

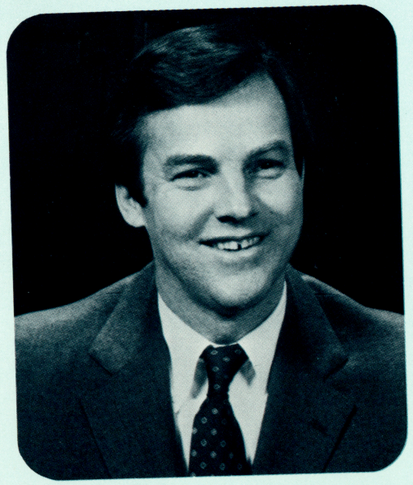
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WATERFRONT COMMISSION of NEW YORK HARBOR

1982–1983

ANNUAL REPORT



To the Honorable Thomas H. Kean, Governor, and the Legislature of the State of New Jersey



To the Honorable Mario M. Cuomo, Governor, and the Legislature of the State of New York

We are pleased to forward the Annual Report of the Waterfront Commission of New York Harbor for its fiscal year 1982-1983, containing highlights of the Commission's activities and observations concerning its administration and enforcement of the Waterfront Commission Compact between the States of New York and New Jersey.

ANNUAL REPORT
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THE WATERFRONT COMMISSION OF NEW YORK HARBOR

AN INSTRUMENTALITY OF THE STATES OF NEW YORK AND NEW JERSEY

sion of Employment Information Centers. On the afternoon of the day before the actual employment, over 3,000 registered dock workers will telephone these centers to ascertain if they have been "ordered" for work the following morning. Those persons not ordered will personally appear at the employment halls prior to 8:15 A.M. in the morning where the hiring of "fill-ins" for absentees and additional workers is conducted. Additional hirings often take place at 1 P.M. for afternoon "fill-ins" and at 7 P.M. for evening employment.

The Audit and Control Division plays an integral part in the Commission's law enforcement functions. Composed of accountants, the Division examines the books and records of persons and businesses under investigation by the agency; audits the records of applicants for licenses as stevedore firms; inspects the payroll accounts of waterfront employers to insure the accuracy of assessment reports submitted to the Commission; and enforces the record-keeping standards required of licensed stevedores.

The Commission's Division of Administration furnishes stenographic, court reporting and clerical services for the other divisions, and maintains the personnel and other administrative records of the agency.

During the past year, the Commission operated with a staff of 171 employees. Its budget, required under the Compact to be approved by the Governors of New Jersey and New York, was $6,542,503. In administering its functions, the Commission disbursed $6,055,120, or $487,383 under its budget.

THE PORT

The Port of New York–New Jersey continued its leadership over all other harbors in the nation in the value of oceanborne cargo handled during 1982. While decreasing some $3 billion or 6.9% from the previous year's record high, the Port handled a total of general and bulk oceanborne freight valued at $42.2 billion. This was $5 billion more than the second ranking port, Houston. The harbor's value per ton of general cargo was almost 90% higher than the national average.

During the year, the Port of New York–New Jersey led all other ports in the export of 26.2% of the nation's 1983 general cargo export commodities and in the import of 38.9% of the 180 general cargo import commodities. It handled a total of 43 million long tons of oceanborne cargo; each long ton being 2,240 pounds. The leading export cargoes included waste paper, plastic materials, general machinery and motor vehicles. Chief among import commodities were bananas, which increased 16.7% from the previous year, alcoholic beverages, motor vehicles and coffee.

During 1982, the Port increased its share of handling oceanborne general cargoes with respect to the North Atlantic Ports, ports extending from Portland, Maine to Norfolk, Virginia, and, including among others, New York–New Jersey, Baltimore, Philadelphia and Boston. Its share of moving such cargoes expanded to 47.3% from 45.8% in 1981.

Consistent with its reputation as the nation's container capital, the Port handled almost twice as much containerized cargo in 1982 as the second ranking port in the nation handling such cargo. Indeed, the Port of New York–New Jersey moved over 56% of the container cargo tonnages in the North Atlantic Coastal District (which includes ports from the northern border of Maine to the Virginia–North Carolina border) and over 19% of waterborne container tonnage in the United States.

The Port's vessel activity between July 1, 1981 and June 30, 1982, saw more than 12,000 arrivals and departures, including containerships, break-bulk carriers, autocarriers, roll-on/roll-off vanships and passenger vessels.

The harbor's facilities include almost 2,800 acres of marine terminals and 71,000 linear feet of wharfage. Its 35 cranes handling containerized cargo is more than three times the number of other North Atlantic ports. Within the Port District there are 234 municipalities; 17 counties, and an immediate consumer market of over 15 million persons. It is estimated that some 154,000 people in the region are employed in waterborne commerce activities.

During the waterfront industry's collective bargaining contract year (October 1, 1981 through September 30, 1982), 8,847 registered longshoremen and cargo checkers (excluding those dock workers registered to perform services incidental to the actual movement of freight) earned $293,712,235 in regular and overtime wages, guaranteed annual income payments, and vacation and holiday monies.

This represented average annual earnings for the 8,847 pier workers of $33,199. During the prior contract year, 9,629 of such registered workers earned $291,025,544, for an average income of $30,223.

THIS YEAR

This past year saw increasing concern with respect to the competitive status of the Port of New York–New Jersey. While historically the leader in the movement of the nation's waterborne commerce, high labor costs and other economic conditions in the past decade have begun to threaten the Port's position of supremacy and eclipse its future.

To examine the causes for the decline of the Port, particularly on the New York side, and to explore proposals for its revitalization, public hearings were held jointly by the New York Assembly Committees on Corporations, Authorities and Commissions and on Waterfront Development. Various government agencies, including the Waterfront Commission, representatives of management and labor, and other persons concerned with the Port were invited to express their views.

The Commission's analysis of the Port's problems was contained in a statement delivered at the hearing by Commissioner Nicholas Scoppetta.

The Commission first observed that while the Port still maintains its dominance as the leading harbor in the nation with respect to the value of total oceanborne cargo, such fact should not deter those interested in the well-being of the harbor from publicly examining its problems. Recognizing that the major reason shippers look to other ports or other means of transporting their merchandise is to reduce their costs, the agency expressed its concern that the Port of New York–New Jersey was acquiring a reputation as expensive. Thus, the media had been reporting that the average cost of moving a 40 foot cargo container through the Port was up to $240 more than in some other ports.

It was generally accepted that a number of factors adding to the high cost of doing business in the Port were the result of collective bargaining between waterfront management and labor. As the Commission observed, in the give and take of labor negotiations, agreements are reached which, through desirable at the time they are first entered into, may in subsequent years become detrimental to one or both parties to the agreement or to the industry as a whole. As the prime illustration, it was the agency's opinion that the cost of the guaranteed annual income (or GAI) in the Port had become inordinately high and had become the prime factor for high labor costs in the Port.

Since 1966, longshoremen and checkers have been guaranteed an annual income at the hourly rate of pay in effect under the collective bargaining agreement, whether they actually work or do not work. Originally based on 1600 hours a year, in 1969 it was raised to 2,080 hours a year, or 40 hours per week. This labor-management agreement was the result of a technological change in the maritime industry of transporting and handling cargo not by individual piece, but by container, which required fewer workers. The guarantee was granted by management in return for an acceptance by labor of automation and a reduction in the size of work gangs from 21 longshoremen to 18.

As the Commission noted, philosophically there can be little quarrel with assuring a worker that he will not lose his livelihood because of automation. However, through the years, the cost of the GAI became an enormous burden to this Port. For various reasons, other ports did not experience a commensurate rise in GAI costs. Thus, in the contract year ending September 30, 1983, with longshoremen entitled to an annual guarantee of $29,120, which included holiday and vacation payments, it cost the industry some $79.7 million for longshoremen and checkers not working.

By contrast, in 1967, the first year the GAI was paid, the direct GAI payments and vacation and holiday benefits related to GAI totalled $266,000. Five years later, in 1972, the total was almost $21.3 million; five years after that, in 1977, the total was close to $41 million; and, in 1983, as stated, it was some $79.7 million.

Without even including the costs to the industry of administration, which the Commission estimated were in excess of a million dollars a year, the GAI, since its inception some 17 years ago, has cost the Port of New York–New Jersey more than $532 million in direct payments and vacation and holiday fringe benefits related to it, for work not performed.

As the Commission reported to the legislative committees, the cost of GAI, $79.7 million, is equivalent to approximately 2,700 longshoremen, out of an active work force of about 8,400, drawing full yearly payments of $23,968 in direct GAI payments, $3,360 in vacation monies, $1,792 in holiday payments, or $29,120. In addition, those 2,700 longshoremen would each also receive $1,800 in container royalty payments, for total payments of $30,920, for not working one single day.

Thus, the equivalent of about 32% of the available work force in the Port was receiving full yearly pay and benefits for not working. As the Commission stated, no industry can absorb such enormous, non-productive costs over a protracted period of time.

The agency gave several reasons why the GAI payments are an important factor in the declining competitive position of the Port.

1. The GAI is not provided for in the ILA's master contract with the 36 ports in which it represents dock workers; it varies from port to port. The guarantee in competitive ports is substantially less than in New York–New Jersey. In addition, when GAI took effect, there were many more longshoremen in this Port eligible for such

payments than in any other port. In addition, automation or containerization had a dramatic impact on the Port of New York–New Jersey, with an estimated 80% of the cargo handled in the Port now being containerized. Obviously, other ports, which had only a fraction of the break-bulk tonnage of our Port and a fraction of the size of our work force, were not affected as significantly by containerization. Thus, the number of persons eligible for the guarantee in other ports is significantly lower than it is in the Port of New York–New Jersey.

2. This Port is the only ILA Port which has categories or classifications of longshore labor. A longshoreman in a particular job category is generally not obliged to work in a different category. Hence, a longshoreman with a classification as a terminal laborer is not required to work in the hold of a vessel, despite the fact that there may not be terminal work for him and that there may be a shortage of persons to work in the hold. And, he, the terminal laborer, who can refuse to work, would still be entitled to a guaranteed income of over $29,000 a year and other benefits for not working.

3. The Commission further reported that the Port has been ineffectual in fully utilizing its work force. For many years the work rules of labor and management restricted the movement of longshoremen from one area of the harbor to another, thus creating surpluses of labor in some areas and shortages in others. In addition, there was a resistance by certain employers in some areas to utilize longshoremen from other parts of the Port, based on claims that employees who were forced to travel to their jobs from other areas of the Port were not productive. Moreover, the Commission described attempts by management and labor to bring new people into the industry to fill vacancies in certain categories, thereby increasing costs, rather than utilize longshoremen already in the industry who were not working but collecting the guaranteed annual income.

4. One of the side effects of the guaranteed annual income had been to discourage longshoremen from retirement. With a guarantee matching 2,080 hours at the hourly pay rate, obviously few dock workers were willing to accept a much lower pension in lieu of full yearly salary payments.

5. GAI has always been identical to the hourly wage paid to working longshoremen under the collective bargaining agreement then in effect. Despite the continuing rise of GAI, the parties have never agreed to place a cap or limit on the guarantee; a measure which might have induced eligible longshoremen to consider retirement.

6. When the guaranteed annual income provision of the collective bargaining agreement was negotiated to take effect in 1966, it was obviously designed to safeguard the longshoremen and checkers then in the industry against the inroads of containerization. However, since 1966 the guaranteed annual income benefit has been extended to more than 2,000 persons who entered and remained in the industry as longshoremen and checkers after the provision was negotiated; persons not being displaced by containerization.

Through the years management recognized that the major economic problem in the Port was the guaranteed annual wage. In October, 1971, the New York Shipping Association stated that the survival of the Port as a viable economic unit was related to GAI. And, several years later, in 1974, the NYSA stated that GAI was the primary labor cost causing the cost of moving cargo over a New York waterfront terminal to be much higher than that of neighboring ports.

However, it was not until very recently, as a result of the rising tide of public concern for the Port's future, that some efforts by the industry were initiated to stem the tide of high costs. Thus, in a recently concluded collective bargaining contract between management and labor it was provided, among other agreements, that dock workers over the age of 70 shall not qualify for the guaranteed annual income. It was also stipulated that, while employees 65 years of age or over who qualify for social security would continue to be eligible for GAI, the amounts they would have received from social security would be deducted, in addition to other deductions specified under the contract.

What, if any, significant impact these and other new collective bargaining provisions will have on the competitive status of the Port will be assessed within the next year.

Legislation

The Commission advised in its last report of the renewed effort by the International Longshoremen's Association and the New York Shipping Association to terminate the agency's authority to effectively oversee the hiring of dock workers and to balance the size of the labor supply in the Port. Bills, designed to accomplish these purposes and sponsored on behalf of the ILA and NYSA, were introduced in both the New Jersey and New York Legislatures.

One bill sought the termination of the Commission operated employment information centers, through which the agency monitors the hiring of longshoremen and checkers. The proposed legislation would have permitted the NYSA and ILA to jointly establish, by themselves, a hiring system controlled by a labor-management board.

The other bill sought to rescind the Commission's present authority to regulate the number of registered dock workers in accordance with the demands of the Port for labor, and vest this power in the ILA and NYSA.

As the Commission apprised the Legislatures of both States, the proposed legislation would have eliminated important reforms in the Port. Thus, through the government-monitored employment centers, a non-discriminatory hiring system has been operating successfully for many years and kickbacks to obtain dock work have been eliminated. Further, there was no evidence that a change in this system would improve on any of the benefits that have accrued to the Port through the existing operation. With respect to the endeavor by the ILA and NYSA to control the size of the Port's labor supply, the Commission pointed out that an oversupply or undersupply of labor could have a serious effect on the economy of the harbor and that the authority to regulate such labor supply should be exercised by a responsible government agency with the public interest in mind, and not by private parties who may be motivated to act in their own interests. In addition, the bill would have repealed the present law's provisions for fair employment opportunities by eliminating the requirement that applications for waterfront registration be processed on a first-come, first-served basis.

Moreover, as the Commission advised the legislators, the ILA has not demonstrated that it should be given responsibility over hiring, or the size of the dock labor register, since within the past few years over 30 officials of the ILA and its locals have been convicted of crimes related to waterfront activities. The offenses included labor racketeering, the embezzlement of union monies, extortion, perjury, demanding and accepting prohibited payments from employers and income tax fraud. A number of waterfront businessmen were also convicted of dock-related crimes during this same period.

Hearings and conferences on the bills were held before legislative committees in New York and New Jersey. In New York, neither bill was reported out of committee. In New Jersey, both bills were passed by the Legislature but were vetoed by Governor Thomas H. Kean.

In disapproving of the bill to terminate the Commission's operation of the longshoremen employment centers, the Governor stated in part:

> "[The] bill fails to spell out how this [proposed] new telecommunications system would work and provide a system to protect against fraud and deception . . . My concern with this bill is that while the proponents say it will make our Port more competitive, to the extent it could be abused, it may, in fact, have a negative impact on the economic growth of the Port and may have a deleterious effect on tens of thousands and thousands of jobs in the bi-state region that rely on a strong and healthy Port."

In his veto message of the legislation designed to terminate the agency's authority to regulate the Port's labor supply, Governor Kean wrote:

> "My concern with this bill is that it weakens the statutory power given to the Commission some thirty years ago, a Commission that has carried out its major statutory obligation of providing a work force that balances the supply of labor with the demand for labor to effectively and efficiently serve the Port. This bill takes the statutory power to regulate the size of the work force away from the Commission and gives it to the ILA and the NYSA. This bill does not include public hearing requirements of current law regarding the consideration of the views of other affected parties or even purport to provide criteria for determining the size of the work force. This bill may lead to a further decline in the competitiveness of our Port because there is no consideration of the effect on thousands and thousands of other people tied to the economic growth within the region such as trucking firms, importers, exporters, etc.
>
> "I am also concerned that relinquishing control over when the register can be opened from the Waterfront Commission to the ILA and the NYSA may have a deleterious impact on the growth of the guaranteed annual income (GAI) and, ultimately, on the ability of our Port to compete with other ports."
>
> "Finally, the Waterfront Commission has established a practice that applications to be longshoremen are processed on a first-come basis. It is the actual filing of an application with the Commission that ensures the integrity of the process and determines *who* may be a longshoremen. No such corresponding procedure is set forth in this bill. This absence would have the effect of promoting nepotism and discrimination in hiring, two practices which would be a step backward for labor in our Port.

"The need for the Waterfront Commission still exists. There has been no evidence put forth that would warrant the extraordinary relief that this bill seeks. I reiterate that I am concerned with the potential impact this bill would have on the hundreds of thousands of jobs in the bi-state area that rely on a strong and healthy Port."

Coercion Investigation

Pursuant to its authority to examine waterfront conditions, the Commission instituted an investigation into whether some longshoremen in the Brooklyn area of the Port had been subjected to economic coercion to make contributions to the political action fund of their local dock workers' union.

Last year the agency detailed the extensive litigation emanating from the investigation. Thus, after receiving information that some longshoremen had been compelled to consent to a check-off authorization for donations to the political action fund, the Commission issued a subpoena to obtain the names of 450 dock workers who gave authorizations after an original group of 2,900 longshoremen had consented to the payroll deduction. The subpoena was challenged in federal court by the dock union and its political action fund. The United States District Court for the Southern District of New York, with the Court of Appeals for the Second Circuit affirming on appeal, ordered the disclosure to the Commission of ten percent of the names sought. Stays of this order were sought by the union, but were denied by the Court of Appeals and ultimately by the United States Supreme Court.

Thereafter, based on coercive tactics described to the Commission by a number of longshoremen who had been induced to make political contributions, the agency applied to the District Court for a modification of its order to obtain the names of additional dock workers. The Commission's petition was granted by the District Court and confirmed by the Court of Appeals, which further modified the order to include an equal number of additional names of longshoremen who did not authorize check-off deductions.

As the investigation continued, over 480 longshoremen were questioned by Commission staff counsel. Some dock workers stated that, even though they had not signed authorization forms, contributions to the political action fund had been deducted from their pay checks; others were unable to recollect whether or not they sanctioned such check-offs.

The Commission thereupon issued a subpoena duces tecum directing the employers' association making the payroll deductions to produce approximately 275 of the assignment forms. The employer organization and the Brooklyn dock union contested the validity of the subpoena in federal court. While the District Court ruled that the agency was not entitled to those forms executed by longshoremen who indicated "without equivocation" that they had signed and understood the forms, it directed the employers to deliver to the Commission the authorization forms of those dock workers who had insufficient recollection of signing the forms, of those who stated they had not signed but had monies deducted nonetheless, and of those who testified before the agency as to misunderstandings with respect to the forms.

The employers delivered the authorization forms to the Commission in compliance with the Court's order. The investigation is presently continuing.

Stevedore Investigation

In its last annual report, the Commission detailed an investigation into possible improper payments for the repair of a vessel's engine made to a firm seeking a stevedore license. Further inquiry by commission attorneys and accountants in the continuing investigation disclosed that the applicant corporation failed to accurately record in its financial records approximately $57,000 received from various customers. Moreover, the agency's probe revealed that the firm had duplicated petty cash expenditures amounting to over $10,000, had charged large personal items for an officer of the company as business expenses, including improvements to the officer's summer home, and had understated its gross revenue on a federal corporation income tax return.

Faced with an administrative proceeding to determine whether its request to operate in the Port should be granted, the prospective stevedore ceased all waterfront business activity within the Commission's jurisdiction and withdrew its application with prejudice. Such withdrawal enjoins the company from making any further application for a license without special permission from the agency. In addition, details of the investigation were referred to the Internal Revenue Service.

Insurance Scams

To thwart increasing insurance frauds, the Commission has instituted a procedure to verify whether used motor vehicles being shipped from the Port have been falsely reported as stolen. In addition to periodic observations of automobiles being stored at various piers for export, police officers of the agency regularly obtain schedules of motor vehicles being transferred out of the country and check these listings through the police information networks to ascertain if they are on theft reports. In the past year these measures have led to the recovery of a number of cars reported by their owners as missing and have foiled fraudulent insurance schemes.

* * *

In one case a routine examination by the Commission disclosed that a Porsche sports car was reported stolen several days after it had been shipped from the Port to Puerto Rico. Inquiry by special agents of the agency revealed that the vehicle was on the docks in San Juan awaiting further movement to the island of St. Croix. Suspecting an insurance fraud, the Commission arranged with Puerto Rican law enforcement officials to impound the automobile pending an investigation of the matter.

Additional investigation disclosed that the vehicle's owner had advised the New York City Police Department that his automobile was stolen from the parking lot of a hospital in which he was visiting a patient. However, the "theft" allegedly occurred five days after the owner had arranged for the export of the vehicle, had paid the shipping charges, and had delivered the vehicle to the pier. After reporting the theft, the owner had filed a claim with his automobile insurance carrier to obtain the proceeds of the policy under its stolen vehicle provisions.

The vehicle's owner was arrested by Commission detectives for attempted insurance fraud and filing a false police report. He later pleaded guilty to these charges. The agency's investigation also disclosed that several years previously the same individual had claimed that a Cadillac automobile owned by him was stolen and he had been paid $11,000 for the loss by a different insurance company.

* * *

In a similar case, special agents of the Commission discovered that a Cadillac automobile reported stolen near the Manhattan waterfront was actually aboard a vessel destined for England at the time the owner was giving the details of the alleged crime to the police. Working with the United States Customs officials, the Commission arranged to have the vehicle seized by officers of Scotland Yard upon arrival in Liverpool.

The owner of the vehicle was identified as a longshoreman who resided in Manhattan, but who had registered the vehicle in New Jersey, apparently to obtain lower insurance rates. The owner claimed that he had last driven his automobile on the day of the theft, although investigation by the agency revealed that at that time the vehicle had been on the high seas for two days. An insurance claim had been submitted by the owner within two days after the reported theft.

Commission detectives discovered that the vehicle had been driven to the pier for shipment to England by a long time friend of the vehicle's owner, who was himself an auto wholesaler. Upon conclusion of the investigation, the owner was criminally charged with attempted grand larceny, insurance fraud and making a false written statement. Several months later he pleaded guilty to attempted grand larceny in the third degree.

As in the prior case, this was not the first time the owner had reported one of his vehicles stolen. Two years before, he claimed that another Cadillac owned by him was missing and he recovered $10,000 from his automobile insurance company.

Since the vehicle's owner was a registered longshoreman, the Commission instituted an administrative proceeding to determine whether or not his license as a docker should be revoked. He did not contest the charges at the administrative trial.

* * *

The same pattern of fraud was uncovered by Commission detectives in still another case.

Ascertaining that a late model Jeep vehicle reported as stolen had been shipped by vessel from the Port to Bremerhavem, Germany, the Commission commenced an investigation with the cooperation of the Auto Crimes Unit of the New York City Police Department and the National Auto Theft Bureau. Checking the police reports of the alleged theft, special agents of the Commission discovered that the date the owner claimed to have last driven his automobile was three days after the vessel carrying the vehicle sailed from the harbor.

Further inquiry disclosed that the owner, using a fictitious name, had arranged for the Jeep to be shipped to Europe through an automobile freight forwarder. The director of the freight forwarding firm stated that, since he had a past business relationship with this individual, he did not adhere to his usual practice of obtaining a copy of the automobile's registration. He did claim to have examined the registration papers and stated that the ownership was in the name of another party.

After learning that the owner of the vehicle was processing a claim for payment with his insurance company for the alleged stolen vehicle, the Commission presented the details of its investigation

to the Police Auto Crimes Unit. The owner was then arrested for insurance fraud, attempted grand larceny and making a punishable false written statement.

* * *

Bad Timing

By regulation, every longshoreman and checker is required to have the registration identification card issued to him by the Commission on his person when working on the piers. In the past year the Commission has been updating these cards to include recent photographs of the registrants.

This updating proved to be a calamity for one registered checker. By coincidence, at the exact time he was having his photograph taken at the Commission's offices for a new card, two agents of the Federal Bureau of Investigation were in the office seeking information from the Commission as to his whereabouts. Upon being informed by Commission agents that the checker was in the adjoining room, the federal investigators arrested him on an outstanding warrant for loansharking and assault.

As a result of this arrest and a federal indictment issued against the checker and another longshoreman on these charges, both registrants were temporarily suspended from work on the piers pending the determination by the Commission of an administrative proceeding instituted against them.

* * *

Good Timing

The Commission's police force consists of detectives and uniformed officers. The detectives are assigned investigatory functions and the uniformed officers are responsible for patrolling the piers and waterfront terminals in the bi-state Port.

While in the financial district of Manhattan en route to docks bordering the East River, two Commission officers in a marked vehicle observed a man running along a street with a crowd in pursuit. Exiting their car to investigate, they were advised by persons in the crowd that the man had just stolen a woman's purse. The officers gave chase on foot and ultimately wrestled the thief to the ground. He was taken into custody and relieved of a nine inch knife which he had used in the mugging.

The thief was charged with robbery, criminal possession of a stolen property, possession of a weapon and resisting arrest. A subsequent background check revealed that the robber had numerous prior arrests and was a heroin addict.

* * *

The Bean Scheme

Throughout its history, the Commission has enjoyed the support in its functions of other law enforcement agencies with waterfront jurisdiction. One such cooperative effort led to the arrest and conviction of two men for the theft of coffee valued at more than $12,000 which had been imported through the Port.

In a joint investigation with the United States Customs Service, evidence was developed that two truck drivers, whose trucks had been loaded with coffee beans at a Brooklyn pier for transportation to Canada, were approached by an individual with a proposition to steal some of the coffee. An arrangement was made to drive the trucks to a waterfront warehouse in Brooklyn, where portions of the loads were removed from the vehicles. Each driver was paid approximately $400 for his part in the theft conspiracy.

Both drivers were subsequently fired from their jobs when their employer, a Canadian corporation, discovered the loss. One of the drivers, in an attempt to regain his employment, returned to the Port and sought to retrieve the stolen coffee. Making contact with a registered longshoreman working at the waterfront warehouse, who was part of the conspiracy, the driver was advised that he could obtain a like amount of coffee beans, obtained from another source, for $4,000. The driver, who did not have the necessary funds, then agreed to cooperate with Customs and the Waterfront Commission.

At the conclusion of the case, the registered warehouseman pleaded guilty to a federal charge of conspiracy to steal coffee beans from a vehicle moving in foreign commerce. He was sentenced to a prison term in a federal penal facility. His registration to work on the docks was thereafter cancelled by the Commission.

* * *

Compensation Caper

Several years ago, after concluding a port-wide probe into fraudulent workers' compensation cases, the Commission established a special unit to continually examine suspected claims. As part of this program, the agency's regulations require licensed stevedore firms to furnish the Commission with the accident report concerning any dock worker who claims to have been injured (1) where the stevedore has reason to believe that the claim is false or (2) where the longshoreman or checker does not work because of his claimed injuries for 14 days or more.

One report received by the Commission's special unit alleged that a longshoreman injured his knee after tripping on a cargo pallet. Suspecting that the claim was contrived, the Commission developed information that the longshoreman had actually received a similar injury from a fall at a skating rink sometime earlier, which had already healed. Detectives of the agency thereupon instituted a surveillance of the longshoreman. Their observations established that, while the longshoreman was maintaining that he was unable to work at all because of his injury, he was actually operating a car service, transporting persons by van to race tracks, amusement parks and the Atlantic City resort area.

When the dock worker was questioned under oath by a staff attorney, he denied any business activity while away from the piers and denied any income other than the workers' compensation payments he was receiving. After an administrative trial at which the contrary was established, the longshoreman's registration was revoked.

Administrative Proceedings

As stated previously, the Waterfront Commission Act provides that no person may work as a longshoreman or checker in the Port unless he or she is included in the Commission's register of dock workers and that all stevedore companies, pier superintendents, hiring agents and port watchmen be licensed by the agency.

Since these provisions took effect in 1953, the Commission has processed and reviewed more than 141,000 applications and reapplications for licensing and registration, including, this past year, 527 for inclusion in the register, 204 for licensing as pier guards, 45 for pier superintendent licenses, 31 for licensing as hiring agents and 7 for stevedore licenses.

The Act mandates that no application submitted to the Commission for registration or licensing may be denied without the applicant or prospective licensee being given prior notice and an opportunity to contest any grounds for rejection. Correspondingly, a license or registration issued



Governor Thomas H. Kean of New Jersey with Commissioners Conrad N. Koch and Nicholas Scoppetta at the swearing in of Commissioner Koch.

by the agency may not be revoked, suspended or cancelled without notice of the charges and a right to a due process hearing.

Licensing hearings are conducted pursuant to regulations adopted by the agency and are presided over by Administrative Law Judges from a panel of New Jersey and New York attorneys. Such proceedings are open to the public. Commission regulations governing the proceedings provide for the stenographic recording of the hearings, and the right of an applicant or respondent to be represented by counsel, cross-examine witnesses and to have subpoenas issued to compel the attendance of witnesses.

At the hearing's conclusion, the Law Judge prepares a report to the Commissioners containing his findings of fact and recommendations with respect to disposition of the proceeding. Copies of this report are issued to all parties in interest, and the applicant or respondent and Commission staff counsel have the opportunity to submit "exceptions" to the memorandum.

The entire record of the case is considered by the Commissioners, who have the responsibility for the final determination. Their ruling, issued in the format of a Commission order, is subject to judicial review by the courts of either New York or New Jersey. In addition, the agency has established a procedure permitting the protest of a determination by various types of petitions directed to the Commissioners. These include petitions for rehearing of the case, reconsidering of the determination, restoration of a revoked registration or license, and for permission to reapply for a license or registration.

This year, final determinations were made by the Commission in 85 administrative proceedings. Applications for inclusion in the register were denied in 26 cases and granted in 2, applications for licensing as port watchmen were denied in 3 proceedings, 4 registrations were revoked, another 11 were revoked with leave to reapply after stated periods of time, the licenses of 2 port watchmen were revoked with leave granted to reapply at future dates, 36 registrants and licensees were suspended (including 21 longshoremen, 6 checkers, 5 maintenance-longshoremen, 2 pier superintendents and 2 port watchmen), and the charges were dismissed in 1 case. These cases included 23 summary proceedings; matters in which the licensee or registrant admitted to the violations charged and waived a formal trial of the issues. In addition, 5 longshoremen and 2 checkers, criminally charged with serious violations of the penal laws of New York or New Jersey, were suspended by the Commission pending the final determinations of administrative proceedings instituted against them.

Also during the year the Commission acted upon 45 petitions submitted to them, granting 13 and denying 32.

Regularization of the Labor Supply

One of the unhealthy waterfront conditions sought to be corrected by the Compact between the States was the oversupply of longshore labor in the Port. The Legislatures of New York and New Jersey granted the Commission from its inception the authority to remove from the register of dock workers those persons who fail to regularly work or seek employment on the docks. In 1966, in view of technological changes in the transportation of cargo which saw the increased use of pre-packed containers and the consequential decrease in longshore manpower, additional powers were granted the Commission to balance the labor supply. Thus, the agency was given the authority to close the register when the labor force was sufficient and open it when new workers were needed.

At the present time the register is closed for the addition of longshoremen who move cargo and for freight checkers. During the year, 205 longshoremen and checkers who, without good cause, failed to work or be available for work according to the Commission's standards had their registrations cancelled. The regulations of the agency require that to maintain inclusion in the register a longshoreman or checker must work or seek work at least 48 days in a half-calendar year, distributed at least 8 days in each month during at least 5 out of the 6 month period.

* * *

With the closing of the dock workers' register pursuant to the 1966 amendments to the Act, longshoremen have generally been restricted from transporting to the less arduous cargo checker status. Applications for such transfer were only accepted pursuant to determinations of the Commission finding a need for additional checkers. In those cases the Commission would permit registered longshoremen to become checkers prior to accepting applications for checker registration from persons not already in the industry. However, there was no procedure to allow those longshoremen who would become physically unable to continue working as longshoremen to transfer to checker status during periods when the register was closed for additional checkers. Efforts by the agency since 1967 to establish such a program were rejected by the waterfront industry.

Finally, this year, with the cooperation of management and labor, the Commission was able to institute a continuous procedure permitting registered longshoremen found physically incapable of satisfactorily performing as longshoremen because of an injury or illness resulting from their employment, but able to work as checkers, to transfer to checker registration.

Administration

The Commission notes with sorrow the deaths of three of its former long time employees.

Gerald V. Clarke, an Assistant Counsel, was a member of the original staff of the Commission and served with the agency for 22 years before his retirement in 1975. Prior to joining the Commission, he was an Assistant District Attorney in Kings County, New York.

Michael F. Cleary retired in 1976 after 20 years of service as a Special Agent. He had formerly been a detective with the New York City Police Department for 20 years.

Alfred B. Centner was the Manager of the Commission's Employment Information Center in Manhattan when he retired in 1980. He was employed with the agency for over 24 years, having joined the Commission in 1956.

Retiring this year were two employees with records of long and faithful service. Josephine T. Kopps was with the Commission for over 17 years, with her last assignment as a Validating Clerk in the Hudson County, New Jersey, Employment Information Center. Anita D. Conway, Secretary to the Director of the Law Enforcement Division, saw service with the agency for over 10 years.

* * *

As in the past, the Commissioners, Executive Director and the staff express their gratitude for the cooperation and support the agency has received from other law enforcement and regulatory bodies in carrying out its functions.

CONCLUSION

The Commission finds and determines that, to maintain and continue the accomplishments of the agency and the benefits realized in the Port of New York–New Jersey by the enforcement of the Waterfront Commission Act, public necessity still exists for the continued registration of longshoremen, the continued licensing of other occupations and types of employment required to be licensed under the Waterfront Commission Act and the amendments thereto, and the continued public operation and maintenance of the Employment Information Centers provided for in Article XII of the Compact.

Respectfully submitted,

NICHOLAS SCOPPETTA
Commissioner for New York

CONRAD N. KOCH
Commissioner for New Jersey

COMMISSION DETERMINATIONS

Year Ended June 30, 1983

APPLICATIONS AND REVOCATIONS

	Denied	Granted	Revoked	Revoked L/R	Sus-pended	Repri-manded	Dismissed Charges	Suspended P/H	Totals
Longshoremen	3	0	1	6	21	0	1	5	37
Checkers	2	0	0	0	6	0	0	2	10
Hiring Agents	0	0	0	0	0	0	0	0	0
Port Watchmen	3	0	0	2	2	0	0	0	7
Pier Superintendents	0	0	0	0	2	0	0	0	2
Stevedores	0	0	0	0	0	0	0	0	0
Maintenance	21	2	3	5	5	0	0	0	36
Totals	29	2	4	13	36	0	1	7	92*

* Includes 23 summary proceedings

PETITIONS

	Denied	Granted	Totals
Petitions for Reconsideration	7	0	7
Petitions for Leave to Reapply	2	0	2
Petitions for Rehearing	1	0	1
Petitions to Withdraw	0	3	3
Petitions to Remove Ineligibility	1	3	4
Petitions for Restoration of Registration	7	3	10
Petitions to Vacate Temporary Suspension	0	1	1
Petitions for Retention or Reinstatement	14	3	17
Totals	32	13	45

STAFF FUNCTIONS

	DIVISION OF LAW	DIVISION OF LICENSING	TOTAL
Investigations Completed	46	33	79
Recent Arrests Completed	58	3	61
Petitions Completed	16	26	42
Applications investigated and processed	14	192	206
Witnesses and applicants questioned	789	406	1,195
Summary Proceedings completed	16	4	20
Requests for Reinstatements from Withdrawal and Decasualization	3	56	59
Total Hearings conducted	56	20	76
Probationers Reviewed	11	6	17

DIVISION OF LAW ENFORCEMENT

Arrests and Apprehensions	
for thefts	35
for gambling	1
for other offenses	22
Total	58

DIVISION OF AUDIT AND CONTROL

Audits	
licensing	50
assessments	81
investigative	14

Ernst & Whinney

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The Commissioners
Waterfront Commission of New York Harbor

We have examined the statement of cash receipts and disbursements of the Waterfront Commission of New York Harbor for the year ended June 30, 1983. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

As described in Note A, it is the policy of the Waterfront Commission of New York Harbor to prepare its financial statement on the basis of cash receipts and disbursements; consequently, revenue and related assets are recognized when received rather than in the period to which they apply and expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the accompanying statement of cash receipts and disbursements is not intended to present financial position and results of operations in conformity with generally accepted accounting principles. Further, reference should be made to Note B for significant litigation relating to the Commission.

In our opinion, the accompanying statement of cash receipts and disbursements presents fairly the cash transactions of the Waterfront Commission of New York Harbor for the year ended June 30, 1983, on the basis of accounting described in Note A, which basis has been applied in a manner consistent with that of the preceding year.

Ernst & Whinney

New York, New York
August 11, 1983

WATERFRONT COMMISSION OF NEW YORK HARBOR

Statement of Cash Receipts and Disbursements
Year Ended June 30, 1983

Balance of funds at beginning of year:		
Cash in checking accounts and on hand	$ 23,208	
Less taxes and other withholdings from employees	19,302	$ 3,906
Cash in savings accounts		28,255
Time certificates of deposit		1,010,000
Insurance dividends and interest held by Prudential Insurance Co.		100
U.S. Treasury Bill		59,431
		1,101,692
Receipts:		
Assessments on employers of persons registered or licensed by the Commission	6,719,349	
Interest on time certificates of deposit	223,071	
Interest on savings accounts	1,926	
Interest on money market account	16,329	
Penalties, fines and miscellaneous income	64,925	
Miscellaneous interest income	194	7,025,794
		8,127,486
Disbursements:		
Salaries	3,606,676	
Rentals	496,310	
Retirement, group insurance and social security taxes	1,292,868	
Special services and expense	49,491	
Communications	70,767	
Carfare, auto and travel expense	84,649	
General office expense	30,361	
Repairs and maintenance	76,399	
Furniture, fixtures and equipment	80,247	
Hearing officers, auditors and consultant fees	32,219	
Insurance	67,767	
Light, heat and power	144,518	
Printing	13,051	
Miscellaneous overtime expense	929	
State unemployment insurance	5,746	
Leasehold alterations	3,122	6,055,120
Excess of receipts and balance of funds at beginning of year over disbursements—balance of funds at end of year consisting of:		
Cash in checking accounts and on hand	34,523	
Less taxes and other withholdings from employees	20,220	
	14,033	
Cash in money market account	181,938	
Cash in savings accounts	6,395	
Time certificates of deposit	1,870,000	$ 2,072,366

WATERFRONT COMMISSION OF NEW YORK HARBOR

Statement of Cash Receipts and Disbursements—Continued
Year Ended June 30, 1983

NOTE A— It is the policy of the Waterfront Commission of New York Harbor (Commission) to prepare its financial statement on the basis of cash receipts and disbursements; consequently, revenue and related assets are recognized when received rather than in the period to which they apply and expenses are recognized when paid rather than when the obligation is incurred.

NOTE B— Since fiscal 1979, there has been a suit ("American Sugar") pending against the Commission by various steamship and stevedore employers of longshoremen to declare the collection from such employers by the Commission of assessments on guaranteed annual income and vacation and holiday payments to longshoremen as unauthorized under the Waterfront Commission Compact. In 1982, the validity of the Commission's assessments on Guaranteed Annual Income and vacation and holiday payments has been upheld by the New York Court of Appeals and the Commission's $4,063,145.10 liability for prior assessments collected, arising from court action in an earlier year, has consequently been extinguished.

However, litigation remains pending in the American Sugar case before the New York County Supreme Court with respect to the question whether and to what extent the Commission is entitled to Guaranteed Annual Income and vacation and holiday assessments for the period commencing with the 1st quarter of 1978 to December 31, 1981. (Payment of assessments on Guaranteed Annual Income and vacation and holiday payments to the Commission in this case were terminated after the last quarter of 1977).

It is the position of the unsuccessful parties to the American Sugar suit that even though the Court of Appeals ruled that the Commission could assess Guaranteed Annual Income and vacation and holiday benefit payments, the Commission is not entitled to assessments for the period January 1, 1978 to December 31, 1981, since its budget was otherwise funded.

A companion suit was filed in the United States District Court in which two joint New York Shipping Association-International Longshoremen's Association Funds also seek to declare such assessments invalid and to recover the sum of $2,039,857 from the Commission for assessments previously paid together with interest. This suit was, up until February 1982, held in suspense pending the outcome of the American Sugar suit mentioned above. This suit has been reactivated. On July 20, 1983 the Court rendered its opinion. The Commission's Motion for Summary Judgment was granted and the complaint against the Commission was dismissed. The Funds filed a Notice of Appeal in this case.

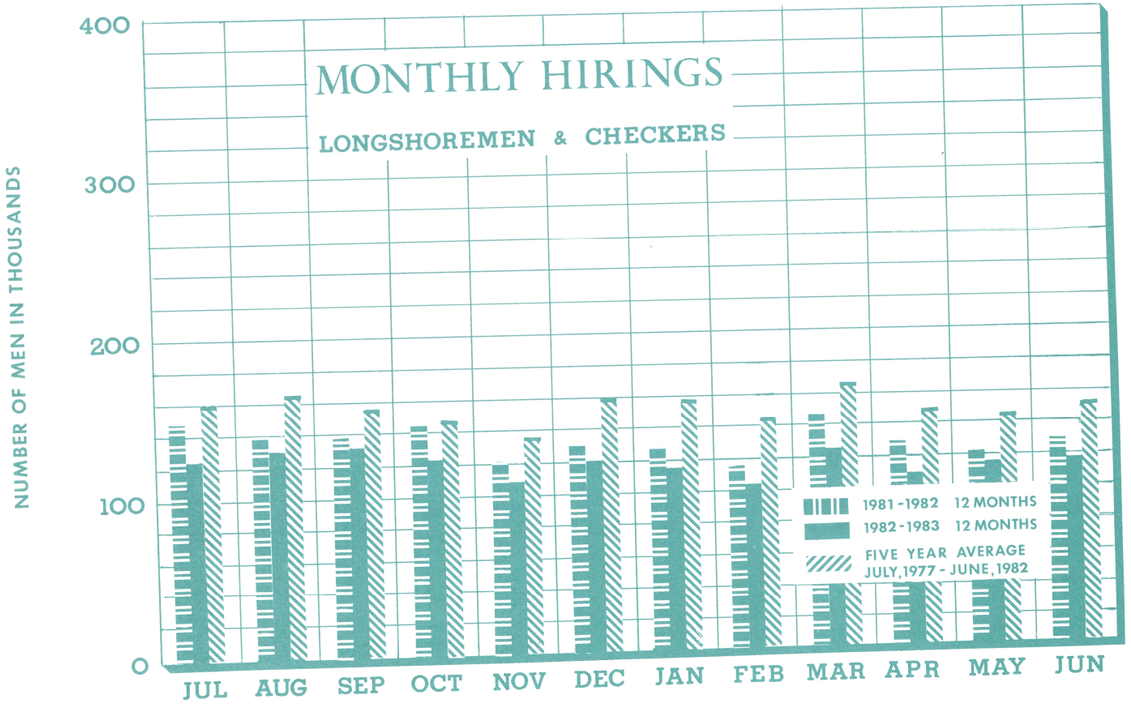
On September 25, 1980, a suit, similar to those above noted, was instituted by various ship and container maintenance employers in the port of New York to declare the collection by the Commission of assessments on vacation payments and holiday payments unauthorized under the Waterfront Commission Compact. In addition, said employers seek all sums of money received by the Commission from said employers based on vacation and paid holiday benefits for the six years immediately preceding the commencement of the action. Based upon the Court of Appeals determination in the American Sugar case, the New York County Supreme Court, in a decision dated July 2, 1982, declared that the Commission could legally assess the vacation and holiday payments in this case and dismissed the employers' monetary claim against the Commission. As in the case of American Sugar, there may be an issue in this case as to whether the Commission is entitled to assessments on vacation and holiday payments for the period commencing with the third quarter of 1980 (payment of said assessments were generally discontinued after the second quarter of 1980) to December 31, 1981.

Based on the opinion of resident counsel, the Commission believes that other pending litigation will not have a material adverse effect on the accompanying statement of cash receipts and disbursements.

EMPLOYMENT INFORMATION CENTERS

Showing Comparison of Hirings for the fiscal years ending June 30, 1983 and 1982

Center and Location	Piers and Areas	HIRINGS 1982-1983	HIRINGS 1981-1982	Increase or Decrease	% Change	% Share in Port Employment 1982-1983	% Share in Port Employment 1981-1982
Manhattan 261-281 Hudson St.	Manhattan	90,581	93,966	— 3,385	— 3.60%	6.34%	5.92%
Brooklyn 5914 3rd Avenue	Brooklyn & Staten Island	514,694	612,352	— 97,658	—15.95%	36.02%	38.55%
Port Newark 117 Tyler Street	Port Newark & Port Elizabeth	667,025	714,563	— 47,538	— 6.65%	46.68%	44.99%
Hudson County 111 Newark St. Hoboken, N.J.	Jersey City, Bayonne & Weehawken	156,547	167,369	— 10,822	— 6.47%	10.96%	10.54%
TOTAL—NEW JERSEY		823,572	881,932	— 58,360	— 6.62%	57.64%	55.53%
TOTAL—NEW YORK		605,275	706,318	—101,043	—14.31%	42.36%	44.47%
PORT WIDE TOTALS		1,428,847	1,588,250	—159,403	—10.04%	100.00%	100.00%



COMPARISON OF AVERAGE EARNINGS OF LONGSHOREMEN AND CHECKERS

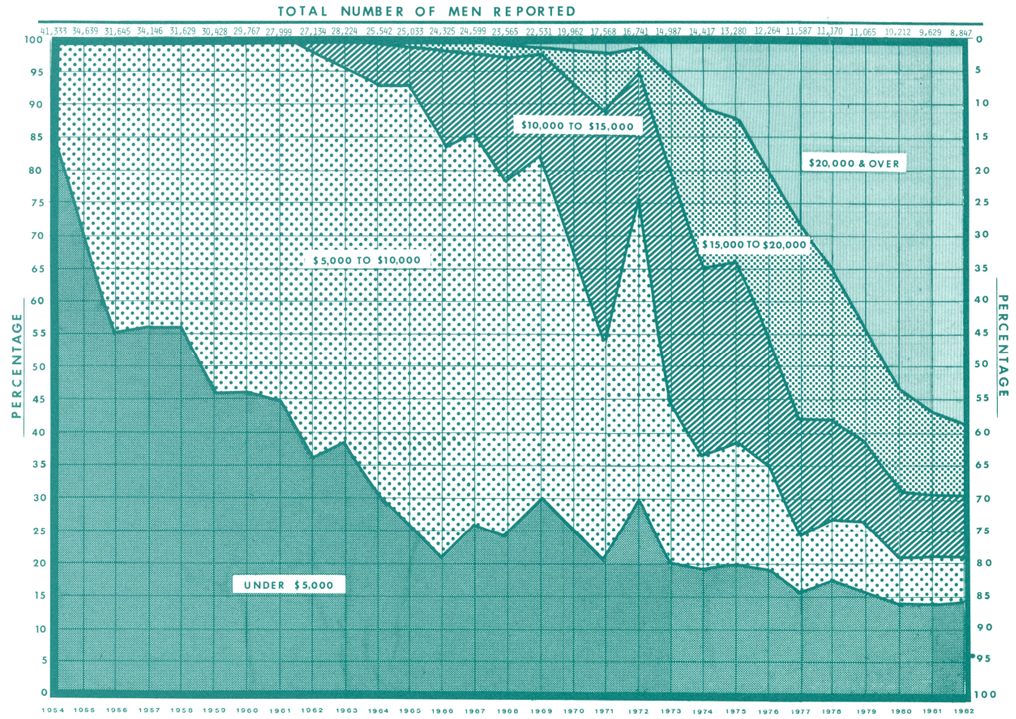
	1954	1980	1981	1982
Over $25,000	(*)	3,379	3,848	3,928
$20,000 to $25,000	(*)	2,005	1,642	1,168
$15,000 to $20,000	(*)	1,591	1,061	931
$12,000 to $15,000	(*)	677	577	511
$10,000 to $12,000	(*)	329	362	346
$10,000 and Over	(*)	7,981	7,490	6,884
$ 7,000 to $10,000	406	468	519	398
$ 6,000 to $ 7,000	802	149	126	125
$ 5,000 to $ 6,000	2,589	159	143	153
$ 4,000 to $ 5,000	6,330	162	150	142
$ 3,000 to $ 4,000	7,013	167	177	149
Under $3,000	24,193	1,126	1,024	996
TOTAL REPORTED	41,333	10,212	9,629	8,847
Total Earnings	$102,061,108	$208,688,333	$211,818,417	$203,683,682
Total Hours Worked	37,813,991	17,229,537½	15,691,031	13,747,362½
% Hours Overtime	24.3%	26.0%	24.8%	23.4%
AVERAGE ANNUAL WAGES**	$ 2,469	$ 20,436	$ 22,010	$ 23,023

* Records incomplete for 1954

** Does not include guaranteed annual income payment or fringe benefits

NOTE: This table includes craftsmen such as carpenters, coopers, maintenance men and miscellaneous personnel required to be registered as longshoremen effective May 27, 1957, but does not include most persons required to be registered as waterfront warehousemen and in other capacities effective September 1, 1969. Similar tables in annual reports prior to 1957-58 included earnings of longshoremen and checkers only, as reported by the New York Shipping Association.

SOURCE: New York Shipping Association for its fiscal year ending September 30th.



REGISTRATIONS AND LICENSES IN EFFECT DURING FISCAL YEARS

As of June 30th

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
Longshoremen	17,026	16,612	17,646[a]	16,367[a]	16,006[a]	14,226[a]	13,704[a]	12,515[a]	12,237[a]	11,863[a]	11,420[a]	11,150[a&b]	10,804[a&b]	10,289[a&b]	9,947[a]	9,474[a]
Checkers	4,115	4,335	3,979	3,714	3,557	3,176	3,006	2,728	2,584	2,479	2,408	2,468	2,373	2,231	2,084	2,017
Hiring Agents	600	559	602	605	545	493	512	427	378	369	361	357	339	327	304	291
Pier Superintendents	417	365	403	406	424	374	395	370	337	342	340	357	344	353	341	325
Pier Guards	1,654	1,637	1,548	1,485	1,405	1,291	1,064	979	894	818	789	750	705	655	635	560
Stevedore Companies	50	46	93	106	109	117	113	118	112	115	113	116	113	109	110	104
TOTALS	23,862	23,554	24,271	22,683	22,046	19,677	18,794	17,137	16,542	15,986	15,431	15,198	14,678	13,964	13,421	12,771

(a) Includes warehousemen, container repairmen, and other persons required to register under amendments to Waterfront Commission Act, effective September 1, 1969.

(b) Includes persons registered on a temporary basis to meet special and emergency needs.

DECASUALIZATION OF LONGSHOREMEN AND CHECKERS

		Number Decasualized	Remaining Registrants
1st decasualization	June 3, 1955	7,141	31,574a
25th decasualization	March 31, 1967	1,142	22,100
30th decasualization	October 3, 1969	1,022	20,627b
31st decasualization	April 13, 1970	1,098	19,512b
32nd decasualization	October 30, 1970	1,012	18,651b
33rd decasualization	April 2, 1971	715	18,115b
34th decasualization	September 30, 1971	514	17,742b
35th decasualization	March 30, 1972	227	17,626b
36th decasualization	September 27, 1972	523	16,316b
37th decasualization	April 9, 1973	930	15,368b
38th decasualization	September 27, 1973	330	14,792b
39th decasualization	March 25, 1974	423	14,409b
40th decasualization	September 26, 1974	271	14,143b
41st decasualization	March 27, 1975	425	13,726b
42nd decasualization	September 25, 1975	156	12,962b
43rd decasualization	March 25, 1976	194	12,602b
44th decasualization	September 23, 1976	181	12,303b
45th decasualization	March 24, 1977	174	11,978b
46th decasualization	September 22, 1977	168	11,723b
47th decasualization	March 31, 1978	120	11,370b
48th decasualization	September 29, 1978	126	10,995b
49th decasualization	March 30, 1979	150	11,321b,c
50th decasualization	September 28, 1979	124	10,956b,c
51st decasualization	April 3, 1980	115	10,701b,c
52nd decasualization	October 2, 1980	88	10,510b,c
53rd decasualization	April 2, 1981	126	10,266b,c
54th decasualization	October 1, 1981	147	9,841b,c
55th decasualization	April 1, 1982	114	9,639b,c
56th decasualization	October 7, 1982	102	9,383b
57th decasualization	April 21, 1983	103	9,195b

(a) Does not include craftsmen whose registrations were required on or after May 27, 1957.
(b) Does not include warehousemen, container repairmen, and other persons required to be registered on or after September 1, 1969.
(c) Includes persons registered on a temporary basis to meet special and emergency needs.



Conrad N. Koch
Commissioner for New Jersey



Nicholas Scoppetta
Commissioner for New York



Leonard Newman
Executive Director

Jerome J. Klied, *Deputy Executive Director*

Gerald P. Lally, *General Counsel*

Francis A. Byrne, Jr., *Secretary*

John S. Winthers, *Director, Division of Law Enforcement*

Paul D. Kelly, *Director, Division of Law*

Jesse O. Langston, *Director, Employment Information Centers*

Carmine A. Cardone, *Director, Division of Licensing*

Gemma T. Macaluso, *Director, Administration*

Marvin Weissman, *Director, Division of Audit and Control*

Elmer H. Williams, Jr., *Comptroller*

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