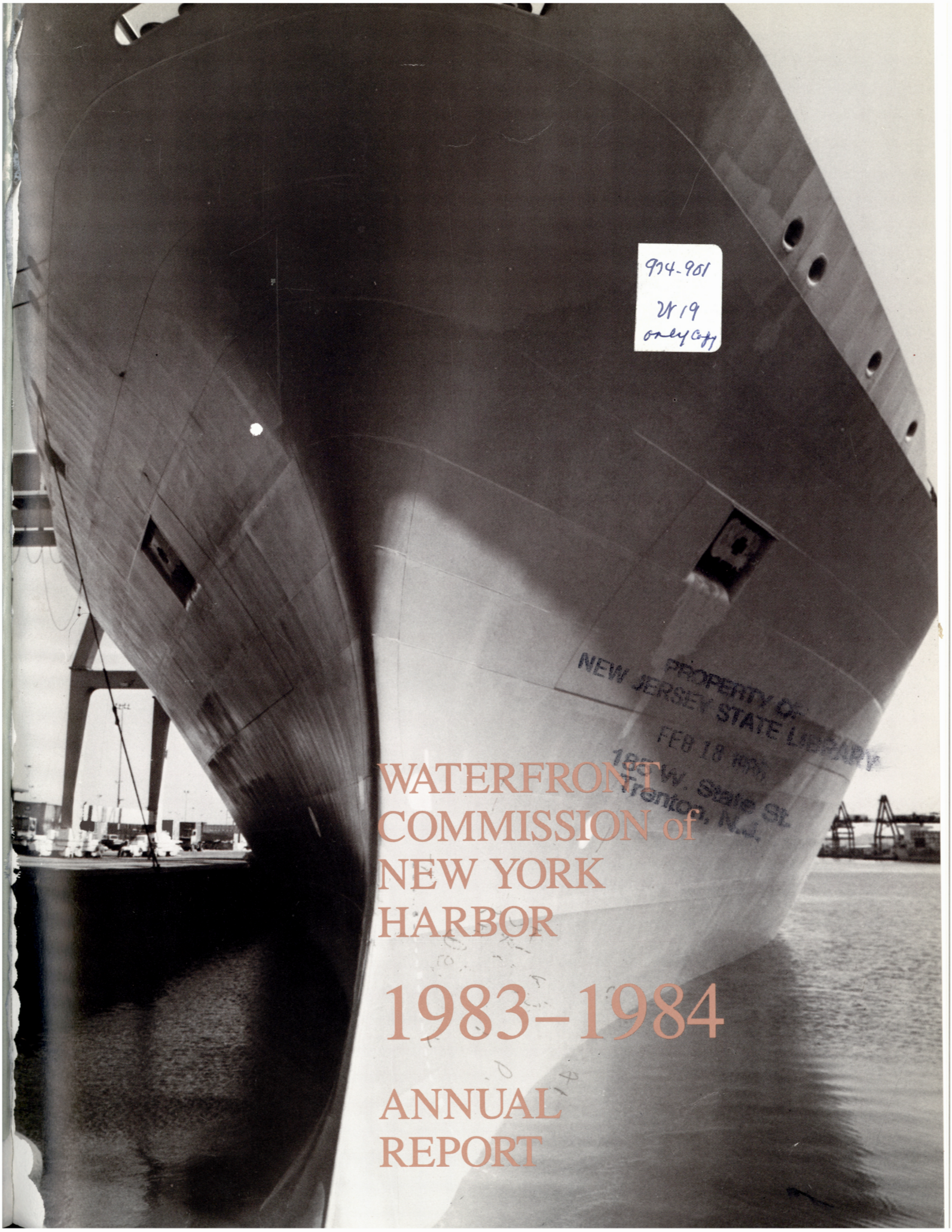


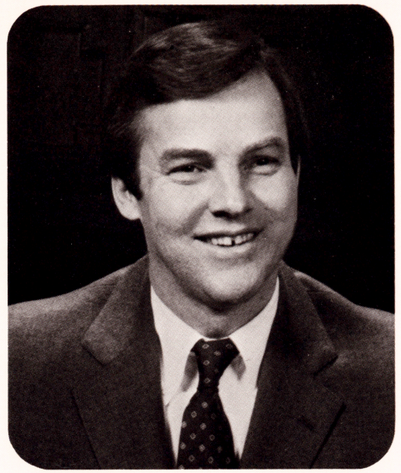
974.901
W19
only copy

PROPERTY OF
NEW JERSEY STATE LIBRARY
FEB 18 1985
185 W. State St.
Trenton, N.J.

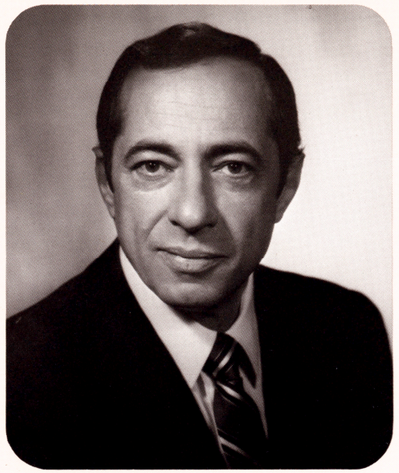
WATERFRONT COMMISSION of NEW YORK HARBOR

1983–1984

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 1983–84, containing representative activities of the Commission and observations concerning its administration and enforcement of the Waterfront Commission Compact between the States of New York and New Jersey.

ANNUAL REPORT
1983–1984

THE WATERFRONT COMMISSION OF NEW YORK HARBOR

AN INSTRUMENTALITY OF THE STATES OF NEW YORK AND NEW JERSEY

THE COMMISSION

Created in 1953 as the result of a sweeping investigation of waterfront conditions in the Port by the New York State Crime Commission with the cooperation of the New Jersey Law Enforcement Council and other public authorities, the Waterfront Commission is a bi-state instrumentality with law enforcement, licensing and regulatory jurisdiction. The Waterfront Commission Compact between New York and New Jersey establishing the Commission was consented to by the Congress of the United States on July 30, 1953 and given presidential approval on August 12th of that year.

The Compact was enacted to improve labor conditions and eliminate criminal and corrupt practices which were threatening the economic viability of the Port. Waterfront workers had been terrorized for years by organized criminals and subjected to irregularity of employment by tainted and antiquated hiring practices; the industry had been subjected to organized theft and extortion; and shipping was being diverted to other ports.

To eliminate these conditions the Compact provided a comprehensive plan for the licensing of waterfront workers and companies, the regulation of employment and the barring of criminal elements. To carry out this plan, the Compact grants the agency the authority to:

- –register longshoremen and checkers;
- –license stevedore firms, pier superintendents, employer hiring agents, and port watchmen;
- –suspend or revoke registrations and licenses for various acts of misconduct;
- –investigate criminal activity throughout the Port;
- –collect and compile information concerning waterfront practices and upon all matters relating to the accomplishment of the objectives of the Compact;
- –regularize and balance the size of the longshore and checker work forces;
- –operate employment information centers in each state within the Port to oversee the employment of dock workers and provide data concerning opportunities for pier employment;
- –issue subpoenas to compel the attendance of witnesses and the giving of testimony; and
- –appoint police officers with full police powers throughout both states.

The Commission is composed of two Commissioners, one appointed by the Governor of each state, with the advice and consent of the respective State Senate. The term of office for each Commissioner is three years and the compensation is determined by the appointing Governor. The agency is required to act only by the unanimous vote of both members. In exercising its powers, the Commission has been granted the authority to receive assistance and data from any department, division, bureau, board, commission or agency of either or both states.

Nicholas Scoppetta, a member of the New York and Federal Bars, has represented the State of New York on the Commission since May, 1979. Commissioner Scoppetta began public service in 1962 when he was appointed as an Assistant District Attorney in New York County. He also served as Associate Counsel to the Knapp Commission, investigating police corruption in New York City, Special Assistant United States Attorney in the Southern District of New York, Commissioner of Investigation for the City of New York under two mayors, as well as Deputy Mayor of New York City for Criminal Justice. He was also Director of the Institute of Judicial Administration and a Professor of Law at the New York University School of Law.

The New Jersey Commissioner, appointed in December, 1983, is Conrad N. Koch of West Orange, New Jersey. He is a member of the New Jersey and Federal Bars. A graduate of Seton Hall University and Columbia University Law School, Commissioner Koch has been practicing law since 1959. His public service includes being the attorney for the West Orange Zoning Board and prosecutor for the Township of East Hanover in New Jersey.

Day-by-day administration of the Commission, pursuant to the policies established by the Commissioners, is under the jurisdiction of Leonard Newman, the agency's Executive Director. Mr. Newman has been serving in that capacity since July, 1976. A member of the New York Bar and Federal Bar, Director Newman served as an Assistant District Attorney in New York County for 32 years, the last 8 as Chief of the District Attorney's Fraud Bureau. His public service also included the position of First Deputy Commissioner of New York State's Division of Criminal Justice Services where he was directly in charge of the Office of Special Services. As such, he supervised the State's Prosecutorial Technical Assistance Unit, the Bureau of Municipal Police and the Juvenile Justice Institute.

Providing the investigation of criminal activity in the harbor, background checks of prospective licensees and registrants, and around-the-clock dock patrols is the agency's Division of Police. Under the direction of the Chief of the Division, a former Special Agent of the Federal Bureau of Investigation, are detectives, uniformed police officers and waterfront intelligence analysts. The licensing, investigative and intelligence files of the Commission are maintained and secured by this division.

The Division of Audit and Control performs a significant role in the investigatory functions of the Commission. Under the guidance of attorneys assigned to particular cases, the accountants who make up this division examine the records of persons and firms under investigation. In addition, their functions include auditing the books and accounts of licensed stevedores and firms seeking such licenses, as well as verifying the payroll records of waterfront employers in connection with assessment reports filed with the Commission. The Director of Audit and Control is an accountant with over 28 years of experience.

Prior to the creation of the Commission, the hiring of longshoremen and checkers was accomplished through the pier "shape-up," a system found by the Legislatures of New Jersey and New York to have resulted in "vicious and notorious abuses" of the dock workers. As part of the legislative reforms instituted by the Compact, the "shape-up" was abolished. Since 1953 the hiring of longshoremen and checkers is supervised by the Commission's Division of Employment Information Centers, which also provides data concerning waterfront employment opportunities. Recently, the functions of the Commission's employment information center in Hudson County, New Jersey, were merged with those of the center in Port Newark–Elizabeth. Presently the Commission operates three centers, in Brooklyn, Manhattan and Port Newark–Port Elizabeth. The Director of this division has been with the Commission for 32 years.

The Administration Division furnishes the other divisions of the Commission with stenographic, court reporting and clerical services. It also maintains the personnel and other administrative files of the agency. The Director of Administration has been with the Commission since its inception. Her prior government service included handling personnel records for the United States Department of the Army.

The agency's functions and responsibilities are divided among seven divisions: Executive, Law, Licensing, Police, Audit and Control, Employment Information Centers and Administration. The Executive Director is in direct supervision of the Executive Division and general supervision of the others. The Police Division is headed by the Commission's Chief of Police and the other divisions are each headed by a Director.

The Executive Division executes the policies determined by the Commissioners. This Division formulates the agency's budget which by statute is submitted to the Governors of the two States for review. The budgeted expenses are assessed upon the employers of those waterfront workers who are licensed and registered by the Commission. The assessment is limited to a maximum of two percent of the gross payroll payments made by such employers to longshoremen, checkers, pier superintendents, hiring agents and port watchmen. The assessment is in lieu of any other charge for the issuance of licenses or registrations or for the use of the Commission's Employment Information Centers.

In addition, the Executive Division prepares and reviews proposed legislation, contracts, leases and regulations; handles public relations; and does legal research and litigation. Included in the Division are the General Counsel and Comptroller sections of the agency.

The Division of Law, with the support of investigators and accountants, probes violations of criminal and other statutes pertaining to the Port. The attorneys assigned to this division prosecute administrative hearings held to determine whether persons and companies licensed by the Commission have committed any illegal or improper activity and, if so, what disciplinary action should be taken. The Director of this division is a former Assistant District Attorney in New York County and was Assistant Chief Counsel of the New York State Commission of Investigation.

Under the provisions of the Compact, no person is permitted to act as a longshoreman or checker in the harbor without being registered by the Commission. Similarly, stevedore firms, their pier superintendents and hiring agents, and port watchmen are required to be licensed. All applications for such registration and licensure are processed by the attorneys and license examiners of the Division of Licensing. Assistant counsel assigned to this division conduct administrative trials to determine whether applications should be approved or denied. This division is also responsible for the administration of the agency's programs designed to balance the registered work force with the labor requirements of dock employers. The Director of the Division of Licensing is an attorney with more than 23 years of licensing experience at the Commission.

During the fiscal year, the Commission operated with a staff of 166 employees. The budget, as approved by the two Governors, who may reduce or modify proposed expenditures, was $6,952,166. In performing its functions, the agency disbursed $6,303,483 or $648,683 under its budget. As stated, the Commission's budgeted expenses are financed through assessments paid by employers on their gross waterfront payrolls.

THE PORT OF NEW YORK—NEW JERSEY

Geographically, the Port of New York–New Jersey District, in which the Waterfront Commission has jurisdiction, encompasses 1,500 square miles within a 25 mile radius of the Statue of Liberty. There are some 234 municipalities, 17 counties and a consumer market of over 15 million persons in the District. This market increases to 72 million by overnight truck delivery.

The Port's facilities include over 70,000 linear feet of berthage and some 2,800 acres of marine terminals. Its dock labor force consists of over 6,400 cargo-moving longshoremen, 2,200 maintenance workers, weighers, scalers and warehousemen, 1,800 freight checkers and 500 port watchmen, all screened and licensed by the Commission. The Port has more general cargo, containership, LASH, roll-on/roll-off, vanship and bulk service than any other harbor in the country.

With over 6,100 cargo vessel arrivals at the Port of New York–New Jersey during the year ending June 30, 1984, it is estimated that the harbor generates $14 billion a year in economic activity and provides direct and indirect employment for between 150,000–190,000 people in marine cargo handling, export-import businesses, banking, freight forwarding, trucking and other related fields.

Continuing its dominance as the foremost port in the nation with respect to the value of oceanborne cargo, in 1983 the Port handled general and bulk freight valued at a near record $43 billion. This represented an increase of 2% from the previous year. In long tons (2,240 pounds), such cargo increased 8.2% from 1982, with 46,558,974 long tons handled in 1983 as against 43,032,559 in 1982.

The Port's cargo value of $43 billion was higher than any other harbor in the nation; $7.5 billion more than the second ranked Los Angeles; $13.4 billion more than third ranked Houston; and $16.5 billion over the next ranked port, New Orleans. Moreover, the Port handled 62% of the value of cargo imported and 40% of the value of cargo exported through principal Atlantic Coast Ports (New York–New Jersey, Baltimore, Philadelphia, Hampton Roads, Charleston and Boston). The value per ton in the Port of $3,196 was over 88% higher than the average in the nation of $1,699. The Port also was the premier harbor in the export of 48 or over 26% of the nation's 184 general cargo export commodities and in the import of 75 or almost 42% of the nation's 179 general cargo import commodities.

In terms of value, the leading oceanborne general cargoes exported were general machinery, photo supplies, gas engines and diesels, road motor vehicles, office machinery and plastic materials. The principal commodities imported through the harbor were road motor vehicles, clothing, telecommunications apparatus, alcoholic beverages, general machinery, footwear and coffee.

Between October 1, 1982 and September 30, 1983, the waterfront industry's collective bargaining year, 8,649 registered longshoremen and checkers (excluding those pier workers registered to perform services incidental to the actual movement of cargo) earned $307,154,083 in regular and overtime wages, guaranteed annual income payments, and holiday and vacation monies. The average annual earnings for these 8,649 dock workers during this period was $35,513. During the prior collective bargaining year, 8,847 registered workers earned $293,712,235, for average earnings of $33,199.

THIS YEAR

Guaranteed Income Frauds

While most dock workers go directly to their assigned pier jobs each day, those not ordered for employment will report in the morning to one of the Commission's employment centers where, under the supervision of Commission employees, hiring is conducted by licensed employer hiring agents to obtain additional workers and "fill-ins" for absentees. Longshoremen and checkers personally appearing at the centers who are qualified to receive benefits under the industry's guaranteed annual income system and who are not selected for employment will then receive a day's credit for the GAI. To record their presence and availability for employment, the dock workers insert their individual seniority cards in computer terminals or "badge-in" between the hours of 7 A.M. and 8 A.M. prior to the employment selection period and "badge-out" after the conclusion of the hiring at about 9 A.M. During the industry's contract year ending September 30, 1983, the income guarantee benefits were $112 a day or $29,120 annually.

Through the years the Commission has uncovered a number of instances of individual dock workers illegally obtaining guaranteed annual income monies from the industry by having other persons appear in their place and inserting their seniority cards in the computer terminals.

This year the agency developed information that this unlawful practice was being conducted on an organized basis. Utilizing various surveillance techniques at one of the Commission's centers, agency detectives observed two dispatchers, employed by the industry to facilitate the hiring, badging in and out a number of registered longshoremen on a regular basis. Observations established that these longshoremen were not present at the employment hall although their presence had been recorded by the computer. After several weeks of surveillance and the video recording of these violations, Commission attorneys secured a judicial search warrant. Execution of the warrant uncovered several seniority cards on the person of one of the dispatchers, as well as other cards in the desk he used.

The two dispatchers, who were also registered as longshoremen, were then charged by the Commission with aiding and abetting various longshoremen and checkers to misappropriate sums of money from the industry's Guaranteed Annual Income Fund. One of the dispatchers was accused of 78 different instances of fraudulently badging in or out dock workers, and the other with 13 such acts. After an administrative trial, at which 46 video tapes of the respondents' actions were received into evidence, each of the dispatchers was found by the Commission to constitute a danger to the public peace and safety on the waterfront. Their longshore registrations were revoked and they were consequently barred from dock employment. Administrative hearings were also conducted with respect to the registrations of five longshoremen who fraudulently received guaranteed annual income monies as a result of this scheme. Based only on the days of the observations by the Commission, they were found to have misappropriated a total of almost $10,000, ranging in individual amounts of $896 to $3,360. Each of their registrations was revoked, for periods extending from 60 days to 9 months. A sixth longshoreman charged in the deception retired from waterfront work prior to a hearing.

During the course of the investigation, Commission detectives also observed an employee of the agency assigned to the center fraudulently badging in longshoremen. He was immediately suspended from employment pending a disciplinary hearing. At the conclusion of the proceeding the Commission found that all the charges against the employee were established. He resigned and his employment was terminated. Two longshoremen badged in by the employee had their registrations rescinded for 6 months.

* * *

A few years ago the Commission reported removing a longshoreman from the Register after developing information that, although his seniority card was being badged in and out regularly in the Port, he was actually living in Florida some six months a year and operating an automobile body shop in upstate New York the other six months. During all this time, he was receiving guaranteed annual income benefits; funds paid for being physically available for dock work in the harbor.

The results of the Commission's investigation were forwarded to the United States Attorney's Office for criminal prosecution. After negotiations with the U.S. Attorney, the longshoreman agreed to cooperate with the federal government and the Commission as consideration for a deferred prosecution. He thereafter named another longshoreman who was badging in and out for him for a period of over a year. He admitted paying the other longshoreman $100 a month, with most of those payments being made by check.

Accordingly, the Commission instituted a revocation proceeding against the longshoreman who was performing this illegal activity. This longshoreman was himself receiving guaranteed annual income payments and had not obtained dock employment for several years. After being charged by the Commission with aiding and abetting in the misappropriation of over $30,000 from the industry's guaranteed annual income and holiday and vacation funds, the longshoreman waived his right to a trial and admitted the violation. His registration was revoked, with leave granted him to reapply after 18 months.

* * *

In another case, Commission attorneys and detectives developed information that a longshoreman had been receiving guaranteed annual income payments for about 10 years while he was serving as a firefighter with the New York City Fire Department. Agency personnel analyzed firehouse attendance books obtained from the Fire Department. These records revealed that the longshoreman was actually working as a fireman when he was supposedly employed at the piers and also at times when he was badged-in at the waterfront employment center.

A continuation of the probe disclosed that a confederate was using the longshoreman's identity and working in his place at a pier some 2 days a week over a period of six years. The imposter was not registered with the Commission as a dock worker in violation of the Waterfront Commission Compact. He was arrested by Commission officers and charged with acting as a longshoreman without being licensed, and with criminal impersonation. Prior to disposition of the criminal charges, the accomplice was shot to death in an unrelated barroom dispute.

The longshoreman-firefighter, who had been receiving guaranteed income payments while not actually available for work as a dock worker, was arrested by agency detectives for grand larceny in the second degree. He pleaded guilty to a misdemeanor for petit larceny, receiving probation for three years upon condition that he make restitution of over $82,000 to the industry's guaranteed annual income fund. Administrative charges concerning his registration as a longshoreman were also instituted by the Commission. Prior to the trial of the allegations, the longshoreman was removed from the Register for failing to work or seek employment as a dock worker as required by the Compact.

Stevedore Proceedings

Several years ago the Commission detailed its participation in a widespread investigation by the federal government into union and management corruption in the Port of New York–New Jersey as well as other east and gulf coast ports.

In the aftermath of the probe, this year the Commission took disciplinary action against two licensed stevedores, revoking the license of one and imposing a monetary penalty on the other.

After the completion of the federal investigation, the commission continued its inquiry into the activities of certain stevedore firms licensed by the agency. Among these companies were two related businesses, one performing the lashing of cargo on vessels and the other providing container repair services. Ultimately, licensing revocation proceedings were instituted by the Commission against both companies and certain of their officers. Among the charges were that the firms conspired to pay money and give things of value to officials of a union representing longshoremen in the Port, for which they were convicted of various federal violations. Monies were paid towards the purchase and improvements of a house on the Jersey shore and the construction of a horse barn at a farm owned by a union officer. The Commission also alleged that the corporations had committed fraud on various applications filed with the agency for licensure and had failed to maintain accurate accounts of their disbursements.

The companies and the officers admitted the charges prior to a trial of the issues. The Commission denied an application filed by the container repair concern for renewal of its stevedore license and terminated its temporary permit to operate in the Port. The freight lashing company's license was ordered revoked, with the firm granted the alternative to pay penalties of $50,000 in lieu of the revocation. In addition, certain officers of the firm were found to lack good character and integrity and were barred from any further participation in the operations of the companies.

* * *

Among the requirements for obtaining and maintaining a license as a stevedore are that the applicant or licensee must possess good character and integrity. In addition, a stevedore is required to maintain complete and accurate records of its receipts and disbursements arising out of its activities in the port.

During the course of an investigation this year, the Commission issued a subpoena duces tecum to a consulting firm which, while not licensed by the agency, received almost half of its gross billings from business dealings with waterfront firms and individuals licensed or registered by the Commission. The subpoena called for the production of the company's records for a two and a half year period.

The company, a Delaware corporation, which also maintained offices in Newark and Brooklyn, brought a legal proceeding challenging the Commission's authority to examine its books. The firm argued that the agency's order to produce its records was overly broad since the company was not a licensee of the Commission and approximately half of its income came from entities unrelated to the waterfront.

A Justice of the New York Supreme Court granted the company's application and limited the scope of the subpoena. The Commission appealed the decision to the Appellate Division of the Supreme Court, arguing that the company was but an alter ego of several stevedores licensed by the agency. Thus, it informed the Court that the firm shared its Newark address with five licensed stevedores and shared its Brooklyn office with six stevedores, four of which were among the five listed at the Newark address. The agency also advised the appellate judges that the names of seven licensed stevedore firms appeared on the company's letterhead and that individuals associated with the firm had stock interests in licensed stevedores. In addition, the investigation also showed that over $900,000 had been paid to the company by firms licensed by the Commission for questionable and insufficiently documented services.

The Appellate Division issued a determination upholding the Commission's subpoena in its entirety, the Court stating in part:

> "It is clear that the Commission has broad subpoena power and that its subpoena is deemed valid if the inquiry sought for is reasonably related to the purpose for which the Commission was created. . .We have held that the Commission also has the right to subpoena persons over whom it has no licensing or regulatory jurisdiction if it appears that they may have relevant information respecting a matter properly under investigation. . . .
>
> [The company] argues that 50% of its business is conducted with firms or individuals not regulated by the Commission. However, it appears that linkage has already been established between [the company] and various licensed stevedores and persons associated with them. It is also apparent that certain individuals have interests in non-regulated entities with which [the company] is associated, as well as with regulated companies. The Commission is authorized to investigate such relationships."

The firm has now appealed the case to the highest court of New York, the Court of Appeals.

Watch On Thefts

The protection of cargo transported through the harbor has always been of prime concern to the Commission. By regulation, designated pier personnel are required to immediately report to the agency thefts or attempted thefts, which are then investigated by Commission detectives. Moreover, the Commission's uniformed police officers provide a twenty-four hour patrol of the docks throughout the harbor. In addition, the agency licenses and aids in the training of some 500 private guards employed by terminal operators to safeguard freight in their custody.

* * *

Illumination Of A Theft

In one case investigated this year, a container partially loaded with 361 cartons of lamp parts imported through the Port from the orient was being driven along the New Jersey Turnpike when the driver suddenly experienced brake troubles. The driver left the chassis and container to see if he could locate an air hose to remedy his problem. When he returned a short time later, the chassis and container were missing.

An investigation by Commission detectives ultimately led them to an empty lot in Elizabeth, New Jersey, where they found the container and chassis. The seal on the container had been removed and the container left unlocked. Apparently, the thieves had stolen the load, not knowing the contents of the container, and abandoned it once they discovered they could not dispose of the lamp parts. The full contents, valued at over $37,000, and the chassis, worth $10,000, were recovered and returned to the rightful owners.

Stolen And Not So Stolen Vehicles

For several years the Commission has been investigating the shipment through the Port to foreign nations of stolen cars, as well as motor vehicles falsely reported as stolen. Hundreds of thousands of dollars in fraudulent insurance claims have been uncovered and numerous stolen vehicles have been recovered.

Periodically, the Commission will examine the vehicle identification numbers of motor vehicles in the harbor awaiting export. These numbers are then compared against auto theft reports. If a vehicle has been listed as stolen, it will be held pending further inquiry.

Last year the vehicle identification numbers of over 13,000 automobiles awaiting shipment abroad were checked against police computer reports of stolen vehicles. In addition, over 7,500 were re-checked after the vehicles were shipped.

* * *

A routine check by a Commission detective of a late model Mercedes Benz sedan waiting shipment to Budapest, Hungary, via Rotterdam, Holland, revealed that the automobile's license plates had been stolen from a Honda motor vehicle registered in California. However, when it was reported that a vehicle identification number (VIN) had actually been issued in California for a vehicle matching the Mercedes' description, the automobile was laden on board vessel for export.

Further investigation by the Commission disclosed that the VIN on the vehicle had been altered and had actually been assigned to a different Mercedes having the same description, which was physically in Los Angeles.

Commission officers then questioned the freight forwarder who prepared the shipping documents. It was uncovered that the documents were written by the forwarder without any check on the identification number and issued to a male from California. The Commission thereupon forwarded the engine number of the vehicle to representatives of the Mercedes Benz company and ascertained that the vehicle was owned by a savings bank in Santa Monica, California, and was out on lease. A background check of the lessee disclosed a lengthy arrest record over a twenty year period and his alleged involvement in several fraudulent insurance schemes. After the Commission notified the bank owning the vehicle of its investigation, an alarm was instituted for the lessee-shipper.

Continuing its probe, the Commission ascertained that the vehicle's shipper was in Switzerland and had made plans to pick up the automobile in

Rotterdam. Arrangements were then made with the police in Holland to seize him. When the individual appeared to pick up the car, he was placed in custody by the Dutch Police and the vehicle impounded.

At the time of the arrest the Dutch authorities learned that the shipper maintained an apartment in Vienna, Austria. Accordingly, Austrian officials were notified and conducted a search of the premises, recovering counterfeit United States fifty dollar bills, a pistol, various license plates, and California motor vehicle ownership titles. The United States Secret Service dispatched an agent to retrieve the bogus currency.

After being expelled from Holland as an undesirable, the individual was returned to law enforcement officials in California. Police in Los Angeles advised the Commission that the defendant was also a suspect in a $150,000 jewelry robbery in California.

* * *

On another occasion a vehicle listed on the New York Statewide Police Information Network as stolen was found to have already been shipped through the Port to Puerto Rico. Questioning of the freight forwarder who prepared the transportation papers revealed that the shipper had described himself as a barber and had previously shipped at least three other vehicles to Puerto Rico in the past. Detectives of the agency were advised by Puerto Rican officials who were continuing the investigation that it was suspected that the vehicle had been utilized to deliver narcotics to the island.

* * *

The activities of the Commission in checking the shipment of stolen automobiles in the harbor helped in breaking up a ring of Massachusetts car thieves.

In one case a late model Audi had been shipped to Puerto Rico for transhipment to Santo Domingo four days after it had been reported stolen by an automobile leasing firm in the Commonwealth of Massachusetts. Investigation by Commission detectives disclosed that the insurance code number on the vehicle's documents was incorrect. Further, the title and registration forms allegedly issued by the Massachusetts Registry of Motor Vehicles and used to effectuate the export of the vehicle were forged. Moreover, the vehicle was actually a 1983 model and not a 1981 automobile as listed on the shipping documents. The Commission had the vehicle placed on "hold" in Puerto Rico and returned to the owner.

Several months later, Commission detectives unraveled a similar case. Again a vehicle stolen in Massachusetts had been shipped through the Port with its ultimate destination being Santo Domingo. A fraudulent Massachusetts title and registration form was also utilized in the shipment and the same forwarding agent had prepared the paper work as in the prior case. Again the Commission was able to stop the vehicle from reaching its destination and have it returned to the Port.

Ironically, in both cases the car thieves had used counterfeit Massachusetts registration stamps with the word "Commonwealth" misspelled on the bogus seal. Massachusetts authorities were able to identify a number of suspects in the auto theft gang, several of whom fled to Santo Domingo as a result of pending drug charges against them in the United States.

* * *

A prevalent fraud practiced against insurance carriers is the false reporting of an automobile as stolen and the collection under the policy of the monetary value of the vehicle. Last year we reported a number of such cases which were exposed by the Commission working in concert with the New York City Police Department, the National Auto Theft Bureau, and other law enforcement agenceies.

This year saw a number of similar cases. To illustrate, on one occasion a routine check of vehicles already exported revealed that a brand new Jeep Cherokee Chief was reported stolen to the police by the owner some three weeks after it had been shipped to St. Thomas in the Virgin Islands. The owner, a Manhattan florist, then filed a claim with his insurance company for $14,500. After further investigation by the Commission and the New York City Police Auto Crime Division, the owner was arrested for grand larceny, insurance fraud and filing a false police report.

* * *

Proceeding Against a Union Official

During the year, the United States Attorney's Office filed an information against the president of a longshoremen's union local in New Jersey, alleging that while a delegate for his local he conspired with officials of a stevedore firm to violate several federal statutes. It was alleged that the union official informed an officer of the stevedore that under union customs and practices it would be necessary for the company to hire additional dock workers to off-load and store three shiploads of sugar, but that he would "waive" this requirement



in consideration for the payment of monies to him. After presentation of the federal government's case, the charges were dismissed, the Court ruling that any payments made to the union officer were time-barred as a crime by the federal statute.

The Commission conducted a simultaneous investigation of the matter. Since the union official was also a longshoreman registered by the agency, administrative proceedings were instituted to determine whether his license should be revoked. The Commission's charge, which was not barred by any statute of limitation, stated that the longshoreman, while a union delegate, had conspired with officers and stockholders of a waterfront firm to cause the firm to pay him money to influence his actions as a representative of dock workers. Prior to the administrative hearing on the allegations, the union official agreed to surrender his license and was barred from working on the docks as a longshoreman.

The Flim Flam Man

The average earnings for longshoremen from wages, guaranteed annual income payments, and holiday and vacation monies last year was over $35,500. While the Register of longshoremen was closed and no new workers were added to the labor force, at least one "confidence" man attempted to sell jobs to people anxious to get dock employment.

One complainant advised the Commission that he had been approached by a man who described himself as a longshoreman authorized to work on the Manhattan docks. The man displayed a card indicating that he had an association with the union representing dock workers. The trickster represented to the victim that he could obtain a "longshoreman's card" for him for $150, which would permit the victim to work on the North River piers. The victim agreed to pay $75 in advance and the balance upon receipt of his dock worker's papers.

Pursuant to an arrangement between them, the con man and the victim met in a railroad station in Newark, New Jersey, at which time the victim gave the man $75, as well as his original birth certificate and social security card. The swindler then advised his victim to wait until he returned with the longshoreman's card. After several hours, when the con man failed to appear, the victim made his complaint.

After obtaining a description of the trickster from the victim, a Commission detective was convinced the swindler was a man he had arrested previously for a similar offense. He obtained a court ordered warrant to search the suspect's living quarters and the warrant was executed with the aid of the Essex County, New Jersey, Prosecutor's Office. The victim's birth certificate and social security card were found during the search and the con man was arrested for theft by deception. At the time of his arrest, he was the subject of an outstanding bench warrant in connection with another fraud.

A Van Scam

A common practice of the past on the docks was the carrying on waterfront payrolls of "phantoms," persons who performed little or no services. This practice had been largely eliminated by the Commission. In order to discourage its resurgence, the agency makes spot checks on the piers to uncover those who may still be inclined to engage in this conduct.

In one case this year an investigation by Commission detectives uncovered a scheme by a mechanic foreman at a pier who had three longshoremen do personal work for him off the pier while they were being paid by the terminal operator. The foreman, who was the supervisor of the longshoremen, had them do mechanical work on a lunch wagon van he owned, which was stored almost 20 miles from the pier. He was charged by the Commission with misappropriating over $1,000 paid by his employer to the longshoremen for pier work they did not perform. After an administrative trial, the foreman's registration as a longshoreman was revoked for a three month period, after which he was placed on probation.

Always On Duty

The Commission's Division of Police consists of a force of investigating detectives and a uniformed patrol unit. Each member of the force has full police powers in both New York and New Jersey. The agency maintains two field police offices, one in Brooklyn, New York, at 100 Columbia Street, and the other at 1201 Corbin Street, Port Elizabeth, New Jersey.

On his way to report for duty, a Commission officer in civilian clothes was advised by a passerby that a robbery was in progress at a bar and grill across the street from the Commission's Brooklyn police office. While he was approaching the tavern, a male exited carrying a canvas bag. The officer identified himself and the male immediately drew a pistol from his waistband and started running in the opposite direction. The officer gave chase and was ultimately joined by other Commission officers and several members of the New York City Police Department.

The suspect jumped into a parked vehicle but was apprehended by Commission police before he could start the engine. Over $275 in cash taken from the bar was found in the canvas bag and the pistol was located in a nearby vacant lot where it had been thrown by the thief. The gun contained eight live rounds of ammunition. Also recovered was a curly wig used by the robber in the holdup. The suspect was charged with robbery in the first degree and criminal use of a firearm in the first degree.

Licensing Proceedings

Since 1953, when it was established, the agency has examined and processed over 142,000 applications and reapplications for registration and licensing. This past year its licensing division reviewed 618 applications for inclusion in the Register as longshoremen, 10 for registration as checkers, 216 for licensing as pier guards, 62 for pier superintendent licenses, 52 for licensing as employer hiring agents, and 107 for original and renewal stevedore licenses.

Registrations issued by the Commission are without a termination date. Pier superintendent and hiring agent licenses are valid through the duration of the licensee's employment with the stevedore firm or waterborne carrier sponsoring the application. Stevedore licensees must be renewed every second year. Until recently, pier guard licenses had a three year limitation. Legislation proposed by the Commission and passed by both states now provides that a license to act as a pier guard shall continue indefinitely and need not be renewed, provided that the licensee meet physical and mental fitness standards established by the agency, complete a refresher course of training for dock guards, and submit supplementary personal history information as required by the Commission.

The Waterfront Commission Compact provides that the Commission may not deny an application for inclusion in the Register without the applicant being granted reasonable prior notice and an opportunity to be heard at an administrative proceeding. Once issued, a registration or license may not be suspended or revoked without a similar opportunity granted the respondent to contest the allegations at a hearing.

Commission licensing hearings are presided over by Administrative Law Judges selected from a rotating panel of New Jersey and New York attorneys. The applicant or respondent may be represented by counsel, present evidence in his own behalf and cross-examine witnesses. The Administrative Judges may issue subpoenas to compel the attendance and testimony of witnesses. Regulations of the Commission governing the hearings also provide for interrogatories to be answered by witnesses who may be outside the States of New York and New Jersey. The hearings are open to the public and are stenographically recorded.

After the completion of testimony, oral argument and the submission of legal memoranda, the Judge renders a written report to the Commissioners containing findings of fact and recommendations as to disposition of the proceeding, copies of which are furnished to the applicant or respondent and staff counsel. The parties in interest are then afforded the opportunity to contest the findings of fact and recommendations by submitting written "exceptions" to the Commissioners.

Thereafter, the Commissioners, who make the final determination of the case, will review the record and issue a written order. This ruling is subject to judicial review by the courts of either compact state. In addition, an applicant or respondent has the right, pursuant to Commission regulation, to petition the Commissioners for a rehearing or reconsideration of the case, restoration of a license or registration, or for leave to reapply for a license or registration.

* * *

The Commission issued final determinations in 73 administrative proceedings this year. It denied 15 applications submitted for inclusion in the Register and granted 5. Three applications for licenses as port watchmen were denied. The registrations of 3 longshoremen were revoked, another 21 were revoked with leave granted to reapply after stated periods, 6 were suspended, 2 were reprimanded and the charges were dismissed in 1 case. One cargo checker had his registration revoked, 2 were revoked with leave to reapply, and 10 were suspended for varying periods of time.

These determinations included 27 matters handled as summary proceedings, a process in which the respondent does not contest the violations charged, waives a formal hearing and is subject to a suspension of his registration or license for a maximum of 30 days.

In addition, the Commission temporarily suspended the registrations of 2 longshoremen and 2 checkers and the license of a hiring agent pending administrative trials instituted against them for alleged serious violations of law.

During the year there were 34 petitions submitted to the Commission; 8 being granted and 26 denied.

Employment Centers

As previously stated, prior to the passage of the Compact the hiring of dock workers was by means of the "shape-up." For over 50 years, men would gather in a half circle at the piers two to three times a day, six days a week, waiting for the hiring boss to choose which persons he would put on that day. The "shape-up" not only fostered underemployment of the workforce, with twice as many persons seeking the available jobs, but also a system of bribery, kickbacks and favoritism. A study of cargo handling by the United States Department of Labor years before the Commission was created described the domination of hiring foremen:

> "[i]t is largely left to him to decide who shall be employed and who shall be left behind. He is seldom hampered in his choice, especially in regard to the more casual men. He can call them today and ignore them tomorrow. It would indeed be strange if such concentration of power in the hands of a single person controlling the jobs of so many men did not result in some cases in the abuse of this power. This may be as mild as the acceptance of an occasional drink or cigar, or it may go so far as to amount to a systematic sharing by the foreman in the earnings of the longshoremen as payment for the job."

The competition for jobs was not normal competition. Besides the rivalry among dock workers for the favoritism of certain corrupt union officers and hiring bosses, persons with other principal occupations worked as longshoremen on weekends and holidays when overtime was paid, thus depriving the regular longshoremen of this opportunity. Shortly before the States enacted their reform measures, there were some 44,000 dock workers seeking 17,000 jobs, with the average annual earnings in the industry's fiscal year 1951–52 under $2,500.

With the "shape-up" eliminated, the Commission established employment information centers throughout the Port. At one time there were 14 such centers. Through the years, because of automation, a reduced work force and to increase efficiency, the Commission consolidated its functions in the hiring halls. Today, there are three such centers, in Manhattan at 261–281 Hudson Street, in Brooklyn at 5914 3rd Avenue and Port Newark at 117 Tyler Street.

Last year there were 1,357,372 hirings processed through the employment centers; each "hiring" being one dock worker for one day. The average work day was 9.49 hours. Over 64% of the hirings in the Port was for work on the New Jersey side of the harbor, up from about 57% in the previous year.

Some 95% of the hirings are scheduled one or more days prior to the actual day of employment. The prearranged hirings are logged in computer terminals and each afternoon about 4,000 longshoremen and checkers, who have not been instructed to continue their work at the same pier the following day, will telephone the appropriate center to ascertain if they have been ordered for the next day. Each caller who has been ordered will be advised as to the pier and location, starting time and the type of work. Those not employed may seek work at the centers the following morning where hiring is conducted to replace unanticipated absentees or for unexpected manpower needs.

Administration

Two years ago the Commission reported the results of extensive litigation brought by a number of stevedore and steamship employers in the Port to declare as invalid assessments collected by the agency from them on guaranteed annual income and vacation and holiday payments made to dock workers. In *American Sugar Refining Co. of New York et al.* v. *Waterfront Commission* , the highest court of New York, the Court of Appeals, unanimously ruled in the Commission's favor, decreeing that such assessments were authorized under the Waterfront Commission Act. The Court also held that two management-labor funds making the payments were "employers" under the provisions of the Act and therefore liable to the Commission for assessments. A judgment imposed against the agency by a lower court in the amount of $4,000,000 was accordingly vacated.

During the pendency of the *American Sugar* litigation in the New York State Courts, the New York Shipping Association-International Longshoreman's Association Vacation and Holiday Fund and NYSA-ILA GAI Fund (the labor-management funds referred to in the American Sugar case) brought suit against the Commission in the United States District Court for the Southern District of New York seeking a declaration that the provisions of the federal Employee Retirement Income Security Act (ERISA) pre-empted the Commission from assessing the Funds. The Funds also sought refunds of payments previously made by them to the agency.

The Federal District Court found in favor of the Commission. The Funds appealed that determination to the United States Court of Appeals for the Second Circuit, which this year affirmed the determination of the District Court, holding in part:

> "Because the [Waterfront Commission] Compact, including §9858 [the assessment provision] was specifically authorized by Congress and because the subject matter of the Compact is an appropriate subject for Congressional legislation, we hold that the consent of Congress transformed the Compact into federal law under the Compact Clause. Therefore, we conclude that ***the assessment procedure*** is not preempted by ERISA."

The Funds thereafter petitioned the United States Supreme Court to hear the matter. That petition, however, was denied by the nation's highest tribunal.

* * *

The Commission and the staff note with deep sorrow the deaths of Walter Arm and Percy A. Miller, two former directors of the Commission, William J. Smith, a detective in the Police Division, and Frank J. Vivinetto, an accountant in the Division of Audit and Control.

Percy Miller was the first director of the Division of Employment Information Centers which, in the agency's early days, also supervised the licensing of waterfront workers. He was with the Commission from its inception in 1953 until his retirement in 1962. Prior to joining the Commission, he served as the New Jersey Commissioner of Labor and Industry, Mayor of Irvington, New Jersey, and as an Assemblyman. He was Speaker of the New Jersey Assembly in 1950.

Walter Arm joined the Commission in 1970 as Director of Information after serving as Deputy Commissioner of the New York City Police Department. He was formerly the City News Editor of WCBS-TV and a reporter for the Herald Tribune in New York. He retired from the agency in 1976.

Before joining the Commission's Division of Law Enforcement in 1969, Detective William Smith served in the United States Marine Corps and with the Harrison, New Jersey, Police Department. He died at the age of 44.

Frank J. Vivinetto, a certified public accountant in New Jersey, served as an investigatory accountant with the Commission since 1973.

* * *

This year also witnessed the retirement of three long time employees of the agency. Rudolph Mercado retired as a detective in the Police Division after 23 years of service. Sydney J. Huckvale, also a detective with the Commission, retired after being with the agency 23 years. Edward T. Hurban, a certified public accountant, served with the Division of Audit & Control for 13 years.

Ralph C. DeRose was appointed as Secretary to the Commission in June, 1984. He filled the vacancy left by the resignation of Dr. Francis A. Byrne, Jr. Dr. Byrne had been Secretary since his appointment in 1979.

Mr. DeRose, a New Jersey attorney and former State Senator, had been the Waterfront Commissioner for the State of New Jersey from 1974 to 1977.

* * *

The Commission congratulates John M. Boyle, an administrative judge with the agency for 16 years, on his appointment as a Judge of the Superior Court in New Jersey.

* * *

Since its inception, the Commission has been fortunate in receiving the willing cooperation of other law enforcement and regulatory agencies in its functions. Once again the Commission expresses its appreciation for such support.

As in the past, the Commission itself has extended its services and facilities to various investigatory and law enforcement bodies. This year the agency provided the Joint Terrorist Task Force of the New York City Police Departrment and the Federal Bureau of Investigation with aid in the Task Force's successful investigation and ultimate conviction of the leader and founder of Omega 7, an exile terrorist group, who had been a longshoreman in the Port.

CONCLUSION

To maintain and preserve the accomplishments of the Commission and the gains realized to the States by the enforcement of the Waterfront Commission Act in the Port of New York–New Jersey, the Waterfront Commission finds and determines that public necessity still exists for the continued registration of longshoremen, the continued licensing of those occupations and types of employment required to be licensed under the Waterfront Commission Act and amendments thereto, and the continued public operation of the employment information centers provided for in Article XII of the Waterfront Commission Compact.

Respectfully submitted,

NICHOLAS SCOPPETTA
Commissioner for New York

CONRAD N. KOCH
Commissioner for New Jersey

COMMISSION DETERMINATIONS

Year Ended June 30, 1984

APPLICATIONS AND REVOCATIONS

	Denied	Granted	Revoked	Revoked L/R	Sus-pended	Repri-manded	Dismissed Charges	Suspended P/H	Totals
Longshoremen	2	2	2	17	1	1	1	2	28
Checkers	0	0	1	2	10	0	0	2	15
Hiring Agents	0	0	0	0	0	0	0	1	1
Port Watchmen	3	0	0	0	4	0	0	0	7
Pier Superintendents	0	0	0	0	0	0	0	0	0
Stevedores	0	0	0	0	0	0	0	0	0
Maintenance	13	3	1	4	5	1	0	0	27
Totals	18	5	4	23	20	2	1	5	78*

* Includes 27 summary proceedings

PETITIONS

	Denied	Granted	Totals
Petitions for Reconsideration	5	1	6
Petitions for Leave to Reapply	0	1	1
Petitions for Rehearing	0	0	0
Petitions to Withdraw	4	2	6
Petitions to Remove Ineligibility	1	0	1
Petitions for Restoration of Registration	7	2	9
Petitions to Vacate Temporary Suspension	0	2	2
Petitions for Retention or Reinstatement	9	0	9
Totals	26	8	34

STAFF FUNCTIONS

	DIVISION OF LAW	DIVISION OF LICENSING	TOTAL
Investigations Completed	52	39	91
Recent Arrests Completed	71	2	73
Petitions Completed	13	18	31
Applications investigated and processed	31	249	280
Witnesses and applicants questioned	382	422	804
Summary Proceedings completed	26	7	33
Requests for Reinstatements from Withdrawal and Decasualization	6	46	52
Total Hearings conducted	27	20	47
Probationers Reviewed	13	7	20

DIVISION OF LAW ENFORCEMENT

Arrests and Apprehensions	
for thefts	28
for gambling	3
for other offenses	20
Total	51

DIVISION OF AUDIT AND CONTROL

Audits	
licensing	43
assessments	46
investigative	14
Total	103

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
58th decasualization	October 6, 1983	115	9,038b
59th decasualization	April 5, 1984	81	8,400b

(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.

REGISTRATIONS AND LICENSES IN EFFECT DURING FISCAL YEARS

As of June 30th

	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
Longshoremen	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]	8,702[a]
Checkers	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	1,806
Hiring Agents	559	602	605	545	493	512	427	378	369	361	357	339	327	304	291	279
Pier Superintendents	365	403	406	424	374	395	370	337	342	340	357	344	353	341	325	304
Pier Guards	1,637	1,548	1,485	1,405	1,291	1,064	979	894	818	789	750	705	655	635	560	525
Stevedore Companies	46	93	106	109	117	113	118	112	115	113	116	113	109	110	104	101
TOTALS	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	11,717

(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.

COMPARISON OF AVERAGE EARNINGS OF LONGSHOREMEN AND CHECKERS

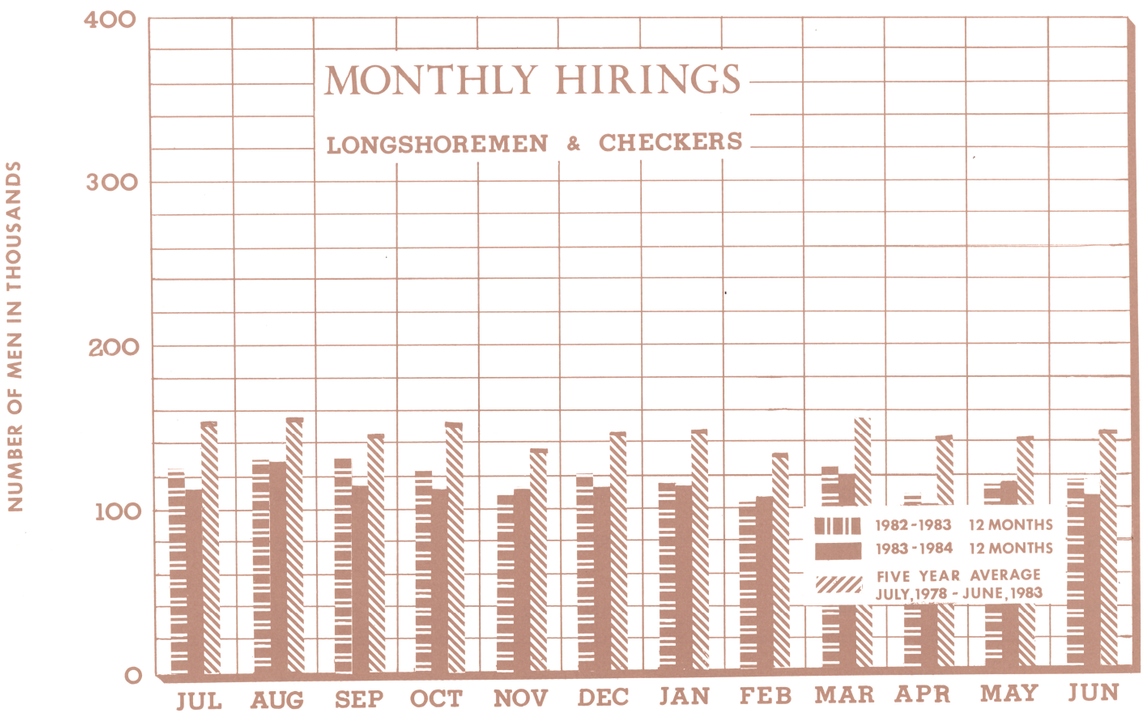
	1954	1981	1982	1983
Over $25,000	(*)	3,848	3,928	3,939
$20,000 to $25,000	(*)	1,642	1,168	731
$15,000 to $20,000	(*)	1,061	931	812
$12,000 to $15,000	(*)	577	511	512
$10,000 to $12,000	(*)	362	346	306
$10,000 and Over	(*)	7,490	6,884	6,300
$ 7,000 to $10,000	406	519	398	470
$ 6,000 to $ 7,000	802	126	125	131
$ 5,000 to $ 6,000	2,589	143	153	98
$ 4,000 to $ 5,000	6,330	150	142	151
$ 3,000 to $ 4,000	7,013	177	149	175
Under $3,000	24,193	1,024	996	1,324
TOTAL REPORTED	41,333	9,629	8,847	8,649
Total Earnings	$102,061,108	$211,818,417	$203,683,682	$203,615,185
Total Hours Worked	37,813,991	15,691,031	13,747,362½	12,537,900
% Hours Overtime	24.3%	24.8%	23.4%	23.4%
AVERAGE ANNUAL WAGES**	$ 2,469	$ 22,010	$ 23,023	$ 23,542

* Records Incomplete for 1954

** Does Not Include 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.

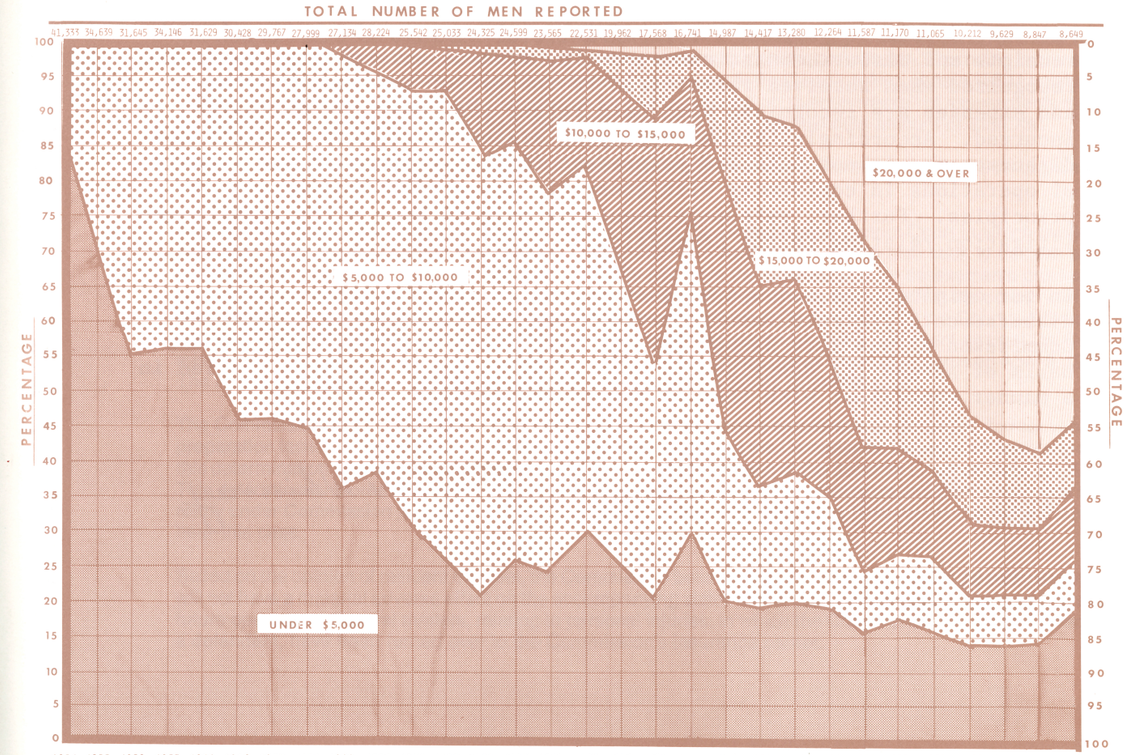
SOURCE: New York Shipping Association for its fiscal year ending September 30th.



EMPLOYMENT INFORMATION CENTERS

Showing Comparison of Hirings for the fiscal years ending June 30th, 1984 and 1983

Center and Location	Piers and Areas	HIRINGS 1983-1984	HIRINGS 1982-1983	Increase or Decrease	% Change	% Share in Port Employment 1983-1984	% Share in Port Employment 1982-1983
Manhattan 261-281 Hudson St.	Manhattan	77,944	90,581	– 12,637	– 13.95	5.69%	6.34%
Brooklyn 5914 3rd Avenue	Brooklyn & Staten Island	411,569	514,694	– 103,125	– 20.04	30.02%	36.02%
Port Newark 117 Tyler Street	Port Newark & Port Elizabeth	725,382	667,025	+ 58,357	+ 8.75	52.91%	46.68%
Hudson County 111 Newark St. Hoboken, N.J.	Jersey City, Bayonne & Weehawken	156,045	156,547	– 502	– .3	11.38%	10.96%
TOTAL—NEW JERSEY		881,427	823,572	+ 57,855	+ 7.02	64.29%	57.64%
TOTAL—NEW YORK		489,513	605,275	– 115,762	– 19.13	35.71%	42.36%
PORT WIDE TOTALS		1,370,940	1,428,847	– 57,907	– 4.05	100.00%	100.00%



Ernst & Whinney

153 East 53rd Street
New York, New York 10022

212/888-9100

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, 1984. 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, 1984, 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
July 18, 1984

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 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). This litigation concerned a claim pursued by the Commission on behalf of certain 1969 Legislation companies and had no effect on the commission's finances.

The New York State Supreme Court ruled that the Commission lacked authority to sue on behalf of these 1969 Legislation companies as these companies had made no demands upon the commission. This ruling is presently on appeal to the Appellate Division First Department. Subsequent to the Court's ruling, certain 1969 Legislation companies made demand upon the Commission for reimbursement of "overpayments" of assessments made by them to the Commission in the years 1978, 1979 and 1980 in the approximate amount of $154,730.

The Commission is resisting this demand. Litigation relating thereto was commenced by the 1969 Legislation companies on July 13, 1984.

A companion suit to the American Sugar case 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. That determination was upheld by the United States Court of Appeals on April 9, 1984. The Funds recently filed a petition for certiorari with the United States Supreme Court.

The Commission sought jurisdiction over certain of Mercedes Benz's employees at Mercedes' former vehicle preparation facility in Port Newark, New Jersey. The trial court ruled the Commission lacked such authority and this determination was subsequently affirmed by the Appellate Division of the Superior Court on June 29, 1984. This determination could cause loss of Commission jurisdiction over other employers and their employees currently under Commission jurisdiction. The Commission is presently asking the New Jersey Supreme Court to hear this case.

Based on the opinion of resident counsel, the Commission believes that the above, and other pending litigation will not have a material adverse effect on the accompanying statement of cash receipts and disbursements and future operations. Several matters, relating to personal injuries, in which the Commission has been named as a defendant, have been turned over to the Commission's insurance carrier.

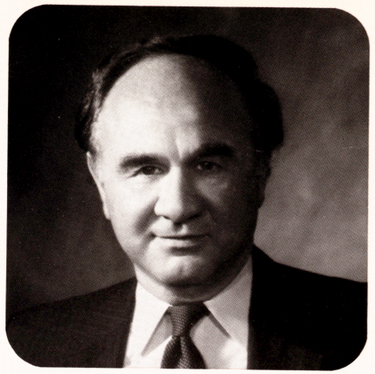
WATERFRONT COMMISSION OF NEW YORK HARBOR

Statement of Cash Receipts and Disbursements
Year Ended June 30, 1984

Balance of funds at beginning of year:		
Cash in checking accounts and on hand	$ 34,253	
Less taxes and other withholdings from employees	20,220	$ 14,033
Cash in savings accounts		6,395
Time certificates of deposit		1,870,000
Cash in money market accounts		181,938
		2,072,366
Receipts:		
Assessments on employers of persons registered or licensed by the Commission	5,671,862	
Interest on time certificates of deposit	253,997	
Interest on savings accounts	702	
Interest on money market account	8,770	
Penalties, fines and miscellaneous income	71,678	6,007,009
		8,079,375
Disbursements:		
Salaries	3,882,523	
Rentals	521,600	
Retirement, group insurance and social security taxes	1,209,543	
Special services and expense	50,688	
Communications	64,563	
Carfare, auto and travel expense	85,227	
General office expense	30,851	
Repairs and maintenance	77,142	
Furniture, fixtures and equipment	114,422	
Hearing officers, auditors and consultant fees	10,325	
Insurance	92,963	
Light, heat and power	147,539	
Printing	9,547	
Miscellaneous overtime expense	1,225	
State unemployment insurance	5,325	6,303,483
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	70,281	
Less taxes and other withholdings from employees	52,185	
	18,096	
Cash in money market account	16,461	
Cash in savings accounts	6,335	
Time certificates of deposit	1,735,000	$ 1,775,892



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*

Ralph C. DeRose, *Secretary*

John S. Winthers, *Chief, Division of Police*

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*

42 Broadway, New York, N.Y. 10004
212-742-9280

Photo Credit: A. Senegeto