had the right to distribute the members of the gang between two hatches. Nevertheless, all efforts by employers to utilize the members of longshore gangs to the best advantage by distributing the men in accordance with the employer's needs, have met and continued to meet with resistance. During recent months, and notwithstanding the above mentioned awards, there have been instances of refusal by longshore gangs to work in all three of the situations covered by those awards. It is apparent that the Union officials and longshoremen have not been impressed by the Arbitrators' decisions, and that an express provision is necessary to bring home to them the fact that the employer has the right to use the members of a gang where they are most needed.

Until that right is observed, men will stand idle in the hold while work is to be done on the dock; men will stand idle at one hatch while work is to be done at another; and men will stand idle upon one portion of the dock when their services are needed elsewhere. This abuse like the others which have been mentioned, is a luxury which the industry simply cannot afford.

Ship Gangs

In the 1944 negotiations, the Association proposed that all longshore gangs be converted into ship gangs, i.e. gangs consisting of ten men not including the gang boss—as had already been done in most of the ports. The proposal subsequently was granted by the War Labor Board in the following language:

> "In respect to organization of gangs, the Panel recommendation that standard gangs should uniformly consist of ship gangs only, that the constitution of ship gangs should follow present

port practice and that all gangs larger than a standard gang and all longshoremen who are not members of regular gangs shall be dispatched only as ordered by the employer is affirmed. The parties are directed to adopt an appropriate clause for this purpose, including a proper provision for the special condition prevailing in Portland."

The foregoing provision of the War Labor Board's Order has not yet been placed in effect. During the recent negotiations, the Association made it clear that all offers were conditioned upon acceptance by the Union of the Board's Order, and the Union accepted that position. It is the Association's proposal that the Board's Order be effectuated by amending Section 11 (a) of the contract to insert the following after the first sentence:

"All gangs shall be ship gangs consisting of six hold men, two deck men, and two dock men, plus a gang boss in those ports where gang bosses are employed. Additional men when needed, including dock men, will be employed separately."

It now appears from statements made by the Union representative near the conclusion on the hearing that the Union is not willing to accept without equivocation the War Labor Board's Order. A recommendation affirming that order would therefore be proper.

Maximum Sling Loads

In 1944, the Employers proposed the abolition of all maximum sling load limits. The War Labor Board denied this proposal, but ordered the parties "to renegotiate maximum limits for the items presently listed in Section 11 (h)."

The Union has now agreed to include in the contract a provision for renegotiation of maximum sling load limits, which limits will be subject to arbitration under the grievance procedure in the event the parties are unable to agree. This matter therefore is no longer an issue.

Pledge of no Make-Work Practices

During the recent negotiations, the Union agreed to incorporate in the contract a pledge of no make-work practices. This matter therefore is no longer an issue.

THE WAGE AND HOUR PROTECTION REQUESTED BY THE EMPLOYERS

The Employers propose the following provision:

> "If any court should render a final decision to the effect that any employer of longshoremen or other cargo handlers is obligated by the Fair Labor Standards Act to pay anything more than time and one-half of his contractual straight time rate for work in excess of 40 hours per week, or that any such employer is not entitled to receive credit against overtime liabilities under that Act for all wage payments made at time and one-half the straight time rate under his collective bargaining contract, then this agreement shall be subject to termination by either party at any time following rendition of such decision."

In litigation pending both on the Atlantic and Pacific Coasts, the latter by members of the I. L. W. U., the claim is being asserted that after work in excess of forty hours in any week, the employer is obligated by the Fair Labor Standards Act to pay time and one-half of the contractual overtime rate for work during contractual overtime hours, the theory being that the contractual overtime rate of pay is the "regular rate of pay" for work during contractual overtime hours.

The Employers sought in negotiations to guard against excessive wage liabilities should any such interpretation ultimately prevail. Accordingly, they proposed that should it prevail by final judgment of any court of competent jurisdiction, then the subject of wages and hours would be reopened and the agreement itself would be subject to cancellation by either party to the end that wage rates and conditions might be adjusted in conformity with such determination.

That proposal was rejected by the Union upon the ground that such a provision would establish an agreement without beginning or end. The Union's position is best characterized as absurd. The beginning of the agreement would be its date. The end would be the expiration of its term; either September 30 of any year, after notice of termination or notice of amendment with failure to agree; or a similar notice after decree of a court of competent jurisdic-

tion adopting the view urged in the pending litigation. Thus the agreement would have both beginning and end.

The absurdity of the Union's position becomes even more apparent when consideration is given to the fact that the parties have been working under an agreement without beginning or end ever since October 1, 1944; ever since that date the parties have carried on under a contract which has been effective only from day to day, and they have experienced no difficulty arising from that fact.

It seems clear that what the Employers propose is a reasonable and practical means of meeting an extremely difficult problem. It is proposed that we continue as the parties have operated for sixty years or more in the past under a schedule of straight and overtime hours which is fully understood and readily applied but with recognition of the need of adjustment and negotiation should the recently urged interpretation of the law render past practices and understandings invalid.

Toward the conclusion of the hearing, the Union indicated that it might agree to a provision calling simply for reconsideration of the wage and hour provisions of the contract under the grievance machinery. Such a provision would be wholly unsatisfactory; for continued operation under excessive and unavoidable overtime penalties would be necessary pending determination of the matter. An arbitration award or other decision decreasing wage rates or overtime hours cannot be made to operate retroactively. By the time that so complicated a matter as a complete revision of the industry's wage and hour structure would be settled under the grievance procedure, tremendous liabilities would be incurred. In short, a provision such as suggested by the Union would serve no purpose, the Employers might very well get just as prompt relief by waiting for the regular contract termination date.

CONCLUSION

The Employers have made the Union a firm proposal which is in full accord with National Wage Stabilization policy and which involves nothing that is not entirely reasonable and necessary to the health of the industry. The Union has been unwilling to stand firm on its proposals and has been consistent only in one respect: it has demanded and it now demands special treatment, including the granting of wage increases far in excess of any which have been granted in any industry on the Pacific Coast and far in excess of those which have been granted in American industry generally. It demands that the shipping industry, the largest portion of which is in direct competition with the railroads and which is bound by practical considerations to maintain tariffs lower than those of the railroads, grant wage increases far greater than the 16¢ per hour recommended for the railroads and upon which railroad tariffs will be based.

When analyzed, the Union's claim to this special treatment is based entirely upon the Davis' Award in New York and upon the argument that there should be parity between New York and San Francisco. We do not know why nationwide parity should be regarded as necessary or desirable for the stevedoring industry when it is not recognized as necessary or desirable for others; but even assuming parity to be a desirable end, the simple fact is that it is not achieved by superimposing New York wage rates upon Pacific Coast hours, working rules, trade characteristics and economic and other conditions.

There is nothing whatever in the record to justify the conclusion that the employer offer would not achieve substantial parity between Pacific Coast and New York earnings possibilities. On the other hand, there is considerable evidence to justify the conclusion that the employer offer, combined with the hour structure and other characteristics of the Pacific Coast contract, is calculated to produce for Pacific Coast longshoremen earnings higher than those of any in the country.

The wage offer of the Employers is not based upon any idea that the uncertain future justifies so large an increase; it was made solely because National Wage Stabilization policy seemed to require

it, and it was conditioned upon the acceptance by the Union of proposals which are calculated to enable some of the money which has heretofore been wasted by work stoppages and low production to go into wages. We believe that the merit of the Employer proposals is apparent upon their face.

Respectfully submitted,

GREGORY A. HARRISON,
MARION B. PLANT,
BROBECK, PHLEGER & HARRISON,
Attorneys for Waterfront Employers Association of the Pacific Coast.