

PORT AUTHORITY LIBRARY



THE PORT OF NEW YORK AUTHORITY

CREATED BY COMPACT BETWEEN THE STATES OF
NEW YORK AND NEW JERSEY AND RATIFIED BY CONGRESS

ANNUAL REPORT

JULIAN A. GREGORY
Chairman

JOHN F. GALVIN
Vice-Chairman

FRANK C. FERGUSON
SCHUYLER N. RICE

OTTO B. SHULHOF
HERBERT K. TWITCHELL

JANUARY FIFTEENTH, NINETEEN TWENTY-SIX

ALBANY
J. B. LYON COMPANY, PRINTERS
1926

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Commissioners

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Counsel

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Assistant Chief Engineer

BILLINGS WILSON,
Manager, Traffic and
Transportation

E. C. CHURCH,
Transportation Engineer

E. J. TSCHIMBKE,
Chief Clerk

NEW YORK, *January 15, 1926.*

To the Governor of the State of New York:

To the Governor of the State of New Jersey:

SIRS.—Herewith the Port of New York Authority submits its report for the calendar year 1925, and a financial statement for the fiscal year ended June 30, 1925.

The activities of the Port Authority during the calendar year, the progress achieved in measures or projects which it has undertaken itself or caused to be undertaken, or in which it has participated, may be summarized as follows:

Hoboken Shore Line—Agreement reached with the Secretary of War upon the principal conditions for the acquirement of this facility by the Port Authority to be operated in the public interest.

Belt Line No. 13—Completion of the extensions and other physical improvements by the companies owning this facility in anticipation of the installation of a neutral director of operations.

Bridges to connect New Jersey and Staten Island—All preliminary measures completed, leaving the way clear for actual building work as soon as sale of bonds shall permit of contract-letting.

Hudson River Bridge—Preliminary borings and surveys to determine location, together with traffic counts and traffic estimates completed. Engineers preparing design of bridge and estimates of cost.

Bridge Architects—Architects selected to cooperate with engineers on approaches and structural features so that the bridges over the Arthur Kill and the Hudson will have beauty as well as utility.

Improved Freight Service for Manhattan—Plan for union freight stations open to all railroads and all shippers with modern industrial buildings overhead, received with much commendation by business interests and with prospects of support from carriers.

Carfloat and Lighterage—A study of costs of present methods finished with estimate of results of partially or completely unified operation of railroad marine equipment, almost finished.

Manhattan's West Side Problem—Opposition to New York Central Railroad Company's plans for new facilities on the West Side unless they be brought into harmony with the Comprehensive Plan.

Food Supply and Marketing—Further surveys of the situation in cooperation with other agencies studying this problem.

Protecting the Port—Proceedings before the Interstate Commerce Commission, the Public Service Commission of New York, the Courts and other tribunals when the interests of the Port District were threatened with unjust charges, or other adverse measures.

Hoboken Shore Road

The acquisition of the Hoboken Shore Road by the Port Authority insures public control in the interest of the public of one of the most important facilities from the standpoint of inherent potentialities in the Port District. Though less than a mile and a half in length it is an indispensable link between the rail and water carriers of freight of New York Harbor. It has direct and exclusive access to the great steamship piers of Hoboken, on the one hand. On the other, it is physically united with the tracks of Belt Line No. 13 and through that line with all the trunk lines whose terminals are on the New Jersey shore. The property also includes a pier in an eligible situation. The Port Authority plans that this road shall be operated as a part of Belt Line No. 13, and that its facilities shall be open to all shippers and carriers on equal terms.

The transaction whereby the Hoboken Shore Road is secured takes the form of the purchase by the Port Authority from the United States War Department, of the stock of the Hoboken Manufacturers' Railroad Company. This corporation is the lessee of the line. The agreement with

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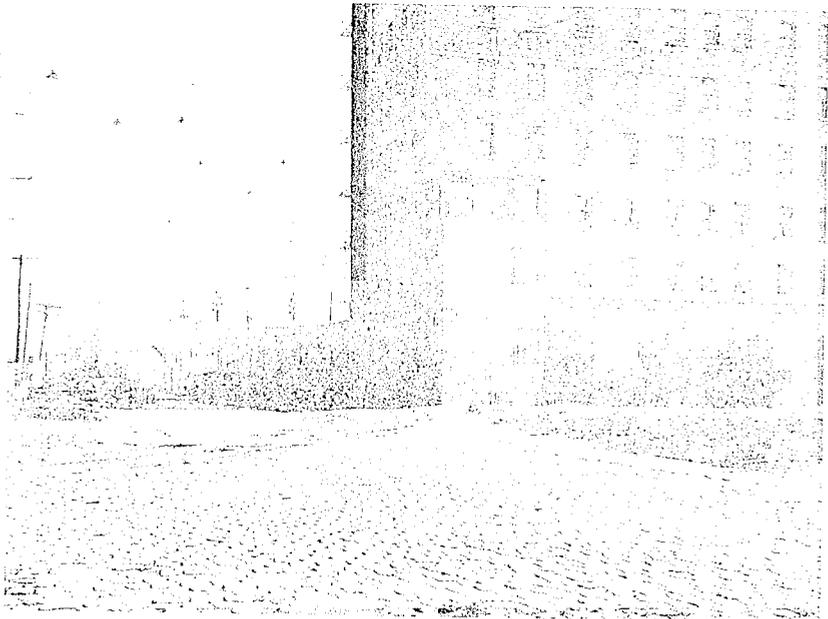
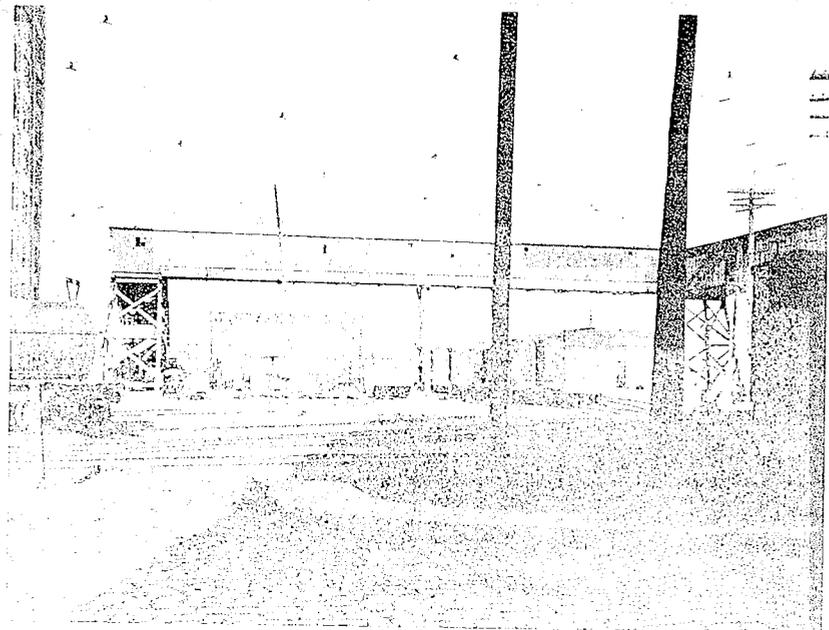
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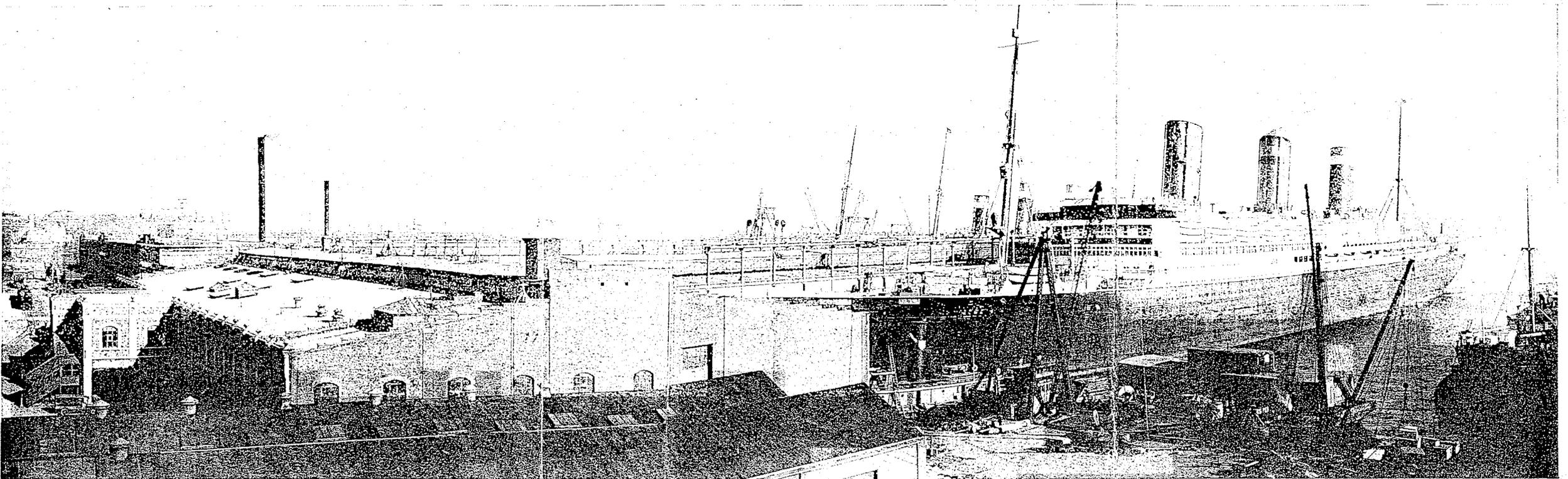
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Floathbridge on Hoboken Shore Road, with view of pier and warehouse.



Office and Freight Station of Hoboken Shore Road and view of principal yards.



River front at Hoboken with shore line at left and *Leviathan*, in dock, at right.

the War Department contemplates the maintenance of the corporate existence of the Hoboken Manufacturers' Railroad Company. It is certain, therefore, that the City of Hoboken will not be deprived of any tax revenues because of the acquisition. The railroad, under the ownership of the War Department, paid taxes on the road into the Hoboken City treasury; the railroad, under the ownership of the Port Authority, will continue to pay taxes to the city.

The legislation under which the War Department disposes of and the Port Authority acquires the Hoboken Shore Road is embodied in the Act of Congress approved February 26, 1925 (Public No. 479—68th Congress). Negotiations to settle the terms for the transfer, were inaugurated soon after the statute went into effect but the prolonged illness, eventually necessitating retirement from office, of War Secretary Weeks, caused a halt in the proceedings. Upon the accession to office of Secretary Davis negotiations were actively resumed, and while some of the details await completion the principal features of the transaction have been settled. The Port Authority gives \$1,000,000 in its 30-year 4 per cent bonds for the stock of the Hoboken Manufacturers' Railroad Company. For the cash in the operating fund, accounts receivable and the like, the Port Authority pays 4 per cent bonds in amount to yield $4\frac{1}{2}$ per cent interest annually. Since the operation of the road in recent years has resulted in deficits, the contract provides that the Port Authority shall have a period of two years in which to turn around in the operation of the property and change the road from a deficit-operated road to an income producing road. To effect this, the War Department agrees that it will take no default in the payment of interest for a period of two years. The contract further provides that, in the event of the inability of the Port Authority to pay interest at the end of two years, the property may be retaken by the War Department. The stock of the corporation is to be deposited in escrow as security to the War Department. The conditions provided for in the Act of Congress governing

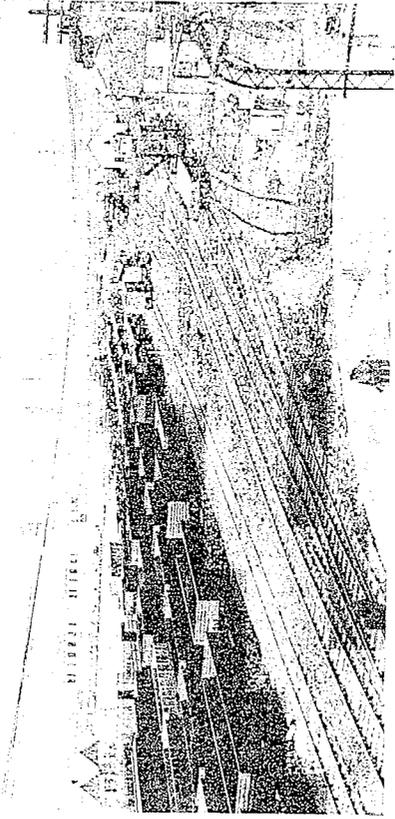
the sale, that the road should be available for operation in the event of war or other national emergency, are carried out in the contract.

Belt Line No. 13

All of the physical improvements to Belt Line No. 13 agreed to by the carriers, have been completed and while the plan for operation under a neutral director has not yet been put in force the facility is rendering increasingly valuable service to shippers not only in its own territory but in the territory contiguous thereto.

The last addition to the road involved the construction of extensive sidings in the neighborhood of National Junction to take care of the heavy interchange of freight between the Pennsylvania and West Shore Railroads. This would have been accomplished early in the year except for a dispute between the railroad and the city over the terms of the ordinance of the City Commission of Jersey City which the city claimed was a necessary prerequisite to the laying of tracks across several streets of that municipality. This disagreement was at length adjusted and the ordinance went into effect on November 24. Work was rushed from that time and the improvements completed before the end of the year. The former delays at this point due to lack of facilities for holding cars by or for either road are now at an end and the interchange can be made without loss of time.

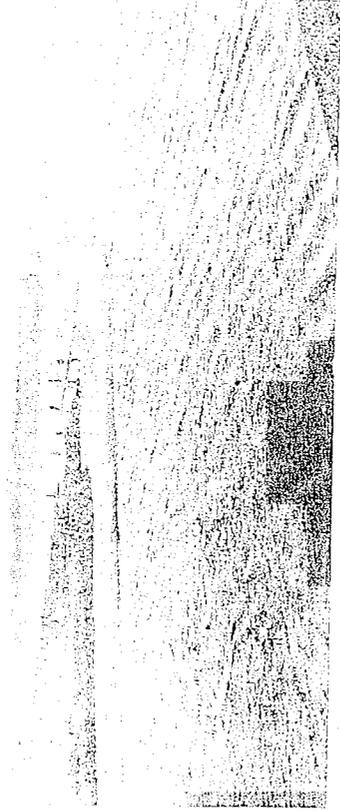
The plan of operations submitted by the carriers which own Belt Line No. 13 called for a neutral director who should be in full charge of the facility and should prescribe schedules for the movements of trains in either direction. Because the railroads claimed that the Hoboken Shore line could not be included the present time, as an integral part of Belt Line No. 13, they arranged for a modified scheme of operations, directed by a committee representing the participating roads. The Port Authority is studying this plan of operations with a view to determining whether it meets present requirements.



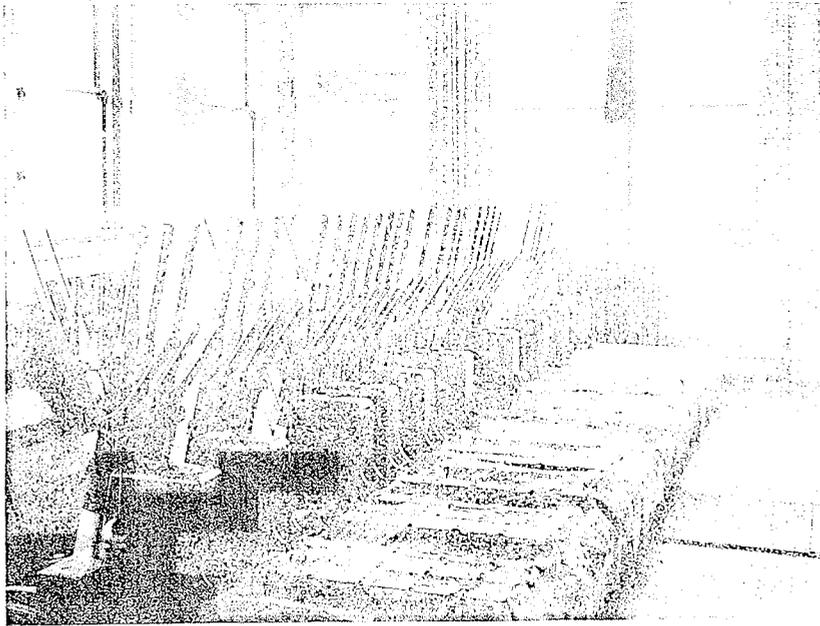
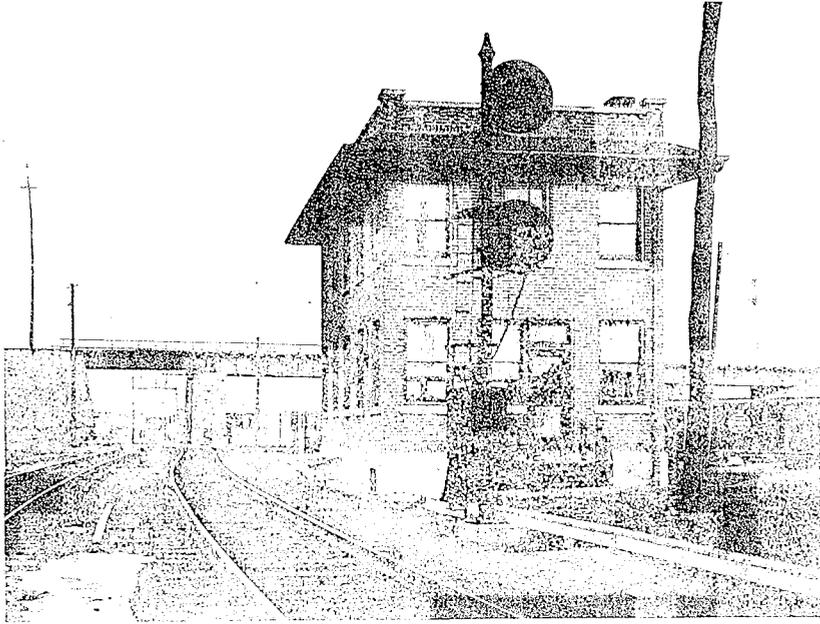
Lehigh Valley Yard, Fortin Amboy, to be crossed by bridge.



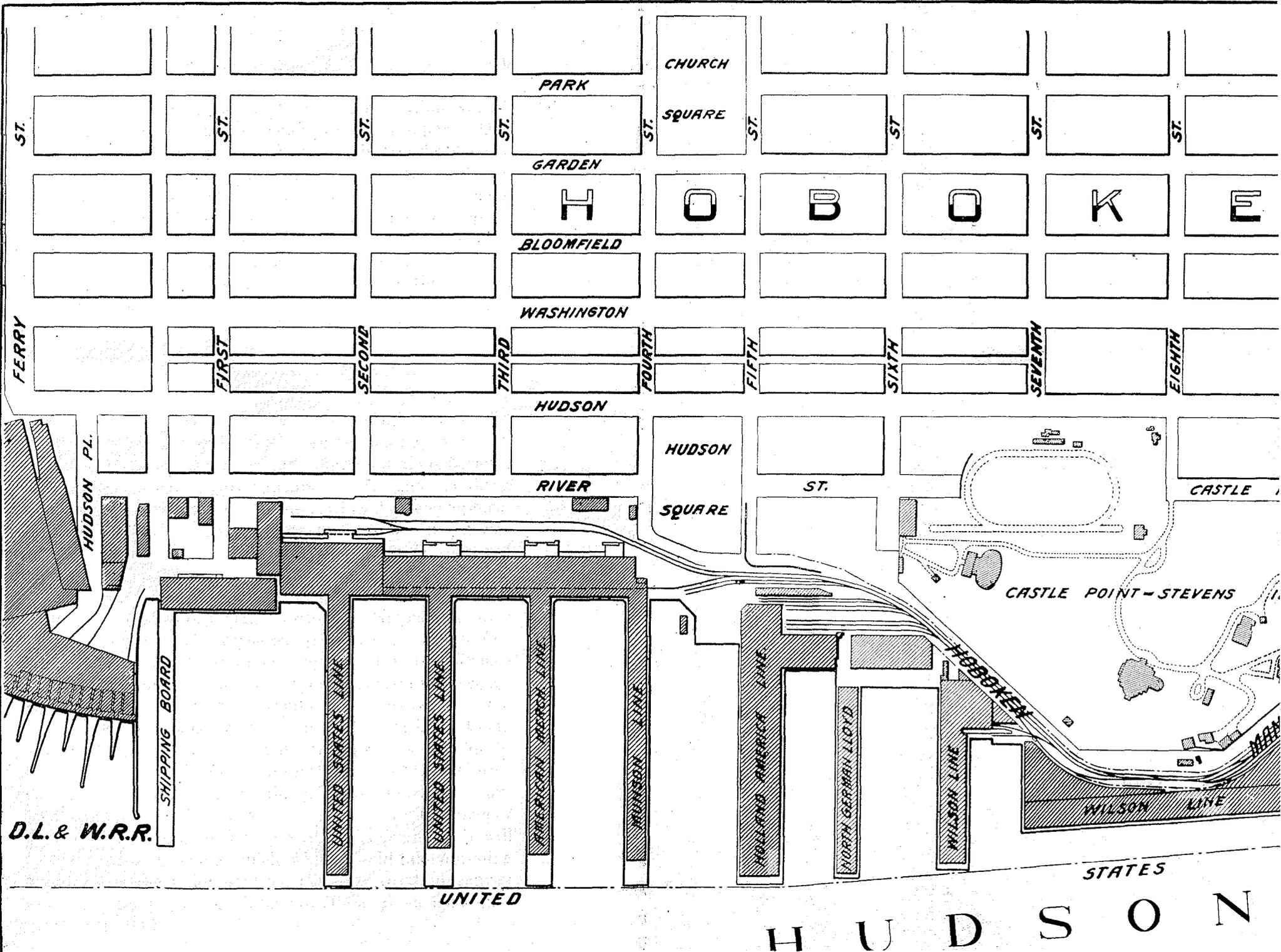
Fortin Amboy near center line of bridge to Tottenville.



Ploughshare Point and the Arthur Kill, looking toward Staten Island.



Interlocking Signal Station on Belt Line No. 13, with interior view showing battery of switch levers.



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RIVER

CASTLE POINT-STEVENS

D.L. & W.R.R.

SHIPPING BOARD

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UNITED STATES LINE

AMERICAN MERCHANTS LINE

HUDSON LINE

HOLLAND AMERICA LINE

NORTH GERMAN LLOYD

WILSON LINE

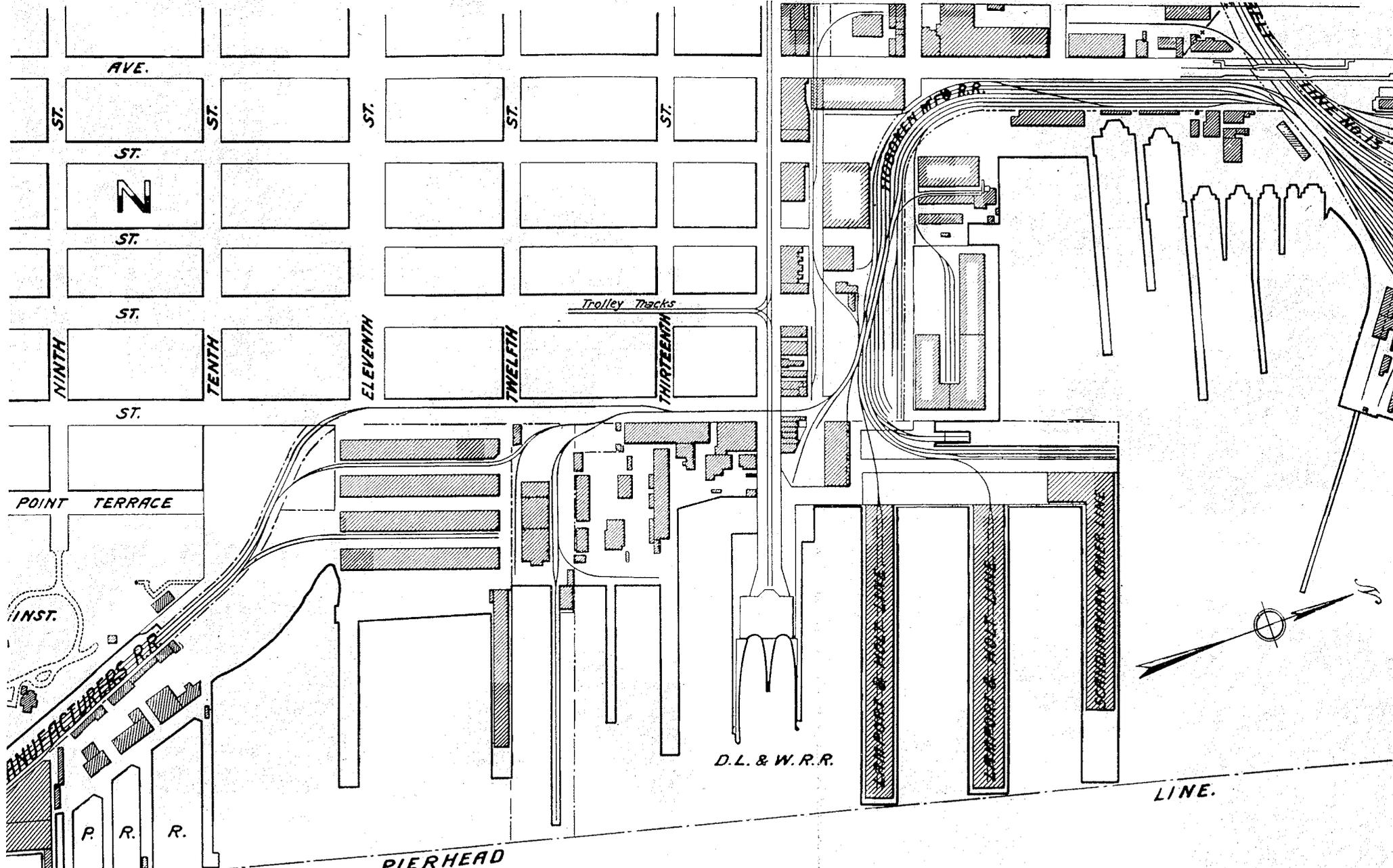
HOBOKEN

WILSON LINE

STATES

UNITED

H U D S O N



R I V E R

THE PORT OF NEW YORK AUTHORITY.
 MAP SHOWING RELATIONSHIP OF HOBOKEN MANUFACTURERS RAILROAD TO BELT LINE NO. 13 AND THE GREAT PIERS ON THE HUDSON RIVER WATERFRONT.



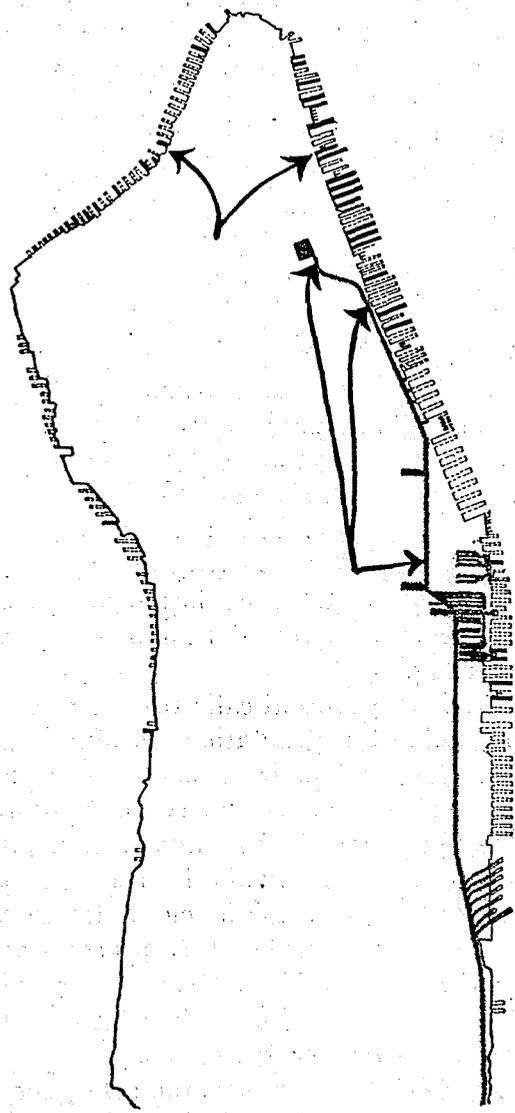
As has been stated, the institution of Belt Line No. 13, has already been of great benefit to the shippers. One concern alone reports estimated savings in freight charges at the rate of \$6,000 per year since the new rates went into effect and it is reasonable to believe that many others have been able to effect important economies in this respect. The carriers themselves will realize very substantial savings resulting from more efficient operation, absence of delays and resultant losses, and in other directions.

Belt Line No. 13 is, in the physical sense, the first part of the Comprehensive Plan to be put into effect.

Improved Freight Service for Manhattan

In August the Port Authority formally made public its proposal for an improved and economic freight service for Manhattan Island. The plan was greeted with approval by the press, the business public, and others, not alone because it promised great improvements in freight handling methods of the great borough constituting the geographical and commercial centre of the Port, but also because it was evident that it could be effected at reasonable cost and without undue delay.

The Port Authority proposal calls for the establishment of nine or more union freight stations in Manhattan, open to all shippers and all railroads. A merchant or manufacturer desiring to make shipments by two or more railroads would deliver his packages to the union station nearest his establishment. There they would be assorted and conveyed to the railroads by means of motor trucks and containers. On incoming freight, the process would be reversed. It would be assorted on "break-bulk" platforms in railroad terminal yards alongside of which the cars could run, and conveyed by motor truck to the proper union station in Manhattan, to wait the consignee. It will be obvious that the same vehicle which would take outgoing shipments to the union station, could be used to convey therefrom the incoming shipments to a given consignee on the return trip.



Tracks that can be removed and piers that can be released

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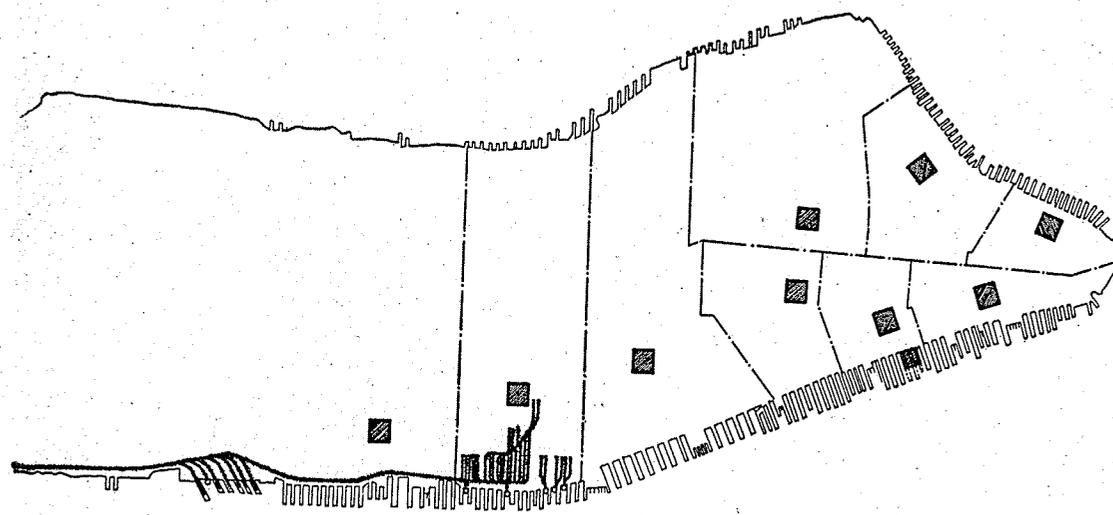
A typical union station, as planned by the Port Authority, would be 600 feet long and 200 feet wide, roughly equivalent in ground area to a New York City block. It would be provided with raised "saw tooth" platforms so as to facilitate tail board delivery, with passages arranged to separate incoming and outgoing traffic and with all devices to facilitate loading and unloading. Above each station would be a building eight or more stories in height, especially designed for manufacturing and wholesale uses, and equipped with large elevators and other devices for handling freight.

The installation of such a system would, as is evident, do away with long hauls and cross hauls of freight to and from water front pier stations in Manhattan, would largely reduce congestion of vehicular traffic in that borough, and would give every receiver and shipper the advantage of service by every carrier entering the Port District. It would make 43 additional Manhattan piers available for ocean and coastwise shipping and would also make it possible to release a part of the New Jersey waterfront now occupied by rail terminals. It would greatly simplify the handling of freight in Manhattan and enable it to be moved in and out of that borough at a great saving of expense.

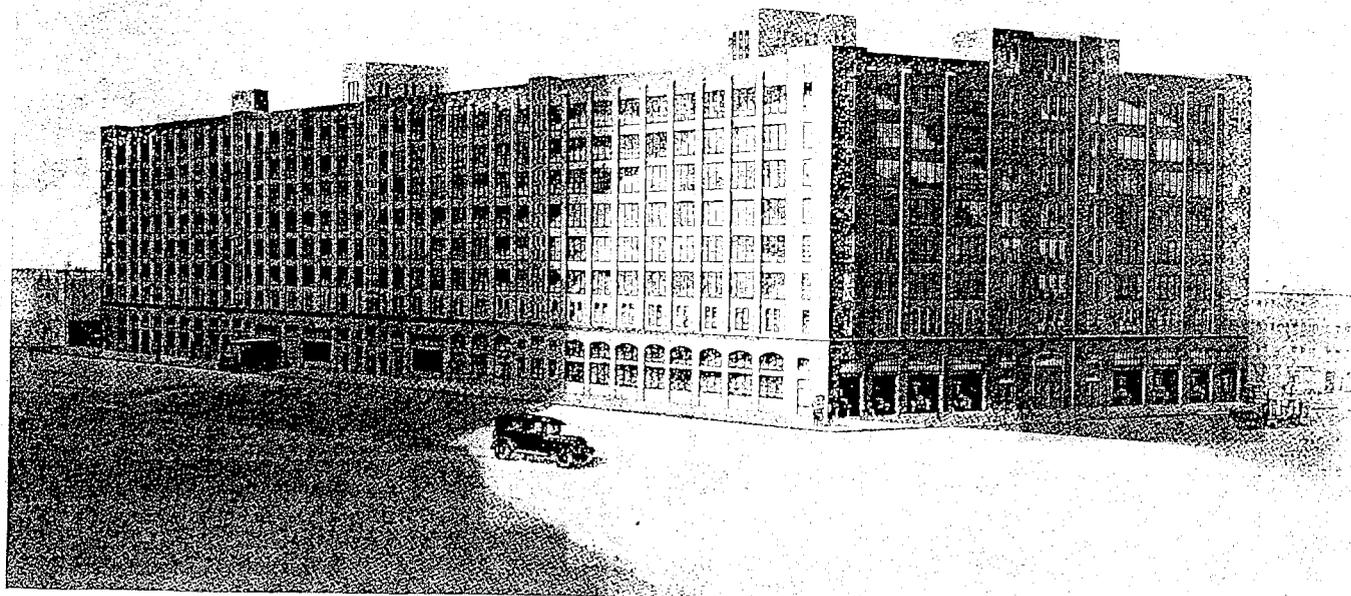
A careful calculation by the engineering staff of the Port Authority indicates direct savings to Manhattan business of \$12,000,000 yearly and to the railroads of the Port of \$2,000,000 to say nothing of many indirect savings which, while important and readily appreciable, scarcely lend themselves to accurate estimate or measurement.

The appreciation expressed by the business public when the plan was announced was hearty in the extreme. Particular interest was shown in the advantages offered in the industrial terminal buildings planned to surmount the Union Stations.

The Manhattan Island Terminal proposition has now reached the phase where conferences with the executives of the railroads are in progress in order to get their views as to the details of the system.



Island Terminal zones and tentative locations



Typical Universal Freight Station and Industrial Terminal for Manhattan.

Bridges Between the Two States

The three bridges, which the Port Authority has been directed by the two Legislatures to build, were of course conceived for practical ends. In a broad sense they may be considered as highways affording safe and convenient facilities for trade and commerce and the passage of the people to and fro. But their usefulness need not be lessened, indeed it may be enhanced, if some regard is paid to the opportunities they present, of constructing lasting and seemly monuments of this generation, expressing its sense of beauty and proportion.

Each bridge will be located in a commanding position where it will be frequently in the view of thousands besides those who cross it. The Port Authority believes emphatically that each bridge should combine beauty with stability and convenience. To this end it has engaged Cass Gilbert, to prepare plans for the architectural treatment of the Hudson River Bridge and its approaches, and the firm of York & Sawyer to render similar services in the matter of the bridges which will connect New Jersey and Staten Island. The Commissioners deem themselves and the public, fortunate, that they have been able to secure the co-operation of such distinguished members of the architectural profession in this matter.

Hudson River Bridge

The appropriations granted by the Legislatures for making studies for the bridge across the Hudson River from Fort Lee to Manhattan did not become available until July 1. Consequently, there has not been sufficient time to complete these studies, or to finish designs for the mammoth structure required at this point. The appropriations by the States—\$100,000 each—have also been found insufficient to permit of the completion of the studies, and a further grant of \$50,000 from each State will be necessary. It can be said now that this bridge will certainly be one of the greatest in the world; that the most feasible location seems to be at a point between 178th and 179th streets

on the New York side, to a point directly opposite in Fort Lee; and that, in all probability, it will be a suspension bridge with a single span, which will be twice the length of any other span in the world. It may be unnecessary to add in this connection that in placing and constructing this bridge every care will be taken to enhance rather than to mar the beauties of Fort Washington Park in Manhattan, where one end will be and Palisades Interstate Park in Fort Lee, where the other end will be. Committees of prominent citizens of New York and New Jersey are aiding the Port Authority with suggestions in this particular.

Since it is provided in the laws of the two states that the Port Authority may levy charges for the use of the bridge and that it shall be built and paid for in whole or in part by bonds of the Port Authority, or other securities, it is necessary to ascertain whether or not the revenues from tolls on vehicles and pedestrians, and from franchise rights for rapid transit facilities will be adequate to meet the cost of construction. Such a study constitutes what is known as the economic proof. A number of steps, therefore, are necessary in such a study, to wit:

First: The present volume of vehicular and pedestrian traffic over each of the seventeen ferries across the Hudson River;

Second: The volume of traffic the bridge may be expected to attract when it is opened to traffic; this requires an estimate of the effect of the opening of the vehicular tunnel in 1926;

Third: The volume of traffic that can reasonably be expected to be diverted to the bridge from each of the other crossings in that year;

Fourth: The volume of traffic over the bridge per year, for twenty years subsequent to the opening. This requires an estimate of the effect of other proposed crossings upon the bridge. The sequence with which these crossings will be opened to traffic will have a progressively increasing effect upon the traffic which will be attracted to the Fort Lee bridge. It is tentatively assumed, for purposes of

analysis, that the proposed crossings over the Hudson River will be provided in the following sequence in the vicinity of the places indicated:

- The vehicular tunnel at Canal street;
- Fort Lee bridge;
- Mid-Manhattan;
- Between Mid-Manhattan and Canal street;
- Harlem.

The effect of each of these multiple crossings on the Fort Lee bridge traffic must be ascertained. This necessitates the study of the origin and destination of vehicles by types for the existing ferries and apportioning the divertible traffic to each of the proposed crossings in such a way as to take into account relative distances and ferry, tunnel, and bridge charges and the prevention of undue congestion on the approach streets to each of the proposed facilities.

Fifth: An estimate of the revenues for each year subsequent to the opening of the bridge, based upon an average toll per vehicle and per pedestrian;

Sixth: An estimate of the cost of operating and maintaining the bridge;

Seventh: An estimate of the first and ultimate costs of the structure including land for approaches.

To determine the net income that may be expected to come to the bridge, it is necessary to estimate the number of vehicles, passengers in vehicles, pedestrians, and rapid transit traffic for each year subsequent to its opening, apply average tolls to each class of traffic, and deduct estimated amounts for operation and maintenance.

In order to estimate the vehicular traffic, it is necessary to obtain the trend or rate of growth of the present day traffic over the seventeen ferries between the Battery and Tarrytown for the most recent normal year. This requires the records, by classes of vehicles, kept by each of the ferry companies from 1914 to date. Where revenue records only are available, average tolls for each class of vehicle must be applied to the figures to estimate the number of vehicles. From these records the volume

of traffic over each of the ferries can be forecast for each of the years subsequent to 1932.

Instead of forecasting the traffic for each of the ferries it is better to forecast the volume of traffic that will be diverted from the existing ferries to the bridge. To obtain this divertible bridge traffic it is necessary first to ascertain the distribution of the present day traffic over each of the ferries for the most recent normal year. To do this the origin and destination of each vehicle is necessary for a sample period of time, so selected that the peak and the average traffic condition in the year will be reflected. The records show that these occur in the months of July and October. The variations of traffic between week-day and Sundays and from hour to hour, or both, are necessary in arriving at the peak traffic conditions to test out the roadway capacities on the bridge. Field clockings, therefore, were taken by placing inspectors throughout on each of the ferry boats operated on every route. The inspectors ascertained and recorded the following information respecting each vehicle crossing the river by ferry:

- (a) Type of vehicle, that is whether horse drawn or motor propelled. A division of motor vehicles was made as between commercial and pleasure, and again subdivided to indicate the carrying capacity of the commercial vehicles and the seating capacity of the pleasure vehicles;
- (b) Number of persons carried in each vehicle;
- (c) State license;
- (d) Origin and destination of each vehicle;
- (e) Frequency of use of ferry route by each vehicle.

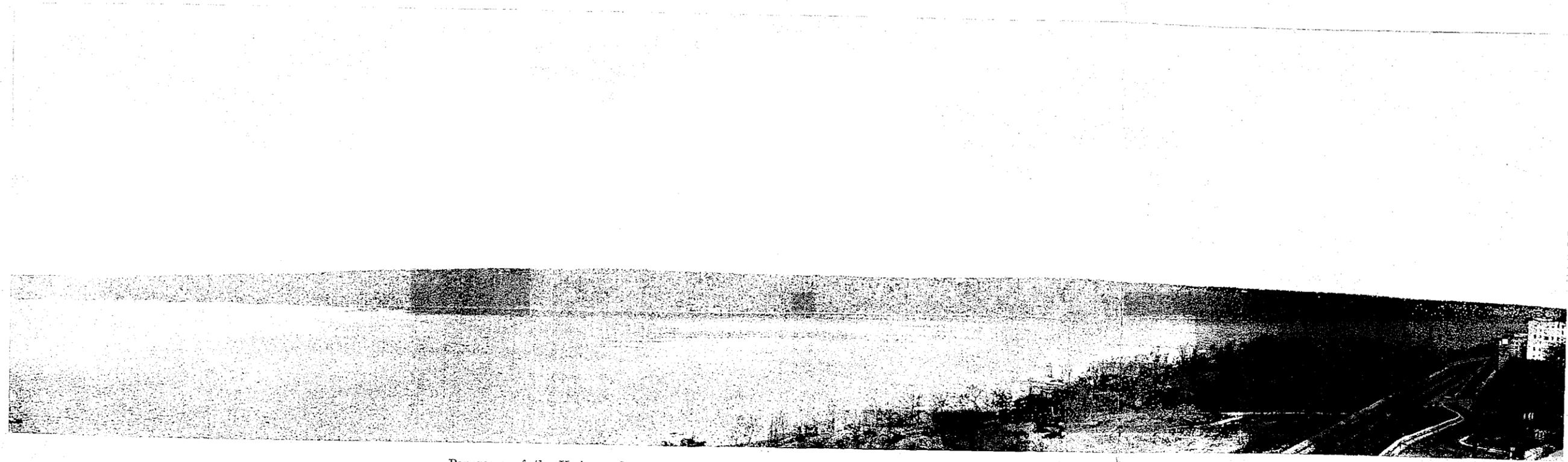
These clockings were made throughout the months of July, August, September and October, 1925. In carrying forward the clockings a field force of fifty-six men was employed on the seventeen ferry routes. The detailed information was ascertained and recorded for a total of 242,000 vehicles.

Clockings were made of the vehicular traffic now passing over the streets and street intersections in the vicinity of the proposed location of the bridge, to determine the degree

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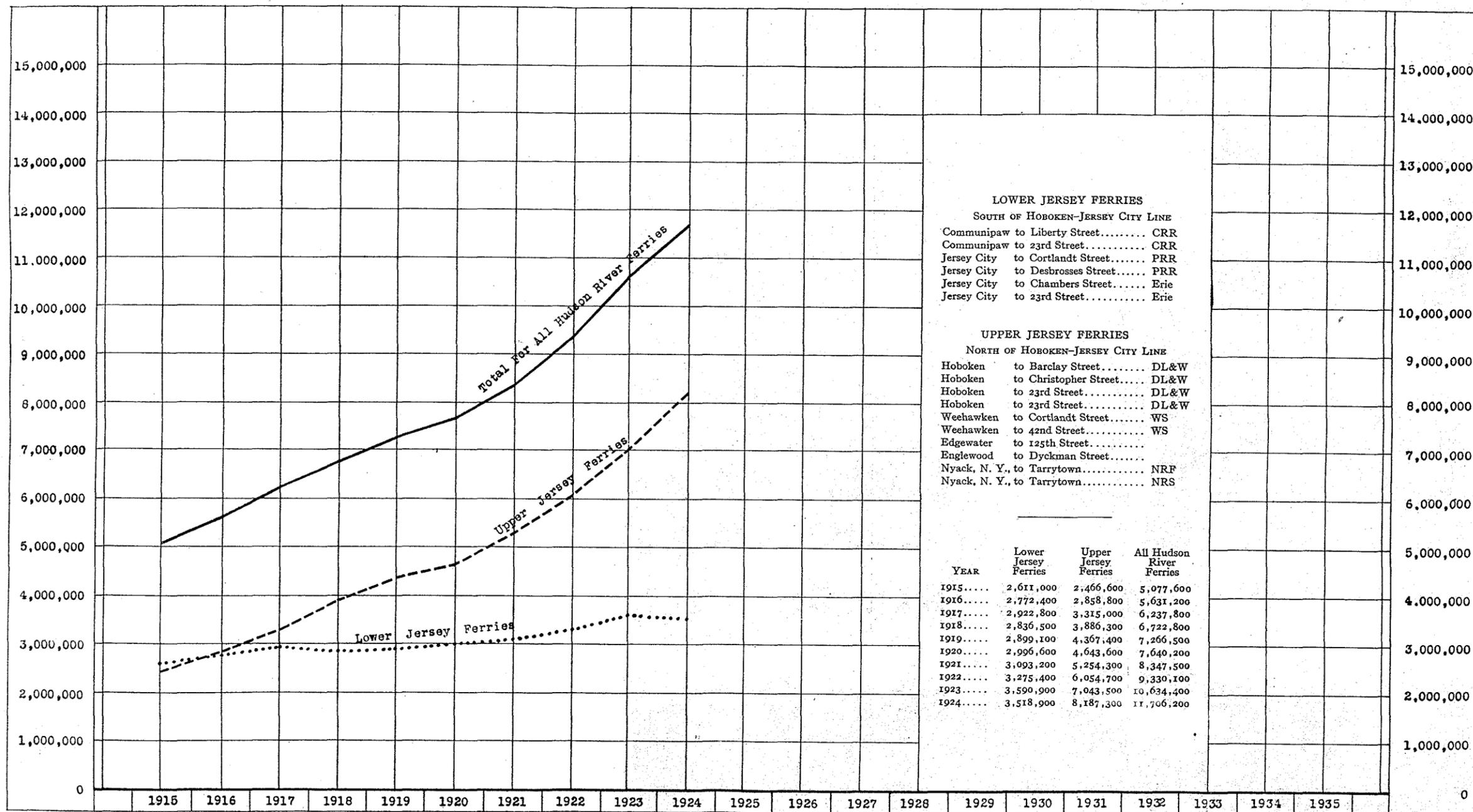
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Panorama of the Hudson where the new bridge will cross, looking from Manhattan to New Jersey.

ANNUAL FERRY VEHICLE TRAFFIC ACROSS THE HUDSON RIVER



LOWER JERSEY FERRIES
SOUTH OF HOBOKEN-JERSEY CITY LINE
 Communipaw to Liberty Street..... CRR
 Communipaw to 23rd Street..... CRR
 Jersey City to Cortlandt Street..... PRR
 Jersey City to Desbrosses Street..... PRR
 Jersey City to Chambers Street..... Erie
 Jersey City to 23rd Street..... Erie

UPPER JERSEY FERRIES
NORTH OF HOBOKEN-JERSEY CITY LINE
 Hoboken to Barclay Street..... DL&W
 Hoboken to Christopher Street..... DL&W
 Hoboken to 23rd Street..... DL&W
 Hoboken to 23rd Street..... DL&W
 Weehawken to Cortlandt Street..... WS
 Weehawken to 42nd Street..... WS
 Edgewater to 125th Street.....
 Englewood to Dyckman Street.....
 Nyack, N. Y., to Tarrytown..... NRF
 Nyack, N. Y., to Tarrytown..... NRS

YEAR	Lower Jersey Ferries	Upper Jersey Ferries	All Hudson River Ferries
1915.....	2,611,000	2,466,600	5,077,600
1916.....	2,772,400	2,858,800	5,631,200
1917.....	2,922,800	3,315,000	6,237,800
1918.....	2,836,500	3,886,300	6,722,800
1919.....	2,899,100	4,367,400	7,266,500
1920.....	2,996,600	4,643,600	7,640,200
1921.....	3,093,200	5,254,300	8,347,500
1922.....	3,275,400	6,054,700	9,330,100
1923.....	3,590,900	7,043,500	10,634,400
1924.....	3,518,900	8,187,300	11,706,200

to which capacity of these streets is now used. Also a study was made to determine the volume of traffic carried at present by the East River bridges, particularly during the peak of travel; and the extent of saturation.

Examination of the records of the various ferry companies operating the seventeen ferry routes, for the purpose of ascertaining the volume of traffic and its classification handled by the ferries of each route for the past ten years, has required a force of three to four men constantly from July to the present date.

After having completed the field clockings, the next step was the tabulation and summarization of the data. The work of tabulating was carried on in part during the period of clocking and has proceeded since the clockings were completed in October, to bring it to a point to permit of detailed analysis.

These analyses are for the purpose of determining future distribution of vehicular traffic among the present crossings, the Hudson River bridge, and any other crossings that may later be constructed and which might effect the future revenues of the structure under consideration.

One of the first determinations to be arrived at by analysis is the probable volume of traffic that may be expected to use the bridge when it is opened, assuming that it is to be the only highway across the Hudson River between Manhattan and New Jersey. The second determination to be made is the volume of traffic which will be attracted to the vehicular tunnel, when it is opened, which otherwise might have used the Hudson River bridge. The third determination is the probable effect on the bridge traffic of the opening of any additional highway crossings over or under the Hudson in the future.

Each of these steps involves a large number of intermediate steps. For example, highway access to the bridge; determination of a toll which will secure maximum traffic and maximum revenue; future crossings to be constructed by the City of New York across the East and Harlem Rivers; and traffic that will be generated by the stimulation

of industrial and residential development, particularly on the New Jersey side.

The preliminary engineering work embraces surveys, borings and design studies. It is necessarily of a tentative character, its main purpose being to settle such questions as the most suitable and economical location, the kind and volume of traffic to be accommodated and the general arrangement and type of structure, before any final planning and preparation of reliable estimates of cost could be undertaken.

Lack of reliable maps of the New Jersey side necessitated extensive topographical surveys. It was found impracticable to undertake a reliable triangulation across the river, but preparations for the measurements have been made and it is expected that the same can be accomplished in the early spring. For tentative studies, the triangulation made by the United States Coast and Geodetic Survey was considered to be sufficiently reliable. As a result of the surveys, and the collection of available data, a large map (scale 1" = 100 ft.) has been prepared which will form the basis for final planning and for the preparation of reliable estimates of cost.

In order to obtain reliable information on the character of the river bottom, it was necessary to have borings carried well into the solid rock. In all, borings, at three different possible bridge locations, were sunk. These borings established the fact that, beyond the pierhead lines established by the War Department, that is, within the width of river reserved for navigation, bedrock is too deep to permit of economical construction of bridge piers and that such piers must be placed between the pierhead lines and the shore, or on shore. The minimum practicable span has thus been established at approximately 3,500 feet between piers. The piers so located will form no obstruction to navigation.

The borings were made under contract awarded to the lowest bidder.

As the selection of the best location depends largely upon the relative cost of the bridge and approaches,

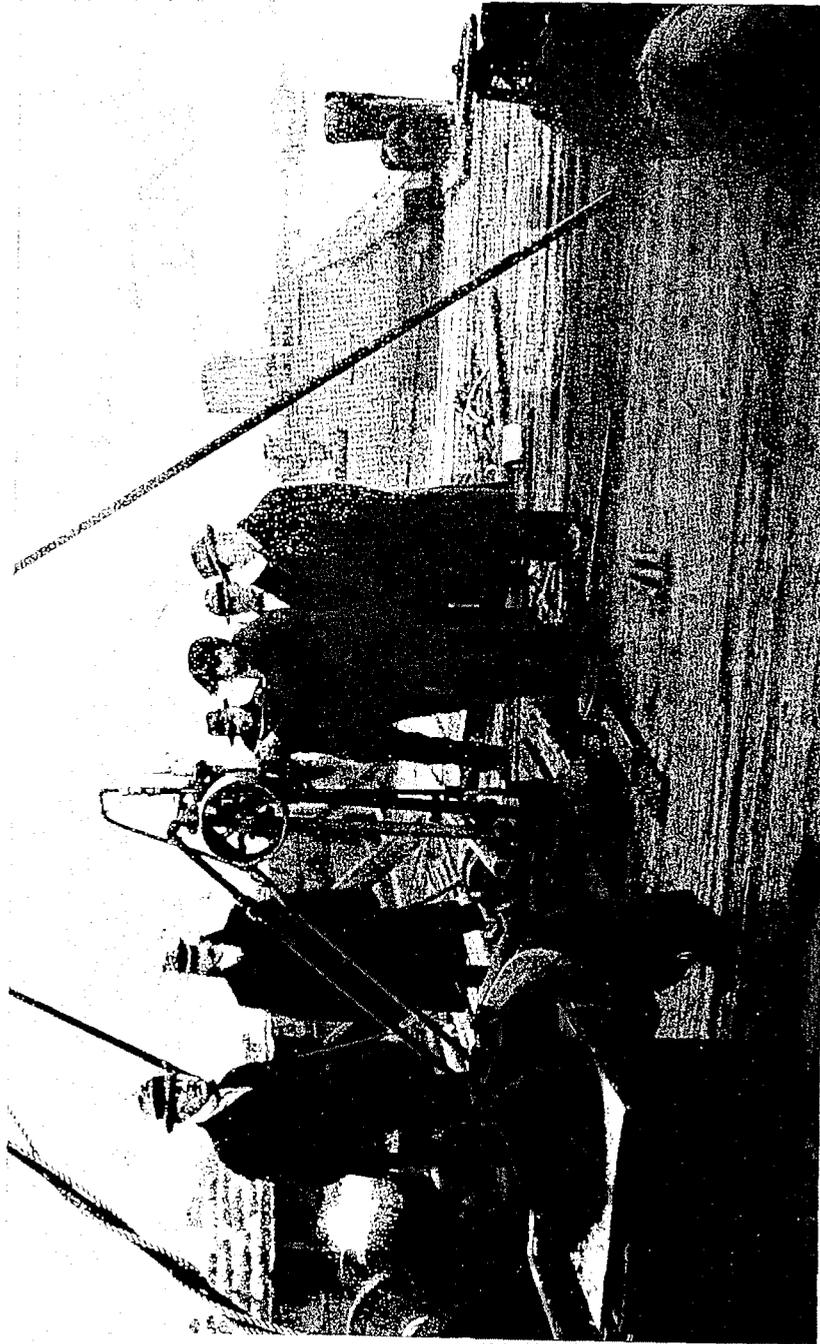
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View of drilling operations for core boring, on the Jersey Shore, in connection with the proposed Elizabeth-Howland Hook Bridge.

to determine the most economical and suitable type and general proportions of the structure, it was essential to undertake extended comparative design studies and cost estimate. While it is not possible, at the present time, to give reliable figures as to the total cost of the bridge, the studies so far made show conclusively that the location of the bridge on a line between 178th and 179th Streets, Manhattan and a corresponding point opposite, is the most economical and, in other respects, the most desirable, and that any of the other locations considered would involve an additional heavy cost.

The tentative design studies established further the desirability and economy of the suspension type of bridge. A very careful study has been made as to the feasibility of construction of a span of the unprecedented length of 3,500 feet, and it has been established beyond doubt, that its erection will encounter no extraordinary difficulties, or involve hazardous or untried operations.

Arthur Kill Bridges

Designs for the two bridges across the Arthur Kill, one from Perth Amboy to Tottenville and the other from Elizabeth to Howland Hook, were completed early in the year and formal application made to the War Department for permission to build. The pressure of work in the office of the District Engineer, Colonel Herbert Deakyne, held back arrangements for the customary public hearing and it was not until the end of July that the proponents and opponents of the projects were brought together to present their arguments.

Comparatively slight opposition was expressed to the Elizabeth bridge but a vigorous fight was made on the Perth Amboy project mainly by towing interests. The objections were directed to the placing of any piers in the waterway despite the fact that room was provided in the Port Authority plans for a much wider channel than is now maintained, together with room for two other channels of ample dimensions. The memorandum submitted by the Port Authority described bridge structures in many parts

of the world where water traffic is heavy, and sought to show that neither of the projected crossings would involve any unreasonable obstacle to navigation.

It was not until November 18, that the permit for the two bridges was received from the War Department, which had approved the Port Authority plans in every respect. Work was immediately started on the final test borings, negotiations were opened with railroad companies whose yards must be crossed by the bridges and with other property owners from whom rights of way were sought, and conferences held with city officials to settle the plans for the approaches. In addition the detailed bridge plans were gotten under way so that final estimates of materials and construction might be in readiness. The expenses of these activities were met out of the funds provided for study purposes. The Port Authority Commissioners felt they should not draw upon the advances made by the States until the sale of the bonds had assured the full amount of funds necessary for the two bridges.

The Commission has had advice, with regard to the issuance of its bonds, from a special Finance Advisory Committee headed by a former Chairman, Eugenius H. Outerbridge, and made up of leading bankers of New York and New Jersey. In determining the time for the issuance and sale of its bonds, the form of the bonds and other matters, it has freely consulted this committee. In order to safeguard the public upon the legal phases of the bond issue, it deemed it desirable to retain Honorable Charles E. Hughes, ex-Justice of the United States Supreme Court, and one of the recognized leaders of the American bar, to examine into the question of the Port Authority's power and to determine whether or not the bonds, when issued, would be lawfully issued and would be tax exempt. The very careful opinion of Judge Hughes is made a part hereof as Appendix.

When the moneys resulting from the sale of bonds shall be in hand, the formal invitation of bids and the letting of contracts for actual construction can proceed rapidly.

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Manhattan's West Side Problem

It became the duty of the Port Authority during the year, to remind railroad officials and others of the fact that the Comprehensive Plan governed extensions of and other changes in freight facilities within the Port District. The occasion was the announcement of plans for the electrification of the New York Central's freight tracks on the West Side of Manhattan Borough and their relocation so as to do away with operations at grade. The President of Manhattan Borough, the Hon. Julius Miller, considered an arrangement whereby the elevated structure proposed by the railroad company could be combined for part of the distance with a motor express highway which he felt would greatly reduce vehicular congestion in the streets.

The Port Authority expressed no objection to the plans proposed in so far as they related solely to physical changes in the tracks and existing yard facilities from Thirtieth street, north. It saw no reason for doubting that Borough President Miller's plan for a motor express highway might be accomplished without interfering with the Comprehensive Plan. But it felt that bringing the Central's rails below 30th street would involve a capital expenditure for which there was no economic excuse and which might find its reflection sometime in higher freight rates. Furthermore it believed that the Central's plan should take cognizance of and be in harmony with the provision of law for union freight terminals in Manhattan, as outlined in this report, open to all railroads and to all shippers. This is the system provided for in the Comprehensive Plan and must be considered as the law so far as the Port District is concerned, and it is this law which the Port Authority must effectuate as rapidly as economically practicable. The Commissioners of the Port Authority take the position that the plan for the West Side should be considered as one relating to the entire Comprehensive Plan and not as one relating to Manhattan alone.

The New York Central Railroad has indicated that it

desires new facilities. The Commissioners take the position that these new facilities must be in harmony with the Comprehensive Plan. To grant the New York Central Railroad new facilities would merely strengthen the advantages now enjoyed by the company, without corresponding advantages to the shipper. Manhattan requires the service of all the trunk line carriers, not of one alone, and while the New York Central facilities need improvement, it is the view of the Commissioners that no new grant should be made except in harmony with the Comprehensive Plan.

At the time this report is prepared the officials of the New York Central Railroad, who were requested to confer with the Commissioners of the Port Authority on this matter, have still failed to accept the invitation of the Commissioners to confer. Responses to questions put by Commissioners of the Port Authority have not been either promptly or fully made. Criticism by the Commissioners of the proposals of the New York Central has resulted in the challenge by the New York Central of the jurisdiction of the Port Authority under the Walker Law, Chapter 623 of the Laws of 1924, under which the Port Authority conducted its hearings in the Hell Gate Bridge Case.

This attitude on the part of the New York Central Railroad is to be regretted, and it is hoped that the officials will presently realize that it is the will of the two states and of Congress that the carriers unite, as was said by the Interstate Commerce Commission in the New York Harbor Case, "in a common effort to solve in a larger way a problem whose solution can never be attained as long as the present policy of unrestrained competition is continued."

New Freight Facilities at Long Island City

Coincident with the proceedings instituted to open the Hell Gate route between Long Island and the West and North, the Long Island Railroad Company announced plans for the building of new float bridges at Long Island City so as to add to the facilities for transporting freight to and from its territory. The float bridges with addi-

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tional tracks and other facilities were completed during 1925, at an estimated cost of \$1,250,000.

The fog, ice and storm conditions in New York Harbor lead to great delay in service and require an all rail access from the West to Long Island. The new facilities will relieve but will not be a satisfactory substitute for the all rail route. Belt Line No. 1, as planned, is to connect the New Jersey mainland with Long Island by tracks built in a tunnel from Greenville to Bay Ridge under New York's Upper Bay. Ultimately a large proportion of the tonnage from the West and South arriving via all New Jersey railroads will seek this route to Long Island. But this tunnel is not to be constructed immediately, and even if constructed will justify the all rail route over the Hell Gate Bridge.

A very heavy tonnage, constituting the interchange between the Pennsylvania Railroad on the west and the Long Island and New Haven Railroads on the east is served by carfloat service between Jersey City and Bay Ridge. It would not be wise to construct costly works at Bay Ridge to accommodate the additional combined tonnage of all the New Jersey Railroads to meet temporarily needs that will ultimately be met by the Greenville-Bay Ridge tunnel. The new facilities of the Long Island Railroad at Long Island City fit this temporary need. They permit diversion of sufficient tonnage to relieve congestion on the Greenville-Bay Ridge route until the time when the tunnel under the Upper Bay shall be constructed and in operation. Nevertheless, these facilities at Long Island City fail to provide an immediate all rail route to Long Island. To accomplish the opening of the Hell Gate route, proceedings have been instituted before the Interstate Commerce Commission and the Public Service Commission of New York as stated elsewhere.

Carfloatage and Lighterage Studies

The studies of carfloatage and lighterage operations which have been carried on jointly by the Port Authority

and the Committee of Railroad Executives are approaching the point where some definite conclusions can be reached.

The importance of railroad marine operations in New York Harbor can be appreciated from the fact that in 1923, 36,771,000 tons of freight were handled by various types of equipment. This tonnage was made up of interchange by carfloat between railroads, lighterage to and from vessels and deliveries to and pickups from pier stations, as follows:

Service	Tons	Percent
Interchange between rail carriers.....	17,111,659	46.5
Handled by lighter to and from ship.....	12,161,722	33.1
Pier station delivery and pickup.....	7,497,622	20.4
Total	36,771,003	100.

To move this huge tonnage a large fleet of tugs, steam lighters, carfloats, barges and lighters is required.

During the peak of traffic movement for the nine roads considered in the studies, 105 tugs and 1,413 other craft of all descriptions were operated. In addition to these units of their own equipment the railroads chartered in this period 4 tugs and 417 barges and lighters, and paid out an average of \$6,475.00 per working day for extra job towing.

The purpose of the studies, which are not yet complete, has been to ascertain the cost of service and the economies possible to effect through closer coordination of marine operations.

The extent to which consignees and shippers make exceptional demands upon the carriers for quick lighterage deliveries has been studied, and, somewhat contrary to expectations, it has been found that of all orders for steamship delivery less than 25 per cent require delivery before the second morning following the lodging of the order, and only 2 per cent require delivery before the morning after the day when the order is lodged. This may indicate that

quick delivery service will not suffer materially, if consolidated operations are deemed advisable.

On eastbound lighterage business during the period for which the study was made 89 per cent of all the orders placed were for delivery to steamship piers. There was an average lapse of time between the mailing of arrival notice to consignee, which is done immediately after the arrival of the car, and the actual arrival of the freight at ship side of 4.4 days. Of this time 2.4 days were consumed by the consignees before lighterage orders were placed with the railroads, and 2.0 days were consumed by the railroads in effecting delivery. Of the two days used by the railroads in effecting delivery 1.2 days lapsed between the time of receipt of orders and the assignment of a lighter to convey the goods. The rest of the time, averaging slightly less than one day, was taken to accomplish the actual delivery of the freight at ship side or dock. An analytical study to show whether or not any specific commercial practice is involved is now in progress.

In addition to studying the present requirements, performance, and cost of carfloating and lighterage in New York Harbor, the staff of the Port Authority has undertaken intensive analysis of the movements of each craft within a selected peak period for the purpose of ascertaining what economies may be accomplished through pooling of marine equipment. Such pooling might be accomplished in successive steps:

- (a) Central dispatching only:
- (b) Pooling railroad tugs and steam lighters only; and
- (c) Pooling of all railroad marine freight equipment.

Studies of central dispatching show some possibilities of eliminating tug efforts by having tugs of one carrier handle craft of another, but there appear to be no important economies in this step considered by itself.

The possibility of greater economies under a system of pooled towing equipment, with the setting-up of schedules for flotilla towing and a system of regional shifting areas, is now being considered.

Completion of the third phase of the analysis, the full

pooling of all marine equipment to secure heavier loading and reduction of empty trips, will take considerable time.

Protecting the Port

It was necessary in 1925 as in previous years, for the Port Authority to appear before the Interstate Commerce Commission, the Courts, and state bodies having supervision over carriers, to protect the communities of the Port District against the imposition of unreasonable freight charges or other measures which seemed likely to have an adverse effect.

Eastern Class Rate Case (I. C. C. Docket No. 15879)

The Port Authority intervened in this case with the object of protecting the Port in its rate relationships with other ports and for the purpose of securing equitable rate structures within and between the various communities composing the Port District.

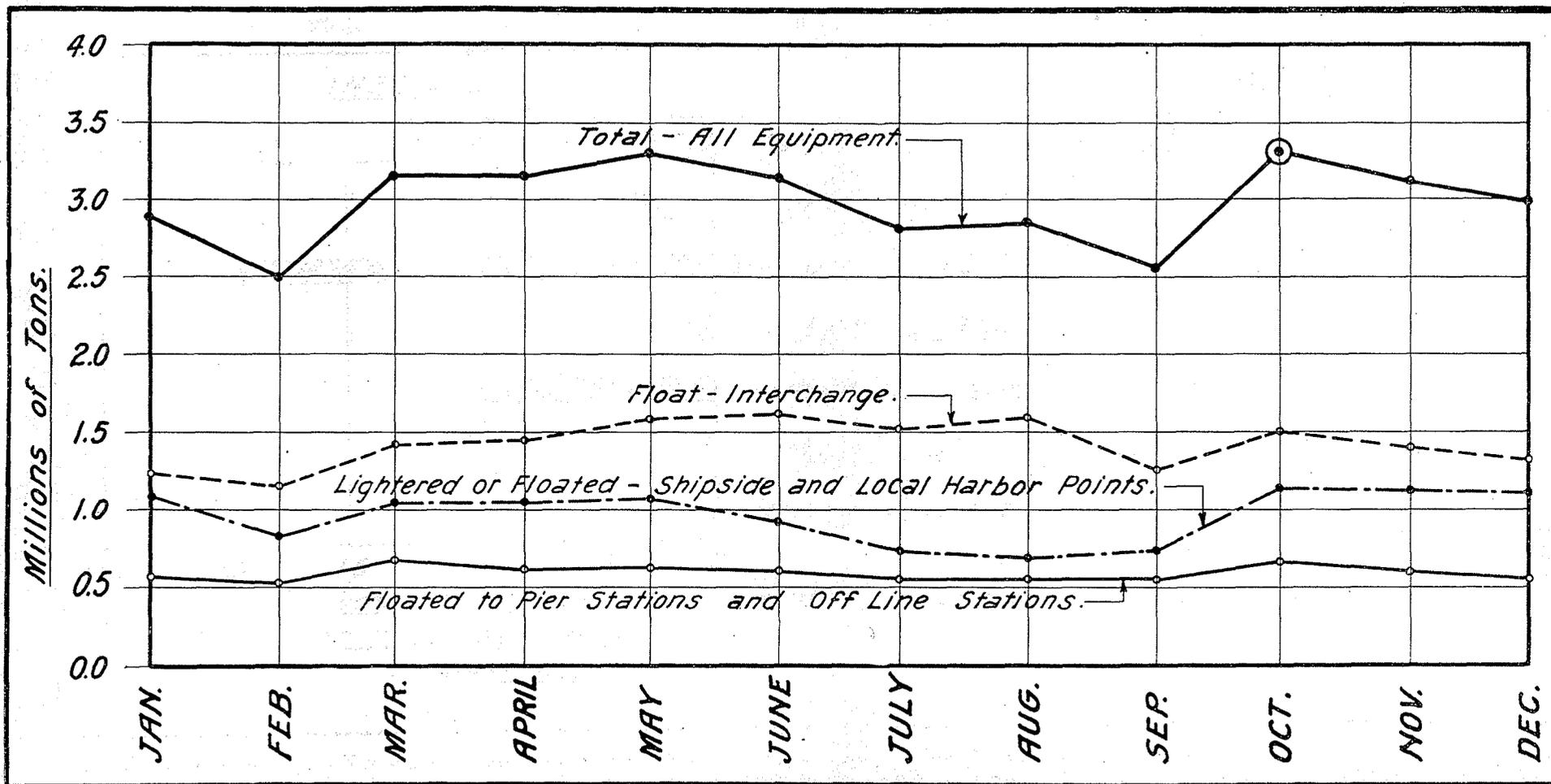
The first hearings were held in Washington, beginning February 4, when the carriers presented their proposals for constructing freight rates on a mileage basis between the Port of New York District on the one hand and New England, New York, Pennsylvania, New Jersey, Delaware and Maryland on the other.

Their proposed treatment of the Port of New York as a single community for rate-making purposes was entirely in accord with the principles upon which the Port Authority was founded. Accordingly, at the request of the Port Authority, the Interstate Commerce Commission held a hearing in New York on July 15-16, 1925, in order to give the port interests an opportunity to express their views.

The Port Authority's views as presented to the Commission in this case urged:

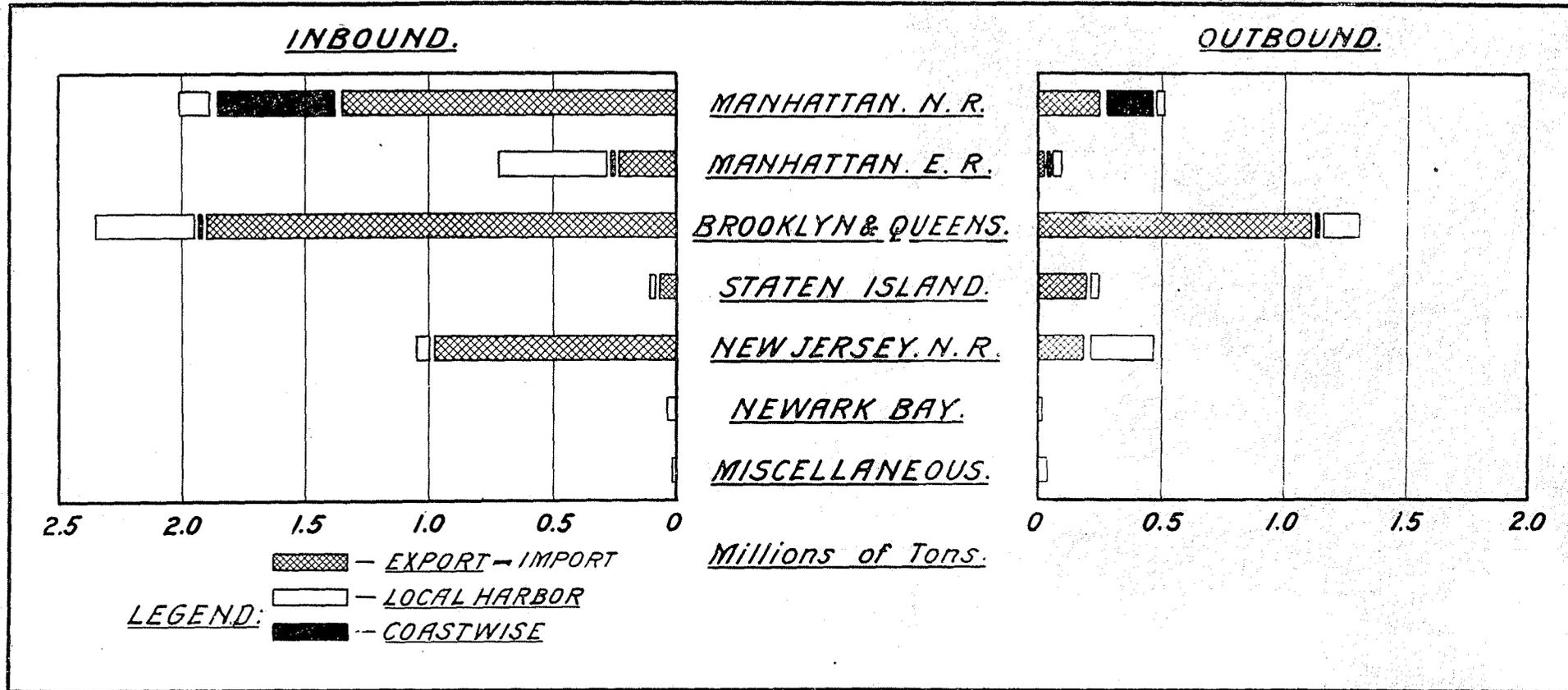
1. The adoption of the Port of New York District, (as defined by law), as a single industrial community in constructing freight rates from points more than 100 miles from New York Harbor.
2. That if mileage scales were to be adopted, all roads entering the Port District, whether from New England,

SEASONAL VARIATION IN TONNAGE HANDLED BY RAILROAD MARINE EQUIPMENT IN NEW YORK HARBOR — YEAR 1923



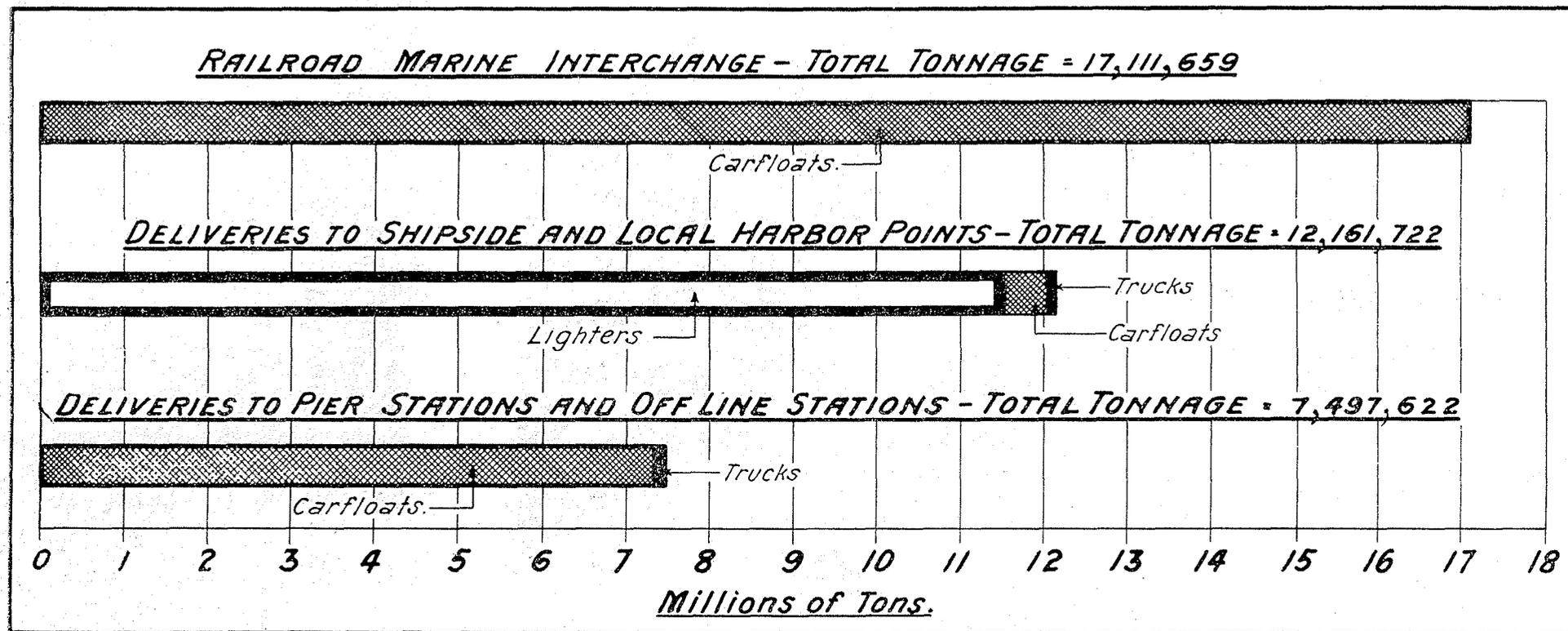
There are two months of peak activity in railroad marine operation, May and October. October, the total traffic for which is slightly higher, has been chosen as the period for study of possible economies in use of equipment.

DISTRIBUTION OF TONNAGE DELIVERED BY RAILROAD EQUIPMENT IN NEW YORK HARBOR — YEAR 1923



The railroads terminating in New Jersey interchange a large volume of freight with the New York, New Haven & Hartford, Long Island, and New York Central by carfloat. Another large tonnage is delivered to or collected from ship side for foreign or coastwise movement, or is lightered to and from industries on the water front. A third important traffic moves to and from pier stations and off-line yards for consignees and shippers in Manhattan, Brooklyn and the Bronx.

GEOGRAPHICAL DISTRIBUTION OF TONNAGE HANDLED BY RAILROAD LIGHTERS IN NEW YORK HARBOR — YEAR 1923 EXCLUDING COAL AND GRAIN



Of the tonnage handled by railroad lighters the bulk moves to and from the Manhattan and Brooklyn waterfronts. Most of the import and export traffic moves via Brooklyn. Coastwise trade is associated with the North River side of Manhattan. Local industries taking lighterage delivery predominate on the East River waterfronts of Manhattan, Bronx, Brooklyn and Queens.

or the west, should construct their rates to the Port District on the same bases.

3. That in constructing short-haul rates, all deliveries involving marine service, whether they involved subsequent additional rail service or not, within the Port District, should be on the same basis for all roads. The practical effect of this recommendation was that, for example, rates from Trenton, N. J., to Jersey City might fairly be lower than the rates to Manhattan, but the rates to Manhattan should be the same as the rates to Brooklyn and New York Lighterage points. Also, that from New Haven, Conn., the rates to the Bronx might fairly be less than the rates to Manhattan, but the rates to Manhattan should be the same as the rates to Brooklyn, Jersey City, and New York Lighterage.

4. That local rates within Belt Line 13 Territory in New Jersey should be on a "per car" switching charge basis, rather than on a linehaul, tonnage rate basis as the carriers propose. This is in accordance with standard belt line practices throughout the United States,—it being the Port Authority's position that as belt lines are established in New York Harbor, under the Comprehensive Plan, they should be equipped with real, belt-line, rate structures in order that they may function properly.

Subsequent to the New York hearing, the Interstate Commerce Commission held hearings at Boston and throughout the middle west. The case has now been adjourned until early in the present year, when further hearings will be held, presumably at Washington. It is the intention of the Port Authority at such hearings to present these views, to the end that whatever new rate structure may result from this general investigation, the Port of New York may receive fair and equitable treatment and may have a rate structure adaptable to its changing conditions and expanding interests.

Hell Gate Bridge Case, (Port Authority Docket No. 2)

Pursuant to evidence presented at public hearings held in September, October and December, 1924, under the

Walker Subpoena Investigation Act of the New York Legislature, the Port Authority, on February 13, 1925, announced its findings in the matter of the use of the New York Connecting Railroad (Port Authority Docket No. 2); which were, in fact, that the all-rail route of the New York Connecting Railroad between Oak Point Yard, (Bronx), and Fresh Pond Junction, (Long Island), was available and sufficient for the interchange of freight between the New York Central Railroad and the Long Island Railroad, and that its use in such interchange in lieu of the existing carfloat route was necessary in the public interest.

The specific findings were:

1. That the route of the New York Connecting Railroad from Port Morris, N. Y., to Fresh Pond Junction, N. Y., together with existing tracks and yards, is available and sufficient for the interchange of freight between the New York Central Railroad and the Long Island Railroad.

2. That the use of the said route in the interchange of traffic between the New York Central Railroad and the Long Island Railroad would avoid centers of congestion and realize economies in transportation costs.

3. That the use of the said route would insure a more direct routing of freight.

4. That the failure of the railroads to use the said route for the interchange of traffic between the New York Central Railroad and the Long Island Railroad is due, not to operating or traffic difficulties, but to the inability of the proprietary carriers to agree regarding the compensation for the use of the railroad facilities.

5. That the use of the said facility by the aforesaid railroad companies is now economically practicable and required in the public interest.

6. That the rapidly growing industrial section in the Borough of Queens necessitates the use of every available transportation facility, and that the mere disagreement of the carriers respecting their compensation for the use of the said facilities does not constitute a reason for denying the shipping public the fullest and freest use of the said route.

In view of the foregoing findings and conclusions, the Port Authority expressed the hope that the carriers would undertake forthwith voluntarily to open the route for the benefit of the shipping public, and to agree among themselves in the matter of compensation. The carriers were given thirty days to accomplish this. At the expiration of the allotted period, the carriers having failed to open the route, the Port Authority, petitioned the Interstate Commerce Commission for the exercise of its powers in furtherance of the Comprehensive Plan. Complaint was filed with the Interstate Commerce Commission, Docket No. 16923.

The preparation of this case for the Interstate Commerce Commission developed the fact that there was a very heavy interchange of freight between points in upper New York State and Brooklyn, Queens and other Long Island points. As this involved intra-state traffic falling under the jurisdiction of the Public Service Commission of New York, a supplemental complaint was filed with the latter body on December 5, embodying substantially the same points as in the proceeding before the Interstate Commerce Commission. The Public Service Commission promptly ordered the respondent railroads to file answers. The State and Interstate bodies will hear the case jointly as suggested by the Port Authority.

Maybrook Route Case (I. C. C. Docket No. 16721)

In January, 1925, the Central Railroad of New Jersey petitioned the Interstate Commerce Commission for the re-establishment of through rates and joint rates via New York Harbor between its line and the New York, New Haven & Hartford Railroad, in lieu of the existing route in effect via Maybrook, N. Y. and the Poughkeepsie Bridge. The Port Authority intervened in this case, recognizing that the complaint specifically brought into issue the routing of traffic through the Port of New York and the possible use of lines of railroad embraced in the Comprehensive Plan.

Public hearings were held in New York during July, at which the Central Railroad presented evidence supporting its contention that the New York Harbor route should be used in preference to the Maybrook-Poughkeepsie Bridge route; and the New Haven Railroad presented evidence to the effect that its New York Harbor terminals were being used normally to their ultimate capacity and that the additional traffic could not be handled through them.

The Port Authority called attention to the Hell Gate Bridge Case, (I. C. C. Docket No. 16923), then pending before the Commission, and pointed out that if the terminals necessary for the establishment of the Hell Gate Bridge Route were at present utilized to anything approaching their full capacity,—in part by traffic which was alien to the Port District,—that such part of this alien traffic as practically and economically could be diverted around the Port District should be so treated in order to provide sufficient capacity in existing terminals for handling the local service.

The Port Authority feels the evidence introduced in the Maybrook Case establishes that the facilities at Oak Point Yard are fully ample to take care of the traffic which would move over the Hell Gate Bridge, if the contentions in that case should be sustained, yet still permit the movement of New England interchange in considerable quantities; but that any proposition which would tend to increase alien traffic moving through the terminals involved in the Hell Gate Bridge Route, should be viewed with concern. The needs of the local communities in the Port District are so great that freight, alien to it in origin and destination, which can be routed via other natural gateways, without discrimination as between one carrier and another, should be so routed, so as to provide ample and adequate capacity in all local harbor terminals for handling the traffic, which must of necessity pass to, from or through this Port. Alien freight should not be permitted to interfere with the free and efficient use of local terminal

facilities in performing their primary function of giving adequate service to the communities within the port area.

This position was taken only with respect to conditions obtaining at the present time. The Port Authority expressly reserved the right to modify its attitude when additional or supplemental facilities, other than carfloat service should become available. Other things being equal, an all-rail route with bridge and tunnel crossings, as a general proposition, is favored in preference to a route involving water transfer.

A decision in this case may be expected early in 1926.

Wharfage Rates in New York City

It has been the custom for many years for lighterage concerns to pay wharfage charges to dock owners when delivering freight to steamships, or for steamships to public piers in New York Harbor. The rates for piers in New York City used for wharfs are fixed by the Sinking Fund Commission. In the spring of 1924, certain private concerns controlling piers raised their wharfage rates to practically double the amounts previously charged. In March, 1925, the Trunk Line Association representing the railroads gave notice of an intention to refuse to absorb lighterage charges in excess of \$1.00 per day per boat, the average charge previously prevailing.

The attention of the shippers of the Port District having been called to the situation by the Port Authority, a large number of them joined in vigorous protest against the proposed action at a hearing of the Trunk Line Association in June. Their ground of objection was that in addition to the cost of doing business in New York would place them in an unfavorable competitive position with the shippers of other ports, and that the expense of doing business through the Port of New York was already high enough. A determination of the Trunk Line Association to put into effect the new regulation, was followed by an appeal to the Traffic Executives of the railroads, made by a steering committee on which the Port Authority

was represented. The subject was referred back to the General Managers' Association which finally came to terms with the private dock owners and the matter was adjusted between the transportation interests without inflicting the proposed additional charges on the shipping public. The practical effect is the saving of a very considerable sum of money for our shippers.

The Port Authority was, on the 16th of November, 1925, permitted to intervene before the United States Circuit Court of Appeals for the Second Circuit in cases in which the New York Dock Company, the Bush Terminal Company and other dock owners were interested on the one side and tugboat and lighterage owners on the other. The dock owners asserted that they had the right to determine the rate and that the regulation by the Sinking Fund Commissioners was without authority, because their wharves were private wharves. The Port Authority took the position that these wharves, though privately owned and operated, were in their nature public in operation and that it was of vital consequence that the right to regulate such wharfage charges by the State of New York should be maintained in all respects. The Commissioners felt very strongly that if the contention of the dock owners were sustained all power of regulating port charges might be nullified. The case was argued on January 12th and 13th, 1926, and in the opinion of the Commissioners is one of the most important cases ever presented for consideration in the matter of regulating rates of port and harbor facilities.*

*Since the preparation of the foregoing report and while it was going to press the United States Circuit Court of Appeals, Judges Charles M. Hough, Henry Wade Rogers and Julian W. Mack, unanimously reversed the court below and sustained the contention made by the Port Authority. The opinion of Judge Hough contains the following:

"To summarize, we hold that libellants are private wharf owners; that they have the right to totally exclude the public from their wharves, but that all wharf owners are by the nature of their occupation subject to public regulation in the matter of price; New York has never regulated prices for the exclusive use of private piers or any portion thereof when reached by private bargain. A private wharf owner who invites everyone to come to his wharf and use it

Railroad Marine Operations

The Panama Canal Act of 1914 required all rail carriers, then operating water lines, to show cause why such lines should not be divorced from their railroad parents. All carriers entering New York Harbor forthwith filed applications to the Interstate Commission to continue the operation of their tugs, lighters and carfloats. They took the position that the Panama Canal Act did not apply to New York Harbor services of the railroad companies, as these were simply extensions of the rail lines.

The Port Authority intervening, took the position that it would be ruinous to the Port of New York if the Commission should require the carriers to abandon marine operations therein, and informed the Commission of the joint studies being made with the carriers to determine what economies might be effected in the operation of harbor services through consolidation.

The Interstate Commerce Commission made its findings on July 11, 1925, holding that it was without jurisdiction, in view of the fact that the carriers had not brought the harbor service within the terms of the Panama Canal Act.

at his own price is conducting a business plainly affected by public use and peculiarly subject to regulation. This business has been regulated by New York, and that regulation affects libellants."

Discussing the right to regulate for wharfage, Judge Hough said:

"The right of regulating rates is recognized generally as a sovereign power, either by the nature of the estate as a franchise, or the nature of the occupation as being affected by a public interest. * * * we hold these private wharf owning libellants hold a species of franchise from the State of New York by which alone they possess the right to charge wharfage, that the maintenance of a wharf whether used for the storage of goods or for mooring purposes or both is in New York as elsewhere an occupation, in Hale's still modern phrase 'affected with a public interest' and therefore subject to rate regulation by that public."

"If a wharf owner offers his conveniences to the public, if for a uniform price of his own fixing he offers service to all, he is in effect a public servant, and his wharf public. He cannot have his cake and eat it, nor behave like a public wharfinger, yet remain immune from that regulation which admittedly affects owners of public wharves, and which we hold affects all wharves offered to the public."

This decision will have a very important bearing on the unification of carfloat and lighterage facilities within the harbor, and we look forward to its application in many fields of the Port Authority's work.

The Commission found that the harbor services "are equivalent to necessary extensions of the rail lines."

Extra Towing Charges

On July 14, 1925, the Trunk Line Association made public a proposal calling for increases in the charges, which had been in effect for years, for towing beyond "free lightering limits" in New York Harbor. At a public meeting held early in September the proposed increases were defended on the ground that the rates of the independent towboat owners, with whom the carriers contracted for this service had been materially advanced. At the suggestion of the Port Authority committees representing the shippers on one side and the carriers on the other, were appointed, and these bodies, conferring from time to time during the fall, went into the whole situation thoroughly. The upshot was an agreement, mutually satisfactory, on new rates for this service, which will go into effect early in the current year.

Food and Marketing Studies

Several important phases of the food marketing studies carried on jointly by the Port of New York Authority and the United States Department of Agriculture were concluded during the year. The results of a comprehensive survey of the costs of city distribution, carried on over a period of fourteen months were published in an illustrated pamphlet which received wide circulation. This report showed a large spread between the wholesale and retail prices of fresh fruit and vegetables, and allocated the spread between the physical costs of terminal handling, trucking, and other distribution costs, such as spoilage and retail services.

The specific needs of the port area for better physical handling facilities were further emphasized in a second pamphlet, entitled "Produce Terminal Requirements in the New York Area." This report outlined the principles of produce terminal location and design upon which the Port Authority will proceed in carrying out improvements.

In the report on "An Improved and Economic Freight Service for Manhattan" concrete application of these principles was made in the proposal for a universal carfloat station for fruits and vegetables to provide immediate relief for this traffic.

The comprehensive survey of city distribution costs made clear the importance of other elements than mere physical terminal handling. The influence of habits of buying upon the large item of retail costs indicates the necessity of working with retailers and consumers for reduction of waste in superfluous service and excessive spoilage. In like manner, the need is made apparent for cooperating with shippers, carriers and receivers in more intelligent direction of shipments in order that wide price fluctuations and physical waste in times of over-supply may be minimized.

To carry on more effectively such cooperation, the scope of the work was enlarged by the formation on July 1, of the New York Food Marketing Research Council. This Council, composed of not only the Port Authority and U. S. Department of Agriculture but also New York State College of Agriculture, New Jersey Agricultural College, Columbia University School of Business, and the New York State Department of Farms and Markets, maintains its headquarters in the offices of the Port Authority. Its aim is to coordinate the activities of the member organizations in order to keep up a continuous attack on marketing problems in this area and to inform producers, carriers, dealers and consumers of methods of reducing waste in distribution. Studies are now being made by several agencies, both public and commercial, with the help of the Council. Among the more important subjects under scrutiny are the costs of operation of wholesale and jobbing produce merchants in New York City, the extent and costs of spoilage in perishable retailing, the factors influencing demand for peaches, apples and live poultry, and the cold storage facilities and requirements in the port district. Through this agency for the stimulation of fact finding and the

exchange of information, it is believed that much greater progress will be made in improving the whole system of food distribution within the Port of New York area.

Miscellaneous Activities

In accordance with the custom it has adopted, the Interstate Commerce Commission in July, referred to the Port Authority applications for certificates of public convenience and necessity permitting the construction and operation of an extension of the Lehigh Valley Railroad's National Dock Branch in Bayonne, southerly to a junction with the East Jersey Railroad and Terminal Company. An examination of the plans showed that the extension would mean an extension of Belt Line 13 and would give to the industries served by the East Jersey Railroad & Terminal Company a direct connection with that line which they did not enjoy, the service being confined to that of a single trunk line in the Bayonne District. The Commissioners advised the Interstate Commerce Commission that the proposed construction was, in their opinion, practicable, in line with the Comprehensive Plan and in the public interest. The Interstate Commerce Commission followed the recommendation of the Port Authority.

Plans for the double track connection between the main line of the Lackawanna Railroad and its Morris and Essex division running from Kingsland to Harrison, together with the lay-out of a new freight yard in Kearney, were also examined by the Port Authority and approved. The engineering staff found that the projects did not conflict with the Comprehensive Plan but made valuable additions to the freight facilities of the Port District.

The staff conducted investigations into complaints alleging unreasonable delays in trucking service to and from piers in Manhattan; into the feasibility of establishing a lumber terminal with railroad connections on the East River shore front for the particular service of Brooklyn and Long Island; and in a number of other matters of kindred character; and service was given by the staff on

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the Advisory Traffic Committee of the New York State Barge Canal Survey Commission and on a number of unofficial bodies.

Appearances before commissions and legislative bodies have been many. By invitation, the Chairman appeared before the Joint Committee on Grade Crossings of the New York Legislature and discussed the relationship of the West Side problem on Manhattan to the Comprehensive Plan. Memoranda and briefs were later submitted outlining the position of the Port Authority as indicated in this report under the heading "Manhattan's West Side Problem." The Chairman also appeared before the Joint Survey Committee of the New Jersey Legislature, advising them of the position of the Port Authority with regard to the bridges.

Appearances were made by Counsel to the Port Authority, its Chief Engineer, or both, before the New York Transit Commission, the Board of Transportation of New York City and other public bodies.

New Jersey Legislation Needed

Article XIX of the Port Compact or Treaty provides as follows:

"The two states shall provide penalties for violations of any *order, rule or regulation* of the port authority, and *for the manner of enforcing the same.*"

New York State has complied with this Article. Chapter 623 of the Laws of New York, 1924, provides methods of enforcing the orders of the Port Authority by the courts of the State and gives to the Port Authority the power of subpoena, enforceable in the courts. In the Port Compact, each state, of course, preserved its own sovereign jurisdiction and the right to select the courts which were to aid the Port Authority and to determine the basis upon which such jurisdiction was to be exercised. Article XX provides:

"The territorial or boundary lines established by the agreement of eighteen hundred and thirty-four, or the *jurisdiction*

of the two states established thereby, shall not be changed except as herein specifically modified."

Notwithstanding this clear separation of the powers of the States, the New York Central Railroad has taken the position that Chapter 623 of the Laws of New York, 1924, is not in effect because it has not been concurred in by New Jersey. In a brief submitted to the Joint Grade Crossing Committee of the New York Legislature it argues:

"THE ACT OF THE STATE OF NEW YORK OF MAY 5, 1924 (CHAPTER 623 OF THE LAWS OF THE STATE OF NEW YORK OF 1924), PURPORTING TO MAKE THE PORT OF NEW YORK AUTHORITY AN ADMINISTRATIVE BODY, IS NOT IN EFFECT.

"On May 5, 1924, the State of New York amended its Act of February 24, 1922, by which former act, as therein stated, 'The State of New York agrees with the State of New Jersey upon the comprehensive plan for the development of the Port of New York pursuant to the compact authorized by the two states and signed April 30, 1921, and consented to and approved by Congress,' etc. This amendatory Act purported to enlarge the powers of the Port Authority by making it, in certain respects, an administrative body authorized to hold hearings, subpoena witnesses and enter orders in respect of the comprehensive plan.

"The State of New Jersey failed to enact similar legislation.

"Article III of the compact between the two states enacted by their respective legislatures, which is the charter of the Port Authority, provides that it 'shall be a body corporate and politic having the powers and jurisdiction hereinafter enumerated and such other additional powers as shall be conferred upon it by the Legislature of either state concurred in by the Legislature of the other, or by act or acts of Congress, as hereinafter provided.' (Italics ours.)

"Article VII contains the same limitations with respect to conferring additional powers.

"The compact thus entered into required as hereinbefore shown, the consent of Congress and, as heretofore said, the consent so given by the Congressional Joint Resolution of August 23, 1921, was 'to the said agreement, and to each and every part and article thereof.' The subsequent acts of

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the two legislatures agreeing upon the comprehensive plan were likewise a compact requiring for their validity the consent of Congress, which was duly given by Joint Resolution approved July 1, 1922.

"It thus appears that the parties to the compact (the two states) have agreed, and Congress has so sanctioned, that the powers of the Port Authority shall not be enlarged without their concurrence. It follows from the provisions of Article III of the compact, above quoted, that the Act of the State of New York of May 5, 1924, is in abeyance unless and until it shall have been concurred in by the Legislature of the State of New Jersey and approved by Congress. This is so clear as not to call for extended comment."

In proceedings brought before the Public Service Commission in New York to carry into effect an order made by the Port Authority in regard to the use of the Hell Gate Bridge, the New York Central Railroad takes the position that the Port Authority's order is without any legal authority.

While the Commissioners do not agree with this view, it is desirable to clear up the point. That the State of New Jersey should give the Port Authority similar powers in New Jersey seems to us to require no extensive argument. In our report for 1925 we said:

"The Legislature of New Jersey is requested to complement the act of New York in order that the Port Authority may not be left to such voluntary information as the carriers in the jurisdiction of New Jersey may choose to give, or to such proceedings as it may institute before the Interstate Commerce Commission.

"Without this power of investigation in New Jersey, the Port Authority will be hampered in its work of securing the essential facts necessary in building up the proof that any step for effectuating the Comprehensive Plan is 'economically practicable.' Under the Constitution, this can only be done after public hearing and the receipt of evidence. To make such determination without the power of subpoena, as in the case of Belt Line No. 13, up to the point where the carriers submitted their cases, resulted in costs to the two states in the proceedings alone, of more than \$50,000. The basic

data had to be secured from the books of the carriers themselves, and but for the cooperation of the carriers and the interposition of the Interstate Commerce Commission when one carrier consistently refused to give the Port Authority any information, this would have been impossible. The law now on the Statute Books of New York is modeled after the Public Service Commission Law in New York, the Interstate Commerce Act and the general procedural provisions of all similar statutes.

"The New York statute includes the power to apply to the Courts for injunction or mandamus. This power the Port Authority already possesses, but it should be explicitly stated in the act.

"In order to avoid litigation, these processes of law are necessary, not for the purpose of compelling all the carriers to comply with the provisions of the Comprehensive Plan, but in order that those who are already cooperating shall be encouraged by the knowledge that those who might not be inclined so to do can be brought to agreement by process of law."

We repeat this recommendation.

The Port District, its Problems and Prospects

The problems connected with the handling of freight in the Port of New York District are by no means impossible of solution. The district possesses so many advantages, some natural, some the result of initiative and enterprise, that there has been a tremendous concentration of industry and commerce within its boundaries and an unparalleled intensification of business activity. These conditions have resulted in placing a burden upon the transportation facilities to which they are inadequate. Even so the advantages of doing business within the district so far outweigh the disadvantages that a vast volume of new enterprises constantly seeks location and established enterprises constantly exhibit expansion.

The transportation facilities themselves are extensive, but they have been constructed with the interest of the individual corporation in view and the spirit of competition has served to limit their usefulness. The problem therefore is one of coordination and adjustment, of linking

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together the transportation facilities so that they may serve not merely their districts or neighborhoods, or their own particular groups of shippers, but the whole business public. Some sacrifice of individual advantage may be required in this process but the benefits will be shared by the railroads as well as their patrons.

Behind the Comprehensive Plan and underlying all of its principles is the simple factor of linking up all the terminal facilities within the Port District so that shippers may have available the services of all of the transportation agencies entering the district and the transportation agencies may reach all the shippers of the district. As the plan advances further in realization, it is natural that industries will seek those locations within the district which offer the greatest advantages. The result will be a wider distribution of industries and the elimination of congested centers. The result of this will be a regrouping of populations, with better housing accommodations and an easier solution of the great passenger transit problems within the district. Parts of the district whose possibilities are scarcely realized today will undoubtedly become great and important centers of industry and commerce, and those which have already shown enterprise and initiative will be improved.

In the realization of the Comprehensive Plan the benefits will be distributed over the whole area. It is not too much to say that every community and every inhabitant of the Port District has an immediate and direct interest in the realization of the Comprehensive Plan.

We have the honor to remain,

Respectfully,

The Port of
New York Authority

{ JULIAN A. GREGORY,
JOHN F. GALVIN,
FRANK C. FERGUSON,
OTTO B. SHULHOF,
SCHUYLER N. RICE,
HERBERT K. TWITCHELL,
Commissioners.

APPENDIX

[43]

THE PORT OF NEW YORK AUTHORITY

OPINION OF HONORABLE CHARLES E. HUGHES COVERING
THE VALIDITY OF THE ORGANIZATION OF THE PORT
OF NEW YORK AUTHORITY, ITS POWERS AND IMMUNI-
TIES, AND THE STATUS OF THE BONDS TO BE ISSUED
BY IT FOR THE CONSTRUCTION OF THE BRIDGES FROM
NEW YORK TO NEW JERSEY OVER THE ARTHUR KILL,
STATEN ISLAND.

NOVEMBER 10, 1925.

HON. JULIAN A. GREGORY,

Chairman, The Port of New York Authority:

SIR:—In response to the request for my opinion upon questions relating to the validity of the organization of The Port of New York Authority, its powers and immunities and the status of the bonds to be issued by it for the construction of the bridges over the Arthur Kill, I beg to say:

The Port of New York Authority is a public corporation created by a Compact between the States of New York and New Jersey with the consent of the Congress of the United States. Its creation was due to the need of the co-operation of the two States in the development and co-ordination of the terminal, transportation and other facilities of commerce in the territory in and around the port of New York. The Compact was authorized by Chapter 154 of the Laws of 1921 of the State of New York, and Chapter 151 of the Laws of 1921 of the State of New Jersey, and was approved by Joint Resolution of the Congress of August 23, 1921.

The Compact established a "Port of New York District" consisting of defined territory. It created "The Port of New York Authority" consisting of six commissioners, three from each State. The port authority was constituted as a body, corporate and politic, with authority to purchase, construct, lease and/or operate any terminal or transportation facility within the district, and to make charges for the

use thereof, and for any of such purposes to own, hold, lease and/or operate real or personal property, to borrow money and secure the same by bonds or mortgages upon any property held or to be held by it. These powers were not to be exercised until the legislatures of both States should have approved a Comprehensive Plan for the development of the port. It was also provided that the port authority should have such additional powers and duties as might thereafter be delegated to or imposed upon it from time to time by the legislature of either State concurred in by the legislature of the other State. Power was also granted from time to time to make plans for the development of the district supplementary to or amendatory of any plan theretofore adopted, and such plans, when approved by the legislatures of the two States, were to have the same effect as if incorporated in the Compact. Each State made provision for the appointment of Commissioners (N. Y. Laws of 1921, Chap. 203; N. J. Laws of 1921, Chap. 152).

In 1922 the legislatures of the two States approved the Comprehensive Plan of development and specifically granted power to the port authority to carry it out (N. Y. Laws of 1922, Chap. 43; N. J. Laws of 1922, Chap. 9). The consent of Congress to the execution of the Comprehensive Plan was given by the Joint Resolution of July 1, 1922.

In 1924 express authority was given by the legislature of each State to the port authority to construct, operate, maintain and own, two bridges, with the necessary approaches; one across the Arthur Kill, between Perth Amboy on the New Jersey side and Tottenville on the New York side (N. Y. Laws of 1924, Chap. 230; N. J. Laws of 1924, Chap. 125); and another bridge across the Arthur Kill, between Howland Hook, Staten Island on the New York side, and Elizabeth on the New Jersey side (N. Y. Laws of 1924, Chap. 186; N. J. Laws of 1924, Chap. 149). With respect to each bridge, power was granted to acquire property by condemnation proceedings. By a Joint Resolution of March 2, 1925, Congress gave its consent to the construction, maintenance and operation of these two

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bridges, in accordance with the provisions of the Act of Congress of March 23, 1906. It was provided in this act that construction should be commenced within three years and the bridges should be completed within six years from the date of the passage of the Act and that, in default thereof, the authority granted should cease and be null and void.

In each of the Acts of the State Legislatures authorizing the building of these bridges provision was made as to the issue of bonds by the port authority as follows:

“Sec. 4. The said bridge shall be built and paid for in whole or in part out of moneys to be raised by the port authority on bonds or other securities or obligations issued or incurred by it pursuant to article six of the said compact or treaty. The said bonds or other securities and any other obligations which the port authority may incur shall be issued and incurred upon such terms and conditions as the port authority may deem proper. As security therefor the port authority is authorized and empowered to pledge the revenues and tolls arising out of the use of the bridge until such time as the sums borrowed therefor are fully amortized and repaid.”

In aid of the construction of the bridges, the legislature of New York appropriated \$800,000 to be paid in two annual instalments of \$400,000 each (one instalment to be available during the fiscal year beginning in 1925, and the other during the succeeding fiscal year). It was also provided that during the three succeeding fiscal years, the Commissioners of the New York State Bridge and Tunnel Commission, constituted by Chapter 178 of the Laws of 1919, should pay over to the port authority \$400,000 in each year from the tolls and charges collected for the use of the tunnels constructed by the commission to the extent that such sum should be available after payment of expenses of maintenance and operation and the deduction of New Jersey's share of the surplus, as stated. The intent of the act, as set forth, was that a fund of \$4,000,000 should be made available to the port authority as an advance for the con-

struction of the two bridges, one-half to be provided by each State (Laws of N. Y. 1925, Chap. 210). In the same year the legislature of New Jersey appropriated for the same purpose \$2,000,000, payable in five equal annual instalments (Laws of N. J. 1925, Chap. 37). Each of these acts provides as follows:

“The balance of the money needed for the construction of the said bridges and incidental purposes shall be raised by the port authority on its own obligations secured by the pledge of the revenues and tolls arising out of the use of the said bridges, all in accordance with the provisions of the laws authorizing and governing the construction and operation of the said bridges.

As security for obligations so issued and the moneys so appropriated, the revenues and tolls arising out of the use of the said bridge shall be pledged to the repayment of the entire issue of bonds and other securities for the construction thereof, together with the interest, and the repayment of the moneys appropriated by the state; it being the declared policy of the state that the said bridges, so far as the payment of the bonds or other securities issued for the construction thereof, together with the repayment of the moneys advanced by the state, shall in all respects be self-sustaining.”

On consideration of the provisions of the Compact and of the legislation to which I have referred, I have reached the following conclusions:

FIRST: The Compact between the States of New York and New Jersey is valid and in effect.

The Compact was duly authorized by the legislatures of the two States and the consent of the Congress was given to it. There can be no doubt that the Compact falls within the provision of subdivision 3 of Section 10 of Article I of the Federal Constitution, permitting Compacts between States with the consent of Congress. It does not constitute

"a treaty, alliance or confederation" within the meaning of the prohibition of subdivision I, Section 10, Article I, but falls within the class of "compacts and agreements" under subdivision 3 as it relates to the terminal, transportation and other facilities of commerce within the district, and thus belongs to the category of internal regulations for the mutual comfort and convenience of states bordering on each other (2 Story on the Constitution, Sec. 1403; *Virginia v. Tennessee*, 148 U. S. 503, 519). The exercise of authority under the Compact is necessarily subject to the control of Congress over interstate commerce, and in the Joint Resolution giving the consent of Congress, there is express provision that nothing in the Compact "shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of said agreement."

The Comprehensive Plan upon which the exercise of the powers granted to the port authority was conditioned by the Compact was duly approved by the legislatures of both States and received the consent of Congress. Commissioners have been duly appointed and the Compact must be regarded as effective and the port authority as duly constituted.

SECOND: The Port of New York Authority created by the Compact is a public agency of the two States.

The port authority is manifestly not a private agency. It is established for public purposes. These purposes relate to the development of terminal, transportation and other facilities of commerce in the port of New York. The port authority consists of commissioners appointed in the manner defined by the legislatures of the two States; that is in the case of New York, by the Governor, with the advice and consent of the Senate, and in the case of New Jersey, directly by the legislature in the first instance and thereafter, as vacancies occur, by the Governor with the advice and consent of the Senate. The authority to be exercised, as shown by the Compact, the Comprehensive Plan, and the supplementary legislation, is a public authority; that is it

is an authority granted by the legislatures and to be exercised on behalf of the public by representatives of the States. The power of the States to establish public agencies for harbor improvements, for drainage and reclamation purposes, to aid navigation and to provide facilities for commerce is not open to question. (*County of Mobile v. Kimball*, 102 U. S. 691; *Minnesota Rate Cases*, 230 U. S. 352, 403, 404; *Houck v. Little River Drainage District*, 239 U. S. 254, 261, 262; *Milheim v. Moffat Tunnel Improvement District*, 262 U. S. 710, 717.)

The port authority is none the less a public instrumentality because it is the instrumentality of two States instead of one. Each State has the constitutional power to establish an instrumentality of this character and each State has the constitutional competency, with the consent of Congress, to enter into a compact with another State to establish a similar joint instrumentality. The Port of New York Authority must be regarded as validly constituted as the competent public agency of both States.

THIRD: The port authority has been duly authorized to build the two bridges over the Arthur Kill. This authority is given in express terms by the legislation to which I have referred, and Congress has duly given its consent. This consent is still operative as the time allowed for the beginning of the construction of the bridges has not expired.

The authority to acquire property for this purpose and, if necessary, to institute condemnation proceedings, is expressly granted, and as the purposes are public purposes, the authority must be deemed to be validly granted.

FOURTH: The moneys required for the construction of the bridges are to be derived from moneys made available by the legislative action of the two States and by bond issues.

The two States have enacted legislation providing for \$4,000,000, or \$2,000,000 each. The action of each State is conditioned upon an equal amount being made available by the other.

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The appropriation of \$2,000,000 made by New Jersey is to be paid in five annual instalments of \$400,000 each. While the appropriation bill was pending in the legislature of New Jersey, the Attorney-General of the State, upon the request of its Governor, gave his opinion, under date of March 5, 1925, that the port authority is a municipal corporate instrumentality of the States of New York and New Jersey, and as such, is legally a proper body to receive appropriations made by the legislature for its legitimate purposes; that the legislature could make a definite appropriation to the objects of an instrumentality of the State; that there was no requirement that the money appropriated must be actually in hand, and that if an appropriation were made, there would be no debt or liability of the State created or the loan of the credit of the State within the prohibition of the Constitution of the State. The Attorney-General also said that in his opinion if under the solemn agreement made between the two States, the appropriation of \$2,000,000 were actually made, it would be beyond the power of a succeeding legislature to repeal such appropriation, as the repealer would be void as an impairment of contract forbidden by both the Federal and State Constitutions. The Attorney-General relied upon the authority of the Supreme Court of the United States in *Greene v. Biddle*, 8 Wheat. 1, and of the Supreme Court of California in *McCawley v. Brooks*, 16 Cal. 11.

The Legislature of New York, as already stated, appropriated \$800,000 out of the State Treasury, that is \$400,000 for each of the first two fiscal years beginning July 1, 1925, and it was provided that \$1,200,000 should be paid over the next three succeeding fiscal years in instalments of \$400,000 each from tolls and charges collected for the use of the vehicular tunnel being constructed by the New York State Bridge and Tunnel Commission. The Constitution of the State of New York provides that neither the credit nor money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking (Art. VIII, Sec. 9; See also Art. VII, Sec. 1). This prohibition is not applicable as the port authority is a public agency cre-

ated for public purposes. It is also provided in the State Constitution that no money shall be paid "out of the treasury of the State or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law, nor unless such payment be made within two years next after the passage of such appropriation act" (Art. III, Sec. 21). There is no difficulty so far as the appropriation out of the treasury for the first two years is concerned. The provision for the other payments has been made on the assumption that the moneys described are not to be paid out of the treasury of the State, or any of its funds, or any of the funds under its management, and hence is not in conflict with the constitutional prohibition. In my opinion, this view is correct. The tunnel for the use of which the tolls and charges are to be collected by the New York State Bridge and Tunnel Commission is not yet built, and no part of the tolls and charges is now in the treasury of the State or in any fund of the State, or in any fund under its management. There is no constitutional requirement that these tolls and charges should ever be paid into the treasury of the State or become a part of any such fund. The tolls and charges are to be imposed and received under a contract made by the commission with the State of New Jersey. Pursuant to this contract, these moneys are to be deposited to the joint account of the commissions of the two States respectively empowered to deal with the matter and the income is to be divided monthly. The New York Act provides that the tolls and charges shall be fixed at such amount as will pay the estimated cost of administration, maintenance and operation, and will, in addition, pay within twenty years the amortized cost of construction (Laws of 1919, Chapter 178, Sec. 9). It would seem to be clear that it would have been competent for the legislature in the original acts constituting the New York State Bridge and Tunnel Commission to dispose of these tolls and charges in such manner and for such public purposes as the legislature might deem best. It could have provided that the tolls and charges should be directly applied by the Commission, or through the joint action of

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the two commissions, to the defraying of the expense of maintenance, operation and construction, or the retirement of bonds, if bonds had been authorized and issued for the purposes of construction, or for the building of another tunnel or public improvement. Such legislative action would not, in my judgment, have constituted an appropriation out of the treasury or funds of the State within the meaning of the constitutional provision. I think that the legislature had not lost its authority over the enterprise by the passage of the earlier acts and it was equally competent for the legislature, in the Act under consideration and before these expected tolls and charges were paid into the treasury of the State or became part of any of the funds of the State, or of any funds under its management, to provide that these tolls and charges should be applied to the expenses of operation and maintenance, to suitable amortization charges, that New Jersey should have her proper share of the surplus, and that the remainder of the surplus should be devoted to any public purpose, including payment to the port authority (*Matter of Clark v. Sheldon*, 106 N. Y. 104, 111, 112; see also, *Board of Supervisors of Seneca County v. Allen*, 99 N. Y. 532; *People ex rel. Einsfeld v. Murray*, 149 N. Y. 367; *People ex rel. Eisman v. Ronner*, 185 N. Y. 285; *Gaynor v. Port Chester*, 230 N. Y. 210; *State ex rel. Sherman v. Pape*, 103 Wash. 319).

FIFTH: The port authority is authorized to borrow money, and to issue its bonds, for the construction of the two bridges and incidental purposes, such bonds to be secured by the tolls and charges derived from the bridges.

This authority is expressly conferred by the Compact between the two States and by the legislation of each State specifically authorizing the building of the bridges and providing for the financing of their construction as already stated. The port authority is empowered by the acts providing for the building of the bridges to establish and levy such tolls and charges as it may deem convenient or necessary for the operation and maintenance of the bridges and to insure at least sufficient revenue to meet the expenses of

the construction, operation and maintenance thereof and to make provision for the payment of the interest upon and amortization and retirement of the bonds (N. Y. Laws of 1924, Chap. 186, Sec. 3; Chap. 230, Sec. 3; N. J. Laws of 1924, Chap. 125, Sec. 3; Chap. 149, Sec. 3). The financing act of each State provides that it is the declared policy of the State that the two bridges, so far as the payment of the bonds issued for the construction thereof is concerned, together with the repayment of the moneys advanced by the State, shall in all respects be self-sustaining (N. Y. Laws of 1925, Chap. 210, Sec. 3; N. J. Laws of 1925, Chap. 37, Sec. 3).

In my opinion, this legislation places upon the port authority the duty to provide adequate tolls and charges for the purposes described and the performance of this duty may be compelled by any court of competent jurisdiction.

SIXTH: The port authority may include in its bonds the pledges of the two States and make these pledges a part of the contract with the bondholders.

The financing act of each State provides that the port authority may include in the bonds issued by it for the construction of the two bridges and incidental purposes such part of the financing act as shall seem proper "as evidence of the foregoing agreements made by the state with the holders of the said bonds or other obligations, and thereupon the same terms so included shall become a contract between the state and the holders of said bonds or other obligations" (N. Y. Laws of 1925, Chap. 210, Sec. 6; N. J. Laws of 1925, Chap. 37, Sec. 6). It is thus competent for the port authority to include in the bonds the provision made by each State for the advance of moneys toward the construction of the two bridges, and these provisions, assuming that they have been validly made as above stated, will constitute when incorporated in the bonds issued to and held by bondholders irrevocable contracts.

Each State also provides in the financing act that the port authority shall not be required to pay any taxes or

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assessments upon any of the property acquired by it for the construction, operation and maintenance of the two bridges (N. Y. Laws of 1925, Chap. 210, Sec. 7; N. J. Laws of 1925, Chap. 37, Sec. 7).

Each State also pledges to and agrees with those taking the bonds issued by the port authority for the construction of the two bridges and incidental purposes that the State will not authorize the construction or maintenance of other highway crossings for vehicular traffic of the waters of the Arthur Kill between the two States in competition with the said bridges, nor will it limit or alter the rights now vested in the port authority to establish and levy such charges and tolls as it may deem convenient or necessary to produce sufficient revenue for the purposes above stated until the bonds are fully paid off and discharged, provided that such crossings shall be considered as competitive with the bridges crossing the Arthur Kill only if they shall form a highway connection for vehicular traffic between the two States across or under the Arthur Kill, and provided further that nothing contained in the Act shall preclude the authorization of such additional interstate crossings if and when adequate provision shall be made by law for the protection of the bonds (N. Y. Laws of 1925, Chap. 210, Sec. 5; N. J. Laws of 1925, Chap. 37, Sec. 5).

These, as well as the other provisions above noted, when incorporated in the bonds issued to and held by the bondholders will be irrevocable as a part of the contract with the bondholders (*Stearns v. Minnesota*, 179 U. S. 223; *Wright v. Georgia Railroad & Banking Co.*, 216 U. S. 420; *Wright v. Central of Georgia Railway Co.*, 236 U. S. 674).

SEVENTH: The bonds issued by the port authority for the construction of the two bridges and the income therefrom will be exempt from both Federal and State taxation.

By the Comprehensive Plan approved by the legislatures of both States, it is provided as follows:

“The bonds or other securities issued by the port authority shall at all times be free from taxation by either State.” (N. Y. Laws of 1922, Chap. 43, Sec. 8; N. J. Laws of 1922, Chap. 9, Sec. 8).

This immunity from taxation of the bonds or other securities issued by the port authority when the bonds have been issued and are in the hands of bondholders will constitute, in my judgment, a contract with each State protected from impairment by the Federal Constitution (*Wright v. Georgia Railroad & Banking Co.*, 216 U. S. 420).

The immunity of the bonds from Federal taxation follows from the fact that, as already stated, the port authority is a public agency, a governmental instrumentality of the two States. It is explicitly declared to be such in the Act of each State providing for the financing to build the two bridges (N. Y. Laws of 1925, Chap. 210, Sec. 7; N. J. Laws of 1925, Chap. 37, Sec. 7), and this declaration is fully warranted by the nature of the functions of the port authority and of the purposes for which it has been established. In this view, the bonds issued by the port authority will be on the same footing as state and municipal bonds issued for governmental purposes and are not subject to taxation by the Federal Government (*Collector v. Day*, 11 Wall. 113; *United States v. Railroad Company*, 17 Wall. 322, 327; *Van Brocklin v. Tennessee*, 117 U. S. 151, 178; *Mercantile Bank v. New York*, 121 U. S. 138, 162; *Pollock v. Farmers Loan & Trust Co.*, 157 U. S. 429, 584-586; *id.*, 158 U. S. 601, 618).

The income of these bonds will be likewise free from Federal and State taxation for the reason that a tax upon the income of the bonds is in substance and in legal effect a tax upon the bonds themselves and upon the borrowing power of the State confided to its instrumentality. (*Pollock v. Farmers Loan & Trust Co.*, 157 U. S. 429, 584-586; *id.*, 158 U. S. 601, 618).

For a similar reason, the immunity from taxation given by the legislation of the two States providing for the construction of the two bridges, and inviting the lending of money upon the bonds of the port authority, must be deemed to extend not only to the principal of the bonds but to the income therefrom.

EIGHTH: The legislation of both States declares that the bonds issued by the port authority for the construction of

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the two bridges and incidental purposes shall constitute "securities in which all public officers and bodies of this State and of its municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, executors, administrators, guardians, trustees, and all other fiduciaries in the State may properly and legally invest funds within their control". (N. Y. Laws of 1925, Chap. 210, Sec. 8; N. J. Laws of 1925, Chap. 37, Sec. 8).

Respectfully yours,

(Signed) CHARLES E. HUGHES.

**EXPENDITURES FOR THE FISCAL YEAR ENDED JUNE 30,
1925**

	Comprehen- sive plan	Arthur Kill bridges	Total
Administrative department:			
Services and expenses — executive staff	\$17,021 78	\$10,430 72	\$27,452 50
Services and expenses of clerks and stenographers.....	17,622 85	2,229 26	19,852 11
Office rent.....	9,575 00	10,145 00	19,720 00
Office supplies and equipment.....	9,403 46	402 05	9,805 51
Stationery and printing.....	7,937 40	2,068 13	10,005 53
	<u>\$61,560 49</u>	<u>\$25,275 16</u>	<u>\$86,835 65</u>
Engineering department:			
Services and expenses — engineering consultants.....	\$4,085 71	\$6,750 00	\$10,835 71
Services and expenses — engineering and statistical staff.....	91,811 23	50,642 97	142,454 20
Engineering instruments, equipment, supplies, etc.....	1,507 51	2,538 22	4,045 73
Plans, estimates and designs.....		28,000 00	28,000 00
Borings, soundings and surveys.....		6,809 45	6,809 45
	<u>\$97,404 45</u>	<u>\$94,740 64</u>	<u>\$192,145 09</u>
Legal department:			
Services and expenses — special counsel	\$13,122 82		\$13,122 82
Services and expenses — legal staff....	15,902 08	\$4,500 00	20,402 08
	<u>\$29,024 90</u>	<u>\$4,500 00</u>	<u>\$33,524 90</u>
Total expenditures.....	<u>\$187,989 84</u>	<u>\$124,515 80</u>	<u>\$312,505 64</u>
Total funds available.....	<u>\$202,024 15</u>	<u>\$190,924 56</u>	<u>\$392,948 71</u>
Balance carried forward to succeeding fiscal year.....	<u>\$14,034 31</u>	<u>\$66,408 76</u>	<u>\$80,443 07</u>

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