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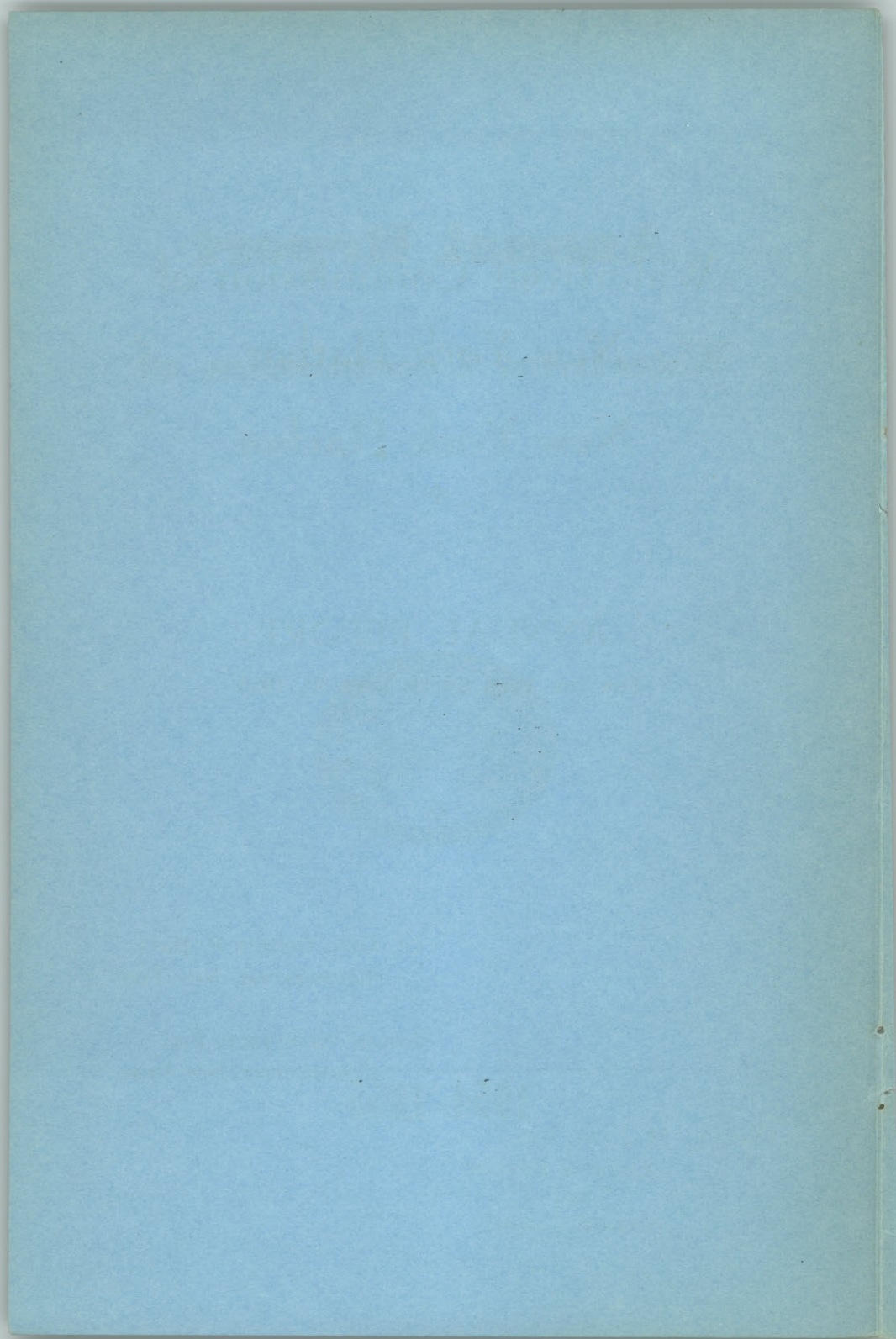
Annual Report

Waterfront Commission of New York Harbor

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1954-1955



Waterfront Commission of
New York Harbor



ANNUAL REPORT

FOR THE YEAR ENDED JUNE 30, 1955



LT. GEN. GEORGE P. HAYS
Commissioner, New York

JOSEPH WEINTRAUB, ESQ.
Commissioner, New Jersey

SAMUEL M. LANE, ESQ.
Executive Director
and
General Counsel

Statement of the Commission of

the District of Columbia

on the subject of

the proposed extension of the

of the District of Columbia

to the city of Washington

and the city of Georgetown

in the year 1800

Annual Report
The Waterfront Commission of
New York Harbor
For Year Ending June 30, 1955



To the HONORABLE W. AVERELL HARRIMAN, *Governor*,
and the Legislature of the State of New York:

To the HONORABLE ROBERT B. MEYNER, *Governor*,
and the Legislature of the State of New Jersey:

In making its second Annual Report, the Waterfront Commission of New York Harbor is pleased to state that conditions on the waterfront have substantially improved since the close of the Commission's first fiscal year on June 30, 1954.

Respect for the law has increased. A systematic method of hiring longshoremen has been put in operation. Labor relations have greatly improved. There was only one portwide strike during the year, and it lasted only two days, a refreshing contrast with the record of certain other foreign and domestic ports. The "quickie" strikes which plagued the port in the past have been few, far between, and brief.

The port prospers. In a letter to General Hays dated June 17, 1955, the Honorable Robert W. Dill, Collector of the Port, said, "It would be my observation that things in the harbor are certainly at the flood tide of all times (with the exception of the war which cannot be considered in peace-time figures)."

The June issue of the New York State Commerce Review, published by the Department of Commerce of the State of New York, reports that:

"Considerable progress has been made toward the promotion of better labor relations in the port since the establishment of the Waterfront Commission of New York Harbor almost two years ago. Such efforts to promote the efficient operation of the port are of utmost importance to every distributor who handles goods in foreign trade and every manufacturer who produces for overseas markets or purchases imported supplies."

On Wednesday, June 15, 1955, the Cunard Steamship Company's Queen Elizabeth, world's largest ship, tied up at Pier 90, North River, landed 2,006 passengers, took on 2,233 in their place, stored her fuel, water, and supplies, and sailed again: all in the incredibly short time of 17 hours, 9 minutes. No other port in the world can boast such a record.

Experience has demonstrated the validity of the Waterfront Commission Compact and the ability of the Commission to enforce it. The legislative objectives, although not yet attained, are much closer to realization than they were twelve months ago. This improvement has not been achieved by any dramatic stroke but by perseverance and restraint. In its every day relations with management and labor, at the counsel table, in the courts, and at every point of contact on and off the docks, the Commission has stood firm and has prevailed. It could not have done so unless it had faith in the enabling legislation.

On November 23, 1954, Major General Edward C. Rose resigned as Commissioner from New Jersey and Joseph Weintraub, Esq. was appointed in his place by Governor Meyner. On July 21, 1954, Samuel M. Lane succeeded Lawrence Edward Walsh as Executive Director and General Counsel when the latter was inducted as Judge of the United States District Court for the Southern District of New York. On October 8, 1954, Irving Slonim was appointed Assistant General Counsel.

There were no other changes at the executive level of the Commission during the year.

On August 27, 1954, the National Labor Relations Board certified the International Longshoremen's Association (Independent) [hereafter referred to as the I.L.A.] as collective bargaining agent for longshoremen employed by members of the New York Shipping Association [hereafter referred to as the N.Y.S.A.] and on Thanksgiving Day these two bodies reached tentative agreement on a new labor contract. Voted down by the men on December 10, 1954, the contract was renegotiated and finally approved on January 5, 1955. It went into effect on January 11, 1955, although certain details were resolved at a later date.

The Problem and the Legislative Solution

The need for the establishment of a bi-state agency to restore law and order on the waterfront was amply demonstrated by the New York State Crime Commission under the chairmanship of the Honorable Joseph M. Proskauer and attested to by many prominent citizens at public hearings subsequently conducted by Governor Thomas E. Dewey. In no single place has that need been better or more succinctly stated than in the Legislative findings of fact which appear in Article I of the law which was adopted by the legislatures of New York and New Jersey on June 25 and June 30, 1953, respectively, and received the approval of Congress on July 30, 1953. Article I follows:

"ARTICLE I

FINDINGS AND DECLARATIONS

1. The states of New York and New Jersey hereby find and declare that the conditions under which waterfront labor is employed within the port of New York district are depressing and degrading to such labor, resulting from the lack of any systematic method of hiring, the lack of adequate information as to the

availability of employment, corrupt hiring practices and the fact that persons conducting such hiring are frequently criminals and persons notoriously lacking in moral character and integrity and neither responsive or responsible to the employers nor to the uncoerced will of the majority of the members of the labor organizations of the employees; that as a result waterfront laborers suffer from irregularity of employment, fear and insecurity, inadequate earnings, an unduly high accident rate, subjection to borrowing at usurious rates of interest, exploitation and extortion as the price of securing employment and a loss of respect for the law; that not only does there result a destruction of the dignity of an important segment of American labor, but a direct encouragement of crime which imposes a levy of greatly increased costs on food, fuel and other necessities handled in and through the port of New York district.

2. The states of New York and New Jersey hereby find and declare that many of the evils above described result not only from the causes above described but from the practices of public loaders at piers and other waterfront terminals; that such public loaders serve no valid economic purpose and operate as parasites exacting a high and unwarranted toll on the flow of commerce in and through the port of New York district, and have used force and engaged in discriminatory and coercive practices including extortion against persons not desiring to employ them; and that the function of loading and unloading trucks and other land vehicles at piers and other waterfront terminals can and should be performed, as in every other major American port, without the evils and abuses of the public loader system, and by the carriers of freight by water, stevedores and operators of such piers and other waterfront terminals or the operators of such trucks or other land vehicles.

3. The states of New York and New Jersey hereby find and declare that many of the evils above described result not only from the causes above described but from the lack of regulation of the occupation of stevedores; that such stevedores have engaged

in corrupt practices to induce their hire by carriers of freight by water and to induce officers and representatives of labor organizations to betray their trust to the members of such labor organizations.

4. The states of New York and New Jersey hereby find and declare that the occupations of longshoremen, stevedores, pier superintendents, hiring agents and port watchmen are affected with a public interest requiring their regulation and that such regulation shall be deemed an exercise of the police power of the two states for the protection of the public safety, welfare, prosperity, health, peace and living conditions of the people of the two states."

The legislative attack upon the evils so described was to set up the Waterfront Commission of New York Harbor and charge it with responsibility for the execution of a constructive program of reform.

(1) To eliminate the rascals, the bullies, and the weaklings who on their own scores or at the bidding of others would engage in pilfering, bookmaking, operating the numbers rackets, loan-sharking, or handling narcotics, the law decrees that no man shall work as a longshoreman unless he is registered or as a port watchman unless he is licensed by the Commission and it charges the Commission with responsibility for screening out the undesirables. (Articles VIII and X)

(2) To eliminate the corrupt hiring agents and pier superintendents who would select and direct men not in the interests of their employers but for the benefit of "the mob", the law decrees that no man shall work as a hiring agent or pier superintendent unless he is licensed by the Commission, not on his own application or on the application of the union, but on the application of his employer, and it charges the Commission with responsibility for limiting such licenses to men of good character and integrity, free from disqualifying criminal records, and disaffiliated from the union of the men whom they employ. (Article V)

(3) To eliminate the corrupt stevedore who would buy his business on the one hand by bribing dishonest steamship officials and his labor on the other hand by payments to faithless union officials, the law decrees that no corporation, partnership or individual shall engage in the stevedoring business unless licensed by the Commission and, here again, it charges the Commission with responsibility for screening out the undesirables. (Article VI)

(4) To eliminate one of the most virulent cancers that infested the waterfront and bled the public for the enrichment of the labor racketeer, the law decreed that "public loading", the loading and unloading of trucks on piers by independent loaders, be wholly abolished and that that activity be limited to carriers, consignees, and consignors. (Article VII)

(5) To bring the work force into better balance with opportunities for work, the law requires the Commission to fix a minimum standard of regularity of employment and, at semi-annual intervals, to remove from the register the men who fail to meet that minimum. (Article IX)

(6) And, finally, to provide a systematic method of hiring, in place of the hit-or-miss pierhead "shape" which bred kick-backs, favoritism and corruption, the law decrees that no man shall be hired, directly or indirectly, except through such employment information centers as the Commission shall establish throughout the port. (Article XII)

The more the Commission has worked with this law, the more the Commission is convinced of its wisdom and the foresight of its advocates.

Registration of Longshoremen

At the opening of the Commission's second fiscal year on July 1, 1954, the Commission had issued permanent registration to 29,765 longshoremen, and temporary registration to 4,704 others. It had denied registration to 122. During its second fiscal year, the Commission issued permanent registration to 7,063 longshoremen. It denied or revoked registration in 507 cases.

It is appropriate to note at this point that as a result of the first round of decasualization 7,603 men were removed from the longshoremen's register. As this report goes to press, latest figures indicate that, whereas the longshoremen's register stood at 34,469 on June 5, 1954, it contained only 31,574 names on June 3, 1955. The net decrease, therefore, which took place during the year was 2,895.

The Commission is acutely aware of the impact on a man and his family of the denial of his right to work on the waterfront, because of a criminal record. In each case, the Commission's problem is to balance the public gain against the private loss that may be expected to accrue from the exclusion from the waterfront of a man with a criminal record. When, for example, a man has a substantial record of arrests and convictions for policy and book-making, it is the Commission's view that exclusion from the waterfront is justified not only because of the drain on the life blood of the longshoreman's family which results from organized gambling but also because of the importance of this source of revenue to "the mob".

Similarly, it is the opinion of the Commission that a firm line should be drawn against the admission to the docks of men with records of arrests and convictions for smuggling or peddling narcotics. A man who by handling drugs has indicated his indifference to the miseries that drug addiction begets should not be permitted to find employment in such a sensitive area as the waterfront.

In general, when the Commission reviews the application of a longshoreman who has a criminal record, it endeavors to give appropriate consideration to (1) his investment in the waterfront in terms of years of service, (2) the evidence which he shows of rehabilitation, and (3) the hardship which may be visited upon his family if he is denied the right to work on the waterfront. Conversely, the Commission must always keep in mind the danger that, if such a man is permitted to work on the waterfront, he will participate in acts of violence, intimidation, and coercion or that

he will engage in the smuggling of narcotics, or that he will take part in illegal gambling, loansharking or organized pilferage.

A transcript of every hearing was submitted to the Executive Director and to the Commissioners. Each case was considered by the Commission on its own merits. In no case has the final ruling of the Commission been reversed or modified by any court.

In every case a copy of the hearing officer's report was sent to the applicant.

To handle the backlog of cases pending at the beginning of the year and to keep abreast of the intake the commission held 895 hearings.

Denials and revocations: in the cases of the 629 men whose registrations have been denied or revoked by the Commission in its first two years of operation, there were 630 felony convictions, 1,402 misdemeanor convictions, 407 offense convictions, and 751 other arrests, making a total involvement with the law of 3,190.

Grants: in the cases of 288 other men, whose records were such that permanent registration could not be granted until after a hearing, there were 213 felony convictions, 531 misdemeanor convictions, 124 offense convictions, and 468 other arrests, making a total involvement with the law of 1,336.

A factor which may have some special significance is the length of time that elapses between a man's release from prison and his application to the Commission for registration as a longshoreman. If the period is long, it would seem to indicate rehabilitation. If the period is short, it leaves the question of rehabilitation in doubt. Analysis of the cases of the men to whom the Commission has denied registration shows that the average for this period is a little over three years.

Thirty per cent of the men who were notified to appear for hearings on their applications for registration failed to show up even though they were warned that such failure would result in denial of registration. It has been the Commission's policy, how-

ever, to reopen any such case on the applicant's subsequent request within a reasonable time.

Registration was denied to a substantial number of men upon the ground that not only did they have serious criminal records but that they also attempted wilfully to defraud the Commission by filing false applications or testifying falsely in order to conceal their criminal records. In many such cases, however, they were given leave to file new applications after thirty days.

The day will come, we hope, when this Commission can adopt a more liberal attitude towards men with criminal records, but that day has not yet arrived. It will arrive only when union leadership joins in the attack upon waterfront crime by taking a firm stand in support of law and order.

Licensing of Port Watchmen

At the opening of the Commission's second fiscal year on July 1, 1954, the Commission had issued licenses to 2,755 port watchmen. It had denied licenses to 8. During its second fiscal year the Commission issued licenses to 2,985 port watchmen and denied or revoked licenses in 4 cases.

The New York State Crime Commission, finding that "the present watchman system on the piers is ineffective and operates to the detriment of the port", said

"The degree of pilferage and other lawlessness on the docks requires that, in the public interest, the independence and caliber of the men employed as watchmen should be substantially improved."

(Fourth Report of the New York State Crime Commission, p. 72)

The docks comprise a vast area which is private property or is under lease to private interests and, therefore, is not patrolled by local police forces. It is anomalous that such an area to which many thousands of people have daily access should be without the usual police protection or its equivalent.

Those who operate the docks apparently have thought of port watchmen primarily in terms of protection against pilferage and fire. This concept is much too limited. Actually, pier operators have the same duty imposed by law upon the occupants of all private property to prevent every type of criminal activity thereon.

A solution may be found in a revision of the limited concept of the duty of port watchmen and in the introduction of an organization which will insure their effective use in policing against all lawlessness on the piers. The Commission has informally suggested to representatives of N.Y.S.A. that it consider the advisability of having a single force of watchmen for the entire port headed and disciplined by an outstanding veteran of law enforcement work. The Commission intends to pursue this matter further and hopes that a solution will be evolved.

Licensing of Pier Superintendents and Hiring Agents

Turning from the registration of longshoremen and licensing of port watchmen to the licensing of pier superintendents and hiring agents, the Commission preliminarily expresses this firm conviction: the identity of men who operate the various rackets on the piers such as gambling, loansharking, smuggling and organized pilferage is either known to or readily ascertainable by the hiring agents and pier superintendents. If the hiring agents would refrain from hiring such men or the pier superintendents would fire them, or if the stevedores would dismiss hiring agents and pier superintendents who thus tolerate rackets on their piers, the rackets would be broken.

At the opening of the Commission's second fiscal year, the Commission had issued no permanent licenses to pier superintendents and hiring agents, but had issued 963 temporary licenses. It had denied licenses to 10. Applications had been withdrawn in 26 cases on the eve of Commission hearings. During its second fiscal year, the Commission granted permanent licenses to 313 and had on hand for final processing at the end of the year 642 temporary licenses.

In some cases stevedores have employed men in what appeared to be supervisory categories and at a rate of compensation appropriate for supervisors, but without giving them supervisory titles and without applying to the Commission for licenses on their behalf. The implication in such cases is that the stevedores' purpose is to circumvent the law in the belief that the Commission would deny licenses to such men. The matter is having the Commission's attention.

Licensing of Stevedores

To secure and retain a license, a stevedoring company must satisfy the Commission that its principal officers and stockholders are men of good character and integrity who have not, within five years, been convicted of certain crimes. Such a license may not be issued to or retained by any company which, since July 1, 1953, has paid money to any officer or employee of a shipping company or to any officer or representative of a labor organization for an improper or unlawful purpose. Any such license may be suspended or revoked if the licensee fails to maintain a complete set of books and records containing a true and accurate account of the licensee's receipts and disbursements.

Obviously, the purpose of this section of the Compact is to drive off the waterfront the stevedores who resort to bribery for their business on the one hand and their labor on the other, and to limit participation in stevedoring to men of such character and integrity that they will not stoop to such practices.

Obviously, too, the detection of such practices is not easy. False, misleading and inadequate bookkeeping entries are made. Pains-taking investigation and exhaustive oral examination of stevedoring officials and accountants has been necessary to arrive at an understanding of company practices and an appraisal of the character and integrity of company officers and stockholders.

One of the most significant revelations of the Crime Commission was the large amounts of unsubstantiated cash withdrawals

on stevedores' books. This practice has been greatly curbed but the Commission is not yet satisfied. Certain stevedoring companies still show large unsubstantiated cash withdrawals lumped under the heading "travel and entertainment" without any indication of what travel or what entertainment took place or for what purpose. Unsubstantiated cash disbursements, too often the vehicle for illegal payments and income tax evasion, will not be tolerated. The Commission has prepared a new accounting regulation which requires specification of the purposes of cash disbursements. This will be discussed with the Accounting Committee of the N.Y.S.A. before final promulgation.

At the opening of the Commission's second fiscal year on July 1, 1954, the Commission had issued temporary licenses to 54 stevedoring companies. The largest stevedoring company in the port had sold its business on the eve of public hearings with respect to its qualification for a license. 20 applications for licenses had been denied on technical grounds. No permanent licenses had been issued.

During the Commission's second fiscal year the license applications of 57 stevedoring companies were processed, 27 permanent licenses were issued, and 1 was denied. One stevedoring license was revoked when it was found that the applicant had defrauded the Commission by fronting for undisclosed principals who had good reason to believe that the Commission would not have issued a license to them. Another stevedoring company retired from business when the Commission's staff uncovered evidence of illegal conduct including income tax evasion. Three companies were suspended for non-payment of the Commission assessments authorized by law.

With the benefit of a year's hard work on the problem, the Commission is now prepared to dispose of the remaining 27 applications. Notices of hearing have already been drawn up in some cases.

Public Loading

This great port was uniquely cursed by the presence of public loaders: no other port had them.

The function of the public loaders was to load and unload trucks on piers. For the loading they charged 5½ cents a hundred pounds. For the unloading they charged whatever the traffic would bear.

Public loading on almost every pier was the monopoly of men who either controlled I.L.A. locals or had their blessing. Through their control of longshoremen public loaders forced their way onto the piers, whether they were wanted or not, and exacted their tithe whether they actually performed any services or not. In many cases they "borrowed" the stevedore's men and equipment for the loading work, and pocketed the proceeds. They paid no rent for the piers on which their activities took place, their status in many cases being no better than trespassers. The stevedores and steamship companies were unwilling to risk the work stoppages and slow downs which would have attended any effort to throw them off.

In so far as public loaders actually performed services, they took work away from the rank and file longshoremen. As a measure of the selfishness of the labor bosses and of the helplessness of the men whose interests they were supposed to represent, the public loading racket could scarcely be equalled.

Although some persons who had given thought to the problem were of the opinion that the evils of public loading could be eliminated by licensing and supervision, the legislative solution was to prohibit public loading entirely and, broadly speaking, to limit the loading and unloading of trucks on piers to shippers, stevedores, truckers, consignees, and consignors. This was, we think, the better solution.

With relatively minor exceptions, all post-Compact loading has been done by the stevedores rather than the truckers. This has,

of course, benefited the rank and file longshoremen who have been employed for that service at the regular longshore hourly rate including social security and pension benefits. What once was a closed occupation to most men is now becoming available to all.

However, the change from what was called "public loading" to what might be called "private loading" has been slow and difficult. Early in the game and particularly while the constitutionality of the prohibition against public loading was being tested in the courts, certain of the stevedoring companies kept the public loaders alive by leasing mobile equipment from them, but this practice has now practically disappeared. At the same time, many of the stevedoring companies hired the former public loaders and their men to perform loading services on the piers—the public loader becoming the stevedore's loading boss and his men becoming the stevedore's employees.

The leaders of the I.L.A. have consistently supported the former public loaders in their insistence upon the "right" to continue to monopolize the loading and unloading of trucks on the piers. They have also insisted that the men engaged in that activity should not render any other service on the piers.

If men were hired only to load and unload trucks, there would be a tremendous loss of man hours and a corresponding increase in the cost of operating the port, for it is impossible to predict the daily demands for loading services on the docks. Any such non-productive increase hurts the port and, in consequence, all the men who look to the port for their living.

Just before the N.Y.S.A. and the I.L.A. finally reached, on Thanksgiving Day, tentative agreement on the terms of their current labor contract, subcommittees from both sides waited on the Commission with the request that the Commission informally pass upon the legality of an I.L.A. proposal for the inclusion in the collective bargaining agreement of a clause which would have created a separate craft for loaders. As outlined by these subcommittees, the men were not to be paid at the regular hourly

rate for longshoremen but at the old public loading rate of 5½ cents a hundred pounds, less a small charge for the stevedore's bookkeeping and clerical expense! The subcommittees were told that, in the opinion of the Commission, this would effectuate the return of public loading in disguise; and that the Commission would oppose any such scheme. Nothing more was heard of the plan.

The return of public loading in any form would be unthinkable. The welfare of the port in general and of the rank and file longshoremen in particular would be seriously hurt by such a turn. To prevent it from happening, the Commission adopted more stringent regulations during its second fiscal year and conducted a number of investigations throughout the port. The public loading problem is one which requires constant vigilance. It will continue to have the attention of the Commission.

Decasualization

Distinct progress has been made during the Commission's second fiscal year in bringing the labor force into better balance with the available work. One of the principal breeders of crime and corruption on the waterfront for a great many years has been the oversupply of longshore labor. The resulting competition for the opportunity to work on the docks played directly into the hands of the racketeers who exploited it to exact kickbacks and to carry on their illicit enterprises through the use of men who would do their bidding.

The problem presented is one of great complexity: how many men are required to perform longshore services in the Port of New York and how shall the work force be brought down to that number?

The legislatures propounded an empirical solution by requiring the Commission, from time to time, to fix a minimum standard of regularity of employment and then, at semi-annual intervals, to eliminate from the longshoremen's register the men who fail,

without reasonable excuse, to meet that minimum. The standard thus far followed by the Commission has been eight days of work or solicitation of work through the Commission's employment centers per month.

Recently, certain I.L.A. leaders have suggested that the Commission close the longshoremen's register.

Far from having the power to close the longshoremen's register, the Commission is specifically required to accept for registration every applicant who is not disqualified by (a) his criminal record, (b) his advocacy of the overthrow of the United States Government by force or violence, or (c) the fact that his presence on the piers would endanger the peace and safety.

The real problem is one of maintaining an appropriate balance between labor requirements and labor supply in a fluid and unpredictable industry. The demands for longshoremen's services vary not only from day to day but from season to season and from year to year. No balance can be achieved by closing the longshoremen's register or by the application of any other arbitrary rule. To maintain a flexible register, admitting all men who are not disqualified and removing, every six months, the men who do not work or apply for work regularly, is a difficult task but seems to offer the best solution to the problem.

How many men are required to work the port? How many will report for duty when called? How many will be ill or injured? How many are willing to work at any pier where work is offered and how many will insist upon working only at their regular piers? How many have the special skills that are required to operate a winch, drive mobile equipment, or work on deck or in the hold? How many men are required for special purpose gangs handling heavy lifts, lumber, steel, etc.? How many men, once admitted to the register, are going to find work on the waterfront or even seriously to look for it?

How good is the export-import business going to be? How many ships, some heavily laden with general cargo, and some

jammed with passengers are going to arrive in or sail from the port at one time?

None of these questions can be answered but one of the top union officials has repeatedly stated that he requires for his area, which is probably the busiest in the port, a head count of one and three quarters for every longshoreman's job that must be filled. Since Commission records reveal that longshore jobs run as high as 19,000 a day, this estimate, if sound, would seem to indicate the need of a register of 33,250 men. Other estimates run as low as 25,000. Only experience will supply the answer, and all that can be said with certainty is that the number will never be static. As this report goes to press there are actually 30,456 men permanently registered and 1,118 men holding temporary registration, or a total of 31,574 qualified longshoremen.

In the first round of decasualization, which commenced in January 1955, the record showed that 16,393 men had failed to meet the minimum standard of regularity. After each of these had been given an opportunity to show why he failed to meet the minimum requirement of regularity, 7,603 were removed from the register and 8,790 were retained. In some cases the payroll record for technical reasons failed to reflect a man's waterfront earnings. In many cases men had worked only part time as longshoremen and the rest of the time as coopers, carpenters, shenangos, gear men, or at some other waterfront occupation not classified as longshore work and not covered by the registration requirement of the Compact. In many cases men had been ill or had been on extended trips to the old country. Some men worked on slow piers. All told, 9,336 men submitted their reasons for having failed to meet the minimum standards of regularity and asked to be retained on the register. Each such request was processed by the Division and personally reviewed by the Director. Every effort was made by the Commission to retain the men who in fact look principally to the waterfront for their livelihood.

In its second round of decasualization, which will commence in July, 1955, the Commission will no doubt encounter a great

many cases in which a man excused for failing to meet the minimum standard of regularity during the six months ending December 31, 1954, has again failed to meet that standard for the six months ending June 30, 1955. In every such case the Commission will have the man's work record for a whole year on which to base its determination whether to retain him or eliminate him from the longshoremen's register. With this information it should not be too difficult for the Commission to reach a just conclusion.

The improvement consequent upon registration and decasualization is plain. Before the advent of the Commission any and every man was qualified to seek work on the docks, the door was wide open, there was no limit at all. Records kept by the N.Y.S.A. show that in each of the fiscal years ending on September 30, 1952 and 1953, the last two fiscal years before the Waterfront Commission stepped into the picture, more than 42,000 men received wages as longshoremen in the port of New York. In the year ending September 30, 1954, the figure dropped to 33,000. Next year it should run even lower.

Establishment of a Systematic Method of Hiring

Like the oversupply of labor, the lack of any systematic method of hiring longshoremen contributed largely to the uncertainty of waterfront employment and the perpetuation of the rackets. To understand this phase of the Commission's responsibilities and to appreciate the steps which the Commission has taken to meet it during its second fiscal year, one must realize that there are three major divisions of longshoremen within the Commission's jurisdiction: (1) men who work in hatch gangs to load and unload ships, (2) men who are employed on the docks to move, and sort cargo, and to load and unload trucks, (3) men who check the quantity of cargo when it is received or delivered. Men in the first category, are popularly called longshoremen; in the second, extra labor or dock labor; and in the third, checkers and clerks. In the Compact they are all included in the generic term "longshoremen".

Hatch gangs vary in size, depending upon the type of cargo and the practice in the particular area of the port. Typically, a general cargo gang consists of a boss and 20 men distributed as follows: 8 in the hold, 4 on deck, 8 on the dock. Where mobile equipment is used, it may be customary to assign two drivers also.

Extra labor, checkers, and clerks are not hired in gangs but as individuals according to the anticipated needs of the day.

Prior to the advent of the Waterfront Commission, most men were hired at pierhead "shapes" at 7:55 a.m. From a semi-circle at the entrance to the pier, the hiring agent called for the gangs and selected the individuals that he required. If a man was passed over, it was too late for him to find work at any other pier, because the hiring there would also have been completed. If he did not wish to be passed over again and again, he might buy his way into the favor of the hiring agent either by agreeing to a kickback or by borrowing money from the loan shark who operated at the pier in question. The practice was, as the legislatures found, not only "depressing and degrading" to labor but also conducive to crime and corruption.

To provide not only a systematic method of employment but also a means of securing adequate information with respect to the availability of men for work and work for men, the Compact requires the Commission to establish employment information centers throughout the port, and prohibits the hiring of any man for longshore work except through such centers. The exact words of the Compact are:

"No person shall, directly or indirectly, hire any person for work as a longshoreman or port watchman within the port of New York district, except through such particular employment center or centers as may be prescribed by the commission. No person shall accept any employment as a longshoreman or port watchman within the port of New York district, except through such an employment information center. At each such employment information center the commission shall keep and exhibit

the longshoremen's register and any other records it shall determine to the end that longshoremen and port watchmen shall have the maximum information as to available employment as such at any time within the port of New York district and to the end that employers shall have an adequate opportunity to fill their requirements of registered longshoremen and port watchmen at all times." (Article XII)

The great question, as the Compact was about to take effect on December 1, 1953, was whether the Act should be construed to require every longshoreman *to pass physically through* one or another of the Commission's 13 employment information centers whenever he was hired or whether his hiring might be *arranged through* a center without any requirement that he be present personally. Had this question been resolved in such a way as to require each man to *pass physically through* an employment information center every morning, a portal to portal situation would have been created. To say nothing of the hardship which this would have visited upon the men, there would have been a loss of time which would have greatly increased the cost of operating the port. The question was accordingly resolved by permitting the employers to submit to the Commission in advance lists of men whom they expected to employ for the ensuing five days or a week. The Commission would then check the names against the longshoremen's register. This practice was known as "pre-validation." Once a list had been validated in this way, its validation could be extended from week to week. Only men who were not on such lists and were looking for fill-in jobs, "casuals" as they are called, had to report to the Commission's employment information centers in person.

Prevalidation seemed like a sensible solution to a serious economic and administrative problem, but, in practice, it did not work. Prevalidation was based upon the assumption that the employers would exercise discretion in selecting their employees and would requisition only the men whom they really needed; it assumed that the hiring agents would make up their own lists. However, in

practice, many employers abdicated their right of selection. Acting of course through their hiring agents, they submitted lists which were made up by the union leaders and kept adding to them until they greatly exceeded the number of men actually needed. The overt "shape", which formerly took place at the pierhead, was thus replaced by a covert "shape" which was even more firmly controlled by the union. All that the Commission found itself doing was stamping with its approval after the event a hiring which had taken place *outside* of its centers, not *through* them as the law required.

The Commission accordingly abolished the prevalidation system, and has now instituted a gang-posting, gang-hiring system and a new method of hiring dock labor, checkers and clerks which, the Commission believes, not only channels the hiring through the Commission's centers but also makes those centers the source of information with respect to the availability of men for work, and the availability of work for men. The centers have become, in a true sense, employment information centers. The new regulations also tend to stabilize and regularize the work force by favoring the steady men and by bringing the hiring out in the open for all the world to see.

Under the new system, the hatch gangs are listed with the Commission by the stevedores who employ them. They may also be voluntarily formed by the men themselves or made up by the Commission. All gangs for a given area are posted on bulletin boards in the Commission's center serving the area. Gangs identified with a given pier in the area are also posted on a bulletin board at the head of that pier. The Commission keeps a roster of each gang, which is identified by a number and the name of its hatch boss. Regular gangs are hired from day to day at their own piers by checking the pierhead lists and passing the information along to the center where it is noted on the board. Regular gangs not occupied at their own piers are hired from day to day from the bulletin board in the center. Extra gangs, not identified with any pier, are always hired from the bulletin board

in the center, except when their employment is continued by one employer from day to day at a particular pier.

Under the new system, regular dock labor is hired in much the same fashion as regular gangs at their home piers. That is to say, the stevedore at a given pier certifies to the Commission the names of his regular dock and terminal workers, posts them on a bulletin board at the head of the pier and then hires them from day to day from that board. At the same time, he informs the center and, at the end of the month, the Commission requires him to remove from his pierhead list any men whom he has not in fact hired regularly.

Casuals, or fill-ins, continue to be hired from day to day at the Commission's centers.

Replacing the prevalidation system with the new system, thus breaking the union control of the hiring and at the same time avoiding a costly strike, was an outstanding accomplishment of the Commission during its second fiscal year. It also brought about a closer working arrangement between the Commission, the N.Y.S.A. and the I.L.A.

When a gang-posting, gang-hiring system was first proposed, management roundly condemned it and labor boycotted the public hearing that was held on October 15, 1954.

The Commission refrained from taking any further action while the N.Y.S.A., and the I.L.A. were negotiating their new collective bargaining agreement. The consequent delay was long and exasperating but, in retrospect, well worth the investment of patience which it represented.

Finally, on January 12, 1955, the day after the new labor contract went into effect, the Commission announced the new hiring regulations and invited comment and criticism from management and labor. It received a good deal of comment and criticism from management, much of it unfavorable but all of it helpful, and, in consequence, made many changes which improved the regu-

lations. It received no comment or criticism from labor, but only repeated warnings of dire consequences if the new regulations were put into effect. When the Commission sent for the leaders of the I.L.A. to go over the proposed regulations, they came but sat mute.

As March 1, the effective date of the new regulations, approached the I.L.A. locals throughout the port began to take strike votes, and the prospect of a peaceful transition from the old to the new regulations grew more and more uncertain. This, however, did not deter the Commission. On the contrary, the Commission made it plain to all that it would not default in its duty to carry out the mandate of the law. At the eleventh hour, the I.L.A. publicly expressed its regret for not sooner availing itself of the opportunity to discuss the new regulations and asked for a postponement for that purpose. This broke the boycott and, accordingly, the Commission agreed to a postponement. Conferences between the Commission and the I.L.A. began almost immediately.

The first meeting took place at the office of the Commission on March 2. All but one of the principal leaders of the I.L.A. attended. That one meeting was, without question, not only well worth the delay which it occasioned, but was the most fruitful meeting that the Commission ever had with the I.L.A. In addition to affording the Commission an opportunity to clear up fundamental misunderstandings with respect to the purpose and intended effect of the new regulations, we believe it demonstrated to the I.L.A. that the Commission was only interested in carrying out the mandate of the law and that nothing would dissuade it.

The union representatives made two principal points: first, that the regulations would nullify a clause in their new collective bargaining agreement which was intended to give the I.L.A. control over the hiring of extra gangs; and, second, that the regulations would override other hiring practices which were protected by the labor contract.

The first clause provided that:

"8. IN THE EVENT THAT THE EMPLOYER DESIRES EXTRA GANGS ORGANIZED IN UNITS in addition to the regular gangs he shall notify the union of number of extra gangs needed. The employer shall at the same time take such action as may be required under existing law to validate such extra gangs."

As interpreted by the employers, this clause meant what it said literally: "notify" meant "notify", and no more. As interpreted by the union, "notify" meant "order". The Commission made clear to the I.L.A. that to interpret the clause as requiring the extra gangs to be ordered through the union halls would violate the law and, therefore, could not be tolerated.

The second clause provided that:

"20B. Customs and practices in effect on December 28, 1954, shall remain in effect."

The Commission assured the I.L.A. that it had no intention or desire to abrogate any lawful customs and practices but only to require hiring practices to be carried out through the Commission's employment information centers as the law commanded.

Other meetings followed during which the Commission urged the I.L.A. to reduce its hiring practices to writing, area by area, so that the Commission might pass upon their legality and arrange for the implementation of all such practices *through* the Commission's centers as were found to be legal.

On April 1, 1955, the new hiring regulations went into effect. Instead of carrying out their threat to strike, the leaders of the I.L.A. challenged the new regulations only in the courts, and, pending decision, sat down with the Commission's Executive Director to spell out the hiring practices, area by area, which were to be observed in the Commission's employment information centers. Every area was covered and for almost every area

a statement of hiring practices was evolved. Leaders of I.L.A. locals and representatives of the employers felt that in certain areas the Commission's new regulations obviated the need for any further definition of hiring practices. In most areas, however, for the first time in the history of the port, these practices, so important to all longshoremen, were put on paper so that there could be no mistake or misunderstanding about them. Definite rules finally supplanted arbitrary power.

Typically, each agreement specifies that an employer will give first preference to the gangs which regularly follow his pier, second preference to the extra gangs in his area, and third preference to regular gangs in his area unoccupied at their home piers. A special arrangement for baggage porters and extra labor has been worked out for the upper North River where the big passenger liners dock and there is a great variation in the daily demands for baggage porters and extra labor.

The new regulations are now in effect and working well.

Litigation

During its second fiscal year, the Commission has continued, unbroken, the success which it achieved the first year in the courts in defending suits which disputed the Commission's authority or challenged its actions.

After twenty months of litigation in the federal courts, Articles V, VI, VII, VIII, IX and XII of the Compact have been specifically held to be constitutional in the face of practically every conceivable attack under the United States Constitution. These articles relate to the licensing of pier superintendents and hiring agents (Art. V); the licensing of stevedores (Art. VI); the prohibition of public loading (Art. VII); the registration of longshoremen (Art. VIII); decasualization (Art. IX); and the operation of employment information centers (Art. XII). *Linehan v. Waterfront Commission* (S.D. N.Y. 1953) 116 F. Supp. 683, *aff'd* (1954) 347 U.S. 439; *Staten Island Loaders, Inc. v. Waterfront Commission* (S.D. N.Y. 1953) 117 F. Supp. 308, *aff'd* (1954) 347 U.S.

439; *O'Rourke v. Waterfront Commission* (S.D. N.Y. 1954) 118 F. Supp. 236; *Allied Stevedore Company, Inc. v. Waterfront Commission*, No. 94-177, U.S.D.C. S.D. N.Y., December 7, 1954; *Bradley v. Waterfront Commission* (S.D. N.Y. 1955) 130 F. Supp. 303.

Once in the United States District Court in Newark, *Bradley v. Waterfront Commission*, once in the United States District Court for the Southern District of New York, *Bradley v. Waterfront Commission*, and once in the New York Supreme Court, Richmond County, *DiBrizzi v. Waterfront Commission* an attempt was made to enjoin the Commission from putting its new hiring regulations into effect. Each attempt failed; the two federal cases were dismissed; the third case is still awaiting trial but the injunctive relief sought by the plaintiff has been denied.

Six cases, brought under Article 78 of the New York Civil Practice Act to review rulings by the Commission which denied applications for longshore registration reached the Appellate Division. All six were decided in favor of the Commission: five in the First Department, (*Falvey v. Waterfront Commission*; *Hanzich v. Waterfront Commission*; *Piccini v. Waterfront Commission*; *Spagnola v. Waterfront Commission*; and *Tanzella v. Waterfront Commission*), and one in the Second Department (*Calvo v. Waterfront Commission*).

In *Wreiole v. Waterfront Commission*, the United States District Court for the Southern District of New York sustained the Commission's right to suspend registered longshoremen pending the determination of charges when in the opinion of the Commission, their continued presence on the waterfront would have endangered the peace and safety; and in *Applegate v. Waterfront Commission*, the same court upheld the Commission's right to rescind a longshoreman's registration issued as the result of a clerical error.

In the nature of litigation, also, were a number of administrative proceedings for the denial or revocation of various registrations and licenses. Particular mention should be made of the consolidated proceedings to determine whether to revoke, cancel or

suspend the registration of 141 longshoremen charged with individual acts of violence and/or mass picketing during the long and bitter strike which commenced late in February and ran until early April 1954. To prepare for the hearings, the Commission took testimony from 197 individuals and presented the evidence of 200 before the Honorable Jacob Grumet who presided. The hearings required 33 days and submission by the Commission of a brief of 391 pages. Testimony ran to 5,374 pages and the exhibits numbered 195. After receiving all of the evidence and studying the briefs, Judge Grumet found that 6 men should be permanently removed from the longshoremen's register and 9 should be suspended for periods ranging from one month to six months. With respect to the rest, Judge Grumet found either that they had been suspended long enough or that they should be let off with a reprimand. He recommended that the charges against 3 be dismissed as not substantiated. The Commission has taken Judge Grumet's report under advisement together with the exceptions filed by counsel and will render its decision shortly.

Mention should also be made of *Waterfront Commission v. Martin, et al*, in which 8 respondents were charged with operating a kickback racket in Port Newark, New Jersey, through the collection of unauthorized initiation fees, weekly kickbacks, fake charitable contributions and sums for the ringleader's vacation. To prepare for the hearings, the Commission took testimony from 139 individuals and called 43 to testify before the Commissioners who sat for 22 days in Newark to hear the charges. Testimony ran to 5,213 pages and the exhibits numbered 46. At the conclusion of the hearings, 3 respondents were removed from the longshoremen's register, 3 were suspended, and 2 were reinstated.

Mention, finally, should be made of *Waterfront Commission v. Wreiole, et al*, in which 6 respondents have been charged with operating a kickback racket and crooked dice games at the Naval Base in Leonardo, New Jersey. To prepare for the hearings, the Commission took testimony from 151 individuals and called 37 to testify before Richard G. Moser, Esq., hearing officer. The hearings should be concluded shortly after this report is released.

Activities of the Division of Investigation

A word should also be said of the Commission's Division of Investigation. Under the direction of Joseph Kaitz, this division has functioned throughout the year as the Commission's intelligence and servicing agency. Its staff is engaged in activities almost too numerous to mention. It checked with state (principally but not exclusively, New York and New Jersey), federal and overseas (principally Puerto Rican) authorities the criminal records of 6,360 men. It kept in constant touch with the waterfront squads of the various police departments throughout the port, giving and receiving evidence of illegal activities. It continued to assemble the most complete record on waterfront hoodlums and racketeers that has ever been known. It carried out numerous investigations of applicants for license or registration and gathered evidence for use in the many quasi-judicial proceedings conducted by the Commission. It investigated baggage shakedowns, organized and unorganized pilferage, narcotics smuggling, and the concentration of men with criminal records in various areas of the port. It ran a 24 hour surveillance of the piers. For the legal division alone it served during the Commission's second fiscal year 393 subpoenas and secured photostatic copies of 7,539 indictments and other court records.

It has been the policy of the director to accept in the Division for work as investigators, only men who have received two or more years of college education and five years of responsible city, state, or federal government investigative experience, or a college degree and two years of such investigative experience.

Activities of the Division of Employment Information Centers, Licensing and Registration

Under the direction of Percy A. Miller, Jr., the Division of Employment Information Centers, Licensing and Registration carries the heavy administrative burden of the Commission. In its first year, this Division completed its organization, opened and staffed thirteen employment information centers and processed the first

great wave of longshoremen's registration. During its second year, the Division not only continued to operate the employment information centers and to handle longshoremen's registration, but also carried out the first round of decasualization. In addition, it participated in the general revision of the hiring regulations and bore the major share of the burden of putting the new regulations into practice.

The Division enters upon the third year of its existence with the renewed confidence which comes from a day by day demonstration of the affirmative contribution which it is making to the regularization of waterfront employment. The sense of frustration which flowed from the prevalidation practice has been replaced by an equally strong sense of fulfillment under the new hiring regulations. To operate a gang-posting, gang-hiring system and the new system for the hiring of regular dock and terminal labor, and also to handle the decasualization program is to place great additional burdens upon the Division, but no increase in the staff has yet been called for to meet these added burdens.

There are thirteen employment information centers, four on the North River and one on the East River in Manhattan, four in Brooklyn and one in each of Staten Island, Port Newark, Jersey City and Hoboken. They range in size from 3,000 square feet to 12,000 square feet depending upon the normal manpower requirements of each area serviced by the individual center. They are open regularly from 7 a.m. to 7:30 p.m. each day, Monday through Friday, and from 7 a.m. to 12 noon Saturday. Operations are not restricted to these hours, however, and centers are frequently kept in service in order to meet the requirements of the shipping industry as they may occur on Saturday afternoons and Sundays. The centers are staffed with from five to nine Commission employees, again depending upon the normal manpower requirements of the area serviced by the individual center.

Activities of the Administrative and Auditing Division

The Administrative and Auditing Division under the direction of Hyman S. Lipman has continued faithfully to perform its task

of reviewing the books and records of stevedoring companies in connection with the Commission's quarterly assessments and in connection with applications for stevedoring licenses. It has also made numerous audits in aid of particular investigations conducted by the legal and investigative divisions of the Commission. This Division has managed the internal and financial affairs of the Commission.

As this report goes to press, the year end audit of the Commission's own financial records by Price Waterhouse & Co. is about to commence. The results of that audit will be included in a supplemental report as soon as final figures are available.

Repayment of the Commission's Debt to the States

The Commission is supported by assessments levied upon employers of persons registered or licensed under the Compact. The amount of the assessment is measured by the payrolls of covered personnel.

For its second fiscal year, the Commission raised its assessment to two per cent, the maximum rate permitted by the Compact. Gross income from this source amounted to \$2,160,000. By staying well within its budget of \$1,896,000, the Commission was enabled to repay half of its \$900,000 debt to the States of New York and New Jersey, and still have a surplus of \$195,000 at the close of the year.

Continuing the assessment at the same rate in the coming year, the Commission has budgeted an additional \$225,000 for repayment to the States.

Brief Summary of the Year's Accomplishments

(1) The Commission has completed the processing of a great backlog of longshoremen's applications which were pending twelve months ago, at the same time keeping abreast of the inflow.

(2) The Commission has instituted a new set of hiring regulations which carry out the mandate of the law that all longshore-

men be hired through, and only through, the Commission's employment information centers. These regulations take the place of the prevalidation system which was put into effect on December 1, 1953, only to be abused by management and labor. They bring the hiring of gangs and of individual longshoremen out into the open, sound the death knell of the covert "shape" which had replaced the pierhead "shape", and tend to stabilize the work force on the waterfront.

(3) The Commission has brought the work force into better balance with the work opportunities on the waterfront.

(4) The Commission has broken up a vicious kickback ring at Port Newark. For the first time, such is their confidence in the Commission, longshoremen will come forward and testify when they are shaken down by labor racketeers for the opportunity to work.

(5) The Commission has been vigilant in the suppression of "public loading", and blocked an attempt to restore it in disguise through the incorporation of a clause in the collective bargaining agreement which would have created a public loading craft compensated at the old public loaders' piece rate.

(6) The Commission has made substantial progress in its task of licensing the contracting stevedores.

(7) The Commission has repaid half of its \$900,000 debt to the States of New York and New Jersey.

Findings and Determination under Article IV

Article IV, Section 13, of the Compact requires the Commission in making its annual report to state whether the Commission finds and determines that public necessity still exists for (a) the continued registration of longshoremen, (b) the continued licensing of any occupation or employment required to be licensed under the Compact, (c) the continued public operation of the employment information centers provided for in Article XII. The Commission finds and determines that such public necessity still exists.

The need for the continuance of the Commission during the coming year not only to hold current gains but to add to them must be apparent to all who have a sincere interest in the welfare of the metropolitan area in general and the waterfront in particular. Although much has been accomplished, a great deal remains to be done before the legislative objectives are reached and the Commission may be said to have completed its task.

The Commission's authority depends upon its power to grant or deny registrations and licenses but this is not its only resource. It can accomplish, and we hope it has accomplished, a great deal simply by hammering on the theme of character, integrity, and responsibility, for, after all is said and done, the way in which management and labor can eliminate the need for the Commission is by themselves recognizing and exercising the responsibilities that they have so long neglected. The true measure of the Commission's success is not what the Commission accomplishes by force but what it achieves by inspiring management and labor to raise their own standards and do their own policing.

At the close of its second fiscal year the Commission is encouraged in this regard but far from satisfied. Without intending in any way to disparage management or labor, it is the Commission's belief that if the Commission were to withdraw at this point, a vacuum would be created which would jeopardize the very substantial achievements that have so far been realized.

June 30, 1955.

Respectfully submitted,

GEORGE P. HAYS

JOSEPH WEINTRAUB

Commissioners

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