

SPECIAL MESSAGE BY
GOVERNOR ALFRED E. DRISCOLL
TO THE
177TH LEGISLATURE OF THE STATE OF NEW JERSEY

PROPOSED LEGISLATION RELATING TO THE WATERFRONT OF NEW YORK HARBOR.

Mr. President, Mr. Speaker, Members of the Senate and General Assembly:

By acting together with the State of New York, we hope to drive the gangsters and hoodlums off the waterfronts of New York harbor. I am proposing legislation to give the honest, hard-working longshoreman a chance to earn a living free of the coercion, intimidation and discrimination of the criminal element which has infested the piers in the Port of New York district. It will free shipping in the Port from the illegal toll of bribery, pilferage and gangsterism which is a real threat to the successful operation of our great port facilities. The ultimate consumer of goods will gain since the illegal levy of corruption on the waterfront must eventually show up in the cost of food, fuel and the other necessities handled through the piers.

In the latter part of 1951, Governor Thomas E. Dewey and I discussed this subject at length and agreed that the two states should mobilize their forces in an unrelenting drive against racketeering, organized crime and restrictive practice which have increasingly hamstrung the Port of New York. Immediately after its creation in 1952, the New Jersey Law Enforcement Council cooperated with the New York Crime Commission in the study and investigation that was being made by that Commission. As a result of these investigations, a number of very important reports and Grand Jury presentments have been made with specific recommendations which have received our earnest consideration and, I believe, general approval on the part of the public.

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The record of these official investigating bodies points to an appalling neglect or inability, for as much as thirty years, on the part of the shipping industry to rid itself of crime and corruption that have been preying upon the port area. Considering that the very lifeblood of the nation, as well as of the two states of New Jersey and New York, flows through the Port of New York, it is apparent that government must step in to restore ordinary honesty on the piers for the good of everyone concerned. The industry itself now recognizes that state regulation is necessary and desirable.

All investigations agree upon the urgent necessity of certain remedies: the method of hiring longshoremen known as the "shape up" must be outlawed; the public loading racket, which has been used as an aid to theft, pilferage and extortion, must be abolished.

Those holding key jobs on the docks and piers such as pier superintendents, hiring agents and port watchmen must be carefully licensed to rid the port of the gangsters and criminals who have used these jobs for their own purposes. It is also essential to eliminate corrupt practices by stevedoring companies to induce their hire by carriers or to induce officers and representatives of labor organizations to betray their trust to their members. Loan sharks, goons and hoodlums who have preyed upon longshoremen must be driven off the waterfront.

It is now proposed to create an interstate commission to free the port district from the domination of gangsterism and to protect and promote the great economic assets of our country. The situation confronting the States of New Jersey and New York is unique and, hence, calls for a unique solution. We are now given an opportunity to terminate the malicious exploitation of labor and industry which has cast an evil shadow over the port, handicapped its development and made it difficult for both labor and industry to perform efficiently their normal and proper functions.

A main purpose of the bill is to protect labor from intimidation and violence. Of equal note, is the assurance that the proposed compact offers to employers that they may conduct their business in the open in an orderly manner, likewise without fear of intimidation, coercion or the threat of being compelled to pay tribute.

The cost involved is very small to pay for the security that can be achieved by the elimination of the abundant opportunities for extortions that exist under the present way of operation.

Of primary importance, the shipping industry may fairly be expected to accept its full measure of responsibility for tolerating or condoning conditions as they are, and to cooperate fully in this joint effort of the States of New Jersey and New York to restore law and order to the Nation's greatest port. Within the scope of this legislation, labor and management are given a new opportunity to work out effective procedures to arbitrate their differences without the frightful costs of strikes and work stoppages. If full advantage is taken of this opportunity, after there has been a reasonable time to test the value of the law and the ability of the industry to place its own house in order, the whole problem may be reappraised in the light of future conditions.

A summary of the proposed act "to establish a Waterfront Commission of New York Harbor", is attached.

Respectfully submitted,

Alfred E. Driscoll
GOVERNOR.

ATTEST:

Russell E. Watson, Jr.,
Secretary to the Governor

Trenton, June 22, 1953.

SUMMARY
OF
AN ACT

to establish a Waterfront Commission of New York Harbor and authorizing a compact between the State of New Jersey and the State of New York for the establishment of such a Commission

The Act authorizes a Compact between the States of New Jersey and New York to improve waterfront labor conditions in the Port of New York District, establishes a bi-state commission to administer the plan, and provides that in the interim, until Congress grants its consent to the Compact, the two states may separately but cooperatively place the program in operation.

THE COMPACT

The proposed Compact is set forth in the sixteen articles which make up Section 1 of the bill.

Legislative Findings

Article I contains legislative declarations and findings which reflect the conclusions of the New Jersey Law Enforcement Council, Hudson County Grand Jury presentments, our Department of Law and Public Safety, the report of the New York State Crime Commission on the Port of New York waterfront and the record of the public hearings held thereon by Governor Thomas E. Dewey on June 8 and 9, 1953. In substance the findings are that the methods now used in the Port of New York District for hiring waterfront labor, and the conduct of the businesses of public loading and stevedoring are uneconomic, unjust and degrading insofar as the worker is concerned, foster waterfront crime and corruption, and adversely affect the economical and expeditious handling of port commerce. Accordingly, it is declared that the present practices of public loaders must be eliminated and that the occupations of stevedores, pier superintendents, hiring agents, pier watchmen and longshoremen must be regulated in the public interest.

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Basic Plan

The plan to improve waterfront labor conditions has five basic features:

1. Licensing of pier superintendents and hiring agents, - only persons of good character (convicted criminals are barred for at least five years) will be licensed for these key positions. The license must be requested by the employer concerned, is good only for the duration of the employment and may be revoked for specified cause;
2. Licensing of stevedores and port watchmen;
3. The abolition of "public loading;"
4. Registration of longshoremen, - the right to register is absolute unless the person has been convicted of a crime (but this disqualification may be waived by the Commission) or is engaged in subversive activity or unless his employment on the waterfront is clearly likely to endanger the public peace or safety. Longshoremen who are not attached to the waterfront labor market may be dropped from the register under specified conditions thus providing more and steadier work for and increasing the earning capacity of those who depend on this work for their livelihood;
5. Operation by the Commission of regionally located employment exchanges for registered longshoremen and licensed port watchmen, replacing the wasteful and inhuman "shape-up" method, providing information as to available employment and flexibility in obtaining such employment, but without interference with employer-employee freedom of selection or with provisions of collective bargaining agreements.

The rights of licensees and registrants are carefully protected by procedural safeguards set forth in Article XI including hearings, court review and other requirements for the protection of the individual.

The Waterfront Commission

Article III creates the Waterfront Commission of New York Harbor. The Commission consists of two members, one from each State appointed by the Governor with the consent of the Senate, to serve for a term of three years. It is contemplated that they may be compensated either on a full time or per diem basis dependent upon whether the office will be a policy making one with administration delegated to an Executive Director or a full time executive assignment.

Appropriate provision is made for the transfer of civil service employees to service with the Commission without loss of Civil Service or retirement privileges.

The general powers of the Commission as set forth in Article IV are to make rules and regulations to carry out the statutory plan, to administer oaths and issue subpoenas, to have access to the waterfront in the performance of its duties, to investigate waterfront practices in the port district and to advise and consult with other public officers and with representatives of labor and industry on matters within its jurisdiction, including problems involved in rule making, in the granting and denial of registrations and licenses and in the maintenance of the longshoremen's register. The Commission is required to report annually to the Governors and Legislatures of both States and to make recommendations for the improvement of the conditions of waterfront labor within the port district.

In order to insure that public regulation of waterfront labor practices shall not unnecessarily continue once law and order has been restored to the waterfront, the Commission is expressly required to include in its Annual Report findings as to whether the public necessity still exists for continued registration of longshoremen, licensing of the other waterfront occupations and public operation of the employment information centers.

Licensing of Pier Superintendents and Hiring Agents

Article V requires that on and after December 1, 1953, any person who wishes to act as a pier superintendent or hiring agent for a shipping company or stevedore at a pier or other waterfront terminal within the port district must be licensed. Because pier superintendents and hiring agents are, or should be, key supervisory representatives of the employer for whose acts the employer should be held responsible, the application for these licenses is to be made by the prospective employer. A person is

disqualified for either of these licenses if he has been convicted of a felony or high misdemeanor or of the following violations of law which, while less serious in themselves, make him a bad risk for waterfront employment: - illegally using, carrying or possessing a dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry; aiding an escape from prison; unlawfully possessing or distributing narcotic drugs and previous violation of the Compact. However, if a person so disqualified submits satisfactory evidence of good conduct for at least five years, the Commission may waive this statutory disability.

Additional grounds for disqualification for a license as a pier superintendent or hiring agent include subversive activities by the applicant or a finding that he is not a person of good character or integrity.

The term of a pier superintendent's or hiring agent's license is tied to his employment by the employer-applicant. However, it may be revoked or suspended or he may be reprimanded for the following specified causes: - violation of the Compact; conviction of a crime or other cause which would have been disqualifying originally; consorting with criminals for an unlawful purpose; fraud in securing the license or while acting thereunder; addiction to or trafficking in narcotic drugs; violation of the Compact; bribing public officers or anyone else to violate their duties under the Compact; unwarranted giving of his license to someone else; impersonation of another licensee; accepting a bribe in connection with his work; coercion of longshoremen; lending money to or borrowing money from a longshoreman for a fee.

Pier superintendents and hiring agents are ineligible for membership in any union which represents longshoremen.

Stevedores

Article VI requires that on and after December 1, 1953 all stevedores in the port district must be licensed. The license application must fully

disclose the real parties in interest. A license will be granted if the Commission is satisfied as to the good character and integrity of the real parties in interest and if the applicant is a bona fide stevedore, that is to say that he has, or will, if licensed, have a contract with a shipping company to load and unload the company's ships at a pier in this port.

Prior conviction of the same serious crimes which disqualify pier superintendents and hiring agents also disqualify a stevedore. The Commission is authorized to waive this disqualification upon a showing of at least five years' good conduct. Additional grounds for disqualification in the case of stevedores are prescribed to accord with the Crime Commission's specific findings of abuses and evils now prevalent in this industry. These include payments made for an improper or unlawful purpose and are designed to reach the payment of bribes to a shipper to obtain a stevedoring contract or to a union representative to betray his trust.

Public Loading

Article VII sets forth the States' policy against "public loading" and reviews the compelling policy reasons for abolition of the public loader system. Under the bill loading service will be performed in the port of New York as it is in every other major American port -- by water carriers; operators of piers and other waterfront terminals at their own facilities; railroads, truckers, and other carriers in connection with freight being carried by them; shippers or consignees in connection with their own freight; and licensed stevedores, in the regular course of business, and through their own employees.

Longshoremen

A longshoremen's register is to be established by the Commission by December 1, 1953. Article VIII sets forth the provisions with respect to the registration of longshoremen.

There is no fee for registration and no special qualifications are prescribed. The applicant must provide his name, address, social security number and such further facts as may be needed to establish his identity and criminal record, if any.

Conviction of certain serious crimes or engaging in subversive activities is made basis for disqualification. The Commission, however, may waive the disqualification in a proper case and it may register a longshoreman even though he has previously been convicted of a crime.

In the light of the Crime Commission's disclosures of the activities of known waterfront gangsters who have so far escaped being convicted of crime, provision has been inserted to permit the Commission to deny registration as a longshoreman to a person "whose presence on the piers or other waterfront terminals in the port of New York district is found by the Commission, on the basis of the facts and evidence before it, to constitute a danger to the public peace or safety."

A longshoreman may be removed or suspended from the register only for specified cause. In such case he is entitled to a hearing before the Commission, Counsel, his own witnesses, and court review. The causes specified are similar to those specified for removal of hiring agents and wilful acts involving physical injury to a person or damage to or misappropriation of property at a waterfront terminal.

Article IX contains the provisions designed to permit purging the longshoremen's register periodically of drifters and floaters who, although they are not bona fide longshoremen, have been permitted under the present system to take work away from longshoremen who depend on it for their livelihood.

For each six months' period, and in advance, the Commission will establish the minimum number of days a man must work or offer himself for work as a longshoreman in order to stay on the register. A person failing so to qualify will be dropped on ten days' notice and cannot again be registered for one year unless he can show that his absence was occasioned by military service, sickness or other good cause.

Port Watchmen

Port watchmen will be licensed pursuant to Article X. Applicants must not only possess qualifications similar to those prescribed for pier superintendents, but must also meet reasonable standards of physical and mental fitness. Since these port watchmen are security officers, prior criminal conviction is an absolute bar to a license. Because of the nature of their duties, port watchmen are not permitted to belong to the same union as longshoremen or pier superintendents or hiring agents.

The term of the port watchmen's license is three years and is not tied to a particular employment. The grounds for revocation or suspension are basically the same as those for pier superintendents and hiring agents.

Hearings and Court Review

Article XI safeguards the rights of licensees and registrants by prescribing procedures for Commission hearings and assuring court review of Commission determinations. A registered longshoreman or any licensee must be given notice of any charges made against him and is entitled to a hearing at which he may have counsel and cross examine witnesses and the licensee or longshoreman can require the Commission to subpoena witnesses requested by him. At least ten days' advance notice of such a hearing must be provided.

The refusal to register a longshoreman or issue a license cannot be effective until after opportunity has been afforded for such hearing and any Commission determination affecting the right to work is subject to court review. The reviewing court is granted power to stay the Commission's action for thirty days. No provision is incorporated in the bill which makes refusal to testify or refusal to answer questions, without other cause, grounds for refusing or rescinding a license or registration.

Employment Information Centers

Article XII authorizes the Commission to establish employment information centers throughout the port district to replace the "shape up".

All hiring of longshoremen and port watchmen will be through these publicly operated centers. The employer would have freedom of choice in the selection of employees at such centers but there would be no interference with normal and proper hiring practices, including the gang or unit system, or procedures established under collective bargaining agreements not inconsistent with the requirements of the Compact. The Commission will establish a system of records and communication with employers and workers designed to provide the maximum possible information as to available employment for longshoremen. The Commission is empowered to obtain any Federal assistance that may be available under the Wagner-Peyser Act for the operation of the employment centers.

Expenses of Administration

Article XIII and other sections of the act adopt the principle of charging the cost of administration upon the basis of service received. The Commission will prepare an annual budget of estimated expenses and assess the cost, over federal or other contributions, against the employers of the registered and licensed waterfront employees in proportion to their

gross annual payments to such employees. The rate of assessment may not be more than two per cent of the payroll payments. Expenses of the Commission, in excess of amounts produced by two per cent payroll assessment will be met by the two States, proportionately, out of general revenues. Until the Commission is jointly established by the two States, or July 1, 1954, whichever is earlier, the rate will be one and one-half per cent in each State.

The budget of the Commission may be reduced or modified by the Governor of each State. In addition, the Commission may establish procedures to enable employers to protest budget estimates and computations of the rate of assessment.

It is felt that the savings to employers and consignees which may be obtained through a reduction in pilferage, the elimination of "phantom" employees from the payroll and other exactions and levies on commerce will greatly exceed the cost of administration of the waterfront commission program.

Violations

Article XIV concerns general violations of the Compact and prosecutions and penalties therefor. Contempt is made punishable in accordance with normal judicial process. Wilful, false statements under oath are constituted as perjury and other violations of the Compact or attempts or conspiracies to violate it are made punishable as is interference with the orderly registration of longshoremen.

The statute also prohibits loitering on the waterfront without satisfactory explanation. The language for this section is taken from comparable provisions of law which presently exist in both states.

Section 8 prohibits the collection of funds for waterfront labor unions having officers or agents who are convicted felons unless they have been subsequently pardoned or have received a certificate of good conduct from a board of parole or similar authority.

Collective Bargaining Safeguarded

There is nothing in the statute which is designed or can reasonably be construed to interfere in any way with the right of the waterfront industry to select its own employees, or with the right of industry and labor to bargain collectively and agree on any method for the selection of longshoremen and port watchmen by way of seniority, experience, regular gangs or otherwise in conformity with the license, registration and employment information center provisions of the statute. Because of apparent misunderstanding of this point within the shipping industry, an express declaration to this effect has been included as Article XV in the Compact.

Similarly, Article XV includes an express statement that the statute is not designed and shall not be construed to limit labor's rights.

The Interim Arrangement

Since there could be some delay in procuring Congressional consent, the statute in each State provides for a single-state commission to perform within that State the functions of the bi-state commission until Congressional approval of the Compact is obtained. The bill is so drafted that a single commissioner will be able to function in each State from the time of enactment of the bill.

Section 3 authorizes the Commissioners from each State to work in the closest possible cooperation with each other to effectuate the purposes of the Act.

The bill also provides for a returnable cash advance by each state, to provide for expenses of administration pending the assessment of such expenses against employers in accordance with the Compact.

The licensing, registration and employment center provisions of the bill do not become operative until December 1, 1953.