

Arbitration Award 08/18/1939 San Pedro Safety

IN THE MATTER OF A CONTROVERSY BETWEEN

WATERFRONT EMPLOYERS ASSOCIATION,
COMPLAINANTS

AND

THE INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, DISTRICT #1, RESPONDENTS

Involving question as to whether proposed adoption of Pacific Coast Marine Safety Code for San Pedro harbor raises coastwise or local issue.

ARBITRATOR'S AWARD

Mr. Gregory Harrison

For Complainants

Mr. Clifford D. O'Brien

For Respondents

WAYNE L. MORSE

Coast Arbitrator

Eugene, Oregon

August 18, 1939

ARBITRATION AWARD

I.

FACTS

The record of this case shows that at a series of meetings of the Labor Relations Committee of the Port of San Pedro, starting on April 11, 1939, and including meetings held on April 18, May 2, May 6, and May 9, 1939, the parties discussed a proposal of the union that the Pacific Coast Marine Safety Code be adopted as the safety rules for the Port of San Pedro. At the meeting on May 6, 1939, the union representatives introduced a formal motion "that the Pacific Coast Marine Safety Code be officially adopted by the Labor Relations Committee of Los Angeles and Long Beach harbor."

The representatives of the employers proposed the following amendment to the union's motion; namely, that the motion be adopted "subject to the approval of the I.L.W.U. of San Francisco and the Coast Committee of the employers at San Francisco". A final consideration of the union's motion and the employers' amendment was postponed until the May 9, 1939, meeting of the committee.

At the meeting of the Labor Relations Committee held on May 9, 1939, the representatives of the union informed the representatives of the employers that the union had been instructed to take up the question of the adoption of a safety code on local, rather than a coastwide basis. It appears from the record that the employers took the position that the issue was a coastwide, rather than a local, issue. It was then agreed that the question should be submitted to the coastwide arbitrator for determination.

II.

Issue

Does the proposal of the union that the Pacific Coast Marine Safety Code be adopted as the safety rules for the Port of San Pedro raise a coastwide or local issue?

III.

Decision

It is the decision of this arbitrator that the dispute between the parties over the adoption of a safety code is basically a coastwide problem and should, therefore, be arbitrated by the coastwide arbitrator. It is clear that the dispute over a safety code for the San Pedro harbor

involves many local implications and problems, but at the same time it involves the very broad question as to the respective rights of the parties under the agreement of October 1, 1938, concerning coast safety rules.

Section 11(g) of the agreement of October 1, 1938, provides that a safety code shall be negotiated by a Joint Negotiating Committee. It also provides that when a safety code is agreed upon by the Joint Committee, it shall become a part of the agreement of October 1, 1938. The section reads as follows:

"(g) The employers shall provide safe gear and safe working conditions.

"The Safety Code for longshore work, as finally approved and adopted by the joint Negotiating Committee, set up in Section (f), shall become a part of this agreement. The safety code shall, in addition to all other provisions, cover the subject of:

1. Stretchers on ships and docks to be used in case of accident
2. Sanitary facilities for water supply
3. Minimum requirements for space from hatch combing
4. Sufficient space for clearance of cargo
5. Minimum clearance between decks
6. Extension levers
7. Elimination of work on deck when hatches are not covered
8. Counter-weights on winch handlers

"If it is a question of convenience vs. safety - - "Safety First!"

If comfort vs. safety, then again - - "Safety First!"

If tonnage vs. safety, then again - - "Safety First!"

It is true that section 11 (g) refers to the Joint Negotiating Committee provided for in section 11 (f), so far as it deals with dispatching or working rules, should not be confused with the coast safety code. Specific provisions relating to dispatching and working rules are referable under section 11 (f) to the local Labor Relations Committee where coast rules are not established within the 60-day negotiating period. However, the agreement does not provide that the question of the adoption of a safety code may be referred to local Labor Relations Committee. Rather, the agreement makes clear that the parties intended to refer safety code problems to a Joint Negotiating Committee for consideration on a coastwide basis.

It is true that the Joint Negotiating Committee referred to in section 11 (g) of the agreement of October 1, 1938, has not to date agreed upon a coastwide safety code. Its failure to do so makes the matter now one subject o arbitration if either party wishes to press the issue because clearly it was not contemplated that the industry was to continue without a safety code if negotiations in the Joint Committee should break down.

Then, too, it is to be noted that section 9 of the agreement of October 1, 1938, provides that the coastwide arbitrator shall have jurisdiction over coastwide questions, and the matter of a safety code is clearly such a question. That is true even though the safety code problem has many local implications. However, it is to be understood that if the safety code problem is arbitrated on a coastwide basis it would be within the jurisdiction and power of the arbitrator to take into account local port conditions and differences among the several ports and in accordance therewith provide for exceptions to any general coastwide code that he might authorize.

Therefore, it is the decision of this arbitrator that if and when the parties to the agreement of October 1, 1938, decide to arbitrate any dispute over safety rules which shall govern the Port of San Pedro, or any other port within the agreement, the arbitration hearing shall be held before the coastwide arbitrator.

Respectfully submitted,

(signed) Wayne L. Morse

WAYNE L. MORSE

Coastwide Arbitrator