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WATERFRONT COMMISSION of NEW YORK HARBOR

1980-1981 ANNUAL REPORT

The Waterfront Commission of New York Harbor is a body corporate and politic — an instrumentality of the States of New York and New Jersey.

The Compact creating the Commission and authorizing its functions was entered into between the two states for the elimination of criminal and corrupt practices in the handling of waterborne freight within the Port of New York-New Jersey and for the regularization of waterfront labor. The evil conditions existing in the Port which led to the enactment of the Act had been publicly exposed by the New York State Crime Commission in 1952, after a full-scale investigation by that agency with the cooperation of authorities in New Jersey.

The legislation establishing the Commission was signed by Governor Thomas E. Dewey on June 30, 1953, after passage of the bill by the New York Legislature in extraordinary session on a message of necessity from the Governor, and by Governor Alfred E. Driscoll of New Jersey on the same day. Pending Congressional approval of the Compact, both states functioned on a cooperative basis. The bill for federal approval of the Compact was passed on July 30, 1953 and President Eisenhower signed it into law on August 12, 1953.

The requirement that longshoremen working in the Port be registered and that stevedore companies, pier superintendents, hiring agents and port watchmen be licensed took effect on December 1, 1953.

Under the Act, registration may be denied for certain criminal convictions, if the applicant is a danger to the public peace or safety, or, in the case of checkers, if the applicant does not possess good character or integrity. Similarly, stevedore firms, pier superintendents, hiring agents and pier guards may be denied licenses for criminal backgrounds or for failing to have good character. By statute, the agency has the authority to revoke, suspend or reprimand these registrants and licensees for specified offenses.

Also effective on December 1, 1953 was the abolition of two infamous waterfront practices, the "pier shape-up" of longshoremen for daily jobs and "public loading," a requirement that certain groups of persons be paid to load trucks, whether or not their services were required or desired. In place of the "shape-up," the Commission established longshore employment information centers throughout the harbor. In declaring "public loading" to be unlawful, the states set forth in the legislation those groups of persons who could legally load or unload waterborne freight onto or from vehicles.

In 1957, after a Commission survey revealed that a number of persons denied inclusion in the register as longshoremen because of substantial criminal records were working on the docks in uncovered capacities, the Legislatures required that waterfront carpenters, coopers and maintenance personnel be registered.

Three years later, a widespread investigation by the agency disclosed that waterfront criminal elements were attempting to evade the registration requirements of the Compact. Public hearings were held which showed that persons who moved freight from barges and lighters to or from vessels and who handled the same cargo as longshoremen were unregistered. Accordingly, such "chenangoes" were required to register with the Commission in 1961. The passage of this legislation resulted in a number of leaders of the chenango union who had criminal records leaving the Port.

To keep the size of the longshore and checker work force in balance with the needs of waterfront employers, the Commission may remove from the dock register persons who, without good cause, fail to work or seek work on the piers such minimum number of days as is established from time to time. Additional authority to regularize the labor supply was conferred upon the agency in 1966. Thus, the Commission may also suspend the acceptance of applications for inclusion in the register if there is no need for additional dock workers.

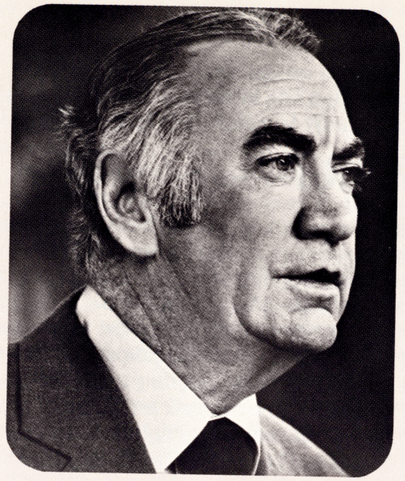
In 1969, the Act was amended to require that contractors performing work incidental to the actual movement of waterborne freight be licensed as stevedores and that their employees be registered. These ancillary services include the repairing of cargo containers, and the weighing, scaling and warehousing of merchandise at waterfront terminals.

In addition to its licensing and regularization of labor functions, the Commission has the power to investigate criminal activity on the docks and to collect and compile information concerning waterfront practices generally within the New York-New Jersey port district. In furtherance of these duties, the Commission has the authority to issue subpoenas throughout both states to compel the attendance of witnesses and the giving of testimony and to confer immunity from prosecution.

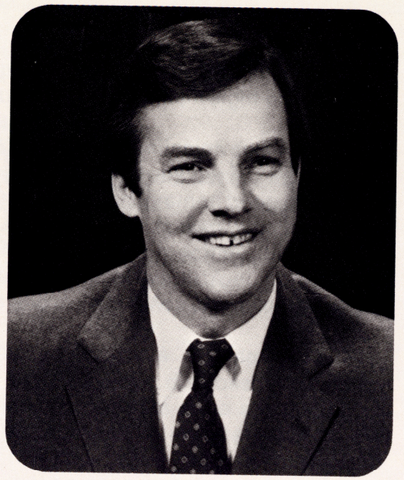
ANNUAL REPORT
1980-1981

THE WATERFRONT COMMISSION OF NEW YORK HARBOR

AN INSTRUMENTALITY OF THE STATES OF NEW YORK AND NEW JERSEY



To the Honorable Hugh L. Carey, Governor, and the Legislature of the State of New York



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

THE PORT

The Port of New York-New Jersey encompasses an area of 1,500 square miles within a 25-mile radius of the Statue of Liberty. The region includes 17 counties and 234 municipalities within what is known as the New York-New Jersey metropolitan area and has a consumer market of some 15 million people. Its water frontage is 755 miles; 460 of which are in New York and 295 located in New Jersey. The harbor is recognized as the waterfront cargo container capitol, with excellent containership facilities in both states.

The Port continues to dominate the nation in terms of total value of oceanborne foreign trade. In 1980, it led all other harbors in the United States in trade with 73 of the world's 172 trading nations. The principal general cargo commodities exported through the Port, in terms of value, were machinery, photo supplies, motor vehicles and plastic materials. The main value imports were motor vehicles, coffee, and clothing. By tonnage, the leading exports were iron and steel scrap, plastic materials, waste paper and machinery; imports were alcoholic beverages, bananas, sugar and motor vehicles.

During 1980, the Port's foreign oceanborne trade again marked a new high, rising 11% over the 1979 value of $40.6 billion to $45.1 billion. Of that figure, $38 billion represented high value general cargo and $7.1 billion was attributable to bulk cargoes. The 1980 increase was realized despite a reduction in tonnage handled by the Port. Foreign general cargo decreased to 15.1 million long tons from 16.3 million the previous year. Foreign bulk shipments, some 95% of which were petroleum imports, dropped to 34.6 million tons from 39.9 million tons recorded in 1979.

The value of over $2,500 per ton for general cargo moved in the harbor was an increase of 16.5% from 1979, is more than twice the national average of $1,034 and is 25% higher value per ton than the second ranking port in the nation. Moreover, the Port's share of the trade at North Atlantic harbors increased from 42.6% to 43%, despite the fact that tonnage in this area declined.

Between July 1, 1980 and June 30, 1981, there were some 11,700 ship arrivals and departures in the Port, with more than 100 waterborne carriers and steamship line agencies serviced.

In addition to its movement of waterborne freight, the Port accommodated approximately 375,000 cruise passengers in 1980.

During the waterfront industry's contract year (October 1, 1979 through September 30, 1980), 10,212 registered longshoremen and cargo checkers (excluding those dock workers registered to perform services incidental to the actual movement of waterborne freight) earned $278,800,938 in regular and overtime wages, guaranteed annual income payments, and vacation and holiday monies. This represented average annual earnings for these pier workers of $27,301. In the prior year, 11,065 of such longshoremen and checkers earned $365,880,740, or an average of $24,029.

THE COMMISSION

Established by a Compact between the States of New York and New Jersey, the Waterfront Commission of New York Harbor has licensing, regulatory and law enforcement jurisdiction over the almost 14,000 persons employed and the 109 waterfront companies operating on the piers and marine terminals in the bi-state port district. The Port's dock workers, men and women, perform the direct and indirect services necessary for the movement of cargo to and from the nation's greatest harbor, and include 10,289 longshoremen, warehousemen and container repairmen, 2231 cargo checkers, 655 pier guards, 327 hiring agents and 353 dock superintendents.

There are two members of the Commission, one appointed by the Governor of the State of New Jersey, with the consent of the New Jersey Senate, and the other chosen by the Governor of the State of New York, with the approval of the New York Senate. The members are appointed for three year terms and without regard to their state of residence.

Representing the State of New Jersey since December, 1977 is Henry N. Luther, III. Commissioner Luther is a member of the New Jersey Bar and had served as Executive Secretary to former Governor Brendan T. Byrne, Executive Director of the Lottery Commission of New Jersey, and Mayor of Parsipanny-Troy Hills in the Garden State.

The New York Commissioner is Nicholas Scoppetta. Appointed by Governor Hugh L. Carey in May, 1979, Commissioner Scoppetta, a New York attorney, was an Assistant District Attorney in New York County, Associate Counsel to the Knapp Commission, which investigated allegations of police corruption, Special Assistant United States Attorney, Commissioner of Investigation for the City of New York and Deputy Mayor of New York City for Criminal Justice. He is also a Professor at New York University School of Law and was Director of the Institute of Judicial Administration.

Serving as the Commission's Executive Director since July, 1976, Leonard Newman was formerly an Assistant District Attorney in New York County for 32 years. He was Chief of the Frauds Bureau for the last 8 years of his service in the District Attorney's Office. Prior to joining the Waterfront Commission, Mr. Newman was First Deputy Commissioner of New York State's Division of Criminal Justice Services, where he was in charge of the Office of Special Services. This included supervision of the Prosecutorial Technical Assistance Unit, the Juvenile Justice Institute and the Bureau of Municipal Police. He is a member of the New York Bar.

The agency has seven divisions to administer its functions, all under the general supervision of the Executive Director.

The Executive Division formulates the Commission's budget. In accordance with the principle that the cost of administering the agency should be borne by the industry it regulates and services, the Compact provides that the Commission's budgeted expenses be assessed upon the employers of persons registered and licensed by the agency. Such assessments are computed upon the gross payroll payments waterfront employers make to longshoremen, checkers, port watchmen, pier superintendents and hiring agents, and are limited to a maximum of two per cent.

The preparation and review of proposed legislation, rules and regulations are also the responsibility of the Executive Division, as are contracts and leases entered into by the agency. In addition, this Division handles all litigation, legal research and public relations. The Division is under the direct management of the Executive Director.

Together with accounting and law enforcement personnel, the Division of Law participates in investigations of suspected violations of law pertaining to the bi-state waterfront. The New Jersey and New York attorneys assigned to this Division also conduct administrative hearings to determine whether registrations and licenses issued by the Commission should be cancelled, suspended or revoked for misconduct. The Director of the Law Division was formerly an Assistant District Attorney in New York County, and Assistant Chief Counsel of the New York State Commission of Investigation.

The Commission's Division of Law Enforcement is composed of special agents and uniformed officers, all of whom have police powers throughout the two Compact states. This Division also employs research and waterfront intelligence analysts. Its functions include investigating criminal activity in the harbor, performing background checks of individuals and companies seeking licenses and registration, and operating around-the-clock patrols of the piers. The Director of Law Enforcement is a former Special Agent with the Federal Bureau of Investigation.

The Licensing Division is responsible for the processing of applications for licenses and inclusion in the longshoremen's and checker's register. Assistant Commission Counsel assigned to Licensing conduct administrative

trials to determine whether applicants with serious criminal backgrounds or other statutory grounds for denial should be issued licenses or registration. The Division, which is under the supervision of an attorney with licensing experience of over 20 years, also administers the agency's programs to balance the Port's labor supply with the needs of the employers.

The Commission's functions include the furnishing of information to dock workers concerning employment opportunities and the supervision and regulation of the hiring of waterfront labor. These duties are carried out by the Division of Employment Information Centers. Four such centers are presently operated by this Division — one each in Manhattan, Brooklyn, Port Newark-Port Elizabeth, and Hoboken. The Director in charge of this Division was formerly the Manager of one of these centers and has 29 years of experience with the Commission in this specialized field. He previously was the Commanding Officer of a Navy LST, conducting cargo operations.

A vital part of the agency's law enforcement functions is performed by its Audit and Control Division. Under the supervision of its Director, who has 25 years of governmental and private accounting experience, accountants assigned to this bureau are closely associated with staff counsel in investigations of criminal conduct in the harbor. This Division also has the responsibility for auditing the books and records of licensed stevedore firms to insure that the licensees maintain accurate accounts of the receipts and disbursements arising out of their activities in the Port. In addition, the proper collection of assessments due the agency is charged to the Division.

The Commission's Administrative Division provides stenographic, court reporting and clerical services for the other Divisions. The Director of Administration, who has been with the Commission since its inception, is also in charge of maintaining the personnel and other records of the agency. Her prior service included handling personnel records for the United States Department of the Army in Korea.

During the past year, the agency operated with a staff of 177 employees. Its budget, approved by the Governors of each State, was $5,983,501. The Commission, in administering its functions, actually expended $5,384,052, or $599,449 under its budget. As stated, the agency's budgeted expenses are financed through assessments paid by dock employers on their gross waterfront payrolls.

* * *

THIS YEAR

Aftermath of Waterfront Probe

As the Commission reported last year, the widespread investigation by the federal government into union and management corruption in the Port of New York-New Jersey and other east and gulf coast ports resulted in the convictions of a number of waterfront union officers, businessmen and organized crime figures. The probe, in which the Waterfront Commission participated, saw some 30 officials of the International Longshoremen's Association in various harbors found guilty of such crimes as labor racketeering, embezzlement of union funds, demanding and accepting prohibited payments from waterfront employers, extortion, perjury and income tax fraud. Employers of longshoremen in several ports were convicted of conspiracy to make unlawful payments to union leaders, racketeering, kickbacks and using the mail to defraud.

In the aftermath of the investigation, the Commission brought administrative proceedings against several companies and individuals licensed by it to determine whether such licenses should be suspended or revoked for their misconduct exposed in the probe.

In one such case, the Commission found, after a hearing, that a major stevedore firm, operating not only in the Port of New York-New Jersey but also in other harbors, made illegal payments to labor officials, failed to maintain accurate books and records, and committed fraud in applications for licensure filed with the agency.

In determining what action it should take on the application of the stevedore for renewal of its license, the Commission considered what was described by federal officials as the invaluable assistance provided by the president of the company, as well as the cooperation of other officials of the corporation, in the government's investigation and prosecution of corrupt union officials. During the course of the administrative trial, the United States Attorney whose office prosecuted a number of the waterfront corruption cases, and a representative of the Federal Bureau of Investigation, testified on behalf of the firm concerning the extensive cooperation given to the government by the firm's president. This assistance was provided during the investigation and trial of the General Organizer of the International Longshoremen's Association, the third highest position in the longshoremen's union, who was also the president of the largest longshore local in the Port, and in the prosecution of the head of a newspaper deliverers' union. In the opinion of the former United States Attorney, the testimony at the criminal trial of the ILA official by the president of the stevedore company was indispensable and crucial to the federal government.

The Commission recognized the rarity of witnesses publicly exposing illegal waterfront activities. As the Commissioners wrote in their memorandum of decision in the case:

> "While we fully recognize that [the president of the stevedore company's] cooperation with the government did not evolve until after he was confronted with evidence of his [own] crimes, nevertheless he did cooperate and, as the record indicates, did so while both he and the federal authorities believed that he might be subject to physical reprisal. In this regard, it should be appreciated that at least from the days of the Crime Commission's investigation of the Port in the early 1950s through the twenty-eight year existence of this agency, the experience has been that investigations of waterfront criminal activities are seriously hampered by the inability to obtain testimony, even from witnesses confronted with evidence of their own crimes who may be subject to imprisonment."

The Commission determined that the application of the stevedore for continuation of its license to operate in the Port should be denied, with leave granted the firm to reapply upon certain conditions. Finding that one of the stockholders and directors initiated a scheme through members of organized crime to enlist and pay the president of the largest longshore local to control what the company's officials believed were fraudulent compensation claims submitted by longshoremen, the Commission ordered that no license would be issued unless the stockholder-director was removed and permanently barred from the company. In imposing this condition, the Commission declared:

> "Prior to the creation of the Waterfront Commission, it was established by the New York State Crime Commission, that criminal elements had a virtual stranglehold on waterfront activities. One of the purposes of this agency's power of licensure is to eliminate organized crime and the accompanying evils that infested the harbor. While the Commission itself does not have the authority to prosecute members of organized crime for illegal acts in which they may be engaging, it can utilize its licensing powers to remove a person who associates with and solicits the aid and assistance of members of organized crime for his waterfront business interests."

In addition, the company was fined $135,000 for the violations established in the administrative proceeding conducted before the Commission.

* * *

To prohibit criminals from holding positions in dock labor unions, the Waterfront Commission Act bans persons convicted of felonies, misdemeanors involving moral turpitude, and other crimes specified in the Act, from serving as officers, agents or employees of unions representing waterfront workers licensed or registered by the Commission. The Act also enjoins a waterfront union from collecting dues and assessments if any of its officers, agents or employees have been so convicted.

After the recent convictions of various waterfront union officials, the Commission instituted administrative and court proceedings to enforce this ban. As we described in our last annual report, several of the convicted officials judicially challenged the Commission's actions. In each case the Commission was sustained by the Courts.

This past year, the Commission administratively sought to oust from union office two vice presidents of the International Longshoremen's Association and a special organizer of the ILA Atlantic Coast District, all of whom were residents of Florida and convicted of waterfront related felonies and misdemeanors in the United States District Court for the Southern District of Florida.

These officials, in a federal court proceeding instituted against the Commission, contended that the New York-New Jersey Waterfront Commission Act would be given impermissible extraterritorial effect if its ban on waterfront activities included non-resident (Florida) union officers. The United States Court of Appeals for the Second Circuit found no merit to the union officials' argument. Holding that all three officials, because of their positions, had substantial power to affect labor relations in the Port, the court ruled that "[i]n preventing convicted persons from occupying such positions of authority, New York is vindicating a 'legitimate and compelling state interest, namely, the interest in combating local crime infesting a particular industry.' *** The Act does not prohibit the election of these men to offices in Florida locals nor does it prohibit the collection of dues outside New York State from Florida longshoremen. It simply prevents corrupt union officials from contributing to a long-standing problem of criminal wrong-doing on the New York waterfront."

The Commission then instituted an action in New York Supreme Court to remove these convicted officials from office. Shortly after the suit was initiated, the two vice presidents took leaves of absence from office and the organizer was suspended by the International President. All three thereupon argued that the action to remove them was rendered moot by the changes in their status. In restraining and enjoining the three from holding positions in the International and Atlantic Coast District, the Court overruled their contention, stating: "The purpose of the Waterfront Commission Act *** is clearly to remove criminal elements from positions of influence in waterfront unions. *** It is clear that these offices are not open for the election or appointment of new leadership and will not be until and unless the present criminal elements are removed. This matter is not academic."

A Failure to Account

In its investigation of conditions in the Port which resulted in the enactment of the Waterfront Act in 1953, the New York State Crime Commission found large unexplained cash disbursements by stevedoring companies, indicating corrupt conduct on the part of waterfront employers. Accordingly, the Compact provides that a stevedore license may be denied or revoked for the failure of the applicant or licensee to maintain a complete set of records and an accurate account of its receipts and disbursements. Such books and records are required to be available during business hours for inspection by the agency.

An audit by Commission accountants of the financial records of a stevedore licensed to perform tire repair services on Port Newark piers revealed that the firm cashed more than half of the checks received from its waterfront customers, without recording such earnings in its books. Moreover, Commission agents discovered that the principal of the company, who held temporary licenses as a pier superintendent and longshore hiring agent, failed to report almost two-thirds of his personal income on his tax returns.

At an administrative hearing to determine whether the stevedore and its principal should be permitted to continue operating in the harbor, the firm and its owner admitted the violations. The Commission issued an order denying the company a renewal of its license and revoked the permits held by its principal.

Information developed by the Commission during its investigatory audit was furnished to the federal government for possible criminal prosecution.

Investigating Suspected Coercion

Among the general powers granted the Waterfront Commission by the States of New Jersey and New York is the authority to conduct investigations and collect and compile information upon matters relating to the accomplishment of the objectives of the compact.

Receiving information that some longshoremen were being subjected to economic coercion to sign check-off authorizations for contributions to a political action fund established by a Brooklyn dock workers' union, the Commission launched an investigation to ascertain whether there was, in fact, coercion; who was coerced; and whether pressure to make contributions was the work of isolated individuals or was a concerted plan. Coercive practices were common on the docks prior to the passage of the Compact and, indeed, were among the evils leading to the establishment of the Commission.

For many years the dock union raised monies for its political action fund through periodic haphazard donations. In December, 1978, the local began seeking authorizations from its 4,000 longshore members for payroll deductions for political action fund contributions of one-quarter of one percent of gross earnings. Between late 1978 and the beginning of January 1979, some 2,900 longshoremen signed check-off authorizations. Sometime thereafter, another 450 gave written consents.

To determine whether there was compulsion to sign the authorizations, the Commission issued a subpoena to the employer association authorized to make the payroll deductions. The Commission sought the names of those dock workers who gave their authorizations after the original group of 2,900, since those persons would have been the most likely victims of coercion, if it occured.

The union and its political action fund brought suit in federal court to permanently enjoin the enforcement of the subpoena, contending that it would have an unconstitutional chilling effect upon the union members' political rights under the First Amendment to the United States Constitution. While the United States District Court found that disclosure of all the 450 names sought by the agency could have such a chilling effect, the court ordered the disclosure of ten per cent of the names, stating that such information was "reasonably related to the compelling state interest in fighting crime on the waterfront." A federal appeals court upheld the ruling of the lower court. The union thereupon requested a stay of the court order from the United States Court of Appeals for the Second Circuit, which was denied. A series of subsequent applications to the United States Supreme Court by the union for a stay were also rejected, first by two individual Justices and then by the entire Court.

Ultimately the names of 45 of the dock workers who signed check-off authorizations were randomly selected by a lottery method under the supervision of a federal court magistrate. The union local was not permitted to know which names were so picked. The Commission has begun questioning the dock workers in the continuing investigation.

Regularizing Dock Employment

The Commission is empowered to utilize any one or a combination of three separate legislative programs to balance the Port's labor supply with the demands of waterfront employers for dock labor.

Thus, to remove excess labor and maintain a supply of available workers, the agency is authorized to cancel the registration of a longshoreman or cargo checker who does not work or seek work on a regular basis, unless such failure is caused by ill health, military service or other good reason. For many years, the Commission's regulations have required dock workers to work or seek employment a minimum of 48 days in each half-calendar year, distributed at least 8 days a month in 5 out of 6 months.

The second technique employed to regularize pier employment is to close the register of longshoremen and only add additional workers when a need for their services has been established. In determining whether to increase the number of longshoremen in the Port, the Commission is required to observe several legislative guidelines. These include the encouragement of a full utilization and mobility of the existing work force, the consideration of technological changes and automation on the waterfront, and the protection of the job security of those persons already registered.

Finally, to provide for special or emergency situations, the Compact also grants the Commission the authority, at any time, to register longshoremen and checkers on a temporary basis.

* * *

As stated, if the failure of a registrant to work on the waterfront is caused by ill health, the dock worker will not be removed from the register. On occasion, a registrant will attempt to defraud the Commission by claiming that he was unable to seek dock employment because of medical reasons.

In one case this year, a longshoreman, registered on a temporary basis to meet the emergency needs of employers for additional labor in the holds of vessels, did not work or seek work the number of days required by the Commission of such interim licensees. To excuse his failure to comply with the work rules, he presented a certificate from a hospital attesting that he had been medically treated at its emergency room on six occasions. An investigation by the Commission's Licensing Division disclosed that the dates on the certificate had been altered by the longshoreman to coincide with those days he failed to work. A separate inquiry disclosed that the registrant had illegally cashed the pay check of another longshoreman. In view of his misconduct and failure to work, the longshoreman's registration was annulled.

Another temporary longshoreman sought to justify his failure to work by submitting to the Commission a statement from a chiropractor that the longshoreman was suffering a back sprain. At an interview conducted by a Commission attorney, the longshoreman gave a detailed description of his alleged ailment, reciting his numerous treatments by the chiropractor.

A verification procedure by the Commission divulged that the chiropractor had never treated the registrant for a back condition or for any other reason. When confronted with the chiropractor's statements, the longshoreman admitted his deceit and misrepresentations. His temporary registration was cancelled, barring him from any further waterfront employment.

* * *

Most dock workers are selected and assigned for employment through a prior day ordering system monitored by Commission personnel at the employment centers. Licensed employer hiring agents, utilizing industry computers, order registered longshoremen and cargo checkers to report the following day for work at designated piers. Those not so ordered are required to personally appear at one of the Commission's centers the next morning to be available for employment as "fill-ins" or for work not anticipated the day before.

To record their presence and availability for employment at the center's morning hiring period, dock workers must "badge-in" their seniority cards at computer terminals. If they are not engaged for employment, they then "badge-out" at the conclusion of the hiring. This personal badge-in and badge-out system is required for a longshoreman or cargo

checker to properly receive a daily credit (1) towards the industry's annual guaranteed payments and (2) to meet the work or availability for work requirements of the Commission to remain registered.

The Commission has reported, from time to time, attempts by longshoremen to circumvent these requirements by having other persons appear in their place at the employment centers and "badge-in" and "badge-out" for them.

Developing information that a longshoreman, whose seniority card was being badged in and out regularly in the Port, was at the time actually living in Florida, the Commission initiated an investigation. Agents of the agency established that for some six months a year the longshoreman lived in a Florida condominium, and that, during the other six months, he was physically at an automobile body and painting company in upstate New York, which he partially owned. During all this time, he was obtaining credit for and receiving guaranteed annual income payments; monies paid for being available for employment in the Port of New York-New Jersey.

At the conclusion of the probe, the longshoreman was removed from the Register and prohibited from any employment on the docks. In addition, the information developed during the investigation was forwarded to the United States Attorney's office for possible criminal prosecution for illegally obtaining payments under the industry's guaranteed income program.

In a similar case of misrepresentation, the Commission established at an administrative proceeding that a longshoreman had his seniority card badged-in at an employment center while he was incarcerated in a federal correction center. As the result of his fraudulent representation that he was available for work, the dock worker received a guaranteed annual income payment check from the New York Shipping Association – International Longshoremen's Association Guaranteed Annual Income Fund, which he endorsed. In view of the fraud and an unrelated felony conviction for using extortionate means in an attempt to collect payment of a loan, the longshoreman's registration was revoked.

In a judicial proceeding brought by the pier worker to reverse the revocation of his license, the Appellate Division of the New York Supreme Court unanimously upheld the Commission's determination, stating, in part:

"*** The first offense, defrauding the NYSA-ILA GAI Fund, directly undermines the integrity of that fund and threatens its ability to carry out its purpose of protecting the incomes of longshoremen, whose job opportunities have been eroded by the advent of containerization and other technological devices along the waterfront. The penalty imposed upon petitioner [by the Waterfront Commission] may serve as a deterrent to prevent similar offenses which could further undermine the fund and result in substantial public harm ***."

Containing Thefts

Since its establishment, the Waterfront Commission has been in the forefront of advocating the effective protection of merchandise handled by the transportation industry. In pursuit of this objective, it was one of the charter member organizations of the International Association of Airport and Seaport Police, which has among its purposes the prevention of criminal activity affecting the shipment of cargo throughout the world.

In the Port of New York-New Jersey, the Commission has assisted in substantially controlling cargo thefts by its continuous police patrols of the piers, by evaluating pier cargo security measures, and by its licensing and upgrading of the private pier guards utilized by stevedores and steamship companies to protect goods in their care. Further, as has long been evident in the Port, one of the most effective deterrents to theft by persons working on the docks has been the action taken by the agency against the licenses and registrations of persons caught stealing. The temporary or permanent loss of a license for theft, with its attendant loss of income, is oftentimes of more consequence to the dock worker than a criminal prosecution for the larceny.

* * *

Developing intelligence that a number of missing cargo containers might be located at a lot in the Bronx, New York, special agents of the Commission commenced a joint investigation with detectives from the Bronx District Attorney's Office. A check of the lot demonstrated that several related companies engaging in the scrap paper business were operating from the lot and that waterfront containers were being housed there for the storage of waste paper.

In pursuance of the investigation, court ordered search warrants were obtained and sixteen cargo containers and other equipment with a total value of $190,000 were recovered and returned to the true owners, various shipping lines.

* * *

Commission special agents, on patrol near the Brooklyn docks, observed four men acting suspiciously at the rear of a rented truck. One of the men was recognized by the police officers as a person they had arrested nine years previously for possession of stolen property.

The officers' suspicions were heightened when a closer observation disclosed that the truck, which contained sides of beef, was not refrigerated. Further investigation revealed that the meat was part of a $30,000 shipment transported from Rochester to New York City and hi-jacked at gun point in Manhattan several hours earlier.

The four men were arrested by the Commission agents and detectives of the New York Police Department Safe and Loft Squad for criminal possession of $6,000 worth of beef.

* * *

For several years, coffee has been a commodity sought by thieves. A ready market and relatively high prices have enabled criminals to easily dispose of such imported cargo.

Developing information that bags of coffee might be stolen from a Brooklyn pier, special agents of the agency initiated a surveillance at the terminal's warehouse. After several hours of observation, they witnessed two longshoremen remove four bags of green Brazilian coffee beans from the storage area and place them in the trunk of a private automobile. The dock workers were placed under arrest for theft from a foreign shipment. Both men admitted their guilt and received one year probationary sentences and fines in federal court. Their registrations as longshoremen were suspended for six months after a Commission administrative hearing.

During a nighttime patrol of waterfront warehouses in the Erie Basin section of Brooklyn, uniformed officers of the Commission observed a figure run from a fence surrounding one of the storehouses. Closer inspection disclosed bags of coffee on the ground as well as wooden pallets stacked high against the fence, obviously placed there to aid in removing the merchandise from the enclosed area. The officers secured 10 bags of Guatemalan coffee, valued at $3,000, which were returned to the warehouse.

* * *

In another case, the Commission was notified that a tractor-trailer with its cargo of 65 drums of chemical cleaning compound destined for South America was stolen from in front of a Brooklyn pier. The driver of the vehicle advised responding Commission agents that, after waiting several hours to enter the terminal, he locked his vehicle and proceeded on foot to the pier to inquire about being serviced. When he returned to the tractor-trailer, it was missing.

Shortly after the Commission officers initiated their investigation, they recovered the trailer and its cargo, which had been "dropped" several miles away. The value of the items retrieved was over $18,000.

The driver of the vehicle, who had been arrested five years before by Commission agents for a theft from a pier, was suspended from employment by the owner of the truck.

* * *

The pier employee responsible for tallying merchandise as it is loaded or unloaded on the dock and for keeping inventory records of incoming and outgoing shipments is the cargo checker. Few large-scale thefts from a pier can be accomplished without collusive criminal conduct between the truck driver bringing his vehicle to the terminal and the checker. An honest checker is vital to the effective security of freight. If, however, the checker fails to detect or report shortages of cargo, whether by negligence or design, the opportunities for the waterfront thief are enhanced.

Since the checker is in a strategic position on the pier, he is required to maintain higher standards for licensing than the longshoreman. Thus, all checkers must possess "good character and integrity."

This year, in addition to taking action against checkers who were directly involved in thefts, the Commission suspended the registrations of several checkers whose negligence in the performance of their duties resulted in actual or near thefts.

In one such case, the Commission, after a hearing, barred a checker from the piers for twenty days after determining that his gross negligence resulted in fifteen extra bags of coffee, valued at $3,000, being loaded onto a truck. The overload was discovered by another pier employee who weighed the truck prior to its leaving the terminal.

In a lawsuit of first instance, the checker judicially challenged the authority of the agency to take action against his license on a finding of negligent behavior, as opposed to criminal conduct. The appellant argued before the Court that, in enacting the Waterfront Commission Act, the Legislatures intended to disqualify from pier employment only those of a criminal bent and that it was not within the Commission's jurisdiction to examine the manner in which a checker performed his duties.

The Appellate Division of the New York Su-

preme Court unanimously rejected the checker's contentions and confirmed the Commission's authority and determination in the case.

* * *

Each year some 450,000 motor vehicles, imported and scheduled for export, are stored at the Port Newark-Port Elizabeth complex of the harbor. On occasion, these new automobiles have become targets for thieves.

After receiving reports that several automobiles were missing from a vast storage area in Port Newark, Commission special agents instituted a night surveillance from a roof overlooking the facility. They observed an individual gain access to the lot by cutting through a fence enclosing the area. He then entered an imported sports car and proceeded to remove protective packing from the side of the automobile and scrape off the new car identification markings on the windshield and rear window.

The agents arrested the thief, who had in his possession a license plate from a different vehicle, pliers, and tape. In a statement to the investigators, he admitted that he had received an "order" from a customer to steal this type of car and that he was to receive $2,500 for the automobile, which was valued at over $12,000.

Since the thief had been registered to work in a waterfront warehouse, his license was cancelled by the Commission and he was barred from the piers.

Administrative Hearings

Pursuant to the provisions of the Waterfront Commission Compact, no application submitted for registration as a longshoreman or checker, or for a license to act as a stevedore, pier superintendent, hiring agent or port watchman, may be denied without the applicant being granted an opportunity to be heard at an administrative proceeding. Similarly, a registration or license issued by the agency may not be suspended or revoked without notice of the charges and the right to a due process hearing.

Under the Commission's formal hearing procedure, the trials are presided over by Administrative Law Judges selected from a rotating panel of New Jersey and New York attorneys with diversified legal and judicial experience. Among the members of the panel are a former Acting Justice of the New York Supreme Court, a retired Judge of the Nassau County District Court, and a former Assistant United States Attorney from New Jersey.

The agency's rules provide that its administrative hearings are open to the public, unless otherwise ordered by the Commission in the public interest. The applicant or respondent may be represented by counsel, present evidence in his own behalf and cross-examine witnesss. The Law Judges have the authority to administer oaths, issue subpoenas to compel the attendance and testimony of witnesses, and rule upon offers of evidence.

After the taking of testimony and the submission of legal memoranda to the hearing officer, the Administrative Judge must render a written report of his findings of fact and recommendations to the Commissioners. Each party in interest, including the applicant or respondent, receives a copy of the report and has the opportunity to take exception to the findings and recommendations. Thereafter, the entire record of the proceeding is considered by the two Commissioners for their final determination, which is expressed in a written order of the agency.

An applicant or respondent aggrieved by an agency ruling may petition the Commission for reconsideration of the case, for a rehearing, to restore a license or registration which has been revoked, or for permission to reapply. Each of said applications is individually considered by the Commissioners. In addition, determinations of the Commission are subject to judicial review in the courts of either compact state.

Of the 132 final determinations made this year in application and revocation hearing proceedings, the Commission denied 44 applications for registration or licenses, granted 1, revoked 8 registrants and licensees, revoked another 18 with leave to reapply after specified periods of time, suspended 55, reprimanded 3, and dismissed the charges in 3 cases. Included in the above were 32 summary proceeding matters; cases in which the licensee or registrant admitted the violation and waived a formal hearing. In addition, the Commission suspended 4 registrants and 1 licensee pending administrative proceedings, finding that the continuation of the registration or license during the determination of the hearing process would be inimicable to the public peace or safety.

The Commissioners also ruled upon 139 petitions submitted to them, granting 60 and denying 79.

The majority of applications for licensing or registration do not require hearings to determine whether they should be granted or denied. This year, the Commission administratively granted 635 applications for inclusion in the register, 53 licenses as pier superintendents, 41 as hiring agents, 10 as stevedores, 32 as pier guards, and 4 licenses as security officers.

Litigation

In addition to those court proceedings reported previously, the following are some of the judicial matters engaged in by the Commission during the past year:

Parisi v. *Waterfront Commission*
(Appellate Division of New York Supreme Court, First Department)

Several years ago the Commission issued a special report to the Governors and Legislatures of New York and New Jersey on the results of an investigation conducted by it into fraudulent workers' compensation cases in the Port. As part of its continuing effort to curtail such fraud and thereby reduce the cost of doing business in the harbor, the Commission promulgated regulations designed to uncover false injury claims. Stevedore companies and other waterfront terminal operators are required by these rules to furnish the agency with certain data where there is reason to believe that a false compensation claim has been submitted or where a dock worker has not worked for 14 days or more because of a claimed accident. This material is reviewed by Commission attorneys who, in appropriate cases, will initiate investigations of suspected claims.

In the course of one such investigation, the Commission issued a subpoena to secure the records of a medical doctor who was known to have treated an inordinate number of dock worker claimants. The Commission was particularly suspicious concerning the involvement of the doctor in the claim filed by a longshoreman who was reported by the physician to be temporarily totally disabled. The agency had evidence to establish that the pier employee was not so disabled and that the alleged accident was spurious. The items sought included the "sign-in" books and other attendance records of longshore compensation patients treated by the doctor and his assistants over a certain period of time.

The physician brought a judicial proceeding to quash the subpoena, claiming that the Commission's investigation into fraudulent compensation claims had been concluded several years before, that a physician-patient privilege would be violated, that the Commission lacked jurisdiction to obtain his records since he was not a licensee of the agency, and that the subpoena was vague and too broad.

Special Term of the New York Supreme Court modified the agency's subpoena to require the physician to produce only those medical records pertaining to the one longshoreman. The Commission thereupon appealed.

The Appellate Division of the Supreme Court reversed the lower court ruling and upheld the validity and scope of the Commission's subpoena, the court stating in part:

> "As issued the subpoena was limited to the sign-in books and attendance records of waterfront workmen's compensation patients treated by petitioner, a doctor, so that no issue of privilege is involved. Its issuance was neither arbitrary nor in excess of the Commission's jurisdiction. The Commission may subpoena persons not subject to its regulatory powers if the inquiry is reasonably related to the purpose for which the Commission was created. *** The Commission's investigation into fraudulent workmen's compensation claims by longshoremen is an ongoing one. We also do not find that the subpoena was vague or overly broad."

New York's highest court, the Court of Appeals, thereafter confirmed the determination of the Appellate Division.

When later questioned by Commission Counsel in the investigation, the doctor pleaded his privilege against self-incrimination.

American Sugar Refining Co. of New York et al. v. *Waterfront Commission*
(Court of Appeals of New York)

As was reported last year, 30 stevedore and steamship employers in the Port of New York-New Jersey brought suit against the Commission to declare assessments collected from them on guaranteed annual income and vacation and holiday payments made to dock workers as invalid. Under the provisions of the Waterfront Commission Compact, the agency's budget is financed by assessments computed upon the gross payroll payments made by waterfront employers to persons registered and licensed by the Commission. The Commission had collected assessments on vacation and holiday payments since its establishment and had received assessments on guaranteed annual income monies since 1966, when GAI payments first began. The association of the employers, the New York Shipping Association, ceased making payment to the Commission of such assessments in 1978, just prior to the institution of the legal action.

In the lawsuit, the Commission counterclaimed against the plaintiffs, the NYSA and the joint labor-management trust funds administering such payments for a declaratory judgment that the assessments were authorized under the Act. The New York Shipping Association and the plaintiffs, in a counterclaim to the agency's counterclaim, sought a refund for the assessments paid in certain years.

At the lower court level, a Justice of the New York Supreme Court found in favor of the waterfront employers, resulting in a judgment against the Commission of over $4,000,000, including interest. The Appellate Division of the Supreme Court, without opinion, unanimously affirmed, but granted the Commission leave to appeal the case to the State's highest tribunal, the Court of Appeals.

In its appeal, the Commission was joined by the Attorneys General of both New York and New Jersey, as amicus curiae.

In a decision of vital importance to the financial stability of the Commission, the seven Judges of the New York Court of Appeals, in a 21 page opinion, unanimously reversed the lower courts' rulings and vacated the judgment of $4,000,000. Holding that the Compact between New York and New Jersey contemplates the payment of the Commission's expenses by an assessment upon the waterfront industry computed upon gross payroll payments, the Court ruled that payments made through trust funds of the industry covering vacation and holiday and guaranteed income benefits were part of such gross payroll payments. The Court further found that the funds making the payments were "employers" under the Compact, as were the plaintiff steamship companies and other firms providing stevedoring services.

Mione v. *Waterfront Commission*
(Appellate Division of New York Supreme Court, First Department)

After an investigation by the Commission developed evidence that a cargo checker had unlawfully exacted and received sums of money from truck drivers to unload merchandise from their vehicles, the agency instituted a licensure proceeding against the dock worker.

According to the testimony of various over-the-road truck drivers, as they entered the pier the checker would demand money to have their vehicles serviced. These monies were in addition to the legitimate pier unloading and delivery charges of the terminal operator. If they indicated their unwillingness to pay the sums sought by the checker, they were advised that their trucks would be the last to be worked.

The Commission found that, because of his extortionate conduct, the checker lacked the requisite good character and integrity to retain his license and barred him from the piers for a period of one year, with leave granted him to reapply for registration after that period of time.

The checker contested the Commission's determination in an action instituted in the New York Courts. The five-judge Appellate Division unanimously confirmed the Commission's decision.

Cernadas v. *Waterfront Commission*
(Supreme Court of New York, New York Co.)

Receiving complaints from Hispanic dock workers that on certain days they were not hired in the Port Newark area of the harbor, although longshoremen holding lesser seniority but of a different race were employed, the Commission initiated an inquiry concerning possible racial discrimination in dock employment.

During the course of the investigation, the agency issued a subpoena to compel the testimony of the business agent for the union local in which the longshoremen were members.

The union official moved in New York Supreme Court to set aside the subpoena, contending that the Commission lacked jurisdiction to investigate racial discrimination in pier hiring and that the subject matter of the inquiry interfered with collective bargaining on the waterfront.

In a decision requiring the business agent to obey the subpoena and testify, the Court wrote in part:

> "In 1953, the States of New York and New Jersey entered into an agreement (the compact) to regulate inter alia labor practices in the Port of New York upon the joint finding and declaration that '*** the conditions under which waterfront labor is employed *** are depressing and degrading to such labor, resulting from the lack of any systematic method of hiring, *** [and] corrupt hiring practices; ** that as a result waterfront laborers suffer from irregularity of employment, fear and insecurity, *** exploitation and extortion as the price of securing employment and loss of respect for the law' ***.
>
> "To combat these conditions, the Commission has promulgated certain regulations *** and required that various port personnel be licensed or registered ***. The regulations are designed to effectuate the purposes of the Waterfront Commission Act and to prevent circumvention and evasion thereof. The regulations are designed to further '*** the public policies of the States of New York and New Jersey *** [by] provid-[ing] fair and equal employment opportunities [and] by establishing a systematic method of hiring ***.'
>
> "To further these ends, it is necessary that the Commission conduct an investigation to determine whether racial discrimination has played any part in the hiring of longshoremen. Upon a finding that in fact racial quotas have been employed in determining which longshoremen are hired, it could, if it be so advised, revoke, suspend or reprimand the license of one or more persons governed by it ***. Such potential disciplinary action is, of course, not covered by any collective bargaining agreement.
>
> "***While it is clear that the courts of this state will not permit unfettered inquiry into the affairs of any person *** the papers here submitted show that a reasonable basis exists for this inquiry***."

The Appellate Division of the Supreme Court affirmed the lower court ruling and the union official's petition to appeal to the New York Court of Appeals was denied.

Administration

The Commission notes with sorrow the deaths of three of its employees: Hugh H. Harman, an Assistant Counsel, who joined the Commission shortly after its creation in 1953 and who, prior to his service as an attorney, was the manager of several of the agency's employment information centers; Hugh P. McGowan, a Special Agent, who had been with the Commission for 19 years; and Albert Sadloski, a clerk assigned to the Law Enforcement Division.

This year recorded the retirements of several dedicated employees, whose service to the Commission will long be remembered: Salvatore J. Camp, an Assistant Counsel since 1956, who joined the staff after serving as an Assistant District Attorney in Manhattan; Joseph E. Filippone, the former Secretary to the Commission and Director of Administration, who served as supervisor of the agency's facilities; Albert Masetti, an Accountant in the Commission's Division of Audit and Control; Charlotte S. Carnese, a Principal Stenographer assigned to the Division of Administration; Concetta Zingaro, a Validating Clerk in the Employment Information Centers Division; and William N. Reiner, also a Validating Clerk in the Division of Employment Information Centers.

* * *

During the year the Commission closed its Employment Information Center in Staten Island. The vast majority of the longshoremen and checkers working in Staten Island go directly to their pier assignments; those not ordered in advance now report to the Commission's Brooklyn Center.

As we have in the past, the Commissioners and the staff express their gratitude for the cooperation and assistance the agency has received from other governmental law enforcement and regulatory bodies in the performance of its functions.

CONCLUSION

Proposed legislation sponsored by the International Longshoremen's Association and the New York Shipping Association has been introduced to curtail the powers of the Commission to oversee the hiring of dock workers, to balance the size of the waterfront work force, and to determine the means by which additional workers may be added to the register of longshoremen and checkers. The Commission is strongly opposed to such legislation as being contrary to the best interests of the Port and the States of New York and New Jersey.

In this regard, we cite a portion of a decision issued in June, 1981, by the United States Court of Appeals for the Second Circuit in a case brought by the ILA to vitiate the authority of the Commission to remove convicted waterfront union officials from office:

> "Plaintiffs' remaining preemption and due process arguments have been rejected so many times that they merit no further comment . . . The roll call of recent convictions of waterfront union officials . . . is adequate rebuttal to plaintiffs' contention that improved conditions on the New York waterfront have eliminated the continued need for the Waterfront Commission Act."

* * *

The Waterfront Commission finds and determines that, to preserve and continue the gains realized in the Port under its enforcement of the Waterfront Commission Act, public necessity still exists for the continued registration of longshoremen, the continued licensing of the occupations and employments required to be licensed under the Waterfront Commission Act and amendments thereto, and the continued public operation of the Employment Information Centers provided for in Article XII of the Compact.

Respectfully submitted,

HENRY N. LUTHER, III
Commissioner for New Jersey

NICHOLAS SCOPPETTA
Commissioner for New York

COMMISSION DETERMINATIONS

Year Ended June 30, 1981

APPLICATIONS AND REVOCATIONS

	Denied	Granted	Revoked	Revoked L/R	Sus-pended	Repri-mand	Dismiss Charges	Suspend P/H	Totals
Longshoremen	4	1	2	8	30	0	2	3	50
Checkers	0	0	1	1	7	1	0	0	10
Hiring Agents	0	0	0	0	1	1	0	0	2
Port Watchmen	5	0	0	4	10	0	0	1	20
Pier Superintendents	0	0	0	0	0	1	0	0	1
Stevedores	2	0	2	2	0	0	0	0	6
Maintenance	33	0	3	3	7	0	1	1	48
Totals	44	1	8	18	55	3	3	5	137*

*Includes 32 summary proceedings

PETITIONS

	Denied	Granted	Totals
Petitions for Reconsideration	14	2	16
Petitions for Leave to Reapply	8	1	9
Petitions for Rehearing	1	2	3
Petitions to Withdraw	0	5	5
Petitions to Remove Ineligibility	0	3	3
Petitions for Restoration of Registration	25	0	25
Petitions to Vacate Temporary Suspension	0	0	0
Petitions for Retention or Reinstatement	31	47	78
Totals	79	60	139

STAFF FUNCTIONS

	DIVISION OF LAW	DIVISION OF LICENSING	TOTAL
Investigations Completed	128	43	171
Recent Arrests Completed	53	7	60
Petitions Completed	34	33	67
Applications investigated and processed	22	325	347
Witnesses and applicants questioned	466	617	1,083
Summary Proceedings completed	21	9	30
Requests for Reinstatements from Withdrawal and Decasualization	6	59	65
Total Hearings conducted	59	35	94
Probationers Reviewed	17	11	28

DIVISION OF LAW ENFORCEMENT

Arrests and Apprehensions	
for thefts	51
for gambling	1
for other offenses	11
Total	63

DIVISION OF AUDIT AND CONTROL

Audits	
licensing	62
assessments	77
investigative	27

APPLICATIONS AND REAPPLICATIONS RECEIVED AND PROCESSED

DURING FISCAL YEARS

As of June 30th

	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981
Longshoremen	1,283	3,107	1,557	1,846	4,810$_{c}$	1,741$_{c}$	1,196$_{c}$	1,126$_{c}$	1,192$_{c}$	1,093$_{c}$	1,087$_{c}$	903$_{c}$	913$_{c}$	1,656$_{c\&d}$	945$_{c\&d}$	968$_{c\&d}$
Checkers	286	276	320	516	1,233	87	0	2	0	2	0	63	431	40	0	0
Pier Guards	2,081	472	699	1,014	858	612	612	573	404	470	516	284	407	437	257	281
Pier Superintendents	47	73	116	57	131	82	67	60	74	66	98	46	47	71	32	65
Hiring Agents	127	92	169	66	172	139	69	63	77	68	75	34	35	41	25	47
Stevedore Companies	53	4	53	7	99	32	117	19	121	20	115	6	117	12	118	16
TOTALS	3,877	4,024	2,914	3,506	7,303	2,693	2,061	1,843	1,868	1,719	1,891	1,336	1,950	2,257	1,377	1,377

(a) Pier Guards are required to renew licenses every third year.

(b) Stevedores are required to renew licenses every second year.

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

(d) Includes applications for temporary longshore registration to meet special and emergency needs.

REGISTRATIONS AND LICENSES IN EFFECT DURING FISCAL YEARS

As of June 30th

	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981
Longshoremen	19,110	18,352	17,026	16,612	17,646$_{a}$	16,367$_{a}$	16,006$_{a}$	14,226$_{a}$	13,704$_{a}$	12,515$_{a}$	12,237$_{a}$	11,863$_{a}$	11,420$_{a}$	11,150$_{a\&b}$	10,804$_{a\&b}$	10,289$_{a\&b}$
Checkers	4,397	4,220	4,115	4,335	3,979	3,714	3,557	3,176	3,006	2,728	2,584	2,479	2,408	2,468	2,373	2,231
Hiring Agents	606	631	600	559	602	605	545	493	512	427	378	369	361	357	339	327
Pier Superintendents	414	430	417	365	403	406	424	374	395	370	337	342	340	357	344	353
Pier Guards	1,551	1,630	1,654	1,637	1,548	1,485	1,405	1,291	1,064	979	894	818	789	750	705	655
Stevedore Companies	49	49	50	46	93	106	109	117	113	118	112	115	113	116	113	109
TOTALS	26,127	25,312	23,862	23,554	24,271	22,683	22,046	19,677	18,794	17,137	16,542	15,986	15,431	15,198	14,678	13,964

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

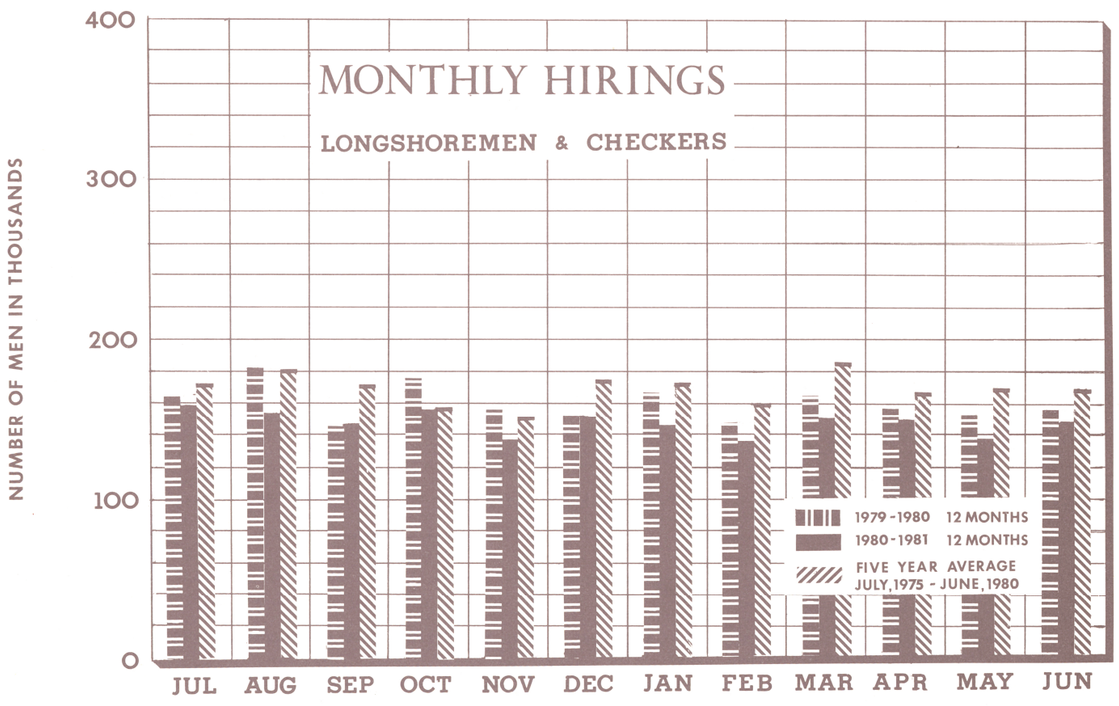
(b) Includes persons registered on a temporary basis to meet special and emergency needs.

EMPLOYMENT INFORMATION CENTERS

Showing Comparison of Hirings for the fiscal years ending June 30, 1981 and 1980

Center and Location	Piers and Areas	HIRINGS 1980-1981	HIRINGS 1979-1980	Increase or Decrease	% Change	% Share in Port Employment 1980-1981	% Share in Port Employment 1979-1980
Manhattan 261-281 Hudson St.	Manhattan	86,821	97,360	– 10,539	– 10.82	4.88%	5.06%
Brooklyn 5914 3rd Avenue	Brooklyn & Staten Island*	731,004	808,294	– 77,290	– 9.56	41.12%	41.99%
Port Newark 117 Tyler Street	Port Newark, Port Elizabeth & Perth Amboy	779,047	787,474	– 8,427	– 1.07	43.81%	40.91%
Hudson County 111 Newark St. Hoboken, N.J.	Jersey City and Bayonne, Hoboken, Weehawken & Edgewater	181,196	231,781	– 50,585	– 21.82	10.19%	12.04%
TOTAL – NEW JERSEY		960,243	1,019,255	– 59,012	– 5.79	54.00%	52.95%
TOTAL – NEW YORK		817,825	905,654	– 87,829	– 9.70	46.00%	47.05%
PORT WIDE TOTALS		1,778,068	1,924,909	– 146,841	– 7.63	100.00%	100.00%

*Staten Island Employment Information Center ceased operations on August 1, 1980.



COMPARISON OF AVERAGE EARNINGS OF LONGSHOREMEN AND CHECKERS

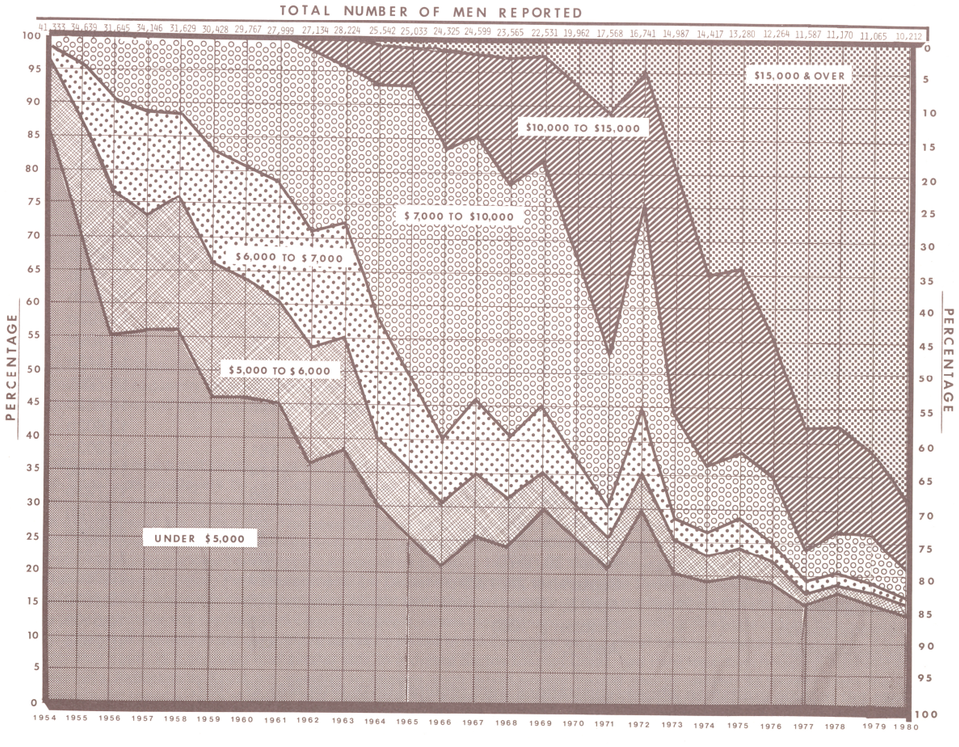
	1954	1978	1979	1980
Over $25,000	(*)	1,892	2,996	3,379
$20,000 to $25,000	(*)	2,019	1,971	2,005
$15,000 to $20,000	(*)	2,559	1,905	1,591
$12,000 to $15,000	(*)	1,088	718	677
$10,000 to $12,000	(*)	529	527	329
$10,000 and Over	(*)	8,087	8,117	7,981
$ 7,000 to $10,000	406	702	825	468
$ 6,000 to $ 7,000	802	246	194	149
$ 5,000 to $ 6,000	2,589	195	190	159
$ 4,000 to $ 5,000	6,330	224	190	162
$ 3,000 to $ 4,000	7,013	249	191	167
Under $3,000	24,193	1,467	1,358	1,126
TOTAL REPORTED	41,333	11,170	11,065	10,212
Total Earnings	$102,061,108	$180,622,219	$203,239,104	$208,688,333
Total Hours Worked	37,813,991	17,761,020	18,215,008	17,229,537½
% Hours Overtime	24.3%	26.4%	25.4%	26.0%
AVERAGE ANNUAL WAGES**	$ 2,469	$ 16,170	$ 18,368	$ 20,436

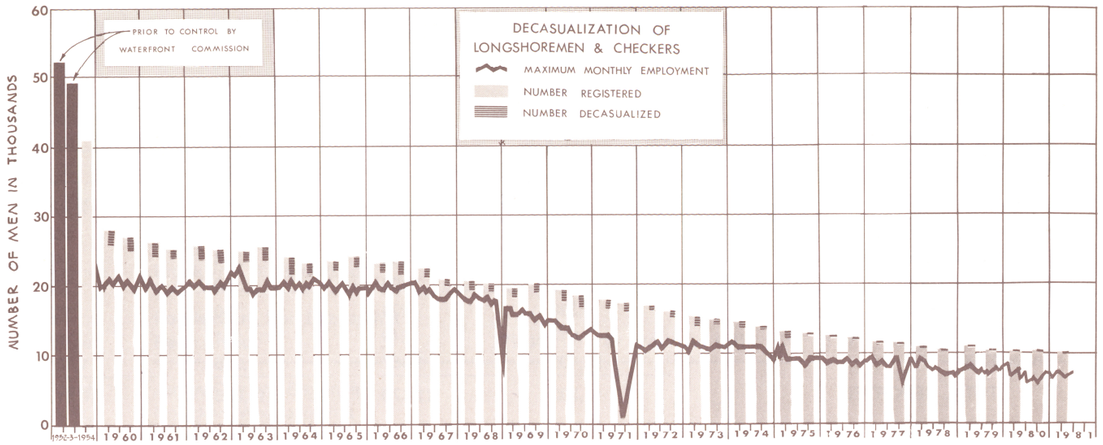
*Records incomplete for 1954

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

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

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





DECASUALIZATION OF LONGSHOREMEN AND CHECKERS

		Number Decasualized	Remaining Registrants
1st decasualization	June 3, 1955	7,141	31,574a
19th decasualization	April 10, 1964	2,096	24,172
20th decasualization	October 15, 1964	1,715	23,084
21st decasualization	April 16, 1965	934	23,796
22nd decasualization	October 7, 1965	581	23,920
23rd decasualization	March 31, 1966	1,070	23,332
24th decasualization	November 7, 1966	1,226	23,471
25th decasualization	March 31, 1967	1,142	22,100
26th decasualization	October 6, 1967	954	21,515
27th decasualization	April 12, 1968	903	20,901
28th decasualization	October 18, 1968	770	20,384
29th decasualization	April 22, 1969	999	19,973
30th decasualization	October 3, 1969	1,022	20,627b
31st decasualization	April 13, 1970	1,098	19,512b
32nd decasualization	October 30, 1970	1,012	18,651b
33rd decasualization	April 2, 1971	715	18,115b
34th decasualization	September 30, 1971	514	17,742b
35th decasualization	March 30, 1972	227	17,626b
36th decasualization	September 27, 1972	523	16,316b
37th decasualization	April 9, 1973	930	15,368b
38th decasualization	September 27, 1973	330	14,792b
39th decasualization	March 25, 1974	423	14,409b
40th decasualization	September 26, 1974	271	14,143b
41st decasualization	March 27, 1975	425	13,726b
42nd decasualization	September 25, 1975	156	12,962b
43rd decasualization	March 25, 1976	194	12,602b
44th decasualization	September 23, 1976	181	12,303b
45th decasualization	March 24, 1977	174	11,978b
46th decasualization	September 22, 1977	168	11,723b
47th decasualization	March 31, 1978	120	11,370b
48th decasualization	September 29, 1978	126	10,995b
49th decasualization	March 30, 1979	150	11,321b, c
50th decasualization	September 28, 1979	124	10,956b, c
51st decasualization	April 3, 1980	115	10,701b, c
52nd decasualization	October 2, 1980	88	10,510b, c
53rd decasualization	April 2, 1981	126	10,266b, c

(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.

Ernst & Whinney

153 East 53rd Street
New York, New York 10022

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The Commissioners
Waterfront Commission of New York Harbor

We have examined the statement of cash receipts and disbursements of the Waterfront Commission of New York Harbor for the year ended June 30, 1981. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

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

In our opinion, the accompanying statement of cash receipts and disbursements presents fairly the cash transactions of the Waterfront Commission of New York Harbor for the year ended June 30, 1981, on the basis of accounting described in Note A, which basis has been applied in a manner consistent with that of the preceding year.

Ernst & Whinney

New York, New York
August 24, 1981

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

NOTE B –
In fiscal 1979, there was a suit pending against the Commission by various steamship and stevedore employers of longshoremen to declare the collection from such employers by the Commission of assessments on guaranteed annual income and vacation and holiday payments to longshoremen as unauthorized under the Waterfront Commission Compact. The Commission, in a counterclaim, sought a declaratory judgment that such assessments are authorized. The association of such employers, in a counterclaim to the Commission counterclaim, was seeking $3,334,528 paid in prior years to the Commission for such assessments, together with interest. A final judgment was filed against the Commission in March 1980, awarding the New York Shipping Association a total of $4,063,145. The Commission appealed from this Judgment to the Appellate Division of the Supreme Court, First Department. On December 23, 1980, the Appellate Division unanimously affirmed, without opinion, the $4,063,145 Judgment. Thereafter, the Commission sought and obtained permission from the Appellate Division, First Department, to appeal that Court's order of affirmance to the New York Court of Appeals, where the matter is currently pending. The State of New York sought and was granted leave by the Court of Appeals to appear *amicus curiae* on behalf of the Commission. A similar motion on behalf of the State of New Jersey is now pending for that court. In a separate and similar suit, in a United States District Court, two joint New York Shipping Association-International Longshoremen's Association funds are seeking to declare such assessments invalid and to recover $2,039,857 from the Commission for assessments paid, together with interest. This latter suit has been suspended pending the outcome of the first suit. General Counsel of the Commission is of the opinion that the Waterfront Commission Compact authorizes the aforementioned assessments. However, General Counsel of the Commission as well as outside counsel are unable, at this time, to render an opinion as to the outcome of the appeal.

On September 25, 1980, a suit, similar to those above noted, was instituted by various ship and container maintenance employers in the port of New York to declare the collection by the Commission of assessments on vacation payments and holiday payments unauthorized under the Waterfront Commission Compact. In addition, said employers seek all sums of money received by the Commission from said employers based on vacation and paid holiday benefits for the six years immediately preceding the commencement of the action. No said sum is set forth in the complaint or has yet been ascertained. No Judgment has been entered in this suit as of this time and it is probable that the matter will not reach the Judgment stage until after the aforementioned case is decided by the Court of Appeals.

NOTE C –
During the year ended June 30, 1981, the Commission entered into lease arrangements for its administrative offices. The annual rent is $253,000 from May 1, 1981 to April 30, 1986 and $287,500 from May 1, 1986 to April 30, 1991, plus escalation for increased operating expenses.

WATERFRONT COMMISSION OF NEW YORK HARBOR

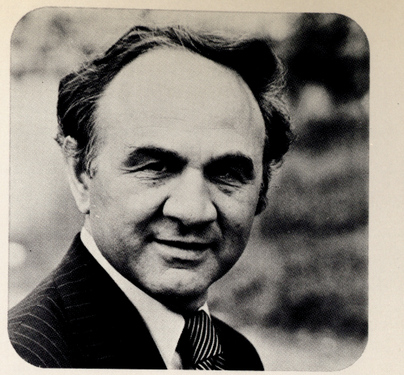
Statement of Cash Receipts and Disbursements

Year Ended June 30, 1981

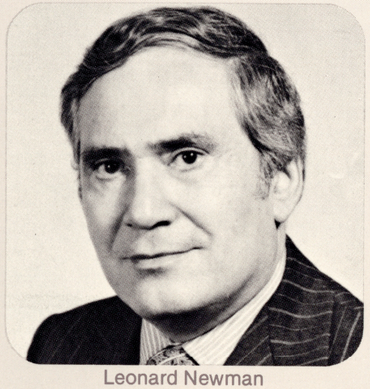
Balance of funds at beginning of year:		
Cash in checking accounts and on hand	$ 25,561	
Less taxes and other withholdings from employees	47,527	$ (21,966)
Cash in savings accounts		23,523
Time certificates of deposit		925,000
Insurance dividends and interest held by Prudential Insurance Co.		6,210
		932,767
Receipts:		
Assessments on employers of persons registered or licensed by the Commission	5,317,253	
Interest on time certificates of deposit	229,546	
Interest on savings accounts	2,929	
Penalties, fines and miscellaneous income	39,517	
Interest on dividends held by Prudential Insurance Co.	326	5,589,571
		6,522,338
Disbursements:		
Salaries	3,211,774	
Rentals	405,166	
Retirement, group insurance and social security taxes	1,189,528	
Special services and expense	35,969	
Communications	103,131	
Carfare, auto and travel expense	74,876	
General office expense	24,911	
Repairs and maintenance	55,463	
Furniture, fixtures and equipment	74,436	
Hearing officers, auditors, consultants and clerical services	33,871	
Insurance	69,788	
Light, heat and power	86,378	
Printing	13,144	
Miscellaneous overtime expense	1,027	
State unemployment insurance	4,590	5,384,052
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	15,968	
Less taxes and other withholdings from employees	19,159	
	(3,191)	
Cash in savings accounts	49,940	
Time certificates of deposit	1,085,000	
Insurance dividends and interest held by Prudential Insurance Co.	6,537	$1,138,286



Henry N. Luther, III
Commissioner
for
New Jersey



Nicholas Scoppetta
Commissioner
for
New York



Leonard Newman
Executive Director

Jerome J. Klied, *Deputy Executive Director*

Gerald P. Lally, *General Counsel*

Francis A. Byrne, Jr., *Secretary*

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

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

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

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

Gemma T. Macaluso, *Director, Administration*

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

Elmer H. Williams, Jr., *Comptroller*

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