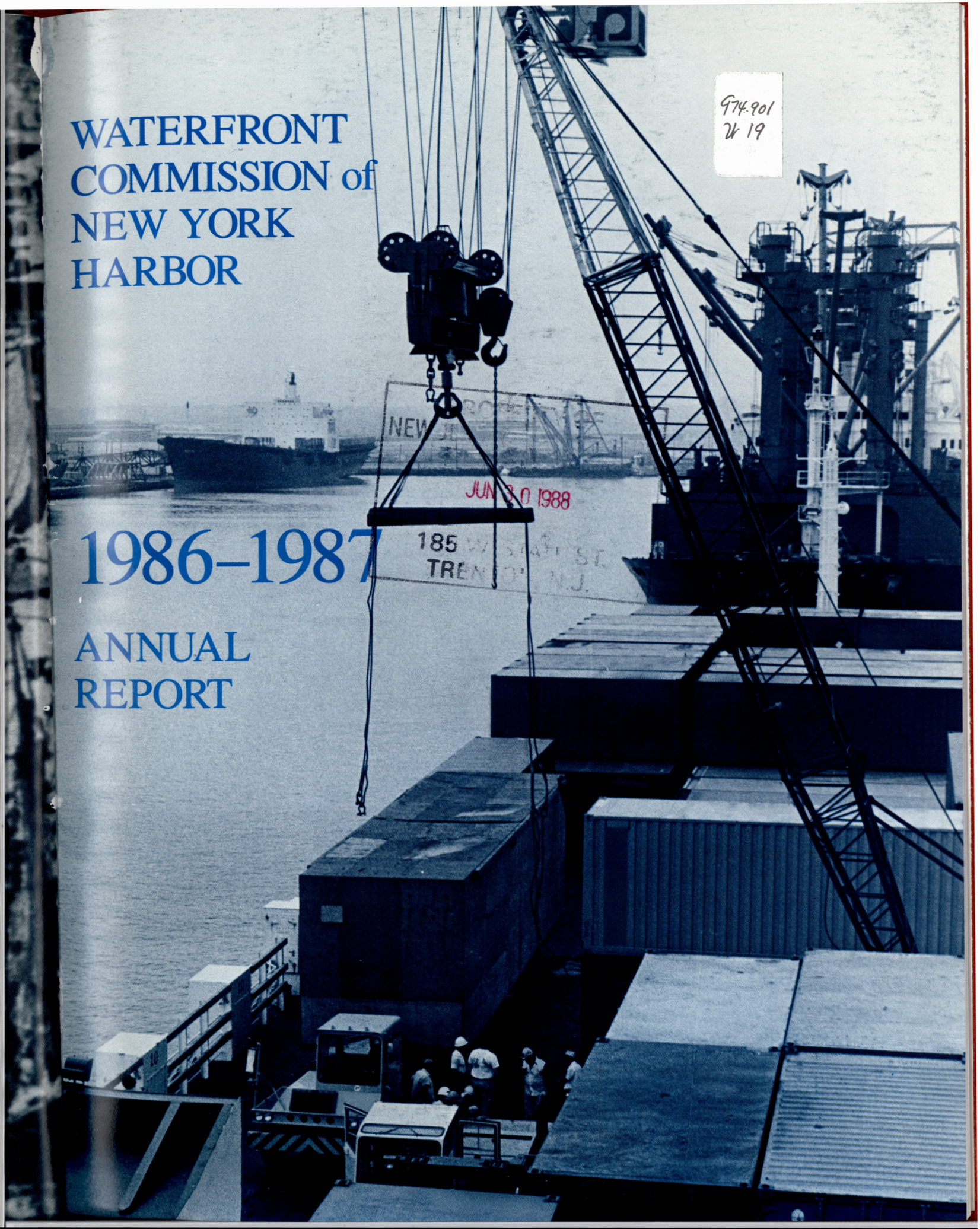


WATERFRONT COMMISSION of NEW YORK HARBOR

1986–1987

ANNUAL REPORT

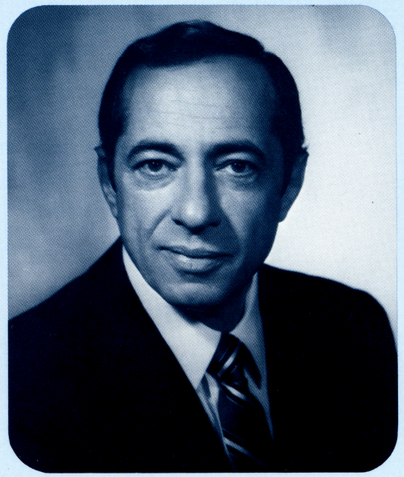
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To the Honorable Thomas H. Kean, Governor, and the Legislature of the State of New Jersey



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 1986-1987. Contained herein are representative activities of the Commission, together with pertinent observations concerning its administration and enforcement of the Waterfront Commission Compact between the States of New York and New Jersey. The Commission has continued to perform its designated responsibilities under the Compact, with particular concern for the improvement of the overall economy and well-being of the bi-state Port.

ANNUAL REPORT
1986–1987

THE WATERFRONT COMMISSION OF NEW YORK HARBOR

AN INSTRUMENTALITY OF THE STATES OF NEW YORK AND NEW JERSEY

THE COMMISSION

The Waterfront Commission of New York Harbor was established in 1953 by the States of New York and New Jersey as the result of an intensive investigation of the bi-state Port by the New York State Crime Commission, with the cooperation of the New Jersey Law Enforcement Council. The Compact between the States creating the agency and instituting a comprehensive program to eliminate the deeply rooted criminal and corrupt practices found to exist on the docks was granted approval by the United States Congress and was enacted into law by President Dwight D. Eisenhower on August 12, 1953.

There are two members of the Commission, one appointed by the Governor of each State, with the advice and consent of the respective State Senate. Each Commissioner is appointed for a three-year term, with the compensation established by the appointing Governor. Under the provisions of the Compact, the agency may act only by a unanimous vote of both Commissioners. The Commissioners have the authority to appoint such officers, agents and employees as they deem necessary and to receive assistance and data from any other department and agency of either state. They also have the power to advise and consult with other public officials and with representatives of labor and industry concerned with the effectuation of the purposes of the Compact.

Representing the State of New York on the Commission since 1979 is Nicholas Scoppetta. A member of the New York and Federal bars, Commissioner Scoppetta has been in public service for over 25 years. His government positions include being on the staff of the District Attorney of New York County, serving as Associate Counsel to the Knapp Commission during its investigation of police corruption in New York City, being appointed as Special Assistant United States Attorney in the Southern District of New York, and serving as 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 a Professor of Law at the New York University Law School and Director of the Institute of Judicial Administration. He was recently elected President of the Children's Aid Society by its Board of Trustees.

The New Jersey Commissioner is Conrad N. Koch. Appointed in December, 1983, Commissioner Koch, a resident of West Orange, New Jersey, was graduated from Seton Hall University and the School of Law of Columbia University. Practicing law since 1959, he is a member of the New Jersey and Federal Bars. He was formerly the attorney for the West Orange Zoning Board and prosecutor for the New Jersey Township of East Hanover.

The Commission's Executive Director, in charge of the daily administration of the agency, is Leonard Newman. Appointed by the Commissioners to that position in 1976, Mr. Newman formerly served as an Assistant District Attorney in New York County for 32 years, including 8 years as Chief of the Fraud Bureau. He also saw government service as First Deputy Commissioner of the Division of Criminal Justice Services of New York State, being directly in charge of the Office of Special Services, including the Bureau of Municipal Police, the Prosecutorial Technical Assistance Unit and the Juvenile Justice Institute.

* * *

Under the Waterfront Commission Act, which encompasses the Compact and several separate statutes of New Jersey and New York regulating the waterfront, various occupations and businesses are required to be registered or licensed. Thus, all longshoremen and cargo checkers in the Port are screened and registered by the agency. In addition, stevedore companies (the employers of dock workers), pier superintendents, hiring agents and port watchmen are subject to Commission licensing. While the original Act required licensing as stevedores of only those firms performing the actual loading and unloading of cargo, the Act was amended in 1969 to also include as stevedores those contractors performing work incidental to the movement of waterborne freight, as well as to require the registration of their employees. These collateral services include the repairing of cargo containers, as well as the weighing, scaling, sampling and warehousing of merchandise at port terminals.

As part of the remedial waterfront program, two nefarious practices were banned. One, the "shape-up" method of hiring dock workers, was found to be a vicious and antiquated system, causing grave injury to the welfare of waterfront laborers. In its place, the Legislatures authorized the Commission to establish employment information centers for longshoremen throughout the Port. There are currently three such centers; one each in New Jersey, Brooklyn and Manhattan. Through these centers, the agency oversees the selection of pier workers by licensed hiring agents acting for stevedore companies, and provides employment opportunity data to longshoremen, checkers and port watchmen. The States also prohibited the practice known as "public loading," through which certain groups of persons were paid to load trucks at the piers, whether or not their services were desired or required.

Another important function of the Commission mandated by the Compact and its amendments is the balancing of the longshore and cargo checker work forces with the manpower requirements of waterfront employers. This regularization of waterfront employment directs the agency to remove from its Register those longshoremen and checkers who, without good cause, fail to work or seek employment on the piers such minimum number of days in a six-month period as is established by the Commission. In 1966, additional authority to regulate the Port's labor supply was conferred by the Legislatures of both States, permitting the Commission to close the Register and open it to new dock workers only after a need for additional persons is demonstrated.

The Commission also has the authority to investigate violations of the Waterfront Commission Act and, in general, criminal activity in the harbor, as well as to compile and collect information concerning waterfront practices. In support of these functions, the Commission has been granted the statutory powers to appoint police officers; issue subpoenas throughout New York and New Jersey to compel the attendance of witnesses and the giving of testimony; administer oaths; confer immunity in any investigation, interview or other proceeding conducted by it under oath; have full and free access to all vessels, piers and other waterfront terminals in the port district for inspection purposes; and to receive from other governmental departments and agencies in both states such assistance and data as will enable it to carry out its duties and powers.

* * *

The Commission has six divisions to administer its functions: Executive, Law, Licensing and Employment Information Centers, Police, Audit and Control, and Administration. The Executive Division is headed directly by the Executive Director, who also has general management over the other divisions. Each of such other divisions is under the immediate charge of a director, except for the Division of Police, which is supervised by the agency's Chief of Police.

The Executive Division is responsible for administering the policies established by the Commissioners. Under the direction of the Comptroller, it prepares the agency's budget, which is submitted to each Governor for review. Pursuant to the provisions of the Compact, the agency's budgeted expenses are assessed upon the employers of persons licensed and registered by the Commission, up to a maximum of 2% of the gross payroll payments the employers make to longshoremen, checkers, port watchmen, pier superintendents and hiring agents. The assessment is in lieu of any charge for the issuance of licenses or registrations or the use of the Employment Information Centers.

The Executive Division also prepares and reviews legislation, regulations, leases and contracts, and handles the agency's public relations. Under the supervision of the General Counsel, it also conducts all litigation and legal research.

The Division of Law, in conjunction with the Commission's police and accounting personnel, investigates violations of laws pertaining to the Port's activities. Administrative trials are conducted by assistant counsel assigned to this Division to determine whether persons and firms registered or licensed by the Commission should be revoked, cancelled or suspended for violations of the Act or other misconduct.

The Commission's Division of Police is composed of detectives, detective-investigators and waterfront intelligence analysts. The Division probes criminal activity in the Port District, performs background checks of persons and companies seeking registration or licensure, interprets waterfront information, scrutinizes the physical facilities of stevedores protecting cargo, and maintains the licensing, registration and police files of the agency.

This past year, the Divisions of Licensing and Employment Information Centers were merged for increased efficiency. The newly combined Division is charged with the supervision of the hiring and assignment of waterfront workers by stevedores and shipping lines through the Commission's three centers. It also processes all applications for licenses and registration. Attorneys in the Division conduct administrative hearings to determine whether such applications should be granted or denied. The Division is also responsible for administering the various programs established by the Compact to remove those longshoremen, checkers and port watchmen who, without good cause, fail to work or seek work with regularity.

Composed of accountants with governmental and private auditing experience, the Commission's Division of Audit and Control examines the books and records of individuals and businesses involved in investigations being conducted by the agency, checks the financial records of firms applying for stevedore licenses, audits licensed stevedores to insure compliance with the record keeping standards of the Compact and agency regulations, and verifies the accuracy of assessments paid to the Commission by waterfront employers.

Furnishing the other divisions of the Commis-

sion with stenographic, court reporting, clerical and law library services is the Administration Division. This Division also maintains personnel and other records of the agency.

The Commission operated this past year with a staff of l43 employees. Its budget, as approved by the Governors, was $6,842,095. In the performance of its mandated functions, the Commission spent $6,388,89l, or $453,204 under its budget.

THE PORT OF NEW YORK-NEW JERSEY

In the 463 years since Giovanni De Verrazzano, the Florentine explorer, with his four vessels and crew of fifty, discovered "a mighty deep-mouthed river" which "ran into the sea," the Port of New York-New Jersey, with its 650 miles of navigable waterways, has evolved into the nation's premiere area for waterborne commerce.

In many ways the metropolitan waterfront is, today, a world in itself. Each day thousands of longshoremen, warehouse personnel, truck drivers and other workers handle over 150,000 long tons of general and bulk cargo moving to and from dozens of other countries. From early morning, oftentimes to late evening, tons of machinery, meat, motor vehicles, footwear, coffee, bananas, printed matter and hundreds of other commodities are transferred between vessels, docks and warehouses. Last year some $14 billion in economic activity and direct and indirect employment for an estimated 200,000 persons was generated from the harbor's flow of goods.

Geographically, the 1,500-square mile Port District, in which the Commission has jurisdiction, embraces some 234 municipalities and a consumer market of over 15 million people. Overnight truck and rail delivery increases the market for the harbor's goods to some 72 million persons.

During l986, the Port handled over 57,000,000 long tons of general and bulk cargo; each long ton being 2,240 pounds. This represented an increase of over 11% from the 51,300,000 long tons moved the prior year. Total general cargo increased 1% from 13,747,989 long tons in 1985 to 13,888,608 in 1986, with exports of such cargo improving by 5.2% and imports by .01%. Bulk cargo expanded some 15% over 1985; 43,200,000 long tons being handled in 1986, as compared to 37,500,000 in 1985.

In terms of dollar value. the Port's oceanborne cargo (general and bulk) increased 2.3%, from $48.7 billion in 1985 to $49.9 billion in 1986. The higher valued general cargo advanced over 8%, while bulk cargo decreased some 30%. Over 16% of the value of oceanborne foreign trade in the United States is moved through the Port of New York-New Jersey, with the harbor being ranked first in the nation in the handling of general cargo. The dollar value per ton of general cargo was $3,215, almost 60% higher than the national average of $2,013. In the past ten years, the value of the harbor's oceanborne foreign trade has enlarged by some 60%.

In dollar value, the principal general cargoes exported through the Port in 1986 were machinery, photo supplies, plastic materials, aircraft and parts, and road motor vehicles. The leading imports consisted of road motor vehicles, clothing, general machinery, telecommunications apparatus and office machinery. More than 500,000 imported automobiles were landed in the harbor. The Port's chief trading partners, in terms of commodity value, were West Germany, the United Kingdom, Japan, France and the Netherlands for exports, and, for imports, Japan, West Germany, Italy, the United Kingdom and Taiwan.

* * *

During the period of October 1, 1985 through September 30, 1986, the waterfront industry's collective bargaining contract year, 7,438 registered longshoremen and checkers (excluding those dock workers registered under amendments to the Act to perform services incidental to the actual movement of waterborne freight) received a total of $327,598,939 in regular and overtime wages, vacation and holiday monies, and guaranteed annual income payments.

This represented average annual earnings for the 7,438 pier workers of $44,044. In the prior collective bargaining year, 7,754 such registered employees received $326,157,161, for an average annual income of $42,063. During the 1985-1986 contract year, 50.62% of the 7,438 registered longshoremen earned $30,000 or over in wages, as compared to 48.50% of the 7,754 registered the prior year.

* * *

In mid-1987, the Port's screened and licensed work force consisted of 4,871 "deep-sea" longshoremen, 1,686 cargo checkers, 2,007 persons registered to warehouse cargo and perform container repair, weighing and other work related to the movement of freight, 404 pier guards and security officers, 304 pier superintendents and 229 hiring agents. There were 80 companies licensed as stevedores authorized to move waterborne freight for carriers or engage in services incidental to such movement.

THIS YEAR

Probe of Political Action Fund Payments

One of the conditions leading to the passage of the Waterfront Commission Act was that racketeers and hoodlums had acquired a stranglehold upon activities in the Port through their control of key positions in the longshore labor movement. To remove and prohibit criminals from their positions of power and influence, the Act bans persons convicted of felonies, misdemeanors involving moral turpitude and certain other crimes, from serving as officers, agents or employees of unions representing waterfront workers licensed or registered by the Commission. In addition, the Act enjoins a waterfront union, welfare fund or trust from collecting dues, assessments, contributions and other monies if any of its officers, agents or employees have been so convicted.

Several years ago, the then General Organizer of the International Longshoremen's Association, the union representing longshoremen in the Port, who was also President of the union's Brooklyn local and a member of various joint labor-management funds, was convicted in federal court of racketeering, receiving payments from waterfront employers and income tax violations.

On appeal, the convictions were affirmed by the United States Court of Appeals for the Second Circuit. Certioriari was thereafter denied by the United States Supreme Court.

In view of these convictions, and upon application of the Commission pursuant to the provisions of the Act, the Supreme Court of the State of New York, County of Kings, issued an order and judgment removing the labor leader from his union offices.

During this past year, the Commission obtained information that the former union leader's wife was, for several years, receiving $600 a week from the political action fund of the Brooklyn local and that the payments were delivered to her. The fund had been established by the former union official's local to make political contributions and other expenditures in connection with federal, state and local elections.

The Commission thereupon examined documents filed by the political action fund with the federal and state election commissions for the period from January 1, 1981 through December 31, 1986. It was ascertained that commencing October l98l, or approximately one year after the union leader was removed from office, the fund disbursed salaries to the wife of the former official. In addition, the Commission learned that, for 1986, salary and benefits paid by the fund to or on behalf of the wife, its sole employee, amounted to over $30,500.

Pursuant to its subpoena power, the Commission then sought the testimony of the Secretary-Treasurer of the political action fund. The Commission's inquiry had several goals. First, the Commission was seeking to determine whether payments of monies to the wife inured to the benefit of her husband, who, as stated, had been barred from holding waterfront union office. Additionally, the Commission wanted to know if the fund and the union local were being subjected to illegal influence by the deposed union leader. The Commission was also interested in determining whether monies of the fund were being misused in derogation of the rights and interests of longshoremen and other waterfront workers. The Commission's investigation was being conducted in furtherance of its statutory authority "to make investigations, collect and compile information concerning waterfront practices generally within the Port of New York district, and upon all matters relating to the accomplishment of the objectives of the compact."

When the Secretary-Treasurer of the fund failed to appear on the return date of the subpoena, the Commission instituted contempt proceedings in New York County Supreme Court. Contending that the Waterfront Commission's subpoena should be quashed, the fund alleged that the agency did not have any jurisdiction over it and that there was no factual basis for the issuance of the citation.

The Court, in rejecting the fund's arguments and granting the Commission's application, stated in part:

> "First of all, I find that, and I specifically want to point out that the subpoena calls for the presence of [the Secretary-Treasurer] to testify and it is not a subpoena duces tecum or a subpoena for books and records.
>
> * * *
>
> "Additionally, with respect to the jurisdictional issues, it appears at this time that the investigation is being conducted in furtherance of the Waterfront Commission's general powers to make investigations, collect and compile information concerning waterfront practices generally within the Port of New York district, and this is the mandate under the unconsolidated laws of the State of New York.
>
> "Additionally, I wish to point out that the cases, at least the leading cases in the field, have established that the Waterfront Commission's investigatory and subpoena

powers are indeed broad and have been judicially determined to be broad."

* * *

"Based on the broad powers that are given to the Commission in furtherance of its investigations, it appears to the Court that the Waterfront Commission has the authority to issue this particular subpoena in connection with an inquiry regarding whether section 8 [of the Act] is being evaded by funnelling monies to [the former labor official] through his wife's employment by the Fund, and whether or not [the former labor official], who has been banned from Waterfront union office and from many positions in the Trust Fund, is exerting any influence over the Fund and Local 1814 [the Brooklyn local]. This inquiry I find is related to the purpose for which the Commission was created.

"Additionally, the Commission may investigate whether monies collected for the Fund from union workers through payroll authorizations are being used perhaps in part to pay a salary to [the wife] where there are allegations made that she may not be performing services for those funds. If such a situation did exist, it would involve the misuse of funds collected from waterfront workers for their benefit, and would be a practice that would be certainly unfair to the workers involved.

"Consequently, I find, based on the foregoing, that the subpoena issued is valid; the application to hold [the Secretary-Treasurer] in contempt is granted. The contempt finding may be purged if [the Secretary-Treasurer] presents himself at the offices of the Waterfront Commission within 20 days from the date of this order for the purposes of testifying under oath at such Commission's hearing, and the foregoing shall constitute the decision and order of the Court."

The Secretary-Treasurer of the Fund subsequently appeared before the Commission and testified.

During the course of the Commission's inquiry, the former union leader's wife resigned from her position with the fund. The investigation is continuing.

Stevedore Investigations

In its last report, the Commission detailed an ongoing investigation into a company engaged in storing frozen food and dry goods at Port Newark, which had applied to the agency for a license to operate as a stevedore. A pre-licensing audit of the applicant's financial records by Commission accountants divulged almost $300,000 in unsubstantiated expenses, including $75,000 paid for "outside wages."

Further examination revealed a close relationship between the applicant company and a trucking firm engaged by the applicant and other companies to pick up containers of frozen fish from various piers. Thus, the two businesses had shared the same office space, one of the shareholders and directors of both firms was the son of a suspected associate of an organized crime figure, and there were indications that the suspected associate, who was not listed as an officer or principal of the applicant, was actually in control of the company.

In furtherance of its investigation, the Commission subpoenaed certain financial and other records of the trucking company. That company then initiated a law suit to quash the writ. The Superior Court of New Jersey denied the company's motion to suppress the subpoena, finding "common management" of both companies and their businesses.

This year, the trucking concern appealed the Superior Court's determination to the New Jersey Appellate Division. After oral argument before the Judges of the Appellate Division, that court affirmed the decision of the lower court, stating in part:

"The [Waterfront] Commission's investigative authority within its statutory function has been likened to that of a grand jury. ***When the validity of a subpoena *duces tecum* is challenged, the Commission need only show the existence of an investigation within its statutory function and a reasonable relationship between that investigation and the material it seeks.

* * *

"In urging the unreasonableness of the subpoena, [the trucking firm] has questioned the propriety of the investigation since [the applicant for the stevedore license] is no longer doing business at Port Newark and has sought to withdraw its applications. It suggests the continued investigation cannot have a public purpose. The argument construes the Commission's purposes too narrowly. As we have already noted, the Commission has an obligation to eliminate racketeering within its jurisdiction. Its efforts in this area cannot be made subject to the control of those being investigated. By regulation ***it has made the withdrawal of applications subject to the control of the Commission. ***The investigation involves a public interest beyond the particular desires of the applicant."

A subsequent petition by the trucking company for further review of the matter was denied by the Supreme Court of New Jersey.

After the court proceedings were concluded, the Commission, for the first time, was notified by the trucking firm that almost one-third of the financial records subpoenaed by the agency were destroyed in what was described as an electrical fire.

The Commission is proceeding with its inquiry into the affairs of these companies.

* * *

In the report to the Governor and Legislature of New York of its investigation of the waterfront, which led to the enactment of the Waterfront Commission Act, the New York State Crime Commission found "many instances of collusion ***between officials of steamship and stevedoring companies on the one hand and union officials on the other" and that "improper cash payments [were] made to union officials by stevedoring companies for 'services rendered' or for goodwill." To eliminate this evil and others "too long endured," the Crime Commission recommended the licensing and supervision of stevedoring companies.

Accordingly, the Legislatures of New York and New Jersey declared that no person could act as a stevedore in the port district without obtaining a license from the Commission. Included among the requirements for obtaining such license are that the applicant must satisfy the Commission that it, its officers and those shareholders owning at least five per cent of any stock of a corporate applicant, possess "good character and integrity."

This year the Commission instituted an administrative proceeding on the application of a firm seeking a stevedore license to unload and warehouse freight in the Port, alleging misconduct on the part of the company's principals. An affiliated company with the same principals had been operating in the harbor for many years handling the loading and unloading of bulk commodities by floating cranes. The principals were now seeking to extend their business interests to general cargo, an area within the jurisdiction of the agency.

During the course of the proceeding, the firm sought to withdraw its application with prejudice. The Commission, however, denied the company's petition and directed that the case proceed.

After the conclusion of the hearing, it was found by the Commission that several years earlier the firm's main officers, who together owned all of the company's stock, had conspired with a longshore labor official representing the firm's workers to pay the union official monies to avoid the hiring of additional employees to unload vessels carrying sugar, as demanded by the labor boss. It was further determined that the President-Treasurer had committed fraud before the Commission, as well as in the criminal trial of the union leader in federal court, in testifying about the company's dealings with the labor official. Finding that the actions of the corporation and its principals demonstrated a lack of the requisite good character, the Commission denied the application, barring the firm from handling general cargo in the Port.

* * *

In other cases involving stevedores, the Commission ordered administrative licensing trials with respect to applications for renewal of their licenses filed by two separate firms performing services related to the movement of waterborne freight.

In one matter, the Commission instituted a hearing concerning a corporation performing cargo storage, warehousing and new automobile preparation services in Port Newark. In a multi-count statement of charges, the company was alleged to have utilized persons as longshoremen who were not licensed by the Commission; to have exploited a segment of its labor force, many of whom were recent immigrants not conversant with English, by paying such persons wages less than required by their union contract; and in failing to maintain accurate records of its receipts and disbursements arising out of its activities in the Port. The firm was also accused of failing to keep employee time cards as mandated by the New Jersey Wage and Hour Law.

The other matter involves a company performing tire repair services on the New Jersey waterfront. After an intensive audit of the firm's financial records, the Commission charged, in a notice initiating a hearing on the license renewal, that the company omitted to record over $200,000 of gross income during a period of less than three years and that, for one of these years, it failed to include over $80,000 of its gross income on its corporation income tax return, in violation of federal law.

At year's end, both cases were pending.

* * *

Not only are stevedore companies required to possess and maintain "good character and integrity" to function in the Port, but their representatives who supervise their operations and hire longshoremen on their behalf are also obliged to meet this standard for licensure.

As part of the procedure to determine whether an applicant for such pier superintendent or hiring agent license has good character or has sustained any conviction for a crime which might disqualify him, the prospective licensee must complete an application and testify with respect thereto before a staff attorney.

The Commission charged this year that a pier superintendent applicant for a major stevedore committed fraud and deceit in his application and in interviews with respect to his prior employment and criminal history.

After an administrative trial to determine whether or not the license should be issued, it was determined that the applicant deliberately failed to disclose his employment as president and as secretary of a New Jersey check cashing firm, which functioned for a period of time without being licensed as required by New Jersey. The record also showed that he operated the check cashing enterprise on behalf of an undisclosed real party in interest; a person identified as having connections to organized crime who, according to the New Jersey Department of Banking, would have been unable to obtain a license to run the business. Evidence further demonstrated that, during the one-year period the applicant was employed in the check cashing concern, it did business in excess of $6 million.

The Commission also found that the applicant misrepresented other prior employment and failed to disclose a minor criminal history. Accordingly, the application for a pier superintendent license was denied.

Parenthetically, the New Jersey State Commission of Investigation recently recommended more stringent regulation of check cashers and the institution of tough criminal penalties to halt the continued abuse of that industry by organized crime.

Hijack Ring Canned

A long-term investigation by the Commission, together with the Federal Bureau of Investigation and the New York City Police Department, this year resulted in the breaking up of a hijacking and theft ring, with the arrest of six of its members. The six men have been charged, in an indictment obtained by the United States Attorney for the Eastern District of New York, with preying on interstate and foreign shipments of cargo in the New York-New Jersey metropolitan area.

The probe uncovered several large-scale thefts by the ring over a three-year period. In one instance several of the defendants allegedly stole a tractor-trailer destined for a major retail chain and containing clothing, VCR's, appliances, electric tools and other merchandise. The pilfered cargo was transported from a trucking depot in North Bergen, New Jersey to a Brooklyn, New York warehouse leased by another of the defendants.

Two months later, over 22,000 pounds of stolen tin ingots were delivered by a member of the ring to the Brooklyn storage facility. Thereafter, three of the defendants illegally removed 120 cartons of canned imported olive oil from a sealed trailer. The indictment also alleges that several months after the olive oil theft, two of the same defendants heisted over 450 cartons of canned tuna fish from a trailer. The seal on the cargo container housing the imported fish was found broken at a Jersey City marine terminal. It is estimated that, in all, some $650,000 worth of goods was stolen by the ring.

The defendants are currently awaiting trial before a Federal Court.

* * *

Brooklyn Waterfront Probe

Utilizing an undercover agent, electronic surveillance and informers, the Waterfront Commission, the New York State Organized Crime Task Force, the Kings County District Attorney's Office and the U.S. Labor Department's Office of Labor Racketeering this year successfully concluded one part of an ongoing investigation of racketeering on the Brooklyn waterfront.

The joint law enforcement effort resulted in the arrest of fourteen persons, including a number of dock workers and a longshore union delegate, on various charges including loansharking, bribe receiving, grand larceny, gambling and the selling of drugs. The probe included the infiltration of a social club in the Red Hook section of the Brooklyn docks, which was the apparent hub of the criminal activity.

The 18-month investigation, initiated upon intelligence developed by the Waterfront Commission, included the use of a Commission undercover police officer. Indeed, the longshore union delegate was indicted for bribe receiving after allegedly accepting monies from the Commission agent, whom he met at the social club, to arrange employment for the agent at the Erie Basin Fishport then being constructed in Brooklyn.

Two of the defendants were charged with criminal usury and conspiracy for allegedly operating a loanshark business and charging over 100% annual interest. Two other persons arrested, both dock workers, were also accused of loansharking. The longshoremen allegedly lent money to dock workers at interest rates of over 200% a year and compelled payments by threatening physical violence. Other defendants, including pier employees, were indicted for selling cocaine to the Commission undercover operative.

In a joint announcement of the arrests, made with the other law enforcement agencies, the Executive Director of the Commission stated: "This investigation is part of a continuing probe by the Waterfront Commission of New York Harbor with other law enforcement agencies to rid the port of criminal activity. We are instituting administrative action, under our regulatory jurisdiction, to determine whether the licenses to work on the Brooklyn docks of seven people arrested today should be revoked."

Five of the defendants have pleaded guilty, including two to felonies for the attempted sale of drugs, and the cases against two others have been dismissed. The other cases are pending and the investigation is continuing.

* * *

Containing Thefts

Working with the Safe, Loft and Truck Squad of the New York City Police Department, the Commission's Division of Police this year arrested two Staten Island "fences" for possession of over 100 stolen cashmere coats. The garments were part of a waterfront shipment from Italy of over 2,700 men's coats, valued at $365,000, which had been received at a New Jersey pier and then reported missing from a cargo container.

Commission police were investigating the dock theft when they learned that New York City officers were probing a related fencing operation in Staten Island. Collaborating their efforts, search warrants were obtained and the stolen coats were recovered from two garages owned by the defendants.

Both defendants pleaded guilty; one to a felony, and the other to a misdemeanor for attempted possession of stolen property.

* * *

Conducting a surveillance at a New Jersey waterfront terminal which had been experiencing cargo losses, Commission detectives arrested three men for burglary and theft.

The three, non-waterfront workers, were observed breaking into the pier in the late evening and attempting to remove eight imported microwave ovens from a waterfront container. Spotting the Commission agents, the thieves started to flee. The officers pursued them into the waters of Newark Bay, where, after a struggle, they were taken into custody. One of the defendants, who had recently been released from a Hudson County jail where he had been incarcerated for a prior breaking and entering, was convicted of burglary and sentenced to five years' imprisonment. The other two were treated as juvenile offenders.

* * *

Casino Caper

The Compact, as originally enacted, imposed the same standards required for registration on all types of longshoremen. However, the Commission soon saw the need to raise the registration qualifications for those longshoremen performing checking and clerical tasks at the piers. These employees are responsible for tallying the cargo as it is loaded or unloaded on the pier, and for maintaining accounting records of incoming and outgoing shipments. It is the checker's obligation to detect and report shortages and discrepancies. If a checker fails to perform his duties, because of negligence or by design, the activities of cargo thieves are enhanced.

Since the checker occupies such a strategic position on the waterfront, the Commission sought and obtained higher licensing standards for such longshoremen. Thus, checkers and clerks have, for many years, been required to be of "good character and integrity." The failure to maintain that norm can cause the removal of a checker from the Register.

One case which culminated in litigation this year exemplifies the type of conduct which may result in the revocation of a checker's license.

Several years ago a waterfront checker was arrested in Las Vegas and charged with wire fraud in a scheme to defraud a major gambling casino of $350,000, of which he was to receive $80,000. Three months later, he was arrested in New York and charged with conspiracy to commit fraud and transportation of a forged security in interstate commerce with respect to an earlier scheme whereby another Las Vegas casino was swindled out of $20,000, for which he received $3,000. The deceptions involved the use of worthless or forged checks and fraudulent drivers' licenses for identification, which were presented to the casinos for extension of credit. One "cashier's" check was drawn on a non-existent bank supposedly located in Philadelphia. Another check, drawn on a New York bank, had a forged certification.

Ultimately the checker pled guilty to the two separate crimes, receiving a 2-1/2 year prison term for his participation in the first theft and being sentenced to a 2-year suspended jail term on the second.

After an administrative hearing, the Commission determined that the checker's conduct clearly illustrated that he lacked good character and integrity. His registration was cancelled, thus prohibiting him from further employment in the Port. He subse-

...ports highly unlikely that converting 20 "scale men" into banana handlers" can help reduce the costs of handling the tons of coffee unloaded at the ports of New Jersey and New York each year.

But that's exactly the case, according to the New Jersey and New York legislatures, the Waterfront Commission, the International Longshoremen's Association and Port Authority officials.

Let them unload bananas, officials hope the change will ease congestion, increasing tonnage, providing Port Authority dockworkers more to do and, perhaps, paving the way for lower costs of unloading coffee by 30 cents a bag, \$2...

But moving this score of scale men is a ... job transfers and the shipping ... tion now before the longshoremen and the ... legislatures for changes in both ... ed by both states in 1953. Fr... Burlington) Bob Fr... Christopher Jackman ... Senate. The Jackman ... Democrat and the ... are likely to ... both sta...

Wednesday, July 22, 1987

DAILY NEWS

Probers sock B'klyn dockers with bugged club

By DANIEL HAYS
Daily News Staff Writer

An undercover investigation of Brooklyn waterfront racketeering yesterday netted a suspected mob hit-man and 19 other persons, including dock workers and a longshoremen's union delegate, officials said.

Ten of the group were indicted on charges ranging from drug selling and gambling to loansharking, extortion and bribery, Brooklyn District Attorney Elizabeth Holtzman announced. Three were charged with misdemeanors.

Those indicted pleaded innocent before Brooklyn Supreme Court Justice Claudia Matthews, who set bail at $5,000 each. The chief executive officer of the Pioneer St. Terminal was given ... bail of $5,000 and ordered to appear before the grand jury Thursday.

Holtzman said the 18-month investigation led to ... cused Red Hook Terminal, the Red Hook Container Terminal and the U.S. Labor Department.

A source told the Daily News that investigators initially had suspected only top mob figures and ranking union officials. But, the source said, the effort was defused when operatives were caught trying to ... ranking union officials inside cursed.

"A source told the Daily News that investigators initially had suspected only top mob figures and ranking union officials. But, the source said, the effort was defused when operatives were caught trying to ... ranking union officials inside cursed.

"There was no violence but patrons inside cursed," said Lunchmeate.

The investigation, the source said, took a number of forms. Electronic surveillance, undercover work and informants were used, in addition to electronic surveillance.

Frank Allesandrino, special agent in charge of the New York Office of Labor Racketeering, said arrests and indictments in the case were the start of a "focus on corruption on the waterfront."

Two suspected Gambino crime family associates, James Gallo, 64, of Valley Stream, L.I., and Joseph Conigliaro, 64, of Bethpage, L.I., were indicted for loansharking. Gallo was arrested in 1978 for killing federal drug informant Vincent Enaulo, but was never brought to trial.

Five years before, Gallo had been convicted for attempting to murder Enaulo. His target was not injured then but Gallo and another mobster shot and wounded each other, police said.

Gallo and Conigliaro were accused of charging more than 200% a year interest on a $15,000 loan.

Gregory Lagana, 56, of the Livingston Ave., Staten Island, Association for Local 1814, was charged with ... receiving. He allegedly promised to get an ... dercover cop a job with the Erie Basin Piers for ... $800 and took a $400 payoff as a down payment.

Dock workers Anthony Demieri, 52, of Bethpage, L.I., and his brother Michael, 49, of Baltimore, L.I., were indicted on charges of running a loansharking business. They had allegedly threatened one man with a gun and told him his house and car would be burned if he failed to pay up.

The pair also were accused of suggesting the man should put his wife to work as a prostitute and that they knew where his children went to school.

The Star-Ledger

Port job transfers to aid coffee importers

The Assembly passed and sent to the Senate a bill to transfer 20 longshoremen from jobs as coffee weighers to banana handlers on the metropolitan docks, a move labor and shippers contend will reduce coffee fee cargo costs to the docks in the New Jersey and New York area can handle more coffee once again.

The measure (A-4327) passed 75-0 without debate and now goes to the Senate.

The bill is sponsored by Assemblymen Robert Franks (R-Union) and Thomas Foy (D-Burlington).

Franks explained the costs to handle coffee cargo in the docks of the Port Authority of New York and New Jersey is double what it costs in southern ports, and consequently metropolitan docks now handle only 50 percent of the imported cargo on the Atlantic instead of 76 percent they handled just six years ago.

By moving the scale men to unload bananas, coffee cargo costs would be cut by about 30 cents a bag, saving millions of dollars annually. In return Franks noted, the ports of coffee brought into the Port Authority docks, the more longshoremen jobs there will be.

Foy, an official of both the International Longshoremen's Association and the Shippers Association who want to make the metropolitan ports the leader in handling coffee cargo.

The Senate version is sponsored by Sen. Christopher Jackman (D-Hudson).

...n by both the New Jersey and the New York legislatures is ... the ports are under the regulations of the Bi-State ... created by both states 35 years ago.

NEWSDAY, WEDNESDAY, JULY 22, 1987 * NY

13 Charged In Waterfront Racketeering

By Pete Bowles

Thirteen persons, including six dockworkers and a delegate of the International Longshoremen's Association, were charged yesterday in a wide range of crimes on the Brooklyn waterfront.

Elizabeth Holtzman, Brooklyn District Attorney, in announcing the arrests, said an 18-month investigation by state, federal and local agencies had uncovered a web of criminal activity in the dock area of Red Hook where the Erie Basin Container Terminal is under construction.

The 13 were charged in separate indictments charged in separate complaints, with a variety of crimes, including loansharking, gambling, drug selling, receiving Holtzman said the ring was headed by Gregory Lagana, 56, of Staten Island, a delegate of the International Longshoremen's Association.

Among those indicted was Gregory Lagana, 56, of Staten Island, a delegate of Local 1814 of the International Longshoremen's Association. Longshoremen are elected by rank and file and in turn vote for the union's officers.

Lagana was charged with accepting a $400 bribe from an undercover officer seeking a job at the pier. If convicted, he could receive up to 7 years' imprisonment.

Charged with running a loansharking business were Joseph Conigliaro, 64, of Valley Stream, L.I., and James Gallo, 64, of Brooklyn, whom police have identified as associates of ...

—Continued on Page 27

13 Charged in Crimes at Waterfront

—Continued from Page 7

the Gambino organized-crime family. They could receive up to 15 years in prison if convicted.

In 1973, police said, the two gained notoriety of sorts when they accidentally shot each other while trying to gun down Vincent Enaulo, a cabdriver and police informer who owed them money. Enaulo was fatally shot in 1978. No one was charged with the murder.

The dockworkers charged yesterday were:

Anthony Demieri, 52, of Bethpage, L.I., and his brother, Michael, 49, of Baltimore, L.I., loan-sharking; Jose Martinez, 27, of Brooklyn, sale of cocaine and marijuana; Matthew Marcaine, 31, of Brooklyn, sale of cocaine; John Pinspinella, 60, of Cliffside Park, N.J., and Philip Scherello, 64, of Brooklyn, gambling. A retired dockworker, John LoCicero, 64, of Richmond Hill, Queens, was also charged with gambling.

Also indicted were Martinez' brother, Michael, 24, of Brooklyn; sale of cocaine, and Edward Dwyer, 51, and his wife, Jeanie, 52, of Brooklyn, possession of cocaine, marijuana and a gun.

In a notice approved by the commissioners, Martin Galler Jr. of Brickstown was directed to appear at a hearing to determine whether he "engaged in conduct unbecoming a commission employee."

A hearing is scheduled for April 29. Galler, 40, has been suspended from his $34,500 post.

According to the commission, Galler falsely stated he received a telephone call at his home from one of two dockworkers accused of stealing three pairs of men's pants from a Port Newark terminal on March 6, 1986.

NEWSDAY,

Union Official Ordered To Testify on Fund Job

A judge yesterday ordered the secretary-treasurer of a Brooklyn longshoremen's union's political action fund to testify whether the local's former president, Anthony M. Scotto, is receiving payoffs through a no-show job held by his wife.

Acting State Supreme Court Justice David B. Saxe ruled that the Waterfront Commission of New York Harbor has the power to subpoena Mario Lubrano and ask him questions about Marcia Scotto's job with the political action fund of Local 1814 of the International Longshoremen's Association.

Saxe cited Lubrano for contempt but said the citation would be purged if the local political action fund official testified to the commission within 20 days. Lubrano's attorney, Anthony Thomas Scotto, who is a distant relative of the Scottos, told the justice that his client would comply with the subpoena. Lubrano had refused to come before the commission on Sept. 8.

Anthony M. Scotto, 53, who was vice president of the ILA, was convicted on federal racketeering and income tax evasion charges in 1979. State law bars convicted felons from holding union offices.

Marian Scotto, daughter of onetime union official Anthony Anastasio of onetime mob affiliate, has been convicted in 1981. According to public election records cited in court, she received more than $30,000 in salary and benefits last year and is the political action fund's only employee. She also is the director of special events, a nonpaying job, for Brooklyn Borough President Howard Golden.

In asking Saxe to uphold the subpoena, David Greenfield, the Waterfront Commission's assistant counsel, said the panel wanted to ask Lubrano: "How did she get the job? What is she doing? Is this a payoff to Anthony Scotto?"

Greenfield said no date had yet been set for Lubrano to testify.

THE NEW YORK TIMES

Union Official Faces Contempt In Fraud Inquiry

He's Ordered to Reply to No-Show Job Charges

By KIRK JOHNSON

A longshoreman's union official was ... cited for contempt of court yesterday ... and ordered to appear for questioning ... grand jury investigating whether ... illegally channeled to former union lead... Attorney for the Waterfront Com... mission of New York Harbor, which ... conducting the investigation, said ... that Mr. Scotto's wife, Marcia, ... been receiving so much as $30,000 a ... year for a no-show job with the Political Action Fund of Local 1814, the Brooklyn-based longshoremen's local headed by Mr. Scotto. Mr. Scotto has been barred from any ... Union work since his conviction on ... racketeering charges in 1980.

At a brief hearing in State Supreme Court in Brooklyn, Justice David B. Saxe cited Mario Lubrano, the ... Fund's secretary-treasurer, for contempt ... brano for contempt, refusing to ap... before the Waterfront Commis...

Mr. Lubrano was ... per day as a sworn witness, saying that he did so on the attorney's advice that he could be ... Otherwise, Mr. Lubrano would face fines and a jail sentence.

Official Will Comply

Mr. Lubrano's lawyer, Anthony Thomas Scotto — a leader, regrouped into the former union — ... ruling that the commission had no authority to investigate ... Marcia Scotto's job record.

Mr. Saxe said that the commission's subpoena was broad and that Mr. Lubrano might be asked only questions about matters that are not ... However, Mr. Scotto said Mr. Lubrano would comply with the ... order, however, the lawyer's arguments. Justice rejecting that under federal law ... Mr. Lubrano came before the commission's mandate to eliminate corruption in the ... Mr. Scotto said further, "to determine whether Mr. Scotto is exerting any influence over Local 1814."

Anthony M. Scotto served three years in a federal prison for his conviction on racketeering and income tax charges and was barred from holding union office. His prison term began in July 1981, and the commission began its ... payments to Mrs. Scotto began the ... months later. She is the Political Action ... only paid employee, com... said.

THE STAR-LEDGER, Thursday, April 16, 1987

Waterfront probers hear that fire destroyed records sought from firm

By AL FRANK

A fire destroyed almost a third of the financial records the Waterfront Commission of New York Harbor subpenaed from a Perth Amboy firm it has been investigating for financial irregularities, officials disclosed yesterday.

The bistate agency was informed of the 1984 fire in a letter it received this week from R&R Consolidating Inc.

In a subpena last July, the commission demanded R&R's books and records along with those of a related firm, Preferred Warehouse Inc., from January 1983 to the present.

The companies went to court twice to limit the subpena but finally began to comply after the bistate commission was upheld by the Appellate Division of Superior Court last month.

In the letter, Thomas George, president and treasurer of R&R, said books before April 1, 1984, were unavailable because they had been destroyed in a fire in May.

The fire was not mentioned during the court proceedings, and Gerald Lally, the commission's general counsel, said company attorneys said they had been unaware of it until recently.

Leonard Newman, the commission's executive director, said the fire report had been verified and there was no reason to doubt the company's word.

Jerome Klied, the commission's deputy executive director, said it was too soon to say whether the missing items will foil the commission's investigation.

The subpena was issued after Preferred sought a stevedore's license from the commission in January 1986. The application automatically triggered an audit by the commission, which, court papers said, found almost $300,000 in "unsubstantiated" expenses, including $75,000 for "outside wages."

The commission said its regulations require vouchers to explain virtually all disbursements of more than $50.

In the court papers, the commission said officers of the two companies are identical and said it suspected the "controlling power" behind Preferred is Raymond Suarez, a suspected organized crime associate of an underboss in the Genovese crime family.

According to George's letter, a "lack of storage space" prompted the companies to store financial records in a trailer at a Port Newark warehouse where the companies were once based.

The records were destroyed in what George described as an electrical fire. Books from April 1984 to June 1986, however, have been turned over to the commission.

In other action yesterday, the commission lodged misconduct charges against one of its detectives, who is accused of falsely corroborating an alibi offered by a dockworker charged with stealing.

In a notice approved by the commissioners, Martin Galler Jr. of Brickstown was directed to appear at a hearing to determine whether he "engaged in conduct unbecoming a commission employee."

A hearing is scheduled for April 29. Galler, 40, has been suspended from his $34,500 post.

According to the commission, Galler falsely stated he received a telephone call at his home from one of two dockworkers accused of stealing three pairs of men's pants from a Port Newark terminal on March 6, 1986.

Probers cha...

By PAT SMITH
Brooklyn Bureau Chief

Action Fund is ... federal probers ... Waterfront Com... Port Commission ... Local 1814 ... Port Authority ... Scoppetta ... Union ... Scotto, ... Anthony ... Scotto, ... Marcia ... Scotto, ... Lubrano ... Scotto ... Lubrano ... Scotto ... Lubrano ... Scotto

quently petitioned the agency for restoration of his license, which the Commission denied.

The checker then brought legal action in New York Supreme Court to overturn the determination denying his petition. A Justice of the Supreme Court remanded the matter to the agency for further consideration, stating that it was an abuse of discretion "not to grant ***reinstatement [to the Register], at least to the extent of granting [the petitioner] temporary or probationary registration contingent on his continued good behavior."

The Commission appealed the lower court ruling to the Appellate Division of the Supreme Court. The five-judge bench of the Appellate Division unanimously reversed in favor of the agency, writing:

> "The sole question is whether there is a rational basis for the [Commission's] denial of the application and, if a rational basis exists, that ends the court's inquiry. In our view, the [lower] court improperly substituted its judgment for that of the Commission on a matter particularly within the competence and province of the administrative agency to determine. As we observed in *Schultz v. Waterfront Commission of N. Y. Harbor,* 35 A.D. 2d 373; 375, 'The courts, not charged with the onus of maintaining orderly conditions in this area, should not substitute their judgment for that of the responsible authority nor seek to exercise a clement tenderness that is the prerogative of others'."

The checker then petitioned the Court of Appeals, New York's highest tribunal, to review the case, contending that the Commission had erroneously ignored certain provisions of New York's Correction Law. The dock worker argued that, under the Correction Law, the Commission could not deny his application to have his license restored since there was no direct relationship between his criminal offenses and his registration as a waterfront checker.

In a very recent decision, the seven-judge Court of Appeals unanimously affirmed the Appellate Division, declaring, in part:

> "We agree with the Appellate Division, for the reasons stated in its memorandum, that a rational basis exists for respondent's determination under the Waterfront Commission Act***. We add, however, with respect to an issue not considered by that court, that the provisions of article 23-A of the Correction Law do not apply to the New York/New Jersey Waterfront Commission.
>
> "The Waterfront Commission was established by Interstate Compact, approved by Congress (67 US Stat 541) contained in Title 29 of the Unconsolidated Laws (sections 9801-9937). Part I of title 29 (sections 9801-9873) is the interstate Compact between New York and New Jersey; parts II and III (sections 9901-9937, respectively) consist of implementing provisions which were not part of the interstate Compact approved by Congress but which were enacted by both the New York and New Jersey Legislatures pursuant to explicit Congressional authority to amend and supplement the Compact in the manner provided (*see* McKinney's Uncons Laws of NY §§ 9870, 9937; *American Sugar Refining Co. of N.Y. v. Waterfront Commn. of N.Y. Harbor,* 55 NY 2d 11, 17 n 1, 27). Parts I and II of the Waterfront Commission Act contain provisions detailing the Commission's power to regulate the employment of longshoremen on the New York/New Jersey waterfront (*see, e.g.,* McKinney's Uncons Laws of NY §§ 9828-9829, 9912, 9918).
>
> "New York and New Jersey have agreed, and Congress has authorized the two States, to amend and supplement the interstate Compact, to implement the purposes thereof, by legislative action of either State concurred in by legislative action of the other State (McKinney's Uncons Laws of NY § 9870). Pursuant to sections 9806 and 9905(7), the 'Compact' between the two States includes the interstate Compact approved by Congress and any duly enacted amendments or any supplements thereto. In the past, the New York Legislature has expressly stated that certain legislation was amending a certain portion of the 'Compact' and that the new law would take effect upon the enactment into law by New Jersey of legislation having an effect identical to New York's legislation, unless New Jersey had already done so, in which case the amendment would take effect immediately.
>
> "In the present case, the absence from the text and legislative history of article 23-A of any reference to the Waterfront Commission, coupled with the absence of an express statement that the Legislature was amending or supplementing the provisions of the 'Compact' and that article 23-A would take effect upon the enactment by New Jersey of legislation of identical effect, if it had not already done so, indicates that the New York Legislature never intended article 23-A to apply to the Waterfront Commission. That the two States have evinced the same, or similar, public policy regarding employment opportunities for former inmates by enacting similar 'anti-discrimination' laws (*see* NJSA 2A:168A ['Rehabilitated Convicted Offenders Act'] is not sufficient under the express terms of the 'Compact' to render it properly amended or supplemented such that the Commission would be subject to the provisions of article 23-A. Respondent [Waterfront Commission], therefore, did not err in failing to apply article 23-A in denying petitioner's application for restoration of his checker registration."

* * *

In another case involving a checker, the Commission had revoked the dock worker's registration in 1974 after his conviction in federal court for "collections of extensions on credit by extortionate means." The agency determined that the checker lacked good character for assaulting another person and using other extortionate methods to collect various loans made to the victim.

This year, as he had done several times in the past, the former checker sought reinstatement of his registration. His petition was denied by the Commission "***because of the serious nature of his conduct which resulted in his conviction for a felony." The dock worker then initiated a court proceeding to review the Commission's last determination.

In sustaining the Waterfront Commission's action, the New York Supreme Court stated:

> "On the record before this Court there was a rational basis for the Commission's decision, and it was not an arbitrary or capricious act for the Commission to deny petitioner's reinstatement application considering the seriousness of the crime. The Court will not substitute its judgment for that of the agency".

* * *

Joint Effort to Reduce Coffee Costs

As stated earlier, one of the Commission's responsibilities is to control and balance the size of the waterfront labor force with the needs of dock employers. In carrying out such mandate, the Commission is charged with observing certain standards, such as considering the effect of technological changes and automation on the waterfront, the protection of the job security of the existing dock labor force, and the encouragement of mobility of the work force.

This year, the Commission held a public hearing on a proposal to transfer 20 longshoremen registered as coffee scalers to other dock positions in order to reduce labor costs involved in the importation of coffee beans. Witnesses testified that the reassignment of the scalemen from their almost obsolete function in the coffee weighing process to other jobs would dramatically reduce expenses in the handling of this important commodity. It was brought out that in the past seven years there had been a serious decrease in the Port of the volume of coffee beans brought in from Africa and Latin America. An official of one major roasting company concluded that a cost reduction would be an inducement to route more coffee directly through the Port, rather than having the beans unloaded in southern ports and then transferred northbound by truck or train. It was elicited that the increased movement of coffee through the harbor would create thousands of additional hours of dock employment, since each coffee vessel results in some 2,000 longshore hours.

Legislation was required to effectuate the transfer since the scalemen had been included in the register of longshoremen under an amendment to the Act which restricted their employment to acting as scalemen. With the cooperation of management and labor, coffee importers, roasters, weighing companies and the Port Authority of New York and New Jersey, a bill was introduced to permit the transfer, which was enacted by the States and implemented.

* * *

State Data Access Law Not Applicable to Commission

In exercising its powers and duties, the Waterfront Commission has a close and cooperative relationship with other federal, state and local law enforcement agencies.

As one illustration, the Commission, together with the Office of Labor Racketeering of the United States Department of Labor, the Organized Crime Strike Force for the Eastern District of New York, and the Organized Crime Unit of the United States Attorney for the Southern District of New York have been engaged in a continuing investigation of a waterfront management association, as well as certain labor-management administered funds, management-run funds, and waterfront labor unions.

During the course of the probe, the management association and a number of these funds sought various documents, records and memoranda pertaining to them from the Commission's files. These requests were made pursuant to New York's Freedom of Information Law and an "access to records" regulation promulgated by the Commission.

After a thorough review of the request in light of the on-going investigation, the agency determined to grant access to certain documents and to deny access to other material. Indeed, the United States Department of Labor, as well as federal prosecuting authorities in the Southern and Eastern Districts of New York, asked the Commission to refrain from turning over certain records to these entities.

The management association and six of the funds thereupon attacked the Commission's determination by instituting suit in the Supreme Court of the State of New York. The association and funds maintained that the Commission's action had violated New York's Freedom of Information Law.

The Commission determination was upheld and the suit dismissed. In ruling that New York's Freedom of Information Law was not applicable to the bi-state agency, the Court, in part, stated:

> "An interstate agency is created by interstate compact, and New York may not impose its preferences with respect to freedom of information on the other party of the compact. ***Thus, the Waterfront Commission is not an 'agency' subject to New York's Freedom of Information Law.
>
> "The Waterfront Commission applied its own regulation 1.24 entitled 'access to records'. Access was denied on the ground that the records sought were 'compiled for law enforcement or official investigatory purposes' and 'their disclosure would interfere with law enforcement investigations'.
>
> "The respondent Waterfront Commission's determination has a rational basis.
>
> "In view of the three letters, from three separate federal law enforcement agencies, the respondent Waterfront Commission has met it burden of establishing that the material sought falls squarely within the exemption."

* * *

Unemployment Insurance Scams

The Commission this year instituted a series of disciplinary proceedings with respect to dock workers who illegally applied for and received unemployment insurance benefits from the State of New Jersey while they were actually working in the harbor.

Eleven longshoremen and a checker were charged with misappropriating funds of from $474 to $9,765 from the New Jersey Division of Unemployment and Disability Insurance. One longshoreman who stole over $4,200 in such benefits and who had also misappropriated monies from a bank by depositing forged checks, was revoked and prohibited from further employment on the piers. The Commission imposed tentative penalties on the others ranging from a 30-day suspension to revocation for one year, but advised the pier employees that their cases would be reconsidered as to final punishment if they made full restitution to New Jersey of the amounts stolen and penalties imposed by the State.

* * *

Licensing Proceedings

Since it was established in 1953, the agency has examined and processed over 145,500 applications and reapplications for registration and licensing. During the past fiscal year, the Commission's licensing personnel reviewed 752 applications for inclusion in the Register, 194 for licensing as pier guards, 48 for pier superintendent licenses, 15 for licensing as hiring agents, and 5 for permits to operate as stevedores.

Checker and longshore registrations issued by the agency are without a termination date. Pier superintendent and hiring agent licenses expire when the licensee leaves his employment with the sponsoring stevedore. Pier guard licenses are of indefinite duration, provided the licensee periodically submits supplemental personal history data, completes a refresher course of training for guards, and meets mental and physical standards set forth in the agency's regulations. Stevedore licenses terminate on December lst of each odd-numbered year.

* * *

The Compact provides that the Commission may not deny an application for inclusion in the Register or for a license without the applicant being granted 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. 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, 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 each case, will review the record and issue a written order. This ruling is subject to judicial review by the courts of either 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.

The Commission issued final determinations in 59 administrative proceedings this year. It denied 23 applications or reapplications for inclusion in the Register or for licenses. Six registrants were revoked, while l5 licensees and registrants were revoked with leave granted to reapply after stated periods. Fourteen persons were suspended and one was issued a reprimand. These determinations included 7 matters handled as summary proceedings, a process in which the respondent does not contest the violations charged and waives a formal trial.

The Commission also temporarily suspended 4 longshoremen, 2 checkers and 2 pier guards pending administrative trials instituted against them for alleged serious violations of law.

During the year there were 47 petitions of various types submitted for Commission determination; 19 have been granted and 28 denied.

* * *

Personnel

Several employees with long and dedicated service to the agency retired this year. These included Jesse O. Langston, who joined the Commission at its inception as the manager of one of its New Jersey employment information centers. He was later appointed as Director of Employment Information Centers and served in that capacity for 25 years until his retirement. Mr. Langston served with the U.S. Navy in World War II and later in the New Jersey National Guard, attaining the rank of captain.

William F. Stockey, Captain in the Commission's Division of Police, retired after 21 years of service. He served in the U.S. Navy and was an officer with the Yorktown and White Plains Police Departments in New York.

Jerome E. Bradley, a Commission detective, retired after 25 years of employment. Prior to joining the agency, he served in the U.S. Army and was a special agent with an insurance carrier.

* * *

The Commissioners, Executive Director and staff note with sorrow the deaths of the following employee and former employees:

Carmelo Baez, a detective with the Commission's Division of Police, was with the agency for 19 years. Prior to his Commission employment, he served in the U.S. Army Medical Corps and as a Customs Enforcement Officer.

Julia Larsen retired in 1975 after 22 years service as a senior clerk. She was one of the original group of employees who joined the agency at its formation.

Alma M. Henriquez, a senior clerk at the Port Newark employment center, was with the agency from 1953 through 1970.

Jacob Grumet, a retired State Supreme Court Justice and former Chairman of the New York State Commission of Investigations, served as a hearing officer with the Commission, officiating at a number of important agency trials.

CONCLUSION

To continue and preserve the accomplishments of the Commission and the gains realized in the Port of New York-New Jersey under the enforcement of the Waterfront Commission Act, 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 the amendments thereto, and the continued public operation of the employment information centers provided for in Article XII of the Compact.

Respectfully submitted,

NICHOLAS SCOPPETTA
Commissioner for New York

CONRAD N. KOCH
Commissioner for New Jersey

KPMG Peat Marwick

Certified Public Accountants

Peat Marwick Main & Co.
New Jersey Headquarters
150 John F. Kennedy Parkway
Short Hills, NJ 07078

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, 1987. 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 when earned 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.

In our opinion, the aforementioned 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, 1987 on the basis of accounting described in note A, which basis has been applied in a manner consistent with that of the preceding year.

Peat Marwick Main & Co.

September 3, 1987

Notes to Statement of Cash Receipts and Disbursements
June 30, 1987

(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 when earned and expenses are recognized when paid rather than when the obligation is incurred.

(B) The Commission is party to various claims which, in the opinion of general counsel, will not have a material adverse effect on the accompanying statement of cash receipts and disbursements and future operations.

WATERFRONT COMMISSION OF NEW YORK HARBOR
Statement of Cash Receipts and Disbursements
Year Ended June 30, 1987

Balance of funds at beginning of year:		
Cash in checking accounts and on hand	$ 50,996	
Cash in money market accounts	159,791	
Cash in savings accounts	7,072	
Time certificates of deposit	555,000	
	772,859	
Less taxes and other withholdings from employees	45,435	$ 727,424
Receipts:		
Assessments on employers of persons registered or licensed by the Commission	6,454,264	
Penalties, fines and miscellaneous income	19,544	
Interest:		
Time certificates	76,792	
Money market accounts	13,361	
Savings accounts	400	6,564,361
		7,291,785
Disbursements:		
Salaries	3,904,566	
Retirement, group insurance and Social Security taxes	1,088,160	
Rentals	629,863	
General insurance	252,579	
Light, heat and power	136,872	
Repairs and maintenance	90,736	
Furniture and equipment	58,366	
Carfare, auto and travel	52,552	
Communications	70,028	
Special services and supplies	54,790	
General office	29,593	
Printing	11,882	
Hearing officers, auditors and consultant fees	7,975	
State unemployment insurance	279	
Miscellaneous overtime expense	649	6,388,890
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	5,598	
Cash in money market accounts	150,709	
Cash in savings accounts	7,472	
Time certificates of deposit	740,000	
	903,779	
Less taxes and other withholdings from employees	884	$ 902,895

COMMISSION DETERMINATIONS

Year Ended June 30, 1987

APPLICATIONS AND REVOCATIONS

	Denied	Granted	Revoked	Revoked L/R	Sus-pended	Repri-manded	Dismissed Charges	Suspended P/H	Totals
Longshoremen	13	0	6	10	7	1	0	4	41
Checkers	3	0	0	2	3	0	0	2	10
Hiring Agents	1	0	0	0	0	0	0	0	1
Port Watchmen	2	0	0	1	3	0	0	2	8
Pier Superintendents	2	0	0	1	0	0	0	0	3
Stevedores	1	0	0	0	0	0	0	0	1
Maintenance	1	0	0	1	1	0	0	0	3
Totals	23	0	6	15	14*	1	0	8	67

* Includes 7 summary proceedings

PETITIONS

	Denied	Granted	Totals
Petitions for Reconsideration	6	5	11
Petitions for Leave to Reapply	3	1	4
Petitions for Rehearing	0	2	2
Petitions to Withdraw	5	1	6
Petitions to Remove Ineligibility	0	4	4
Petitions for Restoration of Registration	7	0	7
Petitions to Vacate Temporary Suspension	1	1	2
Petitions for Retention or Reinstatement	5	5	10
Petitions for Stay	1	0	1
Totals	28	19	47

ADDITIONAL COMMISSION DETERMINATIONS

Recommendations for Permanent Registration	9
Recommendations to Continue Temporary Permits	7
Recommendations to Withdraw Notice of Hearing	1
Recommendations to Issue Notice of Hearing	6
Recommendations to Amend Notice of Hearing	4
Recommendations to Rescind Administrative Order	1
Totals	28

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
40th decasualization	September 26, 1974	271	14,143b
50th decasualization	September 28, 1979	124	10,956b,c
60th decasualization	October 4, 1984	88	8,026b
61st decasualization	April 11, 1985	87	7,819b
62nd decasualization	October 3, 1985	70	7,776b,c
63rd decasualization	April 10, 1986	55	7,653b,c
64th decasualization	October 9, 1986	71	7,520b,c
65th decasualization	April 9, 1987	100	7,159b,c

(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

	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
Longshoremen	16,006 a	14,226 a	13,704 a	12,515 a	12,237 a	11,863 a	11,420 a	11,150 a	10,804 a & b	10,289 a & b	9,947 a & b	9,474 a	8,702 a	7,955 a	7,810 a	6,999 a
Checkers	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	2,065 b	1,894 b	1,686 b
Hiring Agents	545	493	512	427	378	369	361	357	339	327	304	291	279	242	242	229
Pier Superintendents	424	374	395	370	337	342	340	357	344	353	341	325	304	298	317	304
Pier Guards	1,405	1,291	1,064	979	894	818	789	750	705	655	635	560	525	491	455	404
Stevedore Companies	109	117	113	118	112	115	113	116	113	109	110	104	101	87	83	80
TOTALS	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	11,138	10,801	9,702

(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	1984	1985	1986
Over $25,000	(*)	4,399	4,583	4,373
$20,000 to $25,000	(*)	555	492	431
$15,000 to $20,000	(*)	526	392	368
$10,000 to $15,000	(*)	526	374	351
$10,000 and Over	(*)	6,006	5,841	5,523
$ 5,000 to $10,000	3,797	600	556	478
Under $5,000	37,536	1,676	1,357	1,437
TOTAL REPORTED	41,333	8,282	7,754	7,438
Total Earnings	$102,061,108	$231,731,760	$231,669,145	$229,436,193
Total Hours Worked	37,813,991	12,880,669.5	12,177,200.5	11,374,292
% Hours Overtime	24.3%	31.1%	29.6%	29.1%
AVERAGE ANNUAL WAGES**	$ 2,469	$ 27,980	$ 29,877	$ 30,846

* Records Incomplete for 1954

** Does Not Include Fringe Benefits.

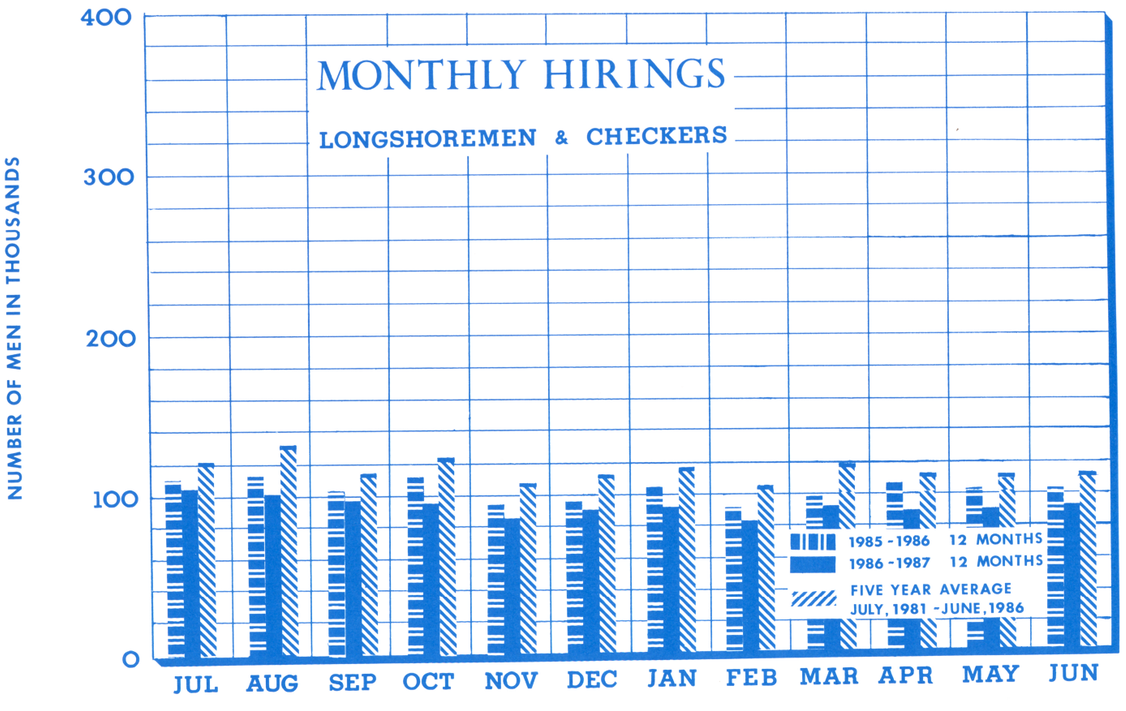
NOTE: This table includes craftsmen such as carpenters, coopers, maintenance men and miscellaneous personnel required to be registered as longshoremen effective May 27, 1957, but does not include most persons required to be registered as waterfront warehousemen and in other capacities effective September 1, 1969. Similar tables in annual reports prior to 1957–1958 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 years ending June 30th, 1986 and 1987

Center and Location	Piers and Areas	HIRINGS 1986-1987	HIRINGS 1985-1986	Increase or Decrease	% Change	% Share in Port Employment 1986-1987	% Share in Port Employment 1985-1986
Manhattan 261-281 Hudson St.	Manhattan	75,648	79,469	– 3,821	– 04.81	06.82%	06.44%
Brooklyn 5914 3rd Avenue	Brooklyn & Staten Island	215,451	349,731	– 134,280	– 38.40	19.43%	28.33%
Port Newark 117 Tyler Street	Port Newark & Port Elizabeth	700,451	668,233	+ 32,218	+ 04.82	63.18%	54.12%
	Jersey City, Bayonne & Weehawken	117,213	137,209	– 19,996	– 14.57	10.57%	11.11%
TOTAL—NEW JERSEY		817,664	805,442	+ 12,222	+ 01.52	73.75%	65.23%
TOTAL—NEW YORK		291,099	429,200	– 138,101	– 32.18	26.25%	34.77%
PORT WIDE TOTALS		1,108,763	1,234,642	– 125,879	– 10.20	100.00%	100.00%





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for
New York



Conrad N. Koch
Commissioner
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Leonard Newman
Executive Director

Jerome J. Klied, *Deputy Executive Director*

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