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**WATERFRONT
COMMISSION of
NEW YORK
HARBOR**

1976-1977

**ANNUAL
REPORT**

CONTENTS

The Commission	3
The Port.....	4
Some Highlights of the Year.....	6
Financial Statement.....	13-14
Commission Determinations	15
Charts and Tables.....	16-20

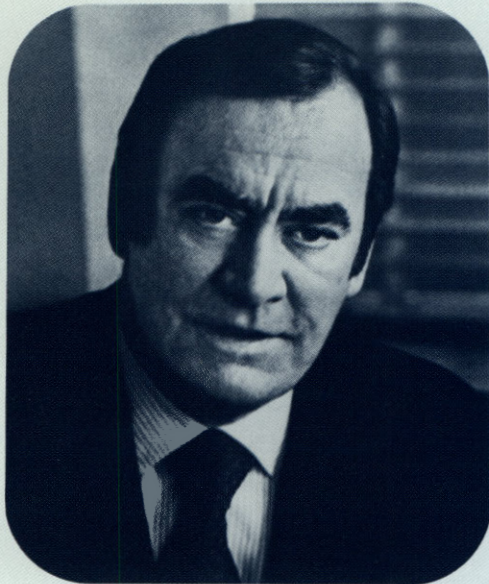


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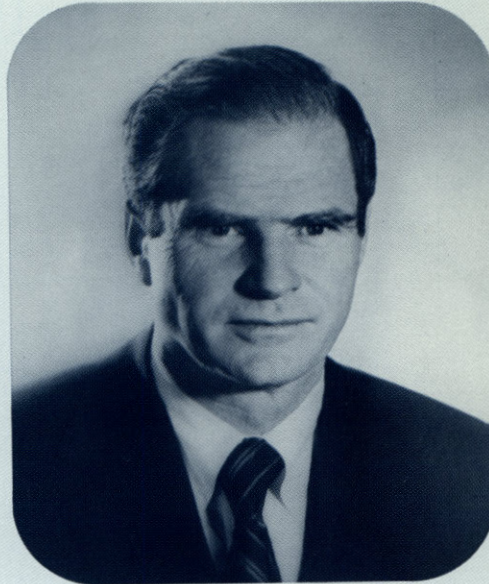
ANNUAL REPORT 1976-1977



THE WATERFRONT COMMISSION OF NEW YORK HARBOR



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



To the Honorable Brendan T. Byrne, Governor, and the Legislature of the State of New Jersey

We are pleased to forward the Annual Report of the Waterfront Commission of New York Harbor for its fiscal year 1976-1977, containing highlights of the Commission's activities and observations concerning its administration and enforcement of the Waterfront Compact between New York and New Jersey.

THE COMMISSION

As it launches its twenty-fifth year, the Waterfront Commission is pleased to report that it continues to successfully fulfill its regulatory responsibilities in the Port of New York—New Jersey, the nation's largest harbor.

Created in 1953 by joint legislation enacted by the port states and approved by Congress, the Commission was mandated to eliminate and control certain waterfront conditions and practices which were adversely affecting the economical and expeditious handling of the Port's commerce. To this end, the Commission has been granted the authority to investigate waterfront conditions, to register and license the various businesses, occupations and crafts operating and working in the Port and which affect the movement of cargo, to remove from the workforce the "floaters" or casual labor who fail to regularly work on the waterfront, to keep the number of longshoremen and checkers in the Port in balance with the demand for their services, to oversee the hiring of waterfront labor, and to provide general law enforcement in the harbor.

The Commission consists of two members, one representing each state appointed by the Governor with the consent of the State Senate. Day-by-day administration of the Commission's activities is under the management of an Executive Director.

This past year, the Commission operated with a staff of 198 persons, including attorneys, accountants, special police agents, uniformed police officers, license examiners, employment information center personnel, and a supporting staff of stenographic, hearing reporter and clerical personnel. Its budget of \$5,121,326 was reviewed and approved by the States of New York and New Jersey, and financed under the law by assessments on the payrolls of waterfront employers throughout the Port.

There are seven divisions within the Commission responsible for enforcing the Waterfront Commission Act and other state statutes pertaining to the harbor: Executive, Law, Litigation and Research, Law Enforcement, Employment Information Centers, Licensing and Administration.

The Executive Division is charged with the administration of the policies as defined by the Commissioners, prepares and reviews proposed legislation and regulations, authorizes investigations and administrative hearings, prepares contracts and leases, and is responsible for the formulation of the Commission's budget and the administration of all Commission finances.

The Division of Law participates in investigations of violations of law and of the Commission's regulations concerning the waterfront, and conducts administrative hearings to determine whether licenses and registrations issued by the Commission to stevedoring companies, pier superintendents, hiring agents, longshoremen, checkers and port watchmen should be revoked, cancelled or suspended for misconduct.

All litigation of the Commission is handled by the Division of Litigation and Research, which also is responsible for the researching of legal problems affecting the operations and responsibilities of the Commission.

The Commission's Division of Law Enforcement, which is composed of uniformed police officers and investigative special agents, all of whom have full police powers in the States of New York and New Jersey, conducts investigations of waterfront violations, performs background checks on applicants for licenses and registration, and operates around-the-clock patrols throughout the over 600 miles of developed waterfront in the harbor.

Processing of applications for the various types of licenses and registrations issued by the Commission is performed by the Division of Licensing. Staff attorneys within this division conduct administrative hearings to determine whether such applications should be granted or denied. The Commission's program of "decasualization," which removes casual labor from the waterfront and aids in keeping the labor supply in balance with the needs of the Port, is also administered by this division.

The operation of the Commission's six Employment Information Centers located throughout the Port is the responsibility of the Division of Employment Information Centers. Commission staff members assigned to these centers oversee the hiring of waterfront labor to insure that such hiring is conducted in a non-discriminatory manner and in accordance with the Commission's rules and regulations.

The Commission's Administration Division, composed of accountants, hearing reporters, legal stenographers and clerks, services the other divisions. The accountants assigned to this division participate in investigations conducted by the Law, Law Enforcement and Licensing Divisions, are responsible for the auditing of the books and records of over 100 waterfront companies subject to the Commission's jurisdiction, and are charged with the verification of the assessments imposed by law.

An aerial photograph of a port terminal. A large gantry crane stands on a pier extending into the water. The pier is filled with numerous rectangular shipping containers stacked in rows. The water is dark and reflects the sky. The background shows a distant shoreline with some buildings and trees.

THE PORT

The Port of New York — New Jersey is by far the largest and busiest harbor in the nation. For over 150 years, it has been America's primary gateway in the movement of ships' passengers and waterborne cargo. Within the past few years the Port has become known as the container capital of the world, in recognition of its vast and modern facilities for the handling of containerized merchandise. With five miles of containership berths, 35 container cranes and some 1,300 acres of marshalling yards and consolidation buildings, it annually processes the equivalent of 2 million twenty foot containers, more than the combined total of the three next largest container ports in the nation.

The Port has over 200 active berths for oceanborne vessels, including the new supertankers, roll-on-roll-off vessels and lash ships, which regularly are serviced at its terminals. It has an immediate market of some 18 million persons who reside and work in the metropolitan area encompassing the harbor, as well as extensive highway and rail facilities for the transportation of ocean cargo to and from many other sections of the nation. Its labor supply includes some 9,500 longshoremen, 2,500 checkers, 800 pier guards, and over 2,300 waterfront warehousemen, container repairmen, weighers, scalers and other persons performing services incidental to the movement of cargo, all screened and licensed by the Commission.

In 1976, the Port handled approximately 117 million long tons of foreign and domestic oceanborne cargo, including 58.1 million tons of foreign trade merchandise valued at \$30 billion. Also included in this movement of cargo was 15.3 million tons of export-import general cargo, with a value of \$26.4 billion. Presently, the Port ranks first in the shipment of more than 50% of the over 200 commodities imported into the United States. In the period between July 1, 1976 and June 30, 1977, the harbor averaged a ship arrival or departure every 35 minutes, for a total of 15,358.

Between October 1, 1975 and September 30, 1976, 12,264 longshoremen and checkers registered by the Commission (excluding persons registered to perform services incidental to the movement of waterborne freight) earned \$225,500,196 in wages, guaranteed annual income benefits and vacation and holiday pay. Thus, the average annual earnings for longshoremen and checkers was approximately \$18,400 for this period. In the previous year, 13,280 such longshoremen and checkers earned \$217,577,299, for annual average earnings of about \$16,400.



SOME HIGHLIGHTS OF THE YEAR

Investigating the Misuse of Stevedore Funds

Under the Waterfront Commission Act, companies contracting to load or unload waterborne freight or performing services incidental to the movement of such freight are required to obtain licenses from the Commission as stevedores. This year some 115 different entities in the Port, functioning as general stevedores, container repair companies, cargo weighing and scaling firms, waterfront maintenance concerns, commodity samplers and waterfront warehouses, held such licenses. To secure and retain such licensing status, the applicant or licensee, and each member, officer and shareholder holding five percent or more of a corporate stevedore, is required to possess "good character and integrity."

This past year, after an intensive investigation by staff attorneys and accountants, a company performing repair work on cargo containers seeking renewal of its stevedore license was charged by the Commission with failing to possess good character, in that its officers, a father and daughter, used over a quarter of a million dollars recorded as business expenses by the firm for their personal use, as well as for unrelated waterfront investments in Florida. More than \$60,000 of such monies was appropriated for home appliances, a swimming pool and personal legal fees. Commission audits of the stevedore's books revealed that its records were maintained in a manner designed to deceive the Internal Revenue Service and thus not pay taxes due the government.

After an administrative hearing, the officers of the corporation were ordered by the Commission to divest themselves of all interest in the licensed stevedore and the company was fined \$31,500. The corporate officers complied with the Commission directive and are no longer operating in the harbor.

Lacking Good Character

Certain management representatives of stevedores and waterfront shipping companies on the docks are also required to be licensed by the Commission and to have good character and integrity. Pier superintendents are the management personnel re-

sponsible for the direct or indirect supervision of the pier labor. Hiring agents are the persons employed by stevedores and carriers to select the longshoremen and checkers for employment. This year 342 persons held pier superintendent licenses and 369 held hiring agent licenses. The applications for such licenses must be submitted by the stevedore or carrier employer.

In an administrative proceeding to determine whether an application for a pier superintendent's license should be granted or denied, the Commission found that the prospective superintendent lacked good character and integrity in falsely testifying in an interview that he was never an officer of another stevedore, a firm performing general marine carpentry which withdrew its application for a license with prejudice after a Commission investigation into its background. Evidence in the hearing also showed that the prospective superintendent had previously attempted to obtain a stevedore license for a company he formed to take over the carpentry business of a different waterfront concern which had been barred from the waterfront by the Commission after a finding that it had overbilled its customers in large amounts. The application for this license was withdrawn after the company was advised by the Commission that it would not be issued a temporary permit to operate because of serious questions concerning its eligibility for a license.

The Long Distance Worker

The large majority of longshoremen and checkers are selected and assigned for employment through the waterfront industry prior day ordering system. This system, utilizing computers, permits the employers' hiring agents to order registered waterfront workers to report for work the following day at designated piers and terminals. Each afternoon, longshoremen and checkers telephone the particular Commission employment information center in their area to ascertain whether or not they have been ordered for the next day. Those workers who are not so ordered will appear the following morning in one of the Commission's six employment centers where "in person" hiring is conducted to obtain fill-ins for persons ordered for employment who have failed to report, as well as to secure additional men for work not anticipated the day before.

Those persons personally appearing are required to "badge in" at computer terminals in the centers to record their presence and, if they are not engaged, to "badge out" at the conclusion of the hiring period. The personal badge-in-badge-out system is required (1) to give the longshoreman or checker credit for a day's appearance so that he may remain as a registrant with the Commission (the regulations of the Commission provide that to qualify for retention on the Register a registrant must work or seek work a certain number of days each half-calendar year), and (2) for daily credit towards the industry's guaranteed annual payments (the union-management contract guarantees longshoremen and checkers 2,080 hours of pay a year whether they work or are not hired, provided they personally appear to seek work; in the past year this guarantee was \$16,640).

Suspecting that a longshoreman, who was almost never ordered for dock work and who was collecting substantial guaranteed annual income payments, was having other persons badge him in and out of the computers, the Commission staff initiated an investigation. The investigation culminated in an administrative hearing to determine whether the registration of the dock worker should be revoked. The evidence established that, in a period of almost two years, the longshoreman misappropriated over \$22,000 of guaranteed annual payments from the industry, by fraudulently representing that he was present and available for employment in the Port of New York — New Jersey, while he was actually residing in the State of Florida and working regularly as a checker on the Miami waterfront. He accomplished his fraud by having other persons badge him in the computers. The Commission determined that because of such conduct he should not be permitted to continue as a longshoreman and his registration was permanently revoked.

Hindering an Investigation

As part of a general investigation into waterfront practices to determine whether longshoremen and checkers were collecting guaranteed annual payments to which they might not be entitled, a team of Commission attorneys and investigators were assigned one morning to the Commission's employment information center in Manhattan to

physically check the identification of all dock workers at the time they were to badge out. A comparison could thus be made between the badge in and badge out records.

Immediately after the Commission agents announced that the registrants badging out would be required to identify themselves, a registered longshoreman, who had been assigned by the industry's management-labor Contract Board as a "dispatcher" to monitor the guaranteed income procedures at this center, announced over the public address system to all the registrants present that the Commission's action was harassment and, if they did not badge out, he would do what he could to see that they would not lose guaranteed income payments for that day. Of the 1,064 persons who had badged in earlier that morning, 795 then refused to badge out and identify themselves.

The Commission thereupon rescinded the longshoreman's privilege to act as a dispatcher in the center and brought administrative action on his longshoreman's registration for his conduct in interfering with an official investigation. After a hearing at which the registrant contested the charges, his registration was revoked with leave granted to him to reapply as a longshoreman after four months. He was not permitted, however, to return as a dispatcher.

Investigating "Fringe" Companies

Within the past decade there has been a revolutionary change in the packaging and movement of waterborne freight through the utilization of mobile containers. To a large extent, pre-loaded containers have displaced the old break-bulk system of cargo handling which required goods to be unloaded case by case from trucks at the piers and reloaded on vessels.

With the advent of containers has come a new industry — the servicing and repairing of these large metal boxes which most often hold the most valuable cargo shipped by water. In the past several years, the Commission has been conducting a general investigation into the container repair business, after developing intelligence that organized crime elements were seeking a foothold in this growing industry.

An examination of one such company this year led to charges against the firm that it committed fraud and deceit in seeking a



Vehicle Stolen from Pier Cut Up for Sale of Parts

license from the Commission to repair containers in the Port. At an administrative proceeding concerning the company's application for a license, evidence was introduced by the Commission staff that a convicted gambler and reputed member of organized crime was a sales representative for the company, and that the company concealed his employment by placing him on the payroll of a non-waterfront electrical contracting company in which the president of the repair company had an interest. It was also disclosed that the president of the electrical contracting concern, who recommended the employment of the sales representative to the container repair company, actually had a "hidden interest" in the repair company. Recently, the president of the electrical contractor was convicted in Federal Court of using the mails to defraud, as well as being indicted in State Court for contempt of a Grand Jury in the course of an investigation by the New York State Special Prosecutor into alleged bribes paid to police officers to protect a major gambling ring.

Watch on Thefts

Throughout its history, the Waterfront Commission has been particularly concerned with thefts of merchandise from the docks, both the large-scale thefts which usually involve complicity between a truck driver and pier personnel and the pilferage of small items by dockworkers. It has assisted in substantially reducing such thefts by its constant police patrols of the piers, by upgrading the private port watchman system utilized in the harbor, and through its program of surveying the waterfront terminals in the Port to evaluate and report to the terminal operators deficiencies in cargo protection.

* * *

Over 200,000 motor vehicles, both imported and scheduled for export, are handled in the Port annually, mostly at the large Port Newark — Port Elizabeth Marine Terminal complex. The new automobiles, stored in

vast lots adjacent to the docks, sometimes are a temptation to car thieves. An investigation of the theft of three Japanese cars reported stolen from one of the Port Newark storage yards led to the recovery of one of the vehicles the same day by Commission agents. Continuing its probe with the assistance of detectives from the Newark Police Department, the Commission officers unearthed a body and fender shop where the other two vehicles had been stripped and actually cut up for sale of the different parts of the autos. The owners of the establishment were arrested and charged with possession of stolen property.

* * *

One investigation conducted by Commission special agents into the disappearance of 18 cases of wheel bearings worth over \$10,000 from a Brooklyn pier led to information that the goods had been removed to an automotive parts supply company several blocks from the pier. After Commission staff counsel obtained a search warrant, a raid was conducted of the parts firm and the full shipment was recovered. Two truck drivers and the pier checker who had processed the cargo at the dock were arrested.

* * *

In another case, Commission police officers apprehended five men for larceny of 18 cartons of frozen shrimp stolen from another Brooklyn pier. At the time of the arrest, the valuable cargo was being transferred from a refrigerated truck to a station wagon. One of the persons charged with the larceny was a truck driver who had been to the pier the previous day to pick up frozen seafood for a cold storage warehouse.

* * *

On occasion, small goods have big value. A Commission uniformed patrolman became suspicious of a longshoreman at a pier placing strips of wood in his personal automobile. The longshoreman explained that he was taking the wood home to stake his tomato plants. During the questioning, the officer observed a piece of cloth on the front seat which appeared to be concealing

an object. The officer requested the dockworker to remove the cloth and thus was uncovered a \$700 porcelain figurine, previously stolen from another pier.

The Theft That Wasn't

Recognizing that on occasion automobiles stolen from the city streets are shipped through the Port to foreign countries, Commission special agents periodically examine the identification numbers of vehicles delivered to the piers for export and compare such numbers against the "hot list" of stolen cars.

Attentive detective work by Commission officers in one such case this year resulted in the exposure of an insurance fraud. Checking the identification number of a brand-new sports car about to be loaded on a vessel destined for Germany, Commission agents discovered that the vehicle had been reported stolen in Philadelphia the previous day. The shipping broker who had prepared the paper work for export was questioned and described the person who had made the arrangements for the vehicle's shipment several days earlier (prior to the report of the vehicle being stolen). Commission agents discovered several magazines in the vehicle addressed to a post office box number in Pennsylvania and ascertained the name of the person who had rented the box; a person with a name different from the owner of the vehicle but answering to the same description. Further inquiry established that a gasoline credit card found in the auto was issued to a name somewhat similar to the person renting the post office box, a man who made frequent trips to Europe. Realizing that the owner of the vehicle, who matched the description of the person shipping the car, had filed a false stolen vehicle report and was seeking to collect the theft insurance, a Commission agent advised the owner by telephone that the automobile would remain in the Commission's custody in New York and that he should claim his vehicle as soon as possible. When the owner appeared to be evasive and failed to recover his vehicle, the Commission notified Philadelphia police authorities of its evidence. The individual was thereafter arrested for theft by deception and pleaded guilty.

Servicing Himself

Those companies which service the import and export vehicles at the docks for transport are required under the Waterfront Commission Act to be licensed.

Developing investigatory information concerning one of these automobile preparation firms, the Commission found that the president and major stockholder of the corporation, while formerly employed some five years ago as the distribution manager of a company importing thousands of vehicles into the Port, demanded and received sums of money for each automobile serviced by a vehicle preparation company, after being instrumental in having his employer award a service contract on the docks to the preparation company. It was established at a Commission proceeding to determine whether to issue his company a license, that he had received fifty cents for each automobile serviced during the term of the contract, for a total of over \$11,000 in cash. The Commission also determined that the applicant's president attempted to deceive it in an investigation of the facts by committing fraud in an investigatory interview. Ruling that the acts of the president in his former employment were inconsistent with good character, the company was fined \$10,000.

Continuation of Workmen's Compensation Probe

In its last Annual Report, the Commission detailed its major investigation into large-scale fraud in Workmen's Compensation claims filed in the Port District.

In December, 1976, the Commission issued a comprehensive report with recommendations to the Governors and Legislatures of New York and New Jersey concerning its investigation into fraudulent claims participated in not only by claimants but also by physicians and compensation claims representatives. In a statement to the Subcommittee on Compensation, Health and Safety of the House of Representatives' Committee on Education and Labor in September 1977, the Executive Director of the State Insurance Fund of New York (an agency created by the New York Legislature engaged primarily in writing workers' compensation insurance) cited the Commission's report as "must reading for all those concerned with the reform of the Longshoremen's Act".

As part of a remedial program to continue monitoring suspected fraudulent claims, the Commission has established a special unit to review all claims believed to be false and all cases where a registered waterfront worker does not work because of claimed injuries for 14 days or more. Special regulations were promulgated by the Commission to require stevedores and terminal operators to furnish the Commission with information concerning such claims. In those instances in which dockworkers are suspected of filing fictitious claims, the special unit institutes surveillances to ascertain whether the claimants are engaged in activities inconsistent with their alleged injuries.

Information indicating the participation of medical doctors in fraudulent waterfront compensation schemes has been referred to those government agencies having jurisdiction over the licensing of physicians.

A Commission survey of the first six months of 1977 establishes that the remarkable decrease in compensation cases filed after the Commission investigation was initiated in early 1976 has been maintained with the continuation of the investigation.

Close Encounter

On occasion, Commission police officers are called upon to perform law enforcement duties off the piers. In one incident, uniformed officers conducting a security check of a building adjacent to a pier were advised that a man was holding a shotgun to a woman's head a street block away. Rushing to the scene, the officers subdued two men who had attempted to forcibly take a pocketbook from the woman. In addition, the officers recovered a shotgun in a nearby vacant lot. The two men apprehended were charged with attempted armed robbery, felonious assault and menacing.

Administrative Hearings

The Waterfront Commission Act provides that the Commission shall not deny any application submitted for a license or registration without giving the applicant or prospective licensee prior notice and an opportunity to be heard. Similarly, the Act specifies that any proceeding instituted by the agency to revoke, cancel or suspend any license or registration issued by it shall provide the respondent with the right to an administrative trial.

Hearings conducted by the Commission are open to the public and are presided over by Administrative Judges. These hearing officers are not employees of the Commission, but are selected from a rotating panel of attorneys admitted to practice in New Jersey or New York. Applicants and respondents at these hearings have the right to be represented by counsel, cross-examine witnesses and present evidence in their own behalf. At the conclusion of an administrative trial, the Judge prepares a written report on the case containing his findings of fact and recommendations, copies of which are served on the parties in interest. The applicant or respondent, as well as Commission staff counsel, may submit exceptions to this report, together with written arguments. The stenographic record of the hearing, the Judge's memorandum and any exceptions and arguments, are then transmitted to the Commissioners for final determination of the proceeding. The Commission determination is reflected in an order of the Commission served upon the parties.

Should an applicant or respondent be dissatisfied by a final order of the Commission, he may avail himself of the various types of petitions to the Commissioners which have been established by regulation. Further, final orders of the Commission are subject to judicial review in the courts of New York or New Jersey.

This past year, the Commission made final determinations in 152 "licensing" and "revocation" hearings, and considered 38 petitions for reconsideration, 11 petitions requesting leave to reapply, 2 petitions for rehearing, 4 petitions to withdraw licenses, 23 petitions for restoration of registrations which had been revoked, and 1 petition to vacate a temporary suspension imposed pending a hearing. Of the 84 petitions submitted to the Commission, 25 were granted and 59 denied.

Final action was also taken in 51 summary proceedings, in which the licensee or registrant, being served with a notice of the hearing, waived formal administrative trial and admitted the charges on the record. Of these 51 summaries, 49 licensees and registrants were suspended from waterfront employment for periods of up to 30 days and 2 persons were issued reprimands.

* * *

Regularization of Waterfront Employment

One of the Commission's prime functions is to regularize the employment of the Port's dock workers. In over twenty-two years, the Commission has processed for removal from its Register of longshoremen and checkers over 60,000 persons who failed to work or seek work the minimum number of days in each half-year required by the Regulations of the Commission. Under this "decasualization" program, the Commission notifies each dock worker who does not meet the requirements that he will be taken off the pier rolls unless his failure to work or seek work was caused by ill health, military service or for other good cause. In the past year, 355 persons were so decasualized. This process of eliminating casual labor has resulted in a stable and efficient work force and has enabled those persons who follow the waterfront as their source of a livelihood to earn decent wages.

* * *

Experiencing a shortage of checkers on some piers (checkers are the pier personnel responsible for the accounting of cargo at the docks and the tallying of merchandise in and out of trucks), the Commission this year permitted the transfer of 63 persons holding longshore registration to checker status.

Litigation

In the main, the litigation of the Commission involves challenges of Commission determinations after administrative hearings and proceedings to enforce or quash subpoenas issued by the Commission. Among the significant cases argued this year by Commission staff counsel in New York, New Jersey and Federal courts are the following:

In the Matter of the Application of Standard Fruit & Steamship Company v. The Waterfront Commission of New York Harbor

And

In the Matter of the Application of The Waterfront Commission of New York Harbor for an Order Punishing Standard Fruit & Steamship Company for Contempt
(Court of Appeals of the State of New York)

The Commission instituted a hearing to determine whether to grant or deny the applications of five affiliated companies for licenses as stevedores, alleging that the president and co-owner of the five companies falsely denied receiving payments of \$100,000 in cash from a shipping firm to insure the unloading of the shipping company's banana ships during a general long-shore strike involving the Atlantic and Gulf Ports in late 1971. The Commission issued a subpoena to the shipping firm requiring it to testify at the Commission's administrative trial about such payments through its officers and employees having knowledge of the same.

The first action was brought by the shipping firm to quash and set aside the Commission's subpoena upon the ground, among others, that the company's employees were located outside of the State of New York (where the hearing was being held) and that these employees refused to come into New York to testify. The second action was brought by the Commission to punish the company for contempt for its failure to comply with the subpoena.

Special Term of the New York Supreme Court denied the shipping company's motion to quash the Commission's subpoena, directed the company to comply with the subpoena, and granted the Commission's motion to punish the corporation for contempt unless it so complied. The Appellate Division, First Department, affirmed the orders of Special Term and, upon subsequent application by the company, granted it leave to appeal to the Court of Appeals, New York's highest court.

The seven judge Court of Appeals unanimously affirmed the orders of the Appellate Division, thereby sustaining the Commission's subpoena as well as the conditional order of contempt against the shipping company. In an important legal opinion, the Court stated: "We hold that a corporation doing business in New York may be subpoenaed to testify as a witness about a corporate transaction through its officers and employees who have knowledge of the transaction," that "It is no excuse to say that the officers and employees who participated in the corporate transaction involved are not within the jurisdiction or that they refuse to appear or testify in New York," and that "To hold otherwise would stultify the [Waterfront] Commission's broad statutory powers

of investigation and the discharge of its public responsibilities."

* * *

In the Matter of the Application of Waterfront Commission of New York Harbor For An Order Punishing Frank A. Guarino For Contempt
(New York State Supreme Court, New York County)

In the course of its investigation of Workmen's Compensation frauds in the harbor, the Waterfront Commission subpoenaed the records of a professional medical corporation, comprised of two physicians, to determine whether the claim of a registered waterfront checker for compensation benefits for alleged injuries was fraudulent and, if so, whether to institute a hearing to revoke or suspend the checker's registration for lack of good character and integrity in filing a fraudulent claim. One of the doctors, upon whom the subpoena had been served, alleged that the Commission lacked jurisdiction to conduct an investigation into compensation fraud on the waterfront and also that the medical records were privileged.

The Court held the doctor in contempt for his failure to turn over the subpoenaed books and records, stating that the Commission "is vested with broad investigatory powers and the right to issue subpoenas to compel the attendance of witnesses, the giving of testimony and the production of evidence." The Court also found that the physician—patient privilege had been waived by the checker during his testimony before the Commission.

After the physician still did not fully comply with the subpoena, the Commission obtained a further Court order committing the doctor to jail unless within twenty-four hours he turned over all the subpoenaed books and records to the Commission. After such order was procured, the doctor finally complied with the Commission's subpoena.

Administration

On December 9, 1977, Henry N. Luther, III was sworn in as Commissioner for the State of New Jersey, succeeding Ralph C. DeRose, whose term had expired. Commissioner DeRose served the Port with distinction since August 1, 1974.

Appointed by Governor Brendan T. Byrne, Commissioner Luther had previously served as Executive Secretary to the Governor, was Executive Director of the New Jersey Lottery Commission and held office as the Mayor of Parsippany - Troy Hills, New Jersey. He is a member of the New Jersey Bar and was graduated from Rutgers University and Rutgers Law School.

John S. Winthers, formerly Assistant Director of the Commission's Division of Law Enforcement, was appointed Director of the Division. He succeeded Thomas F. Jones, who retired after serving the Commission for 24 years as Assistant Chief Investigator, Chief Investigator and Director of Law Enforcement. Mr. Winthers joined the Commission in 1956. His law enforcement background includes service as a special agent with the Federal Bureau of Investigation.

Other long time Commission employees who retired this year include Special Agent Francis J. McAree and Senior Clerk Nettie Nicolosi.

Since its inception, the Commission has been most fortunate in receiving the wholehearted cooperation of other law enforcement agencies in its operations. Once again, the Commission expresses its appreciation

to such agencies and to the various civic, business and community organizations which for many years have supported and assisted it in its regulatory and informational functions.

CONCLUSION

To preserve the accomplishments of the Commission, to maintain the stability that has been achieved in the Port, and to realize the objectives of the Compact, the Commission finds and determines that public necessity still exists for the continued registration of longshoremen, the continued licensing of the occupations and employment required to be licensed under the Waterfront Commission Act and amendments thereto, and the continued public operation of the employment information centers provided for in Article XII of the Compact.

Respectfully submitted,

JOSEPH KAITZ
Commissioner for New York

HENRY N. LUTHER, III
Commissioner for New Jersey

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ACCOUNTANTS' REPORT

To 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, 1977. 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.

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, 1977, on a basis consistent with that of the preceding year.

S. D. Leidesdorf & Co.

New York, N. Y.
August 15, 1977

WATERFRONT COMMISSION OF NEW YORK HARBOR

Statement of Cash Receipts and Disbursements

For the Year Ended June 30, 1977

Balance of funds at beginning of year:		
Cash balance (net of amounts withheld from employees' earnings)		\$122,275.30
Cash in savings accounts		152,112.85
Time certificates of deposit		625,000.00
		<u>899,388.15</u>
Receipts:		
Assessments on employers of persons registered or licensed by the Commission — Note A	\$4,971,888.95	
Interest on time certificates of deposit	22,778.05	
Interest on savings accounts	35,175.68	
Penalties, fines and miscellaneous income	27,750.00	5,057,592.68
		<u>5,956,980.83</u>
Disbursements:		
Salaries	2,983,495.34	
Rentals	367,991.95	
Retirement, group insurance and social security taxes	1,535,022.55	
Special services and expense	47,882.54	
Communications	79,244.70	
Carfare, auto and travel expense	45,545.38	
General office expense	24,756.56	
Repairs and maintenance	52,709.27	
Furniture, fixtures and equipment	16,902.25	
Hearing officers, auditors and consultant fees	30,762.75	
Insurance	85,143.30	
Light, heat and power	44,216.98	
Printing	14,584.49	
Miscellaneous overtime expense	1,818.25	
Seniority plan costs	624.01	
Badge deposits — net	615.00	5,331,315.32
		<u>5,331,315.32</u>
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	47,365.60	
Less — taxes and other withholdings from employees	39,808.75	
	<u>7,556.85</u>	
Cash in savings accounts	318,108.66	
Time certificates of deposit	300,000.00	\$625,665.51
		<u>\$625,665.51</u>

Note A — Includes \$103,000 which was prepaid by New York Shipping Association. This amount would have been due July 15, 1977.

COMMISSION DETERMINATIONS

Year Ended June 30, 1977

APPLICATIONS AND REVOCATIONS

	Denied	Granted	Revoked	Revoked L/R	Sus- pended	Repri- mand	Dismiss Charges	Suspend P/H	Totals
Longshoremen	2	1	9	14	42	2	1	4	75
Checkers	0	0	5	14	12	1	3	3	38
Hiring Agents	0	0	1	2	0	0	0	0	3
Port Watchmen	11	2	4	11	7	1	0	1	37
Pier Superintendents	1	0	1	0	0	0	0	0	2
Stevedores	0	2	0	0	2	0	0	0	4
Maintenance	20	10	2	5	7	0	0	0	44
Totals	34	15	22	46	70	4	4	8	203*

* includes 51 summary proceedings

PETITIONS

	Denied	Granted	Totals
Petitions for Reconsideration	31	7	38
Petitions for Leave to Reapply	7	4	11
Petitions for Rehearing	2	0	2
Petitions to Withdraw	0	4	4
Petitions to Remove Ineligibility	0	5	5
Petitions for Restoration of Registration	18	5	23
Petitions to Vacate Temporary Suspension	1	0	1
Totals	59	25	84

STAFF FUNCTIONS

	DIVISION OF LAW	DIVISION OF LICENSING	TOTAL
Investigations Completed	187	39	226
Recent Arrests Completed	54	1	55
Petitions Completed	34	51	85
Applications investigated and processed	7	315	322
Witnesses and applicants questioned	673	656	1329
Summary Proceedings completed	50	5	55
Requests for Reinstatement from Withdrawal and Decasualization	3	81	84
Total Hearings conducted	110	47	157
Probationers Reviewed	82	37	119

DIVISION OF LAW ENFORCEMENT

Arrests and Apprehensions	
for theft	58
for gambling	14
for other offenses	26
Total	98

ACCOUNTING SECTION

Audits	
licensing	65
assessments	85
investigative	44

WATERFRONT COMMISSION EMPLOYMENT INFORMATION CENTERS

Showing Comparison of Hirings for the fiscal years ending June 30, 1977 and 1976.

Center and Location	Piers and Areas	HIRINGS		Increase or Decrease	% Change	% Share of Port Employment	
		1976-1977	1975-1976			1976-1977	1975-1976
Manhattan Center 261-281 Hudson Street	Manhattan	115,777	127,041	- 11,264	- 8.87%	05.44%	05.79%
Brooklyn Center 5914 3rd Avenue	Brooklyn Port Authority Piers	843,245	929,890	- 86,645	- 9.32%	39.61%	42.40%
10 — Staten Island 22 Wave Street	Staten Island	86,645	85,300	+ 1,345	+ 1.58%	04.07%	03.89%
11 — Port Newark 117 Tyler Street	Port Newark and Port Elizabeth Perth Amboy	817,644	846,901	- 29,257	- 3.45%	38.41%	38.62%
Hudson County*	Jersey City and Bayonne Hoboken, Weehawken & Edgewater	265,329	204,026	+ 61,303	+ 30.05%	12.47%	09.30%
TOTAL — NEW JERSEY		1,082,973	1,050,927	+ 32,046	+ 3.05%	50.88%	47.92%
TOTAL — NEW YORK		1,045,667	1,142,231	- 96,564	- 8.45%	49.12%	52.08%
PORT WIDE TOTALS		2,128,640	2,193,158	- 64,518	- 2.94%	100%	100%

*Represents the hirings for Centers #12 and #13 which are still functioning.

APPLICATIONS AND REAPPLICATIONS RECEIVED AND PROCESSED
DURING FISCAL YEARS
As of June 30th

	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Longshoremen	2,142	3,189	1,640	1,566	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
Checkers	134	613	171	453	286	276	320	516	1,233	87	0	2	0	2	0	63
Pier Guards ^a	168	321	199	418	2,081	472	699	1,014	858	612	612	573	404	470	516	284
Pier Superintendents	84	176	41	37	47	73	116	57	131	82	67	60	74	66	98	46
Hiring Agents	119	103	66	51	127	92	169	66	172	139	69	63	77	68	75	34
Stevedore Companies ^b	36	1	29	0	53	4	53	7	99	32	117	19	121	20	115	6
TOTALS	2,683	4,403	2,146	2,525	3,877	4,024	2,914	3,506	7,303	2,693	2,061	1,843	1,868	1,719	1,891	1,336

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

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

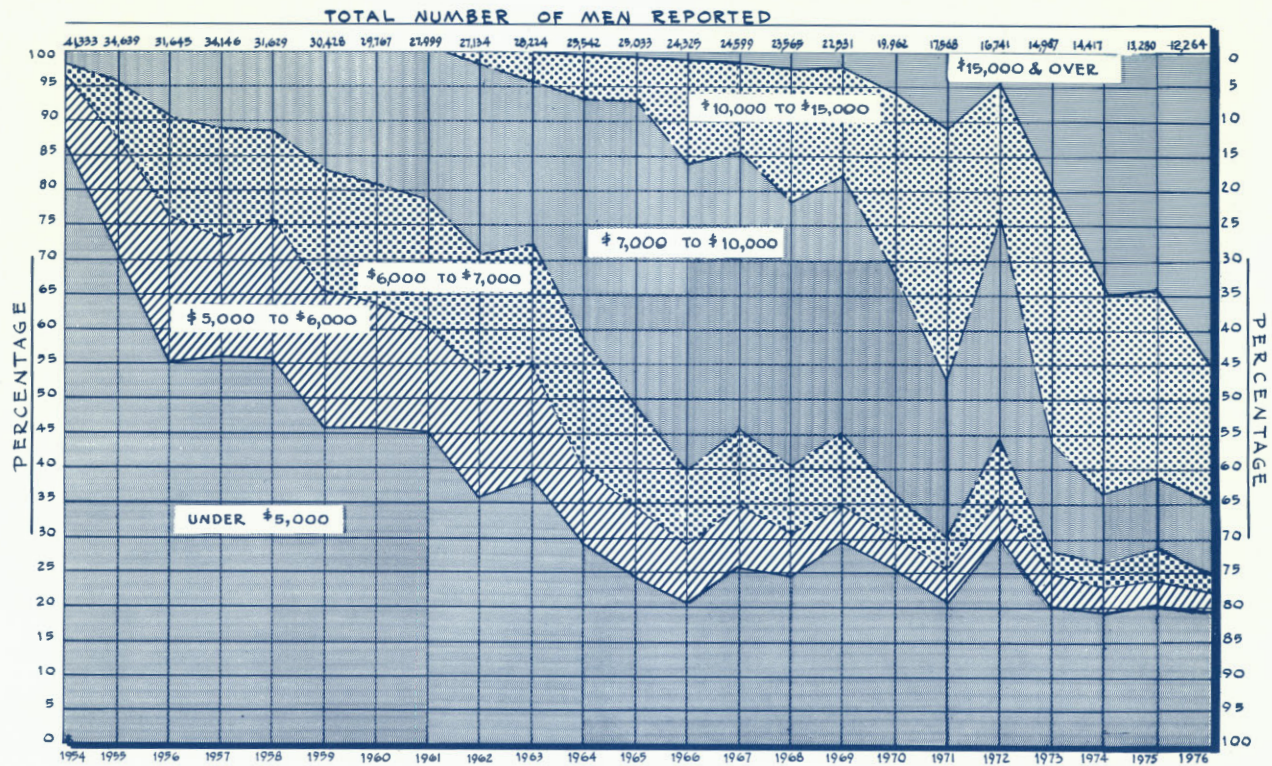
(c) Includes warehousemen, container repairmen, and other persons required to register under amendments to Waterfront Commission Act, effective September 1, 1969.

REGISTRATIONS AND LICENSES IN EFFECT DURING FISCAL YEARS
As of June 30th

	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Longshoremen	22,079	22,691	20,408	19,792	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
Checkers	4,095	4,503	4,197	4,511	4,397	4,220	4,115	4,335	3,979	3,714	3,557	3,176	3,006	2,728	2,584	2,479
Hiring Agents	607	609	578	565	606	631	600	559	602	605	545	493	512	427	378	369
Pier Superintendents	403	438	418	417	414	430	417	365	403	406	424	374	395	370	337	342
Pier Guards	1,961	1,756	1,652	1,801	1,551	1,630	1,654	1,637	1,548	1,485	1,405	1,291	1,064	979	894	818
Stevedore Companies	33	29	29	28	49	49	50	46	93	106	109	117	113	118	112	115
TOTALS	29,178	30,026	27,282	27,114	26,127	25,312	23,862	23,554	24,271	22,683	22,046	19,677	18,794	17,137	16,542	15,986

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

COMPARISON OF AVERAGE EARNINGS OF LONGSHOREMEN & CHECKERS



COMPARISON OF AVERAGE EARNINGS OF LONGSHOREMEN AND CHECKERS

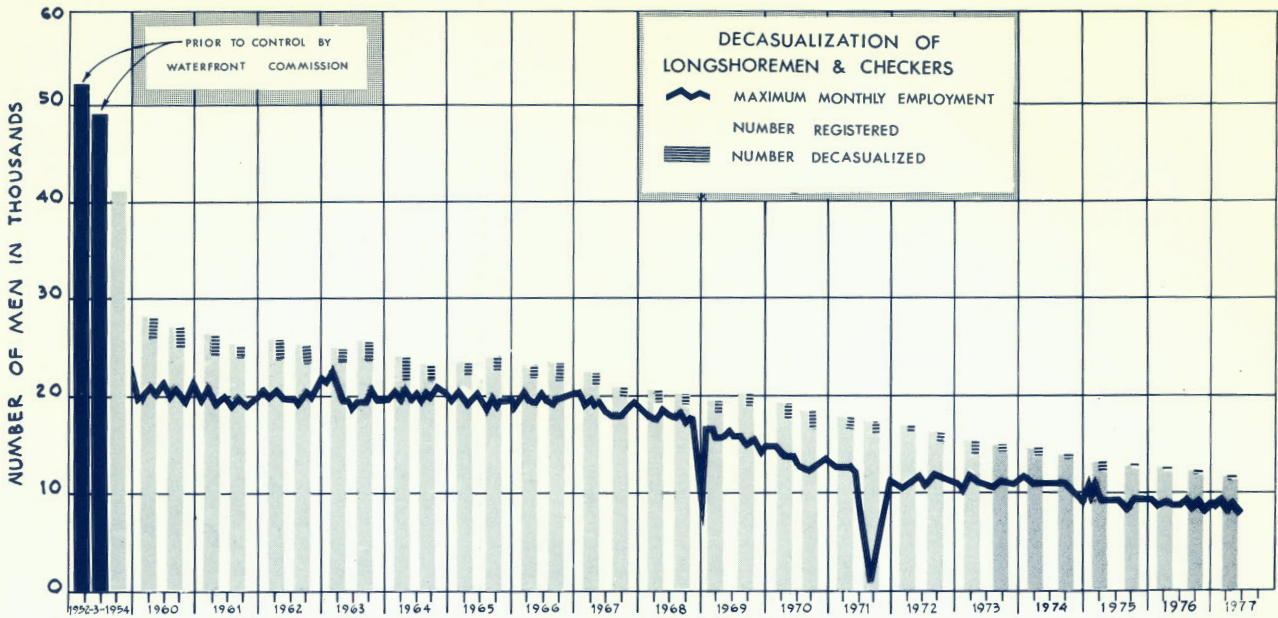
	1954	1974	1975	1976
Over \$25,000	(*)	538	583	973
\$20,000 to \$25,000	(*)	983	1,048	1,501
\$15,000 to \$20,000	(*)	3,342	2,947	3,051
\$12,000 to \$15,000	(*)	2,769	2,504	1,673
\$10,000 to \$12,000	(*)	1,470	1,176	824
\$10,000 and Over	(*)	9,102	8,258	8,022
\$ 7,000 to \$10,000	406	1,528	1,423	1,245
\$ 6,000 to \$ 7,000	802	494	437	360
\$ 5,000 to \$ 6,000	2,589	437	411	343
\$ 4,000 to \$ 5,000	6,330	445	354	290
\$ 3,000 to \$ 4,000	7,013	364	380	322
Under \$3,000	24,193	2,047	2,017	1,682
TOTAL REPORTED	41,333	14,417	13,280	12,264
Total Earnings	\$102,061,108	\$172,974,763	\$160,084,033	\$166,784,930
Total Hours Worked	37,813,991	24,665,089	20,562,063	19,694,632
% Hours Overtime	24.3%	26.8%	22.6%	22.5%
AVERAGE ANNUAL WAGES** \$	2,469	\$ 11,998	\$ 12,055	\$ 13,600

*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.

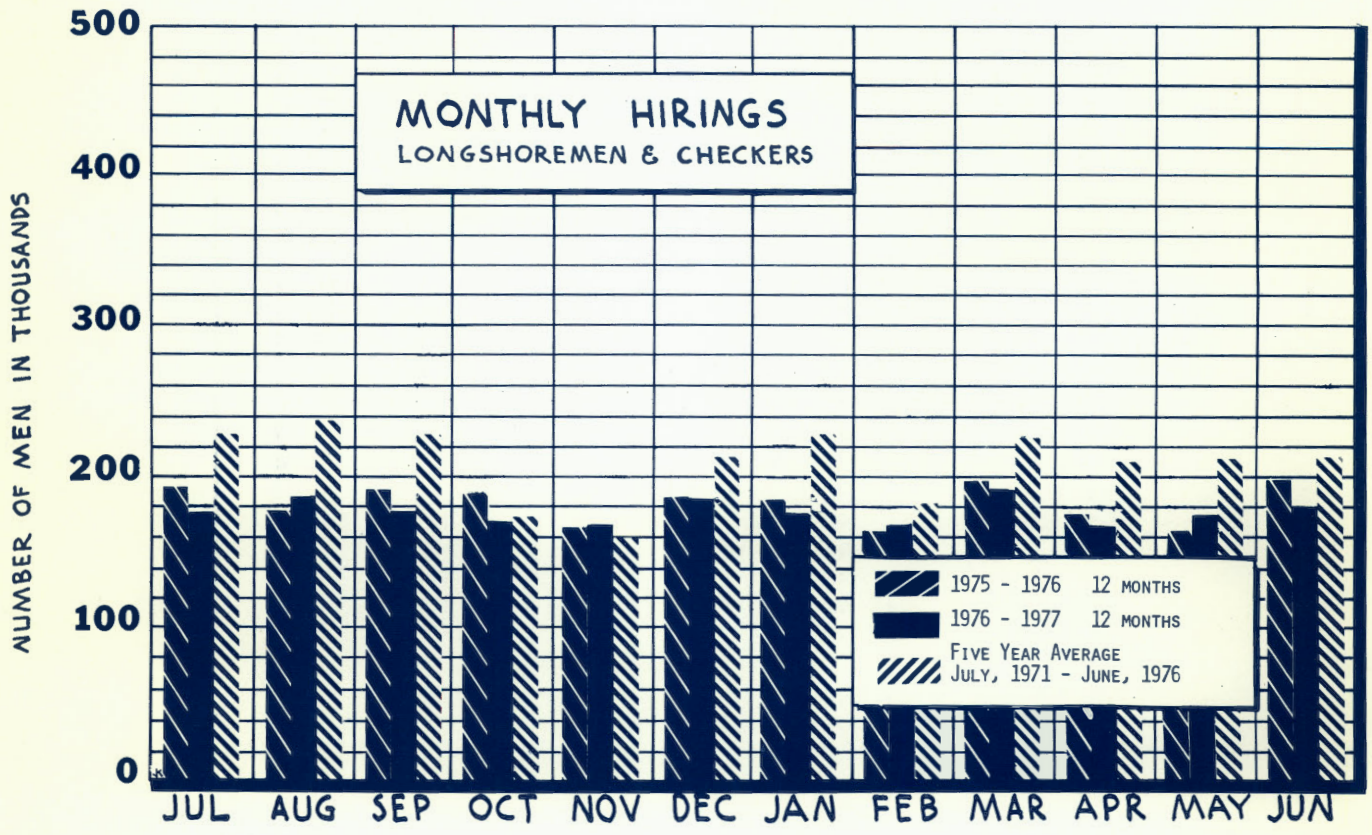
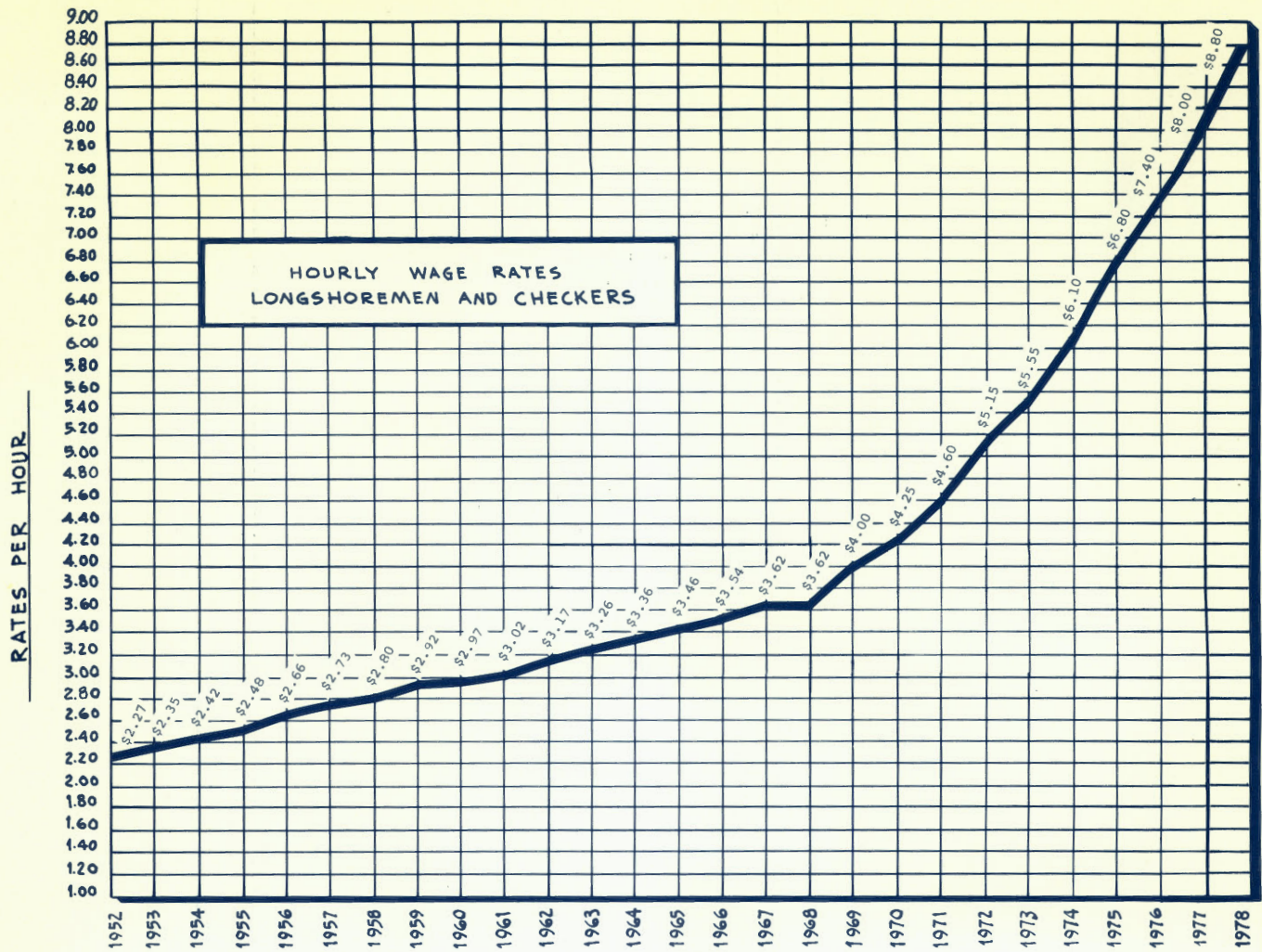


DECASUALIZATION OF LONGSHOREMEN AND CHECKERS

		Number Decasualized	Remaining Registrants
1st decasualization	June 3, 1955	7,141	31,574*
15th decasualization	May 10, 1962	1,498	25,758
16th decasualization	October 25, 1962	1,012	25,843
17th decasualization	May 10, 1963	1,182	25,218
18th decasualization	October 22, 1963	1,523	25,997
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	20,627**
31st decasualization	April 13, 1970	1,098	19,512**
32nd decasualization	October 30, 1970	1,012	18,651**
33rd decasualization	April 2, 1971	715	18,115**
34th decasualization	September 30, 1971	514	17,742**
35th decasualization	March 30, 1972	227	17,626**
36th decasualization	September 27, 1972	523	16,316**
37th decasualization	April 9, 1973	930	15,368**
38th decasualization	September 27, 1973	330	14,792**
39th decasualization	March 25, 1974	423	14,409**
40th decasualization	September 26, 1974	271	14,143**
41st decasualization	March 27, 1974	425	13,726**
42nd decasualization	September 25, 1975	156	12,962**
43rd decasualization	March 25, 1976	194	12,602**
44th decasualization	September 23, 1976	181	12,303**
45th decasualization	March 24, 1977	174	11,978**

*Does not include craftsmen whose registrations were required on or after May 27, 1957.

**Does not include warehousemen, container repairmen, and other persons required to be registered on or after September 1, 1969.

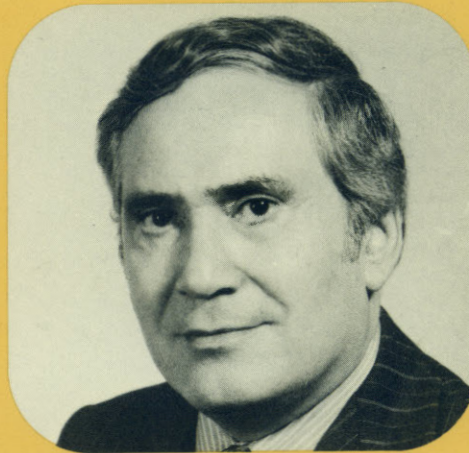




Henry N. Luther, III
*Commissioner
for
New Jersey*



Joseph Kaitz
*Commissioner
for
New York*



Leonard Newman
Executive Director

Jerome J. Klined, *Deputy Executive Director*

Gerald P. Lally, *General Counsel*

Arthur D. Lerner, *Secretary*

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

Irving Malchman, *Director, Litigation and Review*

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

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

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

Gemma T. Macaluso, *Director, Administration*

Elmer H. Williams Jr., *Comptroller*

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