

Chapter E

APPENDICES

APPENDIX A

- (1) *Graph*—1958/59-1967 Per Cent Increase (or Decrease) in Earnings and Workload of Pilots in the Pilotage District of Saint John, N.B.
- (2) *Table*—1958/59-1967 Figures on which the above Graph is Based Giving: Ships Paying Pilotage—Number Inwards/Outwards, Total Assignments (Trips and Movages with and without pilots, D/F and Compass Adjustments, and Trial Trips), and Net Tonnage; District Gross Earnings; Distribution to Pilots; Establishment of Pilots; and Average "Take Home Pay".

APPENDIX B

- (1) *Graph*—1959-1967 Comparison of Tankers Piloted to Total Vessels Piloted Arriving at Saint John, N.B. Each Month.
- (2) *Table*—1959-1967 Figures on which the above Graph is Based Giving: Monthly Traffic Arrivals Piloted at Saint John, N.B., for Ocean and Coastal Cargo; Miscellaneous (Ocean & Coastal Passenger, Naval, Government and other Non-Commercial vessels); Total Other Vessels; Ocean and Coastal Tankers; and Total All Vessels Listed.

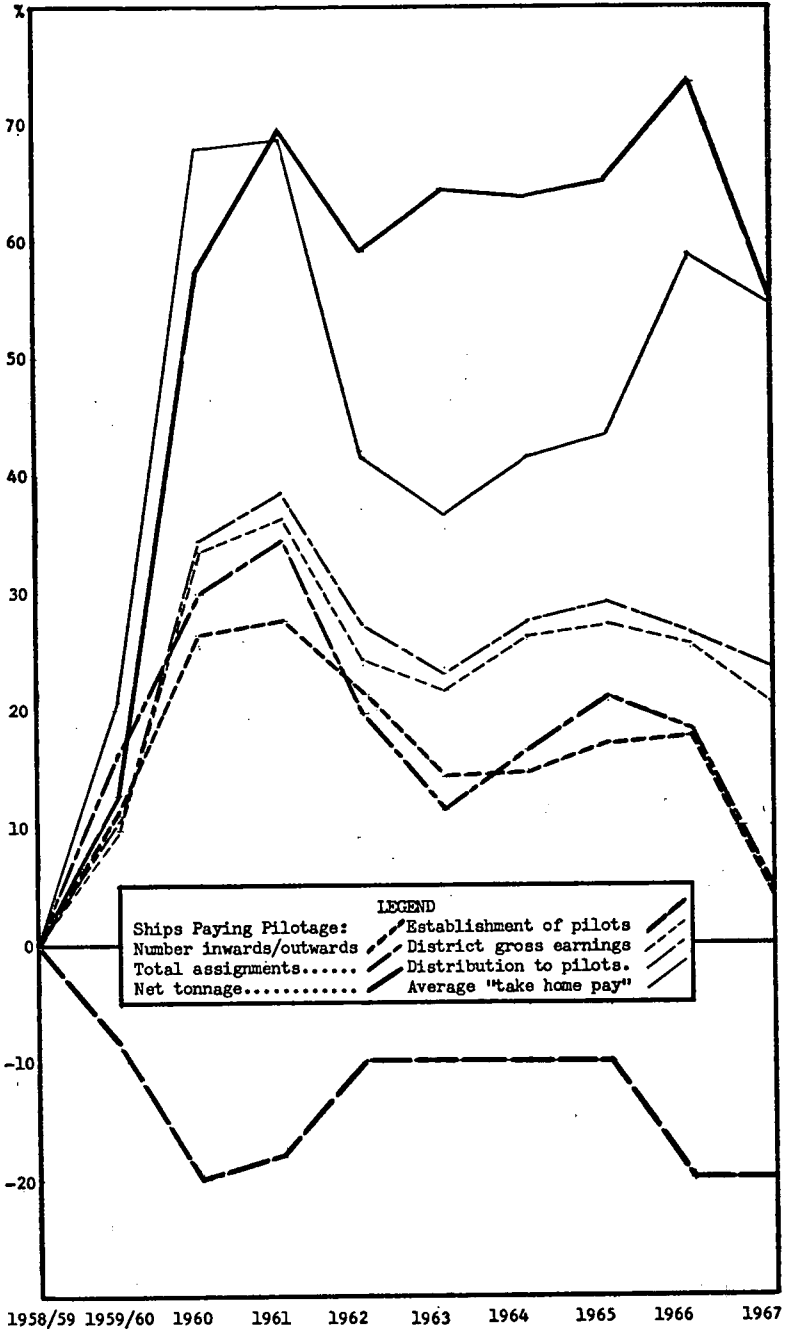
APPENDIX C

- (1) *Table*—1958-1967 Shipping Casualties, Accidents and Incidents Involving Pilots of the Pilotage District of Saint John, N.B.
- (2) *Summary*—Shipping Casualties, Accidents and Incidents involving Pilots of the Pilotage District of Saint John, N.B., 1958-1967

Appendix A (1)

PER CENT INCREASE (OR DECREASE) IN EARNINGS AND
WORKLOAD OF PILOTS

In the Pilotage District of Saint John, N.B.



Appendix A (2)
EARNINGS AND WORKLOAD OF PILOTS
In the Pilotage District of Saint John, N.B.

Year	(1) (2) Ships Paying Pilotage		(3) Net Tonnage	(4) District Gross Earnings	(5) Distribution to Pilots	(6) Estab- lishment of Pilots	(7) Average "Take Home Pay"
	Number Inwards/ Outwards	Total Assign- ments					
1958/59	1,237	1,460	3,621,535	\$ 99,903.50	\$ 83,409.97	10	\$ 8,341.00
1959/60	1,377	1,700	4,087,580	109,782.50	92,603.42	9.18	10,087.52
1960	1,562	1,896	5,701,155	133,186.32	112,000.00	8	14,000.00
1961	1,576	1,963	6,134,417	135,926.98	115,550.00	8.20	14,091.46
1962	1,499	1,747	5,759,618	123,995.25	106,094.55	9	11,788.28
1963	1,411	1,626	5,955,316	121,442.68	102,555.00	9	11,395.00
1964	1,417	1,701	5,925,320	126,020.38	106,209.75	9*	11,801.08
1965	1,447	1,768	5,975,187	126,994.38	107,653.89	9**	11,961.54
1966	1,456†	1,725‡	6,279,218‡	125,398.60†	105,658.01	8	13,207.25
1967	1,286‡	1,521‡	5,615,121‡	120,384.50†	103,200.00	8	12,900.00

Per Cent Increase or Decrease

1958/59	.0	.0	.0	.0	.0	.0	.0
1959/60	11.3	16.4	12.9	9.9	11.0	-8.2	20.9
1960	26.3	30.0	57.4	33.3	34.3	-20.0	67.9
1961	27.4	34.5	69.4	36.1	38.5	-18.0	68.9
1962	21.2	19.7	59.0	24.1	27.2	-10.0	41.3
1963	14.1	11.4	64.4	21.6	23.0	-10.0	36.6
1964	14.6	16.5	63.6	26.1	27.3	-10.0	41.5
1965	17.0	21.1	65.0	27.1	29.1	-10.0	43.4
1966	17.7	18.2	73.4	25.5	26.7	-20.0	58.3
1967	4.0	4.2	55.1	20.5	23.7	-20.0	54.7

SOURCES OF INFORMATION:

- (1) Ex. 45 — *Return of Vessels Paying Pilotage* (Inward and Outward totalled).
- (2) Ex. 45 — Trips and Movages with and without pilots, D/F and Compass Adjustments, and Trial Trips
- (3) Ex. 45 — *Return of Vessels Paying Pilotage*.
- (4) Ex. 45 — *Receipts and Disbursements* (on collected basis; excludes pilot boat charges).
- (5) Ex. 45 — *Receipts and Disbursements* (excludes payment to Pension Fund).
- (6) Ex. 45 — *Establishment of Pilots* means the number of pilots on a yearly basis, taking into consideration any increase (i.e., probationary pilots) and any decrease (i.e., retirements, deaths, etc.) that occurred during the year.
- (7) *Per Establishment Pilot*.

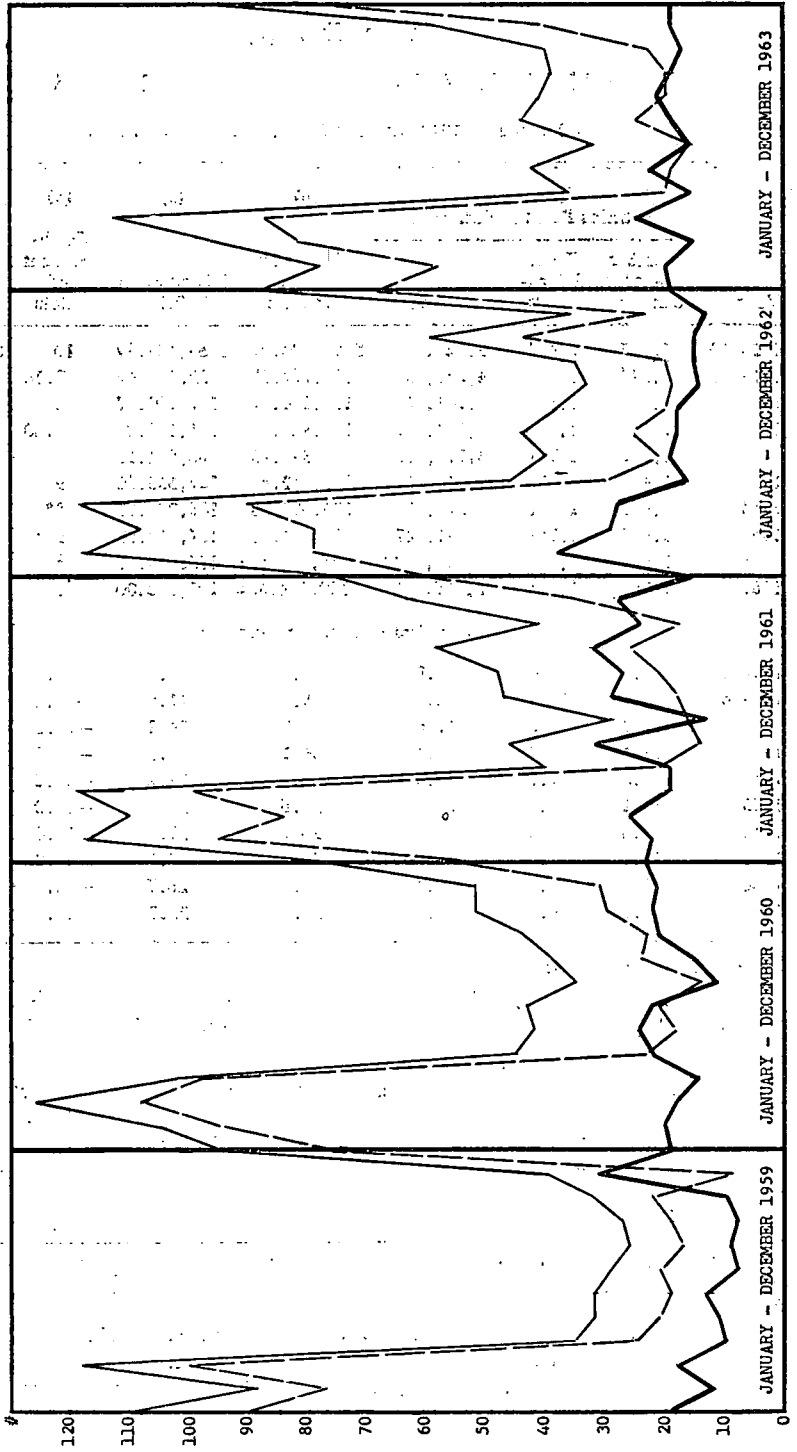
*Although it was reported that "one pilot retired and one probationary pilot commenced duties during the year", no actual dates were cited and it had to be presumed that they occurred concurrently.

**One pilot retired on December 31, which does not affect the *establishment* figure.

‡Includes one inward and one outward trip at Dorchester Cape.

†Includes a surcharge of 7½% on all pilotage dues which was put into effect on November 3, 1966.

Appendix B (1)
NUMBER OF ARRIVALS AT SAINT JOHN, N.B. MONTHLY DURING 1959-1967 SHOWING THE
COMPARISON OF TANKERS PILOTED TO OTHER VESSELS AND TOTAL VESSELS PILOTED



LEGEND:

— Total all piloted vessels arriving at Saint John

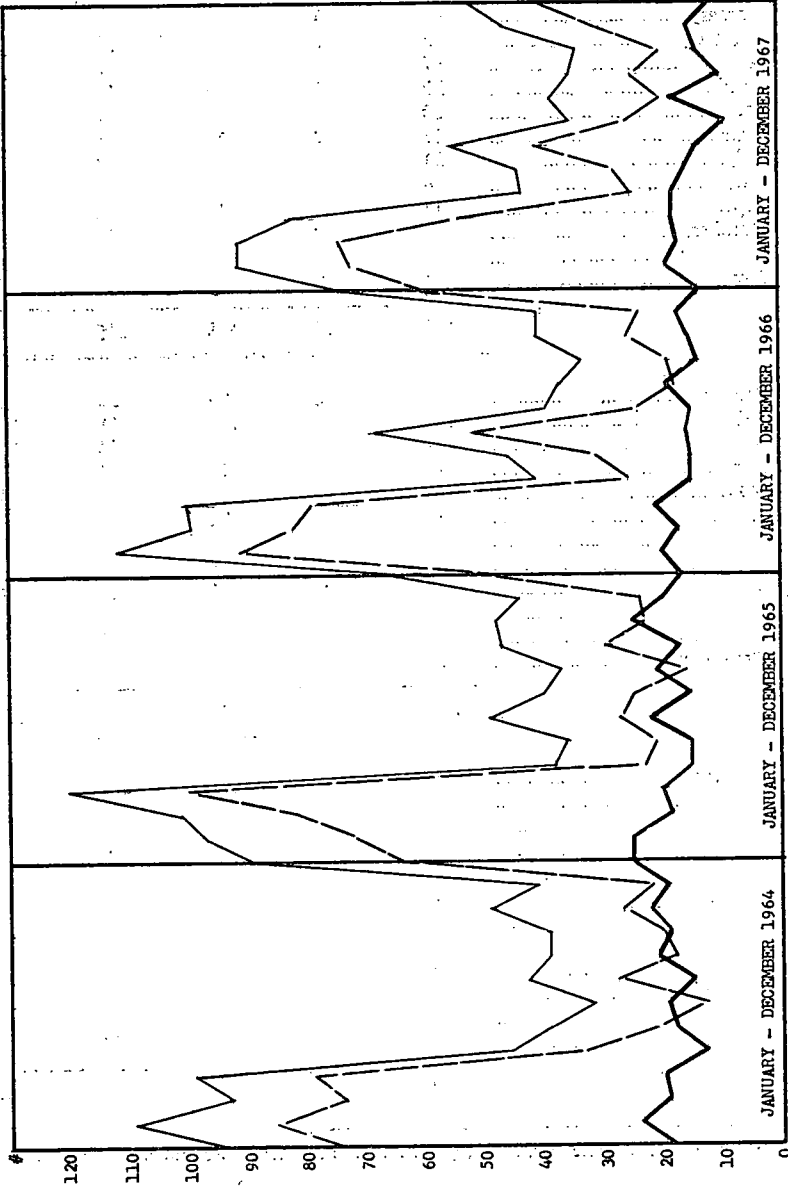
— Number of tankers (ocean and coastal) piloted inwards each month

— Number of other vessels* piloted inwards each month

* Ocean and coastal cargo and passenger, naval, Government and other non commercial vessels.

N. B. - Each vessel generally constitutes two piloted assignments (inwards and outwards), not to mention voyages, compass adjustments and trial trips.

SOURCE: Exhibit 1460 (pp).



Appendix B (2)

MONTHLY TRAFFIC ARRIVALS PILOTED AT SAINT JOHN, N.B.
DURING 1959-1967

Year	Month	Ocean & Coastal Cargo	Misc.*	Total Other Vessels	Ocean & Coastal Tankers	Total all Vessels
1959	January.....	87	3	90	19	109
	February.....	75	2	77	12	89
	March.....	97	3	100	18	118
	April.....	22	3	25	10	35
	May.....	20	1	21	11	32
	June.....	17	2	19	13	32
	July.....	21	0	21	8	29
	August.....	14	3	17	9	26
	September.....	18	1	19	8	27
	October.....	22	0	22	10	32
	November.....	31	0	31	9	40
	December.....	74	2	76	19	95
		498	20	518	146	664
1960	January.....	93	2	95	20	115
	February.....	107	1	108	18	126
	March.....	97	1	98	14	112
	April.....	23	0	23	22	45
	May.....	17	1	18	24	42
	June.....	16	5	21	22	43
	July.....	13	1	14	11	35
	August.....	20	4	24	15	39
	September.....	23	0	23	21	44
	October.....	29	1	30	22	52
	November.....	29	2	31	21	52
	December.....	53	0	53	23	76
		521	19	540	241	781
1961	January.....	92	3	95	22	117
	February.....	83	1	84	26	110
	March.....	96	3	99	19	118
	April.....	21	0	21	19	40
	May.....	13	1	14	32	46
	June.....	14	2	16	13	29
	July.....	16	2	18	29	47
	August.....	21	0	21	27	48
	September.....	23	3	26	32	58
	October.....	16	1	17	24	41
	November.....	31	4	35	28	63
	December.....	58	2	60	15	75
		484	22	506	286	792

*Ocean and coastal passenger, naval, government and other non-commercial vessels.

Year	Month	Ocean & Coastal Cargo	Misc.*	Total Other Vessels	Ocean & Coastal Tankers	Total all Vessels
1962	January.....	77	2	79	38	117
	February.....	78	1	79	29	108
	March.....	87	3	90	28	118
	April.....	29	1	30	16	46
	May.....	16	5	21	19	40
	June.....	21	5	26	18	44
	July.....	18	2	20	18	38
	August.....	14	5	19	14	33
	September.....	18	2	20	15	35
	October.....	41	3	44	15	59
	November.....	22	1	23	13	36
	December.....	65	3	68	19	87
		486	33	519	242	761
1963	January.....	56	2	58	20	78
	February.....	81	0	81	15	96
	March.....	87	0	87	25	112
	April.....	20	0	20	16	36
	May.....	16	3	19	23	42
	June.....	12	4	16	16	32
	July.....	19	6	25	19	44
	August.....	19	1	20	21	41
	September.....	17	3	20	19	39
	October.....	23	0	23	17	40
	November.....	32	8	40	19	59
	December.....	70	5	75	19	94
		452	32	484	229	713
1964	January.....	84	1	85	24	109
	February.....	74	0	74	19	93
	March.....	79	0	79	20	99
	April.....	29	4	33	13	46
	May.....	17	4	21	18	39
	June.....	12	1	13	19	32
	July.....	21	7	28	15	43
	August.....	15	3	18	21	39
	September.....	17	3	20	19	39
	October.....	23	4	27	22	49
	November.....	14	8	22	19	41
	December.....	62	2	64	25	89
		447	37	484	234	718

*Ocean and coastal passenger, naval, government and other non-commercial vessels.

Study of Saint John, N.B., Pilotage District

Year	Month	Ocean & Coastal Cargo	Misc.*	Total Other Vessels	Ocean & Coastal Tankers	Total all Vessels
1965	January.....	71	1	72	25	97
	February.....	82	0	82	18	101
	March.....	100	0	100	20	120
	April.....	23	0	23	15	38
	May.....	20	1	21	15	36
	June.....	22	5	27	22	49
	July.....	23	2	25	15	40
	August.....	16	0	16	21	37
	September.....	28	2	30	17	47
	October.....	19	4	23	25	48
	November.....	23	1	24	20	44
	December.....	47	1	48	17	65
		474	17	491	230	721
1966	January.....	90	1	91	20	111
	February.....	81	1	82	17	99
	March.....	79	0	79	21	100
	April.....	26	0	26	15	41
	May.....	31	0	31	15	46
	June.....	46	6	52	16	68
	July.....	24	0	24	15	39
	August.....	15	3	18	19	37
	September.....	19	0	19	14	33
	October.....	26	0	26	15	41
	November.....	23	1	24	17	41
	December.....	58	2	60	14	74
		518	14	532	198	730
1967	January.....	70	2	72	19	91
	February.....	72	2	74	17	91
	March.....	62	2	64	18	82
	April.....	23	2	25	18	43
	May.....	26	2	28	16	44
	June.....	29	12	41	14	55
	July.....	22	4	26	9	35
	August.....	19	1	20	18	38
	September.....	21	4	25	10	35
	October.....	20	0	20	14	34
	November.....	29	2	31	15	46
	December.....	36	4	40	12	52
		429	37	466	180	646

*Ocean and coastal passenger, naval, government and other non-commercial vessels.

Year	Ocean & Coastal Cargo	Misc.*	Total Other Vessels	Ocean & Coastal Tankers	Total all Vessels
Annual Total 1959.....	498	20	518	146	664
1960.....	521	19	540	241	781
1961.....	484	22	506	286	792
1962.....	486	33	519	242	761
1963.....	452	32	484	229	713
1964.....	447	37	484	234	718
1965.....	474	17	491	230	721
1966.....	518	14	532	198	730
1967.....	429	37	466	180	646
	4,309	231	4,540	1,986	6,526
Annual Average.....	478.8	25.7	504.4	220.7	725.1
Annual Monthly Averages					
1959.....	41.5	1.7	43.2	12.2	55.3
1960.....	43.4	1.6	45.0	20.1	65.1
1961.....	40.3	1.8	42.2	23.8	66.0
1962.....	40.5	2.7	43.2	20.2	63.4
1963.....	37.7	2.7	40.3	19.1	59.4
1964.....	37.3	3.1	40.3	19.5	59.8
1965.....	39.5	1.4	40.9	19.2	60.1
1966.....	43.2	1.2	44.3	16.5	60.8
1967.....	35.8	3.1	38.8	15.0	53.8
	359.2	19.3	378.2	165.6	543.7
Monthly Average.....	39.9	2.1	42.0	18.4	60.4

*Ocean and coastal passenger, naval, government and other non-commercial vessels.

SOURCE OF INFORMATION: Exhibit 1460 (pp).

Appendix C (1)

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING PILOTS OF THE PILOTAGE DISTRICT OF SAINT JOHN, N.B.

	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967
A. EVENTS HAPPENING WHILE NAVIGATING:										
I. Major Casualties (with or without loss of life):	0	0	0	0	0	0	0	0	0	0
II. Minor Casualties (without loss of life):										
a. Minor strandings.....	0	0	0	1	2	0	0	0	0	0
b. Minor damage to ships.....	1	0	0	0	0	0	0	1	0	0
III. Accidents (without damage to ships):	0	0	0	0	0	0	0	0	0	0
IV. Incidents (without any damage whatsoever):										
a. Touching bottom in channel.....	0	1	0	0	0	0	0	0	0	0
b. Others.....	0	0	0	0	0	0	0	0	0	0
	1	1	0	1	2	0	0	1	0	0
B. EVENTS HAPPENING WHILE BERTHING, UNBERTHING OR AT ANCHORAGE:										
I. Major Casualties (with or without loss of life):	0	0	0	0	0	0	0	0	0	0
II. Minor Casualties (without loss of life):										
a. Minor strandings.....	0	0	0	0	0	0	0	0	0	0
b. Minor damage to ships: striking pier.....	2	3	2	1	0	1	1	0	0	0
III. Accidents (without damage to ships):										
a. Damage to pier.....	0	0	0	0	0	0	0	0	1	0
b. Damage to buoys.....	0	0	1	0	0	0	0	0	0	0

IV. Incidents (without any damage whatsoever):																
a. Striking pier.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
b. Striking vessel at pier.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
c. Striking vessel at anchorage.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
d. Striking buoys.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
e. Others: touching bottom in channel.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	<u>2</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>0</u>
Total Shipping Casualties, Accidents and Incidents Involving Pilots of the Pilotage District of Saint John, N.B.....	3	4	3	3	2	2	1	1	2	1	2	1	1	2	1	0

SOURCES OF INFORMATION: Exhibits 60, 426, 866, 1451 and 1467 (Folder 6).

Appendix C (2)

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS
INVOLVING PILOTS OF THE PILOTAGE DISTRICT OF
SAINT JOHN, N.B., 1958-1967

A. EVENTS HAPPENING WHILE NAVIGATING:

I. MAJOR CASUALTIES (with or without loss of life) — Nil.

II. MINOR CASUALTIES:

a. Minor strandings

1. January 25, 1961, *Irvinglake* grounded on Navy Island with no mention of cause or damage; pilot reprimanded.
2. January 10, 1962, *Irvinglake* hit towboats and touched bank at Split Rock due to tide and wind.
3. July 30, 1962, *Irvinglake* hit rock and grounded above Pulp Mill due to tide.

b. Minor damage to ships

1. August 8, 1958, *Pilot Boat No. 6* and *Princess Helene* collided during fog; no pilot aboard *Princess Helene*.
2. February 11, 1965, *Transatlantic* struck *Pandora* due to tug error.

III. ACCIDENTS — Nil.

IV. INCIDENTS:

a. Touching bottom in channel

1. January 14, 1959, *Port Huon* grounded near foul ground but refloated immediately with no mention of cause.

b. Others — Nil.

B. EVENTS HAPPENING WHILE BERTHING, UNBERTHING OR ANCHORING:

I. MAJOR CASUALTIES (with or without loss of life) — Nil.

II. MINOR CASUALTIES:

a. Minor Strandings — Nil.

b. Minor damage to ships — striking pier:

1. April 1, 1958, *Rubens* struck pier 13 due to tugboat Master acting on his own although a pilot was on board.
2. October 29, 1958, *Sagoland* struck pier 13 due to current.
3. January 5, 1959, *Manchester Regiment* struck Pugsley pier due to wind.
4. September 29, 1959, *Spruce Branch* struck Crude Pier during construction due to fog.
5. December 22, 1959, *Rathlin Head* struck pier 2 as Master of tugboat did not understand order.
6. April 16, 1960, *Corinthic* touched fenders of pier 3 with no mention of cause.
7. November 13, 1960, *Irvingdale* struck Broad Street pier because of engine trouble.
8. November 3, 1961, *Karen Bolton* hit piling of pier due to wind.
9. January 27, 1963, *Manchester Spinner* struck pier 1 due to wind.
10. November 1, 1964, *Texaco Warrior* struck International Fertilizers pier due to high wind and parted tow line.

III. ACCIDENTS:

a. Damage to pier:

1. January 27, 1966, *Jalazad* struck grain gantry while berthing when vessel took a sheer; extensive damage to grain gantry.

b. Damage to buoys:

1. January 1, 1960, *Cape Araxos* pulled dolphin out of place at Fertilizers pier when tug started without signal from ship.

IV. INCIDENTS:

a. Striking pier — Nil.

b. Striking vessel at pier — Nil.

c. Striking vessel at anchorage — Nil.

d. Striking buoys — Nil.

e. Others:

1. February 22, 1965, *Nordia* grounded while manœvering; no damage.

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Section Three

PILOTAGE DISTRICT OF HALIFAX, N.S.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

PREAMBLE

The legislation governing the District of Halifax is similar to that for Saint John. Statutory provisions of exception no longer exist and the District is completely governed by those provisions of the Canada Shipping Act generally applicable to pilotage. However, there are a number of Orders in Council, by-laws and regulations that specifically concern this District.

(1) CREATION OF THE DISTRICT

Like the Saint John District, there is no legislation now in effect which provides a legal basis for the existence of the District. (Reference is made to the study of this question in the Saint John District, vide pp. 28-29 which apply *mutatis mutandis*.) The governing provisions of the 1873 Pilotage Act are secs. 7 to 11.

The District had been created by the 1873 Pilotage Act and became effective as a federal Pilotage District on June 6, 1874, when the Governor in Council, by Order in Council P.C. 728 (Ex. 1531(a)), as required by secs. 7 and 8 of the 1873 Pilotage Act, fixed the limits of the new District and nominated the Government representatives on the statutory corporation created by the Act to be the District Pilotage Authority, i.e., the "Halifax Pilot Commissioners".

This Order in Council contained a provision similar to that for the Saint John District, which purported to create the District but was void since the matter was not within the competence of the Governor in Council. The relevant part of the Order in Council reads as follows:

"... His Excellency, by and with the advice of the Queen's Privy Council of Canada, has been pleased to Order, and it is hereby Ordered, that a Pilotage District be and is hereby formed for the County of Halifax, in the Province of Nova Scotia, the limits of which District shall embrace ...".

Solely for the purpose of pursuing the study of legislation it will be assumed (as was done in Section Two for Saint John) that the District did not cease to exist and that its Pilotage Authority exists in law.

(2) DISTRICT LIMITS

After studying the relevant legislation, the Commission concludes that the limits of the Pilotage District of Halifax have never been legally established. Since this legislation is extremely confused, the simplest way to unravel it is to examine it chronologically.

The District created by the 1873 Pilotage Act was, by exception, statutory. According to the scheme of organization provided by the Act, the Governor in Council normally creates Districts by regulations which also deal with all the accessories that accompany the formation of a District, i.e., establishing their limits, appointing the members of their Authority and, if necessary, imposing the compulsory payment of dues. However, by way of exception, Parliament dealt directly with the creation of the Halifax Pilotage District, provided it with a special form of Pilotage Authority and decreed that the payment of dues was to be compulsory. The Governor in Council was required to play a very limited but mandatory function, i.e., to appoint the three Government representatives on its corporate Pilotage Authority and to fix the limits of what Parliament had referred to as "the pilotage district of Halifax".

On June 6, 1874, the Governor General made the following order (P.C. 728, Ex. 1531 (a)):

"P.C. 728

GOVERNMENT HOUSE, OTTAWA

Saturday, 6th day of June, 1874

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL

On the recommendation of the Honorable The Minister of Marine and Fisheries and under the provisions of the 17th section of the Act passed in the Session of the Parliament of Canada, held in the 36th year of Her Majesty's Reign, Chaptered 54, and intituled: "An Act respecting Pilotage."

His Excellency, by and with the advice of the Queen's Privy Council of Canada, has been pleased to Order, and it is hereby Ordered, that a Pilotage District be and is hereby formed for the County of Halifax, in the Province of Nova Scotia, the limits of which District shall embrace all the Ports, Bays, Rivers and Coasts of the said County, and that in accordance with the 8th Section of the Act, and the provisions of the "Act to amend the Pilotage Act, 1873" passed during the last Session of Parliament, William Roche, Junior, Daniel Cronan and Lewis Anderson, Esquires, of Halifax, be, and they are hereby appointed Pilotage Commissioners under the Great Seal of Canada, as constituting the Pilotage authority for the District of Halifax, together with Joseph Seeton, Esquire, and Captain Peter Coffin, who have been duly elected by the City Council for the City of Halifax, and John Taylor Wood and John Pugh, Esquires, also of Halifax, who have been elected by the Executive Committee of the Chamber of Commerce of the City of Halifax, Pilotage Commissioners, in accordance with the provisions of the 8th Section of the Act first mentioned.

His Excellency has been further pleased to make the payment of pilotage dues compulsory within the limits of the District above defined.

W. A. HIMSWORTH,
Clerk, Privy Council."

There can be no doubt that this Order in Council applies to the statutory District of Halifax. It contains a specific reference to sec. 8 of the Act, and the details of the formation of the Pilotage Authority can not apply to any other Pilotage Authority than the Halifax Pilot Commissioners, the corporation created by secs. 8, 9 and 10 of the Act.

The only valid part of the Order in Council deals with the appointment of the members of the Pilotage Authority. The creation of the District and the imposition of the compulsory payment of dues are null because the Governor General had no power whatsoever over these matters as far as the Halifax District is concerned. While the Governor General had jurisdiction to fix the limits, his description of them is void because by so doing he enacted legislation contrary to the Act, i.e., he transformed the Pilotage District of Halifax from a port to a coastal District.

It is true that the Act does not define the term "Halifax" but, according to the rules of interpretation in such cases, the term should be used in its natural meaning in the context in which it is used. In the context both of the era and of pilotage legislation, Halifax meant the port of Halifax. If it had been intended to refer to the County of Halifax, it would have been necessary to say so specifically.

The system prevailing before Confederation in Nova Scotia was port pilotage, whose organization was accessory to that of the port (vide p. 169). Pilotage Districts as such were then unknown because pilotage at a given port was considered to be merely a service for that port and the organizational scheme provided by the governing Nova Scotia statute was on a port basis. Therefore, up to 1874 the pilotage service at Halifax was strictly port pilotage and the territorial jurisdiction of the Pilot Commissioners appointed pursuant to the governing provincial statute automatically corresponded to the limits of the port of Halifax as defined by the Nova Scotia statute.

The fact that Parliament referred only to the port of Halifax is also clearly apparent from the method of appointing the Pilot Commissioners, who, except for those appointed by the Governor in Council, are appointed by political bodies whose interest in pilotage is limited to the port of Halifax, i.e., the City Council and the Halifax Chamber of Commerce. Furthermore, sec. 8 states that persons so appointed will be the first Commissioners under this Act "at Halifax", thus clearly indicating that the *city* is referred to and not the *county*.

This meaning is further evident when reference is made to the other Districts also named in the Act, Saint John, N.B., Quebec and Montreal. In the Interpretation section of the Act, sec. 2, the terms "Pilotage District of Quebec" and "Pilotage District of Montreal" are defined by making reference to existing pilotage organizations that were defined in other Acts, namely, the Trinity House Quebec Act and the Montreal Harbour Commissioners Act. However, there is no such definition as regards Saint John and Halifax because none was necessary since in both cases the terms were to be taken in

their accepted meaning. If there could possibly be ambiguity about Halifax, there was absolutely none about Saint John and, since both terms were used together, they were to be given the same meaning.

By establishing a coastal Pilotage District the Governor in Council not only innovated but created a situation which was not contemplated in the Act and, hence, did not fit the scheme of organization the statute provided. As demonstrated in Part I (Part I, pp. 49 and ff.), the scheme of organization laid down in the 1873 Act was strictly on a port basis and the only two exceptions, i.e., river pilotage on the St. Lawrence River in the Districts of Quebec and Montreal, were dealt with in the Act through provisions of exception where necessary. When the Halifax Pilot Commissioners assumed their duties, they clearly understood the difficulties thus created and adopted a practical attitude by voluntarily limiting their jurisdiction to the pilotage service of the port of Halifax, which is clearly demonstrated by the title and content of their 1875 by-laws,—“By-laws, Rules and Regulations of the Board of Pilot Commissioners for the *Port of Halifax*” (Ex. 1531(d)).

However, since they also appreciated that their jurisdiction extended to all the ports in the *County of Halifax*, they treated them realistically as separate entities, merely appointing pilots to them by issuing licences restricted to a named outport. Extracts from the Pilotage Authority's records contained in the Robb Commission's report indicate that from 1881 to 1908 there had been up to eight pilots so licensed. However, as far as it was possible to ascertain without exhaustive research, the Halifax Pilot Commissioners did not make any regulations governing the licensing of pilots or their pilotage service in these outports. The practice was to treat the outport pilots (except for territorial competency) as if they were pilots of the port of Halifax. In other words, the by-laws for the port of Halifax were applied *mutatis mutandis* to the outports. This practice, however, was not sanctioned by any written regulation with resultant confusion when, due to lack of records, subsequent Pilot Commissioners no longer held the concept that their jurisdiction purported to extend beyond the port limits and guided themselves strictly by the letter of the port of Halifax pilotage regulations. This explains the confused situation which confronted pilot Smith in 1917 (vide p. 161).

In 1889, the Governor in Council issued an Order in Council which was, in effect, a consolidation of the Orders he had made creating Pilotage Districts, fixing their limits and related matters. (P.C. 1261, June 12, 1889, Ex. 1532.) The excerpt relating to the Halifax District reads:—

“His Excellency in virtue of the powers vested in him by “The Pilotage Act” Chapter 80, of the Revised Statutes of Canada, Section 13, and by and with the advice of the Queen's Privy Council for Canada is pleased to Order, that the following Pilotage Districts shall be and the same are hereby constituted and established, and the limits thereof fixed and determined as hereinafter mentioned.

...

HALIFAX, N.S.

Sec. 14. The Halifax Pilot Commissioners, as already constituted, consisting of three persons appointed by the Governor in Council, two persons elected by the City Council for the City of Halifax, and two persons elected by the executive committee of the Chamber of Commerce of the City of Halifax, shall be the pilotage authority of the pilotage district of Halifax, the limits of which shall be fixed by an Order in Council.

The limits of the pilotage district for the County of Halifax shall embrace all the ports, bays, rivers and coasts of the said County.

The limits of the pilotage district for the Port of Halifax shall extend in a north-east line from Chebucto Head Light to Devil's Island Light, thence to extend seawards in a radius of fifteen miles.

The coasting steamships "Edgar Stuart", "M. A. Starr" and "George Shattuck" all being under 250 tons register tonnage are relieved from *compulsory* pilotage dues under the provisions of Chapter 80 of the Revised Statutes of Canada, intituled "The Pilotage Act".

The Order in Council was obviously not issued at the request of the Halifax Pilotage Authority, since Halifax is only one of the many Districts described in it, but rather by officials in Ottawa who, for ready reference, required a consolidation in one document of all the Orders of the Governor in Council then in effect which created Pilotage Districts, fixed their limits, and imposed the compulsory payment of pilotage dues.

From 1873 to the consolidated Order in Council in 1889, many changes had been effected: some Districts had been abrogated while others had been divided or their limits altered. This Order in Council is probably the origin of the register of Pilotage Districts kept by the Department of Transport and from which Appendix II to Part 1 was compiled. If information about Districts created and abrogated before 1889 is needed, it can be obtained simply by consulting the yearly index of Orders in Council from 1874 to 1889 which are available at the National Archives in Ottawa.

It is also obvious that the officials who drafted sec. 14 were not conversant with the legal situation. This Order in Council made the question of the Halifax District limits more confused than ever:

- (a) According to the principles of the interpretation of statutes, which also apply to regulations, when different expressions are used in the same context it is to be understood that different meanings are intended. In the first paragraph reference is made to "the pilotage district of Halifax"; in the second paragraph to "the pilotage district for the County of Halifax"; in the third paragraph, to "the pilotage district for the port of Halifax". Therefore, the normal interpretation of sec. 14 would be that there existed three distinct Districts bearing the name of Halifax. Furthermore, there can be no possible doubt that para. 2 and para. 3 refer to two separate and existing Districts, because, in addition to

their name, their limits are not the same. The fact that the port of Halifax is situated in the County of Halifax does not solve the problem but merely creates a conflict of jurisdiction.

- (b) Para. 2 is nothing more than a consolidation of the pertinent parts of Order in Council P.C. 728 of 1874 and, therefore, there is no change in that respect.
- (c) Despite its wording, the limits described in para. 3 of sec. 14 do not correspond to the pilotage waters of the port of Halifax but merely describe the boarding area, i.e., a radius of 15 miles of open water southeast of the harbour entrance. This Order in Council, therefore, excludes the waters of the port of Halifax from the "pilotage district for the port of Halifax", which is a preposterous situation. It is obvious that the person responsible for drafting sec. 14 mistook what was described as "Pilot limits" in sec. 1 of the 1875 District by-laws (P.C. 675, Ex. 1531(d)) (vide p. 171) for the limits of the Pilotage District.

The court case of *Smith v the Halifax Pilot Commissioners* (1917, 35 DLR 765) is a pertinent example of the confusion that ensued. Pilot Smith had been licensed by the Halifax Pilot Commissioners in 1879 as an outport pilot for St. Margaret's Bay, which had been established as a separate port since 1875, (Order in Council P.C. 695 of July 9, 1875). He retired in 1914 after 35 years of service because of old age and infirmity. His licence had been renewed annually by the Halifax Pilot Commissioners. For the whole period he was subject to the by-laws governing the pilotage service for the port of Halifax. He was obliged to pay \$25 for his first licence, furnish a bond for which he paid a prescribed fee of \$1, and each year thereafter pay \$6, i.e., \$5 for the renewal of his licence and \$1 for the renewal of his bond (vide p. 172). In addition, he contributed annually 5% of his pilotage earnings to the Superannuation Fund. In 1914, when he was retired, his application for a pension was denied by the then Pilot Commissioners on the ground that St. Margaret's Bay was outside their jurisdiction and, furthermore, they refused to reimburse him his contributions, using the legal argument that they had been paid under a mistake of law and also because the claim, if any existed, would have been barred under the Statute of Limitations. The ex-pilot sued the Pilot Commissioners claiming a pension or, failing that, reimbursement of all his contributions. On the evidence brought before it, the Court came to the conclusion that St. Margaret's Bay was not within the legal limits of the Pilotage District and, therefore, that the plaintiff Smith was not entitled to receive a pension from the Superannuation Fund, but, on the other hand, condemned the Pilot Commissioners to make full reimbursement on the ground that it was not a mistake of law but a mistake of fact caused by the Pilot Commissioners themselves. In appeal the judgment was maintained.

Doubtless because the proper evidence was not brought forward, the Court was unable to unravel the puzzle of the District limits and the Halifax Pilot Commissioners' jurisdiction. The Court of Appeal judgment contains the following remark in this connection:

"All the individual commissioners who were in office in 1879 are now dead and there is therefore no explanation as to why a license was granted to the plaintiff in the first instance. The fair inference is that both the commissioners and the plaintiff acted in good faith and mistakenly supposed St. Margaret's Bay to be within the jurisdiction of the Board."

The parties and the Court mistakenly took the "pilots' limits" (the boarding area) contained in the Pilotage Authority's By-laws for the limits of the Pilotage District:

"The pilotage limits for the port of Halifax (as established by Order in Council) extend in a northeast line from Chebucto Head Light to Devil's Island Light; thence seawards in a radius of 15 miles. The Halifax Pilot Commissioners are the duly appointed pilotage authority for the port of Halifax and have the licensing of pilots as part of their duty."

The Robb Commission, which investigated the pilotage operations in Halifax the year after the Smith judgment, dismissed the question as follows:

"It came out in evidence that the Commissioners had been issuing licences to pilot vessels to and from the neighbouring outports. This has been found to be illegal and appears to have been stopped since 1908."

When the Minister became the Pilotage Authority those responsible for the District apparently were not aware of the real situation because in his first General By-law (P.C. 1042 of May 15, 1920, Ex. 1531(f)) the Minister treats the Pilotage District of Halifax as a port District, and furthermore purported in sec. 2 of this By-law to fix a new seaward limit of the Pilotage District of Halifax:

"2. The limits of the pilotage district of Halifax shall be inside a line drawn from Devil's Island to Chebucto Head between that and the automatic buoy off Portuguese Shoal."

It is quite obvious that, despite the use of the expression "the limits of the pilotage district of Halifax", this description was merely intended to describe the new boarding area which was described in the previous regulations as the "pilot limits for the port of Halifax". In 1920, the boarding area could be pinpointed and a 15-mile stretch of open water was no longer required because very few sailing vessels remained and a steam vessel was available to embark and disembark pilots. With such an interpretation the boarding area would have been between Chebucto Head and the automatic buoy off Portuguese Shoal on the line passing through Devils Island and Chebucto Head. If sec. 2 referred to the actual limits of the District, that part of the By-law was illegal since this subject-matter was not within the legislative competency of the Pilotage Authority.

Although this General By-law was soon repealed, the 1920 and 1930 General By-laws carried verbatim sec. 2 quoted above and it remained unaltered until they were repealed and replaced in 1961 by the existing By-law.

The General By-law now in force (P.C. 1961-70) defines neither the boarding area nor the limits of the Pilotage District. Subsec. 2(e) of its Interpretation section merely contains a vague reference to the limits of the District:

"2(e) "District" means the Pilotage District of Halifax, Nova Scotia, as defined by the Governor in Council pursuant to section 324 of the Act;"

The Pilotage Authority has been unable to produce any such definition by the Governor in Council made pursuant to sec. 324 of the present Canada Shipping Act and the only authority they can furnish is the Governor-General's Order, P.C. 728 of June 6, 1874, which described the District as a coastal District embracing the whole seaward limit of the County (Ex. 1531 (p)).

Since this part of the 1874 Order in Council has never been repealed or superseded (the 1889 Order in Council being merely a consolidation), apart from the question of the legality of the description as discussed above, this description is still today the only official definition of the District and the reference in it to the boundary of an electoral territorial division causes the same interpretation problems as the definition of the New Westminster District (vide Part II, pp. 243 and ff.).

- (a) Which county is intended, federal or provincial?
- (b) Is the reference to the County of Halifax a way of describing geographical lines by reference to the then boundaries of Halifax County?

With regard to question (b), it is obvious that the description in the Order in Council is merely a geographic reference, a way of describing a line and not a reference to the County as such. It would have been illegal to give the Pilotage District a limit that could be altered without passing an additional, specific Order in Council pursuant to the then applicable provision of either the Pilotage Act or the Canada Shipping Act (for further details, vide Part II, Section Two, pp. 243 and ff.).

As for question (a), the normal interpretation is that the Governor in Council would refer to a federal county and, if the reference is to be to a provincial county, it should be specifically indicated. However, this does not present any problem since in 1874, pursuant to sec. 40, subsec. 3 of the British North America Act, which was then the governing statute, each of the 18 provincial counties of Nova Scotia became a Federal Electoral District as well.

The following extracts from the various official texts establishing the boundaries of the County of Halifax as they were in 1874 give the location of the points of the boundaries on the Atlantic coast (Ex. 1531(b)):

(a) Re the west coastal boundary point—

“Commencing on the Windsor Road at the Northern Bounds of Montgomery Lot on Said Road from thence running South West to the Pock Wock Lake—thence bounded Westerly by the northern shore of said Lake until it comes to a Square Post and Pile of Stones placed at the Mouth of a Streamlet, which empties itself into the head of the North West Cove of said Lake—from thence running North Eighty Degrees West, twenty-four miles and three quarters to its intersection with the Public Road leading from Chester to Windsor, thence running South twenty-seven degrees East twelve miles and one quarter of a mile to the Sea Shore of St. Margarets Bay to a Square Post marked on the East Side County of Halifax, . . .”

(b) Re the east coastal boundary point—

“ . . . , Commencing at the South East angle of the County of Colchester, thence Southwardly by a right line to a point on Ecum Secum River, at or near the bridge crossing said river and thence by said river down stream to the ocean, . . .”

The seaward boundary of the County of Halifax in 1874 is the geographical description of the extent of the Pilotage District of Halifax as it has been ever since, i.e., the Halifax Pilotage District embraces about 115 miles of the Atlantic Nova Scotia coast extending from Halifax eastward to the Ecum Secum River (including the territory of the Pilotage District of Sheet Harbour), and westward from Halifax to Hubbards at the west head of St. Margaret's Bay.

The description of the District limits also poses a further problem of interpretation, namely, what is the seaward limit? From the description of the included waters the inland limit is clear, i.e., all the navigable waters of all ports, bays and rivers of the County of Halifax, plus all the waters bordering its coasts. The Order in Council, however, is silent re the extent of coastal waters seaward. (Reference is invited to the study made of this question regarding the seaward limits of the British Columbia Pilotage District, Part II, pp. 33-35.) To date, the baselines that may be established pursuant to the Territorial Seas and Fishing Zone Act, 1964, have been promulgated only for portions of the east coast of Canada, viz., the east coast of Labrador and the eastern and southern coasts of Newfoundland (Ex. 1523).

COMMENTS

As the Commission has already recommended (Part I, p. 55), since the limits of a District denote, *inter alia*, the extent of the territorial jurisdiction of the Pilotage Authority, the validity of pilots' licences and the extent of application of the compulsory system, it is of prime importance to describe them simply and completely and to use as reference points geographical features that can be easily identified.

The description of the Halifax District is a good illustration of this problem. Deep research was necessary to ascertain the definition of the "County of Halifax" in 1874, i.e., when the Order in Council was approved. Included was a review of the federal statutes from 1867 to 1874, which disclosed that in 1867 the boundaries of the then provincial County of Halifax had become the boundaries of the Federal Electoral District by the same name, and that these boundaries had not been amended between 1867 and 1874. However, to determine these provincial boundaries as of 1867 was a task in itself. It was learned that since the county was first described in 1826 in the Nova Scotia statutes there had been a number of amendments affecting different parts of the boundary lines, but that at no time up to 1867 had there been a consolidation, with the result that the whole series of provincial statutes from 1826 to 1867 had to be consulted. This research established that the west coastal boundary point had been the subject of a number of amendments, the most recent being 1863 (Ex. 1531(b)).

But even when these investigations were concluded the descriptions that came to light posed a problem of localization because the reference points referred to, e.g., the 1826 "square post marked on the East side County of Halifax" and the 1863 "bridge crossing the [Ecum Secum] river", do not appear on modern maps and charts, and it is doubtful that they still exist.

(3) PILOTAGE AUTHORITY

The Minister of Transport is the Pilotage Authority. The last appointment to this office was effected by a regulation emanating from the Governor in Council on August 15, 1956, Order in Council P.C. 1956-1264 (Ex. 1143).

(4) COMPULSORY PAYMENTS OF PILOTAGE DUES

There is no legal foundation at the present time for enforcing the compulsory payment system in the Halifax District. Reference is made to the study of this question in the Saint John District (pp. 30 and 31) where the legal situation is exactly the same. In 1874, P.C. 728 (Ex. 1531(a)) contained a provision to that effect which is word for word the same as contained in the corresponding Order in Council for the Saint John District (P.C. 789 of 1874, Ex. 1460(c)).

This clause in the Order in Council was null *ab initio*.

Subsec. 6(1) of the District General By-law stipulates that the payment of dues shall be compulsory in the Halifax District, but this By-law provision is ultra vires because the subject-matter does not come under the delegated regulation-making power of the Pilotage Authority which enacted the provision.

(5) ORDERS IN COUNCIL NOT PASSED UNDER THE CANADA SHIPPING ACT
AND AFFECTING THE ORGANIZATION OF THE PILOTAGE DISTRICT

The Department of Transport assumes the cost of operating the pilot station and pilot vessel service. The last authority for such expenditures of public money, apart from the annual estimates, is Order in Council P.C. 1959-19/1093 dated August 27, 1959 (Ex. 52).

(6) PILOTAGE AUTHORITY'S ENACTMENTS
CONFIRMED BY GOVERNOR IN COUNCIL

(a) *The Delegation of Powers under Subsection 327(2) C.S.A. and Appointment of a Secretary-Treasurer and Authorization for Payment of District Expenses*

On these matters, reference is made to the study of the situation that exists in the Saint John District which is exactly the same as in Halifax (vide p. 32).

(b) *Exemptions for Small Ships (subsec. 346(c) C.S.A.) and Withdrawal of Exemptions (sec. 347 C.S.A.)*

In its By-law, the Halifax Pilotage Authority has taken advantage of the legislative power it derives from these sections of the Act. The provisions now in force date in their present form from the 1963 amendments (P.C. 1963-1659 dated Nov. 7, 1963).

Subsec. 6(2) grants the small foreign ship exemption (subsec 346(c) C.S.A.) only to pleasure yachts not over 150 NRT. For comment on such incomplete legislation, vide Part I, p. 227.

Furthermore, under the authority of sec. 347 C.S.A., it has modified the relative statutory exemption granted to steamships registered in any of Her Majesty's dominions when engaged in voyages described in subsec. 346(e), first, by limiting it to smaller ships and, second, by providing a different treatment for steamships registered in Canada:—

- (i) The exemption is maintained only for such steamships of less than 1,000 NRT.
- (ii) It is completely withdrawn for non-Canadian steamships exceeding 1,000 NRT.
- (iii) It is partly withdrawn for such Canadian steamships that are 1,000 NRT or over in that only half the applicable rates are compulsorily payable when a pilot's services are offered and not accepted.

Re the use of the word "vessel" as defined in the By-law, failure to quote the correct authority in the Order in Council sanctioning such by-laws, and discrimination based on the country of registration, reference is made to Part I, pp. 221 to 229.

(c) *General By-law*

All the by-laws and regulations enacted by the Pilotage Authority that are still in effect are contained in a General By-law confirmed by Order in Council P.C. 1961-70 of January 19, 1961, as amended (Ex. 328). Since 1961, this General By-law has been amended three times: (1) by Order in Council P.C. 1962-128 of January 31, 1962, mainly reducing the annual leave from 30 days to 21 days and bringing some adjustment in the scale of voyage rates; (2) by Order in Council P.C. 1963-1659 of November 7, 1963, correcting the text of the provision concerning the withdrawal of relative statutory exemptions; (3) by Order in Council P.C. 1966-233 of February 3, 1966, enacting a new procedure regarding pilots' disciplinary measures.

The order of the content of the General By-law is that generally followed in all other Districts where the Minister is the Pilotage Authority, and except for a few variations is similar to the Saint John General By-law. Its main features are the following (the cross-reference to Part I of the Report at the end of each paragraph indicates where the validity of the matter is dealt with there):

- (i) The provision of pilotage services is made the responsibility of the Pilotage Authority which exercises full control through its local representative, the Supervisor of Pilots (Part I, C. 4, pp. 73 and ff.).
- (ii) The pilots' status is that of *de facto* employees who perform pilotage only when and as directed by the Supervisor. They are entitled to retain neither the pilotage dues earned by their services nor the statutory indemnities of secs. 359 and 360 C.S.A. These are pooled and the pilots are paid a salary in the form of a share of the net revenue of the pool based on availability for duty. They are granted leave of absence with pay, half pay and without pay (Part I, C.4 and C.8, p. 249).
- (iii) There is no apprenticeship. Pilots are recruited from qualified mariners with local experience. Each candidate must possess a certificate of competency as Master of a foreign-going or home trade steamship (unlimited as to tonnage) and must have served at least two years as Master of a vessel trading regularly into the District. In addition to possessing physical and moral fitness, the candidate must pass an examination on several nautical subjects including his local knowledge. His skill is assessed during one year of probation and, if satisfactory, he is fully licensed. (Re legality of probation, vide Part I, pp. 268-269.)
- (iv) The dues are based on net tonnage alone and the rates fixed according to a tonnage scale.
- (v) There is no Pension Fund. However, in order to meet the liability of the former pension scheme, the pilots are required to pay a

contribution in an amount to be fixed by the Authority based on the actuarial evaluation of liabilities conducted every three years, but such contribution shall not exceed 5 per cent of gross earnings. The present condition of this Fund and the legality of its provisions are studied in (Part III pp. 242-244).

2. HISTORY OF LEGISLATION

The history of pilotage legislation concerning the District of Halifax from the founding of the port to the first federal legislation can be divided into four periods:

- (a) 1749-1830, non-involvement by Government;
- (b) 1830-1873, partial Nova Scotia Government control;
- (c) 1873-1918, partial Federal Government control;
- (d) 1918-1968, fully controlled pilotage.

(1) 1749-1830

Pilotage came to Halifax in 1749 with the founding of the port by Lord Cornwallis. From 1749 to 1830, complete free enterprise prevailed, anyone could offer his services and it was the responsibility of owners or Masters to arrange for pilotage assistance and to settle the terms of employment and remuneration.

The Government of the colony originally maintained a number of pilots in its employ to serve Crown vessels and other vessels doing business with it. Their salary was ten shillings per day while employed (Queen's Printer publication *Currency, exchange and finance in Nova Scotia 1675-1758*). The Government owned and operated a pilot vessel which was required to cruise the harbour and speak to incoming ships to find out whether they needed assistance or information. The pilots manned the pilot vessel and when a pilot was embarked a crew member from that ship had to replace him in the pilot vessel and remain until the pilot was returned (Appointment and instructions to Masters of pilot boat *William Hadding* dated April 12, 1775). These pilotage operations, which were privately organized by the Government for its own benefit, were the responsibility of a Superintendent of Pilots who, *inter alia*, was in charge of the pilots employed by the Government. He had no authority over other persons who offered their services as pilots.

When the Government ceased to keep pilots in its employ, the navy experienced difficulty obtaining competent pilotage assistance. It recommended that those pilots formerly employed by the Government be engaged in other work to support them during the winter to ensure their availability (letter from Admiral Sir Richard Hughes dated October 13, 1790).

Pilotage for ships not provided with Government pilots was in the hand of private entrepreneurs, mainly local fishermen who had their own boats and

competed with each other. Usually the first pilot alongside was hired but when two or three arrived at the same time considerable bargaining ensued. Some were able pilots but collectively they were unorganized with only their own experience and local knowledge to guide them in the confused conditions that prevailed. In 1817, a bill was presented to appoint fit and proper persons as pilots, but it was shelved after second reading. A climax arrived during the 1820's when one of the Cunard Line tea clippers ran ashore at the entrance to the harbour. The owners and shipping interests of the port claimed that the casualty was due to lack of knowledge on the part of the pilot and demanded that pilotage be controlled and regulated.

Since these requests were not met, a Board appointed in 1829 by a general meeting of shipowners, underwriters and others interested in the trade of the port submitted a list of selected pilots which was passed to shipping interests so that preference could be given to the 37 individuals named.

(2) 1830-1873

On March 8, 1830, the Nova Scotia Legislature passed its first Pilotage Act, entitled "An Act to regulate the pilotage of vessels at the Port of Halifax" (11 Geo. IV c. 7). During the period 1830-1850, similar laws were passed providing *ad hoc* legislation for other ports.

The 1830 Pilotage Act for the port of Halifax established the partial system of control and the same organizational structure that was adopted later by the Federal Government in the 1873 Pilotage Act, i.e., licensing authorities on the basis of ports. The Governor General in Council was empowered to appoint a commission whose main function was to see that the port of Halifax was serviced by a sufficient number of qualified, reliable pilots acting as free entrepreneurs. Pilotage rates were fixed in the Act itself in the form of a scale based on tonnage for merchantmen and on ship's rates for naval vessels. The payment of part dues was made compulsory to the first pilot who offered his services to an inbound ship southward of Herring Cove and Trump Cape, the share being one third dues if the vessel were owned in the province and one half for other vessels. This share was later increased to two thirds in winter. Vessels owned in the province and employed in coastal trade or fishing, all vessels under 80 tons, all ships of war belonging to the Crown and all vessels not spoken to were fully exempt. The pilots provided their own pilot boat which was to be properly marked. The penalties imposed by the Act were to be recovered before any two Justices of the Peace for the County of Halifax; one third of such penalties belonged to the informer and the remainder formed a fund to defray the salary of the Secretary and other contingent expenses of the Pilotage Commission. Any surplus became what was later called the Pilot Fund and was to be used by the Commissioners for the benefit of infirm and disabled pilots.

The Act contemplated inward pilotage only, but an amendment in 1831 (1 William IV c. 12) extended it to outward pilotage, the outward rates being one third less than the rates for inward trips. The Act received minor amendments in 1832, 1845 and 1847.

When the Nova Scotia Statutes were revised in 1851 the various *ad hoc* pilotage statutes were consolidated into a general Act that applied only to named ports, i.e., Halifax, Sydney, Pictou, Pugwash, Wallace, Antigonish, St. Mary's Arichat, Tatamagouche and Point Bruley. (R.S.N.S. 1851, c. 78 "Of Pilotage Harbors, and Harbor Masters"). It provided an identical system with very few changes in detail from the Act of 1830.

The Act of 1851 was re-enacted with minor amendments in the 1864 Revised Statutes of Nova Scotia (R.S.N.S. 1864, c. 79 "Of Pilotage Harbors, and Harbor Masters") and continued in force after Confederation until it was superseded by the federal Act of 1873.

(3) HALIFAX PILOT COMMISSIONERS (1873-1918)

In the 1873 Pilotage Act, pilotage in the port of Halifax was dealt with as a case of exception together with Saint John, Quebec and Montreal. The provisions of general application of the Act applied to the pilotage organization of Halifax except when otherwise provided. These specific provisions were gradually withdrawn and the remnants were abrogated by the 1934 C.S.A.

These special provisions for the District of Halifax were similar to those provided for the District of Saint John. Therefore, to avoid repetition reference is made to Section Two, pp. 38-40 which apply *mutatis mutandis*. The specific provisions regarding the creation and organization of the District are secs. 7 to 11, the name of the statutory corporation is the Halifax Pilot Commissioners composed of representatives appointed by the City Council, the Executive Committee of the Chamber of Commerce of the city of Halifax and the Governor General. As in the case of Saint John, the Governor General had failed to appoint the federal representatives prior to the time limit fixed in the Act but did so after the 1874 amendment by Order in Council P.C. 728 dated June 6, 1874 (Ex. 1531(a)). However, the Halifax Pilotage Authority did not have power to modify statutory exemptions (Section Two, p. 40).

P. C. 728 made by the Governor General to form the District is similar to the Order he made concerning the Saint John District *mutatis mutandis*, the only differences being those of local character such as the names of the appointees and the description of the District limits:

- (a) It purported to create the District. As indicated on p. 156, this clause was beyond his legislative powers.

- (b) It fixed the District limits in such a way that the District became a coastal District; the description contained therein is still in effect (for legality vide pp. 157-165).
- (c) It completed and approved the membership of the corporate Pilotage Authority by confirming the appointment of the four members designated by the City and the Chamber of Commerce and by naming the three Government appointees. This part of the Order in Council was modified from time to time as it became necessary to fill vacancies until the corporation became *functus officio* when it was replaced in 1918 by the Minister of Marine and Fisheries as Pilotage Authority.
- (d) However, no mention was made of the appointment of the Secretary and Treasurer of the corporation. In this respect the Order in Council differs from the P.C. relating to Saint John.
- (e) It also purported to make the payment of dues compulsory, a matter which was already covered in the Act and over which the Governor in Council has no jurisdiction (vide p. 165).

Like the District of Saint John, the Halifax District's regulations may be divided into two periods:

- (a) the regulations of the Halifax Pilot Commissioners 1875-1920, the period of free enterprise;
- (b) the regulations of the Minister as Pilotage Authority 1920-present, the period of fully controlled pilotage.

The Halifax Pilot Commissioners' first By-laws were sanctioned by the Governor in Council on September 28, 1875 (Order in Council P.C. 964 of 1875 (Ex. 1531(d))), and although amended from time to time remained in force without consolidation until repealed when the Minister as Pilotage Authority made his first By-laws in 1920.

The By-laws of 1875 did not apply to the whole Pilotage District but were limited to the pilotage organization in the port of Halifax (vide p. 159) and were entitled "By-laws, Rules and Regulations of the Board of Pilot Commissioners for the Port of Halifax".

Their main features were as follows:

- (a) A boarding zone called "Pilot limit" was created in the approaches to the port. It extended seaward to a radius of 15 miles from a line drawn across the entrance to the harbour between Chebucto Head light and Devils Island light. A boarding area of this extent was necessary in the days of sailing ships.
- (b) Although no direct mention is made of it, all pilots who held a licence under the repealed legislation were clearly issued a new licence automatically. However, to recruit new pilots an apprenticeship system was established. It consisted of five years' service on

board a licensed pilot vessel, after which the candidate had to serve at least six months as seaman on board a square-rigged vessel and pass an examination before the Pilotage Authority. The newly licensed pilot had to pay a \$25 licence fee and a further annual sum of \$5 for the renewal of his licence. In addition, he had to supply an \$80 bond as well as two sureties of \$40 each as a guarantee for his compliance with his duties. He had to pay a fee of \$1 for the first bond and for each renewal. All these fees formed part of the Pilotage Fund, whose nature and use were not then defined in the regulations.

- (c) The number of pilots was not to exceed 25.
- (d) There were regulations regarding the licensing of pilot boats whose number was limited to four. It would appear that, as in Saint John, the company system was adopted since it was stated that the owners of each licensed pilot boat had to select a Master from among themselves. However, the regulations did not state how the companies were to be financed. All pilot boats had to be surveyed and were to carry one or more suitable small boats for the conveyance of pilots to and from vessels and for rendering assistance to vessels in distress, and also to have one or more life preservers for each pilot and apprentice attached to such pilot boat. The name of the selected Master of the pilot boat had to be approved by the Pilotage Authority which then made him the custodian of the register and of the licence of the said boat. The boats had to be properly marked. The licence was valid for one year and the licence fee was \$20.
- (e) The pilot who brought a ship inward was entitled to the pilotage fees outward. The rates, as before, were in the form of a scale based on tonnage, the outward charges being lower by about one-third. The dues were collected by the pilots but had to be turned over to the Pilotage Authority's Treasurer.

The several amendments to the 1874 By-laws generally concerned rates and exemptions. In 1876, a unique procedure was adopted by amending the By-law to provide individual exemptions for three named vessels (P.C. 729, July 28, 1876, reproduced as para. 4 of sec. 14 of P.C. 1261 dated June 12, 1889, vide p. 160).

In 1877 (40 Vic. c. 20), the Pilotage Act was amended, *inter alia*, to allow the Pilotage Authority concerned to withdraw the statutory exemption for steamships engaged in coastal voyages in so far as the ports (not the Pilotage Districts) of Halifax, Miramichi and Pictou, and the Pilotage District of Sydney were concerned.

In 1882, the Pilotage Act had been amended (45 Vic. c. 32 sec. 1), *inter alia*, to empower Pilotage Authorities to examine witnesses under oath. However, the Act did not empower them to compel the attendance of witnesses. In 1885, the Halifax Pilot Commissioners found a partial solution to the problem by making it a regulation offence for a pilot not to attend when ordered or to refuse to be sworn (P.C. 1370 dated 10 July, 1885, Ex. 1531(d)(5)). However, they had no means of compelling other persons. The power to examine under oath was withdrawn by the 1934 C.S.A. (vide Part I, pp. 336 and 337).

The most important amendment was P.C. 579 dated February 27, 1893, which added twelve by-laws to the twenty seven already enacted:

- (a) It contained provisions for settling disputes over pilotage dues collected from non-exempt ships which did not employ a pilot.
- (b) It created the office of Secretary and Treasurer.
- (c) It enacted the first rules for the operation of the pilotage fund and regulated expenditures from it as follows:
 - (i) three per cent instead of $2\frac{1}{2}\%$ of the pilotage dues to be paid to the Superannuation Fund;
 - (ii) all expenses incurred in conducting the pilotage service;
 - (iii) the Secretary-Treasurer's salary fixed at \$600 per year;
 - (iv) the Pilotage Authority's expenses to a maximum of \$100 per Commissioner and \$200 for the Chairman;
 - (v) the balance to be distributed among the pilots "according to the amount of their respective earnings" by monthly instalments.
- (d) It also provided for the retirement of pilots on account of age or infirmity.
- (e) The benefits from the Superannuation Fund for a pilot whose licence has been cancelled for any reason were an annual payment for life of not less than \$50 and not more than \$300 at the discretion of the Pilotage Authority. Benefits were also provided for pilots' widows and children.

Up to that time most Pilotage Authorities had dealt freely with pilotage funds without seeking the mandatory approval of the Governor in Council for expenditures (vide Part I, pp. 110 and ff.). In the Halifax District, the Pilotage Authority had hired a Secretary and Treasurer and was paying him a salary. The Halifax Pilot Commissioners were even paying themselves out of pilotage dues compensation for their services amounting to \$950 each year from 1884 to 1887 and \$1,000 thereafter. This led to abuses and in 1889 the Governor in Council issued a general order (P.C. 1194 dated May 27, 1889, Ex. 1533) prohibiting any payment to members of Pilotage Authorities or to their Secretaries and Treasurers out of their respective pilotage funds unless such expenditures were specifically authorized in the District By-law.

In 1918, the pilotage system and its administration at Halifax were investigated by a Royal Commission under the chairmanship of Mr. Thomas Robb of the Shipping Federation of Canada (Exs. 1326 and 1328). The Commission's mandate also included the Pilotage Districts of Miramichi, Sydney, Louisbourg, Saint John, N.B., Montreal and Quebec. It is obvious, however, from its ensuing report that the situation in Halifax prompted the investigation. The Pilotage Authority and the service had deteriorated in efficiency but the immediate cause of the Commission's appointment was a series of serious shipping casualties that occurred in the port. The Royal Commission in the preamble of its interim report on Halifax states:

" . . . there was a very special reason for investigation in respect of the Halifax Pilotage District, arising from the terrible calamity which had so recently befallen the city of Halifax; and the need there of certain reformation, reorganization and improvement was obviously apparent in view of a succession of serious accidents to vessels in the port of Halifax, a number of such vessels being in charge of pilots culminating in the *Mont Blanc-Imo* collision and the loss of the hospital ship *Letitia*."

The first public hearing was held in Halifax on February 8, 1918, and 19 days later, on February 27, the Commission's report was rendered. The final report, which covered the other Districts and summed up the general recommendations, was rendered a little more than seven months later on September 10. The report did not explore the legal situation but was limited to outlining the most pressing problems and suggesting practical solutions.

The Robb Commission found that the existing situation was chaotic on several counts: the Corporation's records were inadequately and badly kept; the Secretary Treasurer's duties were clerical rather than administrative; the pilots' earnings were improperly and misleadingly entered; gratuities were paid by pilots to Masters for signing false pilotage bills; there had been serious laxity re possession and use of alcohol by pilots; a serious shortage of pilots existed; the training of apprentices was conducted haphazardly; unauthorized second-class licences were issued after three years of apprenticeship; the pooling system was illogical because all pilots were granted an equal share whether or not they had been available for duty; competition among pilots had completely disappeared; the pilot vessel service was antiquated, inefficient and costly to operate.

The pilot vessel service was operated by two schooners stationed outside the harbour each week in turn. One had a small auxiliary engine. These schooners were owned jointly by the active and retired pilots and the estates of deceased pilots. The total earnings of the pilots for the month were divided in equal shares, after crediting one and a half shares to the owners of the pilot boats. General complaints were recorded that the schooners provided antiquated service to incoming vessels and recommendations were submitted for a suitable steam pilot tender which would be available under all weather conditions.

The Commission charged both the Pilotage Commissioners and the pilots themselves with laxity regarding the apprentices whose only training was service on board pilot schooners. They were never allowed to accompany pilots on board vessels being piloted and no record of their attendance was kept. The Commission related the *Letitia* disaster to the incompetency of the pilot who was trained under such a system:

"In the case of the pilot of the *Letitia*, it was ascertained from the minutes that he was received as apprentice on January 17, 1912, and apparently obtained his second-class licence towards the end of January, 1915, although there is no minute of his passing any examination then, and we presume he received his branch licence in January, 1917, as he appears in the minutes of February 1, 1917, among the list of branch pilots, although again there is no record of his having passed an examination. This man had only six months' experience as a branch pilot when the casualty to the *Letitia* occurred."

The Commission's main recommendations are as follows:

- (i) The Halifax Pilotage Commission to be superseded by the Minister of Marine and Fisheries as Pilotage Authority. This recommendation does not appear to have been prompted by the unsatisfactory performance of the Halifax Pilotage Commissioners but rather was based on the opinion held by the members of the Royal Commission that the Minister of Marine and Fisheries should become the Pilotage Authority for all Pilotage Districts in Canada, notwithstanding their favourable reports on the local Commissions at Miramichi and Louisbourg. The Commission did not elaborate its reasons for such an important recommendation which altered the basic system of public control. It is clear from their recommendations as a whole that the members of the Commission reached this conclusion because of their own personal knowledge and belief, especially their experience in the Quebec and Montreal Districts which had been under the Minister's direction since 1903 and 1905 respectively.
- (ii) A Superintendent with sea-going experience but not recruited from the pilots or ex-pilots to "be immediately placed in full charge of the District, to reorganize and administer its affairs, and be directly responsible to the Minister", and his duties to be defined in the District By-law.
- (iii) The apprenticeship system to be redefined in order to ensure a basic qualification not lower than "second mate of a sea-going ship", extensive local knowledge and skill in ship handling, *inter alia*, by requiring the apprentices to accompany the branch pilots on at least 100 round trips, physical fitness and a thorough written examination. However, in their final recommendation they favoured discontinuance of the apprenticeship system in force in the Pilotage Districts of the Maritime Provinces and in its place recruitment of pilots from qualified mariners.

- (iv) Pilots to be despatched on a tour de rôle system, the roster for outward trips being kept at the pilotage office and for inward trips on board the pilot tender.
- (v) Pilotage earnings to be paid to the Department and the pilots to be on salary paid out of net District earnings up to a maximum set by negotiation with the Department or to the amount of net revenue available if insufficient to meet the maximum, in which event the net revenue to be shared among the pilots on the basis of availability for duty. “. . . All pilotage services in Canada should be made and supported by the shipping, and should not be a drain on the revenue of the country”.
- (vi) The pilots to be transported in the harbour proper by a small launch or tender provided by the Pilotage Authority and pilot boat service in the boarding area to be supplied by a steam pilot vessel with accommodation for 15 pilots exclusive of crew, provided by the Government or the Pilotage Authority with operational costs defrayed by the Pilotage Authority.
- (vii) Pilotage certificates to be issued to Masters and mates of Canadian registered ships trading regularly to Halifax.

(4) 1918–1968

The Government acted promptly upon the principal recommendation of the Robb Report dated February 27, 1918. Order in Council P.C. 607 of March 14, 1918, made pursuant to the War Measures Act, appointed the Minister of Marine and Fisheries the Pilotage Authority of the Halifax District (Ex. 1531(e)) and gave him extraordinary powers to enable him to carry out a complete reorganization. Since 1904 (4 Ed. VII c.29), the Governor in Council had power to appoint the Minister of Marine and Fisheries Pilotage Authority in any District but the powers derived from the War Measures Act were used instead, possibly because the Canada Shipping Act contained a proviso that the recommendation of the shipping interests of the port or of the Council of the Board of Trade had to be obtained first, and also because an amendment to the Canada Shipping Act would have been required to effect certain changes. Hence, in addition to providing for the appointment of the Minister as Pilotage Authority, the Governor in Council made specific legislation in the form of regulations as follows:

- (a) The assets of the Halifax Pilot Commissioners were “transferred to and vested in the Crown to be administered by the Minister of Marine and Fisheries”.
- (b) In addition to the normal powers enjoyed by Pilotage Authorities under the Canada Shipping Act, the Minister was given full and

discretionary power to reorganize the pilotage system in the District, *inter alia*, "to retire or dismiss any pilot or pilots". This he could not have done under the Canada Shipping Act.

- (c) The Minister was given blanket authority to use the pilotage fund to defray "all expenses in connection with the reorganization and administration of the said pilotage district".

This Order in Council was to have force and effect during the war and for one year thereafter. In 1919, sec. 432 of the 1906 Canada Shipping Act was amended to omit the requirement for the recommendation of local interests for the appointment of the Minister as Pilotage Authority in any District (9-10 Geo. V c. 41 s.1, assented to July 7, 1919). On December 17, 1919, by Order in Council 2556 (Ex. 1451(e)(1)) the appointment of the Minister was continued as from Jan. 1, 1920, under sec. 432 C.S.A. as amended. From that moment, however, the Minister was deprived of the special powers he had been granted.

It was not until May 15, 1920, that any change was made in the District regulations. On that date, a completely new set of by-laws superseding all existing ones was sanctioned by P.C. 1042 (Ex. 1531(f)). This General By-law made basic alterations in the organization of the District in accordance with the recommendations of the Robb Commission, i.e., assumption by the Pilotage Authority of full control over the provision of pilotage services and modification of the pilots' status to *de facto* employees. Its main features were:

- (a) The boarding area was greatly reduced, i.e., "inside a line drawn from Devils Island to Chebucto Head between that and the automatic buoy off Portuguese Shoal", thus abolishing the fifteen-mile stretch of open water which was no longer required because steamships had replaced sailing ships and a steam propelled pilot vessel was also in service.
- (b) The pilotage dues were purportedly made the property of the Crown. They were made payable to the Collector of Customs, who withheld clearance until all dues had been received, and were to be deposited in a chartered bank and remitted twice monthly to the Department of Marine. The pilots were placed on a salary calculated in accordance with the recommendation of the Robb Commission, the ceiling being \$300 per month.
- (c) The Pilots' Committee was instituted.
- (d) The By-law contained no regulations on despatching.
- (e) The apprenticeship system was abolished except for the acquired rights of those already engaged as apprentices. Instead the pilots

were to be recruited from Masters holding a certificate of competency not lower than Master of a passenger steamer in the Canadian coasting trade, who had actually performed such service. Candidates had to pass a written examination. When vacancies occurred, successful candidates who were physically and morally fit were first issued a six-month probationary licence followed by a permanent one if found satisfactory.

- (f) In case of emergency the Authority was given power to issue a temporary licence to any person deemed competent and to pay him on a *per diem* basis out of the Pilotage Fund in an amount to be determined by the Minister.
- (g) The pilots were granted 21 days' annual leave. In case of illness they were entitled to sick leave with full pay for two months and half pay for one month within twelve consecutive months.
- (h) The Minister became responsible for the administration of the Superannuation Fund. *Inter alia*, the pension benefits to retired pilots were no longer left to the discretion of the Pilotage Authority but were fixed at \$20 for each year of service, the total not to exceed \$600 per annum.

There was little change in the pilots' status from previous years. They had long since ceased to enjoy the independence of free enterprise, competition for employment had disappeared, assignments were allocated in turn, earnings were pooled and pilot vessel service expenses were paid out of the pool. The only significant change was that responsibility for despatching, pooling and operating the pilot vessel service was assumed by the Authority, thus greatly improving their working conditions. The only drawback was the ceiling on their remuneration (it was removed in 1940). However, this General By-law was short-lived. It was superseded the same year by P.C. 2744 of Nov. 12, 1920 (Ex. 1531(g)) which made the following principal changes:

- (a) Statutory exemptions were altered by charging certain categories of exempt vessels half rates and making small regular traders fully exempt for the balance of any calendar year after they had paid 12 full rates.
- (b) Apprenticeship was re-established. Indentured apprentices were to serve on board pilot boats for a term of five years, at the end of which they were to acquire experience as articulated seamen on board ocean-going vessels. At the same time, the system of recruiting from qualified mariners was retained and the range was extended to include Masters of British ocean-going vessels with actual service as such.
- (c) The maximum benefits from the Superannuation Fund were increased to \$800.

This General By-law was amended twice, first, to withdraw the exemption for sailing ships over 250 NRT engaged exclusively in fishing (P.C. 1752 of 30 May, 1921, Ex. 1531(g)(1)) and, second, to change from calendar year to fiscal year the operation of the Pilotage Fund and the computation of the pilots' salary ceiling and, *inter alia*, to increase the Superannuation Fund benefits to \$30 per year up to a maximum of \$1,200 (P.C. 277, Feb. 26, 1925, Ex. 1531(g)(2)).

On April 28, 1930, a new General By-law was approved by the Governor in Council (P.C. 825, Ex. 1531(h)) which was amended 22 times and remained in force until superseded in 1961 by the current General By-law. Apart from tariff rates and exemptions, its main basic changes were:

- (a) The pilots' maximum salary was to be computed on a fiscal year basis and was not to exceed \$4,000.
- (b) The balance remaining in the Pilotage Fund after the pilots' salaries had been paid was to be used at the discretion of the Pilotage Authority, "for the improvement or betterment of the pilotage service at Halifax, or remitted to the Receiver General of Canada".
- (c) A specific section was added which provided that pilot vessels were to be purchased out of the revenue of the District and owned by, and registered in the name of, the Pilotage Authority.
- (d) Both apprenticeship and recruitment from experienced mariners were retained as sources of pilot candidates.
- (e) The right to appoint temporary pilots was withdrawn.
- (f) Superannuation benefits were increased to \$40 per year of service to a maximum of \$1,600 per year.
- (g) The Pilotage Authority assumed disciplinary powers and the Superintendent was purportedly given power to impose a fine not exceeding \$40 except in cases of continuing breach when a further penalty not exceeding \$4 per day could be imposed, or by suspension for any period, or by withdrawal of the licence. Similarly, the Pilotage Authority could award fines for unlimited amounts, suspend and dismiss pilots for breach of By-law (re legality vide Part I pp. 373 and ff.).
- (h) The By-law remained silent on the subject of despatching.

The more important amendments to the 1930 By-law (Ex. 1531(h)(1) to (21)), excluding those concerning tariff rates and exemptions, were the following:

- (a) The ceiling on pilots' earnings was removed (P.C. 762 of Feb. 23, 1940 (Ex. 1531(h)(5))), thereby re-establishing true pooling based on the pilots' availability for duty, a system which still exists.
- (b) P.C. 4429 dated May 26, 1942 (Ex. 1531(h)(8)) enacted under the War Measures Act granted authority to issue temporary pilot

licences, valid for one year and renewable as required, to meet the increased demand for pilotage services during the Second World War when few certificated Masters and mates possessing the required qualifications were available. The maximum age limit for appointment as temporary pilots was set at 50. Candidates were required to hold a foreign-going or home-trade Master's certificate of competency accompanied by credentials showing at least two years of service as first mate of a foreign-going ship, and that they had actually traded into the port of Halifax for at least two years, and to pass an examination.

- (c) The salaries and expenses of the clerical staff at the pilotage office were excluded from the general expenses of the District by P.C. 2175 of April 12, 1945 (Ex. 1531(h)(9)). The Superintendent's salary was also excluded by P.C. 1449 of April 8, 1948 (Ex. 1531(h)(13)).
- (d) P.C. 3918 of Sept. 19, 1946 (Ex. 1531(h)(11)) created a pilot boat charge, but this was deleted in 1947 when P.C. 2175, June 3, 1947 (Ex. 1531(h)(12)) provided a new set of rates incorporating a 30% increase.
- (e) In 1948, the present system of administering pilotage money was adopted. Dues were made payable to the Pilotage Authority and no longer to the Collector of Customs, and were to be deposited in a chartered bank in the name of the Pilotage Authority and not in the name of the Receiver General of Canada (P.C. 1449 of April 8, 1948 (Ex. 1531(h)(13))). However, the Superannuation Fund continued to be administered by the Department of Transport and the compulsory deductions were to be sent to its Chief Treasury Officer. Therefore, from that moment the Pilotage Fund was to be administered locally by the representative of the Pilotage Authority.
- (f) In 1950, apprenticeship was cancelled and the sole source of recruiting was from mariners with the same qualifications and credentials as before. The provisions purporting to give the Pilotage Authority and the Superintendent disciplinary powers were modified and extended P.C. 5195 of November 1, 1950 (Ex. 1531(h)(14)).
- (g) P.C. 1593 of April 4, 1951 (Ex. 1531(h)(15)) was enacted to cover a specific case; it concerned the net proceeds of the sale of the pilot vessel *Camperdown* in the amount of \$22,000, which sum, being considered pilots' earnings, was thereby distributed among the 23 pilots that were active on the date of sale, i.e., September 25, 1950. This By-law was in contradiction to the Exchequer Court decision of 1946 in the case of *Himmelman et al v the King* (1946 Exchequer Court Report 1), which was to the effect that assets

purchased out of the Pilotage Fund did not belong to the pilots, that they had only the use of them and that title belonged to the Crown. (For details vide Part I, pp. 114 and 115.) By sharing the proceeds of the sale among the active pilots the Pilotage Authority followed the same procedure it had adopted previously when a former pilot vessel, the *Sambro*, was sold. No doubt because of the court action brought by the temporary pilots in 1946, sharing was formally approved by a specific by-law.

- (h) In 1951, following the Audette Report, the Government undertook to reimburse the Pilotage Authority for the operation of pilot vessels and the pilot station (P.C. 120/422 of January 25, 1951 (Ex. 52)) provided the pilots acted in turn as Masters of the pilot vessels without extra remuneration, and the Pilots' Committee, in conjunction with the Superintendent, became responsible for the employment of the necessary crews. P.C. 2423 of May 16, 1951 (Ex. 1531(h)(16)).
- (i) In 1952 and 1954, two special superannuation cases were settled, each through a special by-law which approved a lump sum payment to a pilot whose licence had been withdrawn and cancelled for cause by the Pilotage Authority P.C. 4610 of December 10, 1952 (Ex. 1531(h)(17)); and to a pilot who had resigned P.C. 1954-1030 of July 6, 1954 (Ex. 1531(h)(19)). The pension fund at that time was deeply in deficit and a few years later, in 1958, P.C. 1958-1475 of October 23, 1958 (Ex. 1531(h)(20)) the pension fund was discontinued except for the purpose of discharging the liabilities then incurred, for which the pilots are still paying.
- (j) In 1959, after the Department of Transport became responsible for pilot vessel service, the tariff was amended to include a \$10 pilot boat charge and the Pilotage Fund provisions as they now stand were adopted, *inter alia*, by withdrawing the power of the Pilotage Authority to pay out of it any District expenses, since they were being paid by the Department of Transport (P.C. 1601 of Dec. 18, 1959, Ex. 1531(h)(21)).

In 1961, the General By-law now in force abrogated the 1930 General By-law and all its amendments. For its main provisions, vide pp. 167 and 168.

Between 1920 and 1959, the Government financed the operation of the pilot vessel service by providing from time to time, as required, interest-free loans to cover capital expenditures, thereby prorating repayment over a period of years at no extra cost to the pilots. For instance, on June 15, 1941, by Order in Council P.C. 5167, the Government advanced the District a \$65,000 loan from the Department of Transport, to be reimbursed without interest in yearly payments in the amount of 7 per cent of the District gross revenue.

The organization and operation of the service in the District of Halifax were studied by Captain F. S. Slocombe during his 1947 survey and by the Audette Committee in 1949. For general information about these studies vide Part II, p. 20 and ff.

(5) SLOCOMBE REPORT 1947 (Ex. 1452)

In his report dated March 4, 1947, Captain F. S. Slocombe found that the main problem in Halifax was financial caused by the high cost of operating the pilot vessel service.

In 1947, 22 active pilots were on strength. They were divided into two groups of 11 alternating every week, one group performing assignments in the harbour and piloting outbound ships, while the other served inbound ships embarking from the pilot vessel at the seaward loading station. The main pilot vessel, M.V. *Camperdown*, was on station most of the time, but came to Halifax every Monday for a short period for stores and fuel when she was relieved by the auxiliary schooner *Nauphilia*. Two pilots acted as Masters of the pilot vessel while cruising on station, each taking six-hour watches. Pilots boarding inbound ships or disembarking from those outbound were obliged to use the pilot vessel's rowboat with all its attendant hazards. At least three pilots (in addition to the two Masters) were on board at all times. The other pilots of the inbound group remained at home on standby, and when a pilot had boarded an incoming ship, the next on turn rejoined the pilot vessel by land transportation to Herring Cove (about six miles from the pilotage office) or Portuguese Cove (a further four miles) from where they reached the pilot vessel on station rowboat. After disembarking, the pilots of the outbound group were returned to Halifax in a similar manner.

Pilotage revenues and the pilots' annual earnings decreased considerably after the war, while the cost of operating the pilot vessel service remained the same as illustrated by the following extract from the table of revenues and expenditures contained in the Annual Reports.

Year	No. of Pilots	Gross Revenue	Total Expenses	Remuneration of Full-time Pilot
		\$	\$	\$
1938-39.....	20	88,480	23,976	3,228
1941-42.....	39	485,016	158,119*	9,268
1942-43.....	44	399,060	157,455*	5,538
1944-45.....	42	276,677	83,004	4,817
1945-46.....	30	156,990	63,957	3,090

*Includes payments for new pilot vessel.

In 1946, the situation had deteriorated to such an extent that, if the insurance premiums that were due for the pilot vessels at the end of November had been paid out of the Pilotage Fund, there would have been no

money left to remunerate the pilots for the latter half of December and January. To resolve the problem the Department gave permission for temporary discontinuance of pilot vessel insurance to enable the pilots to receive remuneration for that period at the rate of \$300 per month.

There had been previous discussions advocating the imposition of a \$5 pilot boat charge to meet part of the operating costs and the necessary amendment to the tariff had been made but not implemented (vide p. 180). Before the Order in Council was gazetted, the shipping interests protested on the ground that the effect on the port would be detrimental. The pilots concurred. Since their financial problem could not be solved by increasing the rates, the pilots, supported by the shipping interests, recommended as an alternative that the Department assume the cost of providing suitable pilot vessels and operating them.

The pilots also pleaded for recognition of their contribution to the war effort.

(6) AUDETTE REPORT 1949 (Ex. 1330)

The Audette Committee studied the same seven Pilotage Districts reported on by Captain Slocombe in 1947. The Committee's recommendations were mainly of general application. Specific recommendations for Halifax were as follows:

- (a) The Committee disagreed with the representations of the shipping interests to the effect that the pilot vessel *Camperdown* should be used as a floating base cruising at the boarding station. They suggested the establishment of a pilotage station at some suitable location within the harbour commanding a good view of the approaches and affording shelter.
- (b) As for the Pilot Committee's request that they should have signing authority for disbursements from the Pilotage Fund, they pointed out that the grounds of complaint which motivated this submission would be removed if, as the Committee was recommending, the cost of operating the pilot vessel service and the pilot station were assumed by the Government.

This policy was later adopted and implemented under the authority of Order in Council P.C. 120-422 of January 24, 1951 (Ex. 52) for, *inter alia*, the Pilotage District of Halifax. The pilot vessel service continued to be operated by the Pilotage Authority and the pilots but the operating costs together with those of operating the District were reimbursed by the Government to the Pilotage Fund. In 1959, the Department of Transport, acting under authority of Order in Council P.C. 1959-19/1093 of August 27, 1959 (Ex. 52) assumed the full operation of the pilot vessel at Government expense. This situation still prevails (vide p. 166).

Chapter B

BRIEFS

Only one brief concerning the Halifax District was filed: the Halifax Pilots' brief (B.24, Ex. 358). In addition, specific recommendations were made during the Commission's public hearings in Halifax by Foundation Maritime Limited and by Shaw Steamship Co. Ltd.

(1) HALIFAX PILOTS' BRIEF

The brief was presented by the Pilots' Committee on behalf of the 18 pilots in the District. They are not grouped in any association or corporation.

Recommendations

The pilots' recommendations may be summed up as follows (the references after each recommendation show where the subject is dealt with in the Report):

- (1) Compulsory pilotage in lieu of the compulsory payment of pilotage dues should be adopted and made applicable to all ships of foreign registry, and to all ships of Canadian registry over 1,000 net tons, with certain exceptions for those under 1,000 net tons. (Part I, General Recommendations 22 and 23 and Halifax Recommendation No. 2.)
- (2) Exemptions from compulsory pilotage should be carefully reviewed, especially concerning ships possessing special characteristics, such as relatively small coastal tankers which can present a serious hazard to navigation and endanger public safety. (Part I, General Recommendation 22 and Halifax Recommendation No. 2.)
- (3) The present status of the pilots should be maintained. The Pilotage Authority's proposal that they become "prevailing rate employees" is unacceptable to over half the pilots. (Part I, General Recommendation 24, and pp. 206 and ff.)

- (4) Annual overhauls and repairs to pilot boats should be carried out during the summer season and not during their busiest months in the winter. There should also be closer co-operation and consultation between the Department and the pilots on all matters pertaining to the provision, maintenance and operation of the pilot boats. (p. 217.)
- (5) Records of pilots' time worked should include stand-by time. (p. 211.)
- (6) Any changes in the By-law should be mutually agreed upon by the Authority and the Pilots' Committee. (Part I, General Recommendation 19.)
- (7) The Authority should deal with all matters affecting the pilots, either collectively or individually, through the Pilots' Committee and not with individual pilots. (Part I, General Recommendation 25.)
- (8) District operations should be partly subsidized from public funds on the ground of public interest. (Part I, General Recommendations 20 and 21.)
- (9) Pilotage and pilot vessel services performed outside the District should be remunerated. (pp. 215, 546 and 576.)
- (10) In order to prevent losses pilotage dues should be paid in cash before clearance is given. (Part I, pp. 187 and ff.)
- (11) Although the By-law is satisfactory respecting licences and examinations, applicants have difficulty obtaining two years' service as Master within the 45-year age limit. If this proves too severe a restriction, consideration should be given to overcoming the difficulty. (Part I, pp. 251-253.)
- (12) The present income of the pilots is satisfactory but if any future development, such as the extension of pilotage exemptions, causes a reduction, adjustments in the system should be made to ensure adequate earnings. (Part I, C. 6 and General Recommendation 21, and pp. 210-213.)
- (13) The Pilots' Pension Fund is in a most unsatisfactory state and should be rectified by a formula whereby the pilots would come within the provisions of the Public Service Superannuation Act. (Part I, C. 10, and p. 244.)

(2) FOUNDATION MARITIME LIMITED

Foundation Maritime Limited is an old established company that owns and operates several salvage vessels and tugboats. By letter dated May 8, 1963 (Vol. 27, pp. 2907-8) it recommended:

“... increased use of radiotelephones by the Halifax pilots to give their commands to our tugboat captains. In our opinion this system is superior to that of ship's whistle and/or mouth whistle.”

(pp. 203-204).

(3) SHAW STEAMSHIP COMPANY LIMITED

Shaw Steamship Co. Ltd. is a Halifax company that owns and/or charters several coastal freighters. By letter dated May 9, 1963, of general application (Vol. 27, pp. 2906-7) it recommended that pilotage be eliminated at all Canadian ports for Canadian registered vessels of 1,000 gross tons or less, when a pilot is not required, and that this Commission should not recommend payment of pilotage at ports such as Sydney and Halifax where the ships of this company do not now pay. (Part I, General Recommendations 22 and 23 and Halifax Recommendation No. 2.)

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

(1) DISTRICT LIMITS

According to its legal definition (vide pp. 157 and ff.), the Halifax Pilotage District is a coastal District some 115 miles in length which comprises many ports, the most important being Halifax.

In practice, the District limits have always been those of the Port of Halifax and its immediate approaches, although for some time in the early years licences were issued for outports.

By referring to the contemporaneous orders made by the Governor in Council, it appears that at first the administrative policy was to create Pilotage Districts on the basis of counties and not on the basis of ports, probably with a view to reducing to a minimum the number of Districts and Authorities. During this period the following Pilotage Districts were created on the basis of counties: Digby and Annapolis, Kings and Hants, and Richmond. This was a policy of questionable legality under the scheme of organization of the 1873 Pilotage Act and was also unrealistic from a practical point of view because pilotage organization is governed by local needs. These county Districts have all disappeared and been replaced where necessary by port pilotage organizations. In Halifax, the legislation was not changed but in practice, especially since 1918 when the Minister was appointed Pilotage Authority, the District organization has been limited to the port of Halifax only.

Pilot W. H. Crook, in his evidence, described the extent of the District as from a line joining Chebucto Head and Devils Island as the seaward limit and all the waters inward extending to the head of Bedford Basin.

(2) PHYSICAL FEATURES

Halifax Harbour, including Bedford Basin, is acclaimed as one of the finest in the world. Well sheltered, deep and commodious, it is one of the principal seaports of Canada. The city and suburban communities which comprise the port, embrace the largest concentration of population in the Atlantic Provinces.

The approach to the Harbour from its seaward limits, designated by a line joining Chebucto Head and Devils Island, leads for a distance of 4½ miles off Mauger Beach light on the west side of McNab Island, then for 2½ miles to George Island in the main harbour, and thence for 7 miles northwesterly to the head of the landlocked waters of Bedford Basin.

The main harbour lies between the cities of Halifax and Dartmouth about ¾ of a mile apart, which narrows at its northwesterly portion where the Angus L. Macdonald Bridge with a clearance of 165 feet at high water joins the two cities.

A southeasterly extension of the main harbour, named the Eastern Passage, leads to a narrow, shallow outlet to the open sea. For about 1½ miles the Passage provides shelter, berthing and anchorage and is an area of increasing marine activity of both a commercial and military character. Vessels, except small craft, must enter and leave *via* the main harbour.

The Northwest Arm branches from the main harbour and extends for about 2½ miles in a northwesterly direction from the southern tip (Point Pleasant) of the city of Halifax. This area is almost exclusively used for yachting and recreational purposes.

Canada's eastern naval depot and base has long been established at Halifax and extensive naval facilities are located on both sides of the upper part of the main harbour, but mainly on the Halifax side in the vicinity of the Angus L. Macdonald Bridge, and also along the shores of Bedford Basin.

Bedford Basin provides extensive anchorage, sufficient for a large fleet of deep sea vessels. It is entered through The Narrows with a width of 1½ cables and a depth of 5 fathoms. Its waters are extensively used for naval purposes, including training exercises, a range for degaussing ships, speed trials and compass adjusting. Commercial shipping activity extends for about a mile past The Narrows at Wright Point where the National Gypsum Co. wharf and the British American Oil Co. wharf are located, both with deep water alongside and accommodation for large vessels.

The main commercial shipping facilities extend along the western side of the main harbour from Piers B, A1, and A situated close to the northeastern boundary of Point Pleasant Park, thence in a northerly direction along the harbour front for about 3 miles to Pier 9 that lies within The Narrows—the entrance to Bedford Basin. A short distance north of Pier A is Ocean terminals quay with a length of 2,007 feet and a least depth of 40 feet alongside where the large Atlantic passenger liners usually berth.

The many public and private commercial piers and wharfs are mostly constructed at right angles to the harbour frontage and to the flow of traffic. At the northeastern side of the harbour lies the city of Dartmouth with its many wharves and shipyards, while farther south and opposite Piers A, A1 and B, is located the Imperial Oil Company complex with its storage tanks and wharves.

A large number of underwater power and communication cables of commercial and defence character (many of them not shown on the charts) are laid across various sections of the main harbour and its approaches and familiarity with their several positions is necessary in order to anchor in case of emergency without fouling or damaging them. For this reason, prohibited anchorage (indicated by pecked lines on chart 4316 (Ex. 335)) includes the whole of the main entrance to the harbour. In addition to anchorage for quarantine and for vessels carrying explosives, there are six numbered anchorage areas in the harbour also clearly marked on the chart.

The pilots pointed out that there are a number of uncharted obstructions in the harbour. Among these are various minor, unmarked shoal grounds that would interfere with deeply laden ships; one is off Pier No. 2, Cunard wharf; two other such areas are found between Inner Automatic light-and-whistle buoy and Lichfield Shoal and Neverfail Shoal where the water is 7 fathoms 5 feet and 6 fathoms 4 feet respectively.

The main harbour and a portion of its facilities are exposed to the south and east, and heavy storms from these directions cause considerable swell at its southern extremities. Fog is the main hazard to navigation. According to statistics furnished by the pilots, in the years 1960, 1961 and 1962, there were respectively 144, 164 and 151 days with visibility at or below 2 miles. (For these statistics a day of fog is one where fog prevailed for at least 15 minutes.) The table included in the pilots' brief (Ex. 358) shows that there is no seasonable pattern and fog may occur any day of the year. The same Exhibit shows for the same years 164, 184 and 173 days when winds (not including gusts) blew for a period of time at 16 knots or over. An 11-16 knot wind is force 4 according to the Beaufort scale, i.e., "moderate breeze". The rise and fall of tides of approximately 4 to 5 feet and their currents are greatly influenced by winds. Tidal currents rarely exceed 1 knot and are not a major factor in navigation but, depending on the velocity and direction of the wind, will influence the handling of vessels while berthing or unberthing.

Halifax Harbour is ice free and open all year round. With its deep water approaches and the changing pattern of shipping, plans are in progress for improving its facilities, including a large new pier (Pier C) at an estimated cost of \$12,000,000.

At the time of the Commission's hearings the pilots considered the National Gypsum Co. wharf in Bedford Basin the most difficult to approach for berthing, although it is well fendered and of cellular construction and provides a protective cushioning effect. Problems arose, first, because it is exposed to the prevailing wind which sometimes reaches dangerous proportions, secondly, the normal approach was obstructed by buoys marking the naval degaussing range through which traffic was prohibited. Ships approaching the wharf in a northwest wind had to be manoeuvred broadside to the wind in order to parallel the wharf. This was a difficult manoeuvre even with the normal assistance of tugs. Since the situation could be greatly improved if the pilots were permitted to encroach on the prohibited area, the Commission communicated with the Naval Authorities to seek a solution. They advised that the prohibition was imposed to prevent damage to underwater equipment by ships dragging anchor or cutting adrift the northern buoys marking the end of the range, but that the risk of damage would be small if the pilots were made fully aware of the problems involved.

At a subsequent meeting between the Naval Authorities in Halifax and the Supervisor of Pilots it was decided to reposition some of the buoys and a satisfactory solution was reached (Ex. 1531(t)).

(3) MARITIME TRAFFIC

Halifax and Saint John are the two main Canadian railway terminals on the Atlantic Coast. Halifax is a terminus and port of call for shipping all the year round and a winter port for several ocean liners when the St. Lawrence River is ice-bound.

Vessels plying the District are of all types ranging from fishing vessels, of small and medium tonnage, to the largest ocean-going passenger liners, but are mostly ocean-going freighters, large and small, including oil tankers, coastal traders and the occasional large bulk carrier. Exports consist of grain, flour, lumber, gypsum, fish, apples and general merchandise, and imports of crude oil, raw sugar, motor vehicles, rubber and general merchandise. In addition to commercial traffic several regular ferry services criss-cross the harbour and, during the summer months, especially at weekends, numerous yachts and pleasure craft are in evidence.

There is a tendency to exaggerate the seasonal character of the port. It was even stated at the Commission's hearings that commercial traffic is about three times greater in the winter months compared with the rest of the year. However, statistics show that the slight increase formerly recorded in the winter months for both general and pilotage traffic is now disappearing.

There was apprehension that the opening of the St. Lawrence Seaway would jeopardize the port, but local industrial development has helped to keep traffic more uniform throughout the year. Most of these new industries import bulk cargoes, petroleum products and ore.

This traffic trend is borne out by D.O.T. statistics (for pilotage statistics vide p. 252) and also by the following shipping figures from the Dominion Bureau of Statistics which show arrivals (other than naval, fishing, pleasure craft and those of, and under, 15 NRT) of foreign and coastwise vessels for each month in the years 1962 and 1967.

	Foreign Arrivals		Coastwise Arrivals		Total Arrivals	
	1962	1967	1962	1967	1962	1967
January.....	113	87	45	48	158	135
February.....	134	79	50	40	184	119
March.....	140	73	53	43	193	116
April.....	88	80	67	44	155	124
May.....	78	60	92	71	170	131
June.....	85	46	87	83	172	129
July.....	97	56	67	76	164	132
August.....	83	53	80	61	163	114
September.....	65	52	78	62	143	114
October.....	94	52	78	67	172	119
November.....	65	55	81	55	146	110
December.....	117	55	88	65	205	120
Total.....	1,159	748	866	715	2,025	1,463

Source of Information: Ex. 1531(k).

The table shows *inter alia*:

- (a) The seasonal character of the port is disappearing as far as foreign vessels are concerned. The four months of January, February, March and December accounted for 43.5% of the foreign traffic in 1962, and for 39.3% in 1967, which is not a marked increase over the absolute average of 33.3%.
- (b) By contrast, coastal shipping in the same four months accounted for 27.3% of the coastwise traffic in 1962, and for 27.4% in 1967. This helped to spread the total traffic more evenly throughout the year as those four months accounted for 36.5% of the total traffic in 1962 and 33.5% in 1967.

The following shipping statistics provided by the Dominion Bureau of Statistics show the number of vessels of 250 net tons and over that arrived at Halifax in each of the nine years 1959 to 1967 inclusive, as well as the tonnage of foreign and coastwise cargo handled.

Year	Arrivals		Cargo Handled (Tons)	
	No. of Ships	Net Tons	Foreign	Coastwise
1959.....	1,755	6,698,656	5,589,665	1,807,491
1960.....	1,598	6,432,889	5,633,080	1,970,882
1961.....	1,685	6,225,350	5,396,480	2,108,829
1962.....	1,686	6,130,128	5,845,107	2,341,551
1963.....	1,533	5,735,645	5,856,925	2,331,566
1964.....	1,495	6,059,505	6,628,189	2,547,656
1965.....	1,515	6,413,911	6,944,594	2,603,202
1966.....	1,492	6,452,681	7,073,862	2,333,207
1967.....	1,322	5,826,023	6,537,986	2,530,127

The figures appearing in the D.B.S. table show that from 1959 to 1967 the number of vessels decreased by 24.7 per cent and the aggregate net tonnage by 13.0 per cent. However, the average net tonnage per vessel has risen from 3,817 to 4,407, an increase of 15.5 per cent.

Apart from the foregoing commercial traffic, since Halifax is Canada's largest eastern naval establishment and depot, there are frequent daily movements within the harbour of naval vessels, large and small, and the arrival and departure of Canadian and foreign warships are common occurrences.

Ferries

There are numerous *ferry* routes across the harbour maintained by the Department of National Defence and the city of Dartmouth. The Dartmouth Ferry Commission has a regular schedule between Portsmouth Street, Dartmouth and George Street, Halifax. The Dockyard ferry service may be irregular. The ferry routes criss-cross the harbour in many locations in areas frequently used for general port traffic. They operate on schedule in spite of the weather or visibility, and require caution on the part of other ships. The ferries observe the international rules of the road (there were local rules during the war). The ferries are not equipped with radar. There have been no accidents involving them in recent years.

Shelter

Since Halifax is the principal port on the eastern seaboard, it is frequently used as a port of refuge and, although ships entering a harbour for refuge are exempt from pilotage dues, the pilots are often called upon to

assist. Each year they handle disabled ships, mostly during the winter months or unusual weather conditions such as the hurricane season. In October, 1962, over thirty trawlers entered one night, probably the greatest concentration of traffic in the harbour since World War II. A sudden demand of this nature may require all the pilots to be on duty at the same time.

(4) AIDS TO NAVIGATION

The approach from seaward to Halifax Harbour is rendered comparatively safe by the absence of outlying dangers. At the time of the Commission's hearing in 1963, vessels were guided by the Sambro light vessel, moored about nine miles southeast of Chebucto Head, but it was replaced October 14, 1966, by a large light-and-whistle buoy, fitted with a radar reflector. Seven miles to the northward of this buoy is the Outer Automatic light-and-whistle buoy. The southern entrance to the harbour is marked by Chebucto Head where a light is exhibited at an elevation of 165 feet from a white, square dwelling and from where fog sound signals are also made. There is a shore-based radar at Camperdown near Chebucto Head from which ships' bearings may be obtained. It is operated by the Telecommunications and Electronics Branch of D.O.T. Five and a half miles in a northeasterly direction from Chebucto Head is Devils Island, close to Hartlen Point, which marks the extreme eastern limit of the harbour. The approaches and deep channel into the harbour are well marked by lighted bell and whistle buoys.

No complaints about aids to navigation were voiced during the Commission's hearings. However, Pilot Crook stated that a light on the Federal Building would be of distinct advantage to the pilots, since this large structure is used as a leading mark during the day. Mr. F. M. Weston, the District Marine Agent, testified that aids were efficient and that immediately upon receipt of a report of a failure all concerned were notified and steps taken to remedy it.

Since 1963, major changes and improvements have been made. In addition to the replacement of the Sambro light vessel by the large buoy previously mentioned, they are:

- (a) radio beacon established on Sambro Island;
- (b) radio marker beacon established at Hartlen Point;
- (c) radio beacon on Sable Island increased in power to extend coverage to the Halifax approach area;
- (d) fog signal on Sambro Island changed from a fog gun to a diaphone;
- (e) lighted bell buoy established off Bear Cove;
- (f) lighted buoy established off Mauger Beach;
- (g) two lighted buoys established in Eastern Passage;

- (h) a sector (tri-colour) range light established at Eastern Passage;
- (i) two lighted buoys established in The Narrows off Wright Point (entrance to Bedford Basin) (Ex. 1531(i)).

In addition, the area continues to be served by *LORAN*, a radio aid to navigation which provides a position-fixing facility over large areas of the Atlantic and Pacific Oceans for vessels equipped with a special receiver unit and plotting charts; and *DECCA NAVIGATOR*, also a radio position-finding device which operates automatically and continuously in conjunction with groups or "*chains*" of land-based transmitting stations. "It enables the mariner to obtain his position with a very high degree of accuracy by reading meters and referring the numbers to a *DECCA* lattice chart—an ordinary marine chart overprinted with red, green and purple numbered position lines. The meter pointers, actuated automatically by the signals from the *DECCA* stations continuously record any change in the position of the ship and can be read off as required simultaneously without manipulations."

Both systems provide prime coverage in the Halifax Harbour approach area.

Halifax generally is well provided with tugs. They are supplied by Foundation Maritime Company which, on occasion, obtains additional ones from the R.C.N.

When berthing at the Gypsum wharf, grain berths, Piers A, A1, B 2 and 3, tugs are normally used.

2. NATURE OF PILOTAGE SERVICE

The official publication, the *Nova Scotia (S.E. Coast) and Bay of Fundy Pilot*, fourth edition, 1966, describes the port of Halifax as follows:

"Halifax Harbour, the safest in this part of the world, is entered between Devils Island, situated about 4 cables south-southwestward of Hartlen Point, and Chebucto Head about 5½ miles south-southwestward. Although the dangers in the approach render great caution necessary during fogs, which usually accompany all winds from seaward, the harbour is easier of access than any other large harbour on this coast".

The Commission's Nautical Adviser, the late Captain J.S. Scott, made the following appraisal of the harbour from the navigational point of view:

"Halifax is a spacious harbour relatively free from rock and shoals and with only a weak tidal stream. Navigational hazards confronting a pilot are in the very thick and frequent summer fogs and the winter gales. All things considered, and from my own personal experience, I should say that Halifax was one of the least onerous pilotage districts.

The Halifax tugboats are powerful and efficient units and in themselves must serve to lessen to a considerable degree any preoccupations a pilot may have on berthing large vessels in winter gales".

It was stated during the Commission's hearings that pilotage was necessary to expedite traffic in the port and to permit ships' movements when fog and other adverse weather conditions prevail. Pilot W. H. Crook, licensed pilot since 1952 and the Chairman of the Pilots' Committee, testified that pilotage is essential in Halifax for large deep draught vessels. If such vessels approached the pilot boarding station during severe adverse weather conditions and no pilots were available, long delays up to several days would result. He stated that the pilots are quite conscious of the heavy cost to shipowners caused by long delays, and they endeavour to expedite with safety the movement of the ships they pilot.

Mr. Yman Hall, the Halifax Manager of Saguenay Shipping Limited, testified that his company attends to about 60 vessels making 120 arrivals and departures to and from Halifax a year and, although the Masters of these ocean-going vessels have no direct instructions to employ pilots, they all do so and are very pleased with their services.

However, Imperial Oil Limited submitted that no form of compulsory pilotage should be imposed on ships continuously engaged in coastwise trade and whose Masters and officers are thoroughly competent to navigate their ships in the various coastal ports. In their brief (B.23) they stated:

"There are many ships engaged in coast-wise trade, the masters and officers of which have spent their entire professional careers entering these ports and it is from this group that several pilotage bodies have drawn their recruits. It is unnecessary for such ships to be required to take pilots or to pay dues."

Captain T. D. Kelly, Manager of the Marine Division of Imperial Oil Limited, testified that the statement in his Company's brief referred only to Canadian flag ships wholly engaged in coastal trade and not to foreign-going ships of Canadian or other flags. His Company operates three coastal tankers, seven tankers on the Great Lakes and two self-propelled barges. The tankers sometimes interchange their normal trade routes.

The Masters of the coastal tankers have served with the Company from 19 to 30 years, and for some 10 to 15 years have plied the waters of Halifax Harbour and other ports in the Maritimes, Newfoundland and Labrador. He cited an ironical situation when a third officer of one of the coastal tankers resigned to enter the pilotage service, and the following week boarded a ship as the pilot, while the Master, who had far more experience, was not entitled to pilot his own vessel. (This statement was obviously incorrect because the only obligation on the part of the ship was to pay pilotage dues.) These coastal tankers visit Halifax more frequently than other vessels, i.e., about 60 to 70 times a year or a total of 120 to 140 pilotage trips inward and outward.

Captain Kelly further stated that years ago ships had only a magnetic compass on the bridge, but today highly sophisticated navigational instruments are placed on board and the Government has spent millions of dollars on aids to navigation in coastal areas. He charged that in these circumstances

the payment of pilotage dues, whether or not a pilot is employed, is a form of "feather-bedding". On the other hand, he considers that safety is of prime importance and that compulsory pilotage should be imposed on all foreign-going ships, including those flying the Canadian flag, and on any other ships that are only occasional visitors.

By letter dated April 18, 1963, Imperial Oil Limited informed the District Supervisor of Pilots that henceforth their vessels would dispense with the services of pilots. Since then, the Company's smaller vessels which are customarily engaged in the coastal trade do not, except under unusual circumstances, employ the services of a pilot. However, pilotage records show that their larger vessels, i.e., those engaged in international voyages, always employ pilots both for movages and for inward or outward voyages (Ex. 1531(v)).

In contrast to Saint John, a large number of non-exempt ships dispense with pilots in Halifax despite the fact they are required to pay pilotage dues. This table shows the number of trips and movages so effected, the dues yielded at full or half rates as the case may be and the percentage of their incidence:

	Trips				Movages			
	No.	%	\$	%	No.	%	\$	%
1962.....	382	10.6	8,569.98	4.4	38	4.5	604.20	3.8
1963.....	703	20.0	18,509.28	9.9	156	17.2	1,668.68	10.6
1964.....	796	21.2	17,217.17	8.5	150	14.9	1,583.18	8.9
1965.....	748	20.2	16,560.22	7.9	178	20.6	1,987.87	12.6
1966.....	574	15.7	13,175.14	6.3	136	16.7	1,601.70	10.5
1967.....	582	17.3	14,239.64	7.6	167	17.9	1,635.73	10.0

SOURCES—The data of number of trips and movages when dues were paid while pilot not employed and the revenue they yielded are taken from Ex. 1308 (D.O.T. letter Aug. 8, 1968). The total number of trips and movages on which dues were paid and the aggregate revenue yielded are taken from the annual reports, Ex. 344. Discrepancies have been noted between the total number of trips and movages computed from data in D.O.T. letter in Ex. 1308 and those of the annual reports. They are slight except for 1962 where there is a minus discrepancy of 10% (3989 against 4430). However, these discrepancies make little difference in the calculations in the table above.

Inter alia, this table prompts the following remarks:

- (a) The Halifax District has the highest incidence of non-exempt ships dispensing with pilots¹ in sharp contrast with Saint John where there are practically no such cases. The main reason is the comparative ease of local navigation which encourages those who have

¹ According to statistics, Sydney had a higher percentage up to recent years due to the CNR ferry ships being compelled to pay dues (vide p. 280).

acquired some knowledge of the port to dispense with pilots. Another reason is the extent to which the compulsory system is applied through total and partial withdrawals of relative statutory exemptions.

- (b) The vessels which dispense with pilots are usually small. The actual average, however, can not be calculated from the proportion of voyage dues paid because Canadian regular traders are required to pay only half rates. The official reports do not contain the necessary data to calculate such average tonnages exactly, but for the purpose of the Commission's inquiry this information was not deemed necessary.

The Supervisor of Pilots has experienced difficulty enforcing the compulsory payment regulations on those vessels whose relative statutory exemption (for meaning vide Part I, p. 221) (subsec. 346(e) C.S.A.) had been withdrawn by the District regulations (vide p. 166) for the sole purpose of bringing more revenue to the District, while the same vessels were allowed to retain their exemption in the District of Saint John where the navigational difficulties and dangers can not compare with the almost ideal conditions that exist in Halifax.

Included were vessels belonging to, or chartered by, the Irving Oil Company Limited, i.e., M.V. *Irving Wood*, 1640 NRT, registered in Saint John, N.B., M.V. *Irving Hemlock*, 337 NRT, registered in Nassau, and M.V. *Irving Hickory*, 327 NRT, registered in Nassau. When the Supervisor of Pilots was informed that these vessels had been entering and leaving the District without employing pilots and without paying dues, he tried to enforce payment in the belief that they were subject to the compulsory payment system in accordance with District regulations. The Irving Company declined to pay on the ground that the By-law provision, as then worded, did not apply to them. Prior to 1961, the By-law provision contained the clause "unless such steamship be otherwise exempted under the provision of the said Act". The word "otherwise" had been omitted in the new General By-law of 1961.

The Department of Justice, to which the question was submitted, advised that the Crown would not be able to establish before a Court that these ships would not be exempt from the pilotage dues which would otherwise be payable. Shortly thereafter, by an amendment to the By-law dated November 7, 1963 (P.C. 1963-1659), the contentious phrase was deleted so that there could no longer be any ambiguity (Ex. 1495 (a)).

3. ORGANIZATION

(1) PILOTAGE AUTHORITY

The Pilotage Authority is the Minister of Transport.

The District is directed locally by a Department of Transport official entitled "Supervisor", as provided in sec. 3 of the District General By-law. At the time of the Commission's hearings in May, 1963, this official was Captain A. D. Latter, who had held the position since March, 1961. The Supervisor is not formally appointed by the Pilotage Authority, but is its *de facto* representative. In his capacity as D.O.T. representative he is responsible for the premises and equipment provided by the Federal Government for the use of the local Pilotage Authority, and also for the operation and service provided by the three pilot vessels. Since the representative of the Pilotage Authority directs the pilots and is responsible for implementing the District By-law and carrying out the instructions of the Pilotage Authority, he is in charge of despatching actually as well as according to the regulations (contrary to the situation in Saint John). He attends to the financial administration of the District and since 1966 has been purported to have disciplinary powers when an accused pilot consents to be dealt with summarily by him (as to legality, vide Part I, p. 400). Until July 17, 1963, the Supervisor was assisted by a staff of 15 persons, not counting the four casual employees engaged as reliefs during the summer months for the annual leave period, i.e., an accountant, a stenographer, four despatchers and 9 crew members for the pilot vessels. On July 17, the establishment was further increased by the addition of three deckhands for the pilot vessels. On June 8, 1968, a Supervisor of Pilot Boat Machinery was added when the newly built *Canada Pilot No. 4* was transferred to Halifax from Sydney (vide p. 290) (Ex. 1535(m)) replacing *Canada Pilot No. 6*. This brought the total staff establishment to 20, including the Supervisor.

In 1962, the Department felt that the work involved did not warrant such a large establishment and proposed that the pilot vessel Masters should be responsible for despatching, thus eliminating the positions of four permanent despatchers, and further proposed to reorganize the pilot vessel service. This was among the measures designed to reduce expenditures in line with the Government's request to implement its austerity program but no action was taken in view of the opposition of both the shipping interests and the pilots.

The Pilotage Office is located in the Dominion Public Building, Halifax. The general office and the pilots' quarters overlook Queen's Wharf where the pilot vessels are based. The despatching office also affords a view of the harbour and Bedford Basin (Ex. 344). The Supervisor and his personal staff, consisting of a secretary and an accountant, work normal Civil Service hours but the Supervisor is available at any time to attend to urgent situations. Staff overtime is compensated for by extra leave.

4. PILOTS.

As a group the pilots are not joined in any particular association and are represented by their Pilots' Committee. In 1963, eight of the pilots were individual members of the Canadian Merchant Service Guild.

(1) RECRUITING AND QUALIFICATIONS

Secs. 11, 12, 13 and 14 of the General By-law cover the prerequisites for a pilot's licence (vide p. 167).

There is no apprenticeship system and recruits are drawn from Master Mariners who have served in the coastal trade and are conversant with local navigation and conditions. The By-law provides that a candidate must hold a certificate of competency as Master of a foreign-going or home trade steamship (unlimited as to tonnage) and has served at least two years as Master of a vessel trading regularly into the District.

Captain A. D. Latter, the Supervisor of Pilots at the time of the Commission's hearing, testified that he had never had occasion to license a pilot during his term of office or hold examinations for pilot candidates. At that time, 17 pilots were on strength and one accepted candidate remained on the list from examinations held several years earlier. Pilot W. H. Crook stated that others on that list had been dropped because they had passed the admissible age limit of 45. He also stated that, generally speaking, the pilots were quite satisfied with the sections of the By-law covering the licensing of pilots and felt that the present standards should be maintained. By 1967 the number of pilots had been allowed to drop to 12. In December of that year an examination was held and four successful candidates were placed on the eligible list.

The By-law is silent as to the procedure for inviting candidates to an examination but in practice they are notified by local newspaper advertisements.

The examination procedure is the same as in Saint John (vide pp. 71 and ff.).

When a vacancy is being filled, the first accepted candidate on the eligible list is given a one-year probationary licence which is purported to be subject to withdrawal if at any time he is found unsuitable. According to the current practice of training and assessment, each probationary pilot is first obliged to make twelve trips with a permanent pilot as an observer. The probationary pilot's conduct, actions and general attitude are reported to the Supervisor by the active pilots, and when the Supervisor and the Pilots' Committee consider him suitable in all respects he is allowed to pilot on his own. He is recommended for a permanent licence after the expiration of the probationary year. During the trial period, each probationer is paid two-thirds of an active pilot's full share of earnings.

Re the legality of the probationary licence and the administrative decisions to which probationary pilots are subjected, reference is made to Part I, pp. 250 and ff.

For comments on the recruiting and qualification of pilots, vide p. 203.

(2) PILOTS' COMMITTEE

Sec. 5 of the General By-law stipulates that the Pilots' Committee shall consist of three pilots appointed from among themselves and holding office for one year. The Committee is to be "recognized by the Authority and the pilots as the sole agent through which representations may be made in all matters affecting the pilots collectively or individually".

The Committee had complained that the Department of Transport overlooked it in negotiations with the pilots when offering them prevailing rate employment. They were advised that subsequent dealings would be conducted with the pilots individually. The reason given by the Department for writing to the pilots individually was that the Government could hire individuals only and not groups.

COMMENT

According to the letter of subsec. 5(5) the pilots' stand was strictly correct but it must be observed that this subsection is poorly drafted and covers much more than intended. (Vide Part I, pp. 82-84, and General Recommendation 25, especially pp. 551 and 553.)

(3) LOCAL ADVISORY COMMITTEE

As in other Districts where the Minister is the Pilotage Authority a local Advisory Committee was formed in 1958 as proposed by the Department of Transport. This Committee has been active ever since and continues to render valuable service. It is composed of three representatives of the pilots and three representatives of the shipowners or agents with the Supervisor of Pilots as Chairman. It has no legal status and is not provided for in any statute, by-law or regulation. However, its terms of reference as contained in a letter from the Department of Transport to the Supervisor of Pilots dated November 5, 1958, are:

- (a) to make recommendations concerning the general operation of the District, including but not limited by the following:
 - (i) desirable amendments to the By-law and tariff;
 - (ii) policy and procedure in the recruitment of pilots, and the number of pilots;

- (iii) aids to navigation with a view to promoting efficient and safe pilotage;
- (b) to act as a Board of Inquiry to investigate pilots' misconduct, actions when involved in a casualty and non-compliance with the By-law, and to make recommendations concerning any disciplinary action considered suitable.

Although this Committee has failed in many other Districts, it has been successful in Halifax because it has restricted its activities to matters that were not contentious. For instance, at its first meeting in January, 1959, it was decided not to become involved with pilots' discipline, a subject which caused the demise of the Advisory Committees in the Quebec and Montreal Districts. The Committee had an opportunity to reaffirm its policy when it refused to investigate an accident involving the *Imperial Halifax* on May 3, 1960, while berthing at No. 4 Imperial Oil Dock (Ex. 1179). By not discussing tariffs they have prevented Committee meetings from degenerating into labour type conciliation boards, as happened in British Columbia. They study and discuss problems of common interest such as safety, aids to navigation, wharfage and tugboats.

Complaints about District Administration

The main complaint was lack of decentralization. It was pointed out that the Supervisor and his staff deal promptly and efficiently with administrative matters that can be handled locally but, due to lack of delegation of power to the Supervisor, most questions have to be referred to the Ottawa Headquarters for decision, a procedure which has proved difficult, clumsy and inadequate. The main disadvantages are:

- (a) delays because the Supervisor had to refer to Ottawa for important and sometimes urgent decisions;
- (b) confusion resulting from decisions taken in Ottawa without consulting the Supervisor, or contrary to his recommendations;
- (c) the limited power of decision of Department of Transport officials and even of the Minister as Pilotage Authority.

For comments on this situation, reference is made to General Recommendation 15 (Part I, pp. 499 and ff.).

The District Supervisor expressed the opinion that the General By-law of his District was inadequate in certain respects. In addition to the fact that it does not give enough control to the official responsible for the District, some of its provisions are out of date and others could be "wiped out completely".

(4) PILOTS' ESTABLISHMENT

The By-law provides that the number of pilots shall be determined by the Pilotage Authority after consultation with the Pilots' Committee (re legality, vide Part I, pp. 255 and ff.).

The pilots' strength has been considerably reduced in recent years, from 20 in 1960 to 12 in 1967. This was achieved in the only way permissible under the present legislation, i.e., by reducing the establishment as vacancies occurred.

Since this subject caused no problem, no evidence was adduced concerning applicable governing factors. The evidence as a whole (especially the statistical information) indicates that there are no special local considerations that should be taken into account when determining the pilots' strength, other than the basic requirement that there should be enough pilots to meet expected peak demands of prolonged duration without being unduly overworked.

Contrary to general opinion, statistics show that the port of Halifax can no longer be considered seasonal as far as general traffic and pilotage are concerned. Pilotage traffic now flows fairly regularly through the twelve months of the year (vide *Workload* pp. 222-225). The diminution of winter traffic peaks to a vanishing point has made it possible for a basic number of pilots to perform, in the aggregate, more assignments each than in previous years.

Halifax Harbour is not a tidal port in the same sense as Saint John, with the result that the movements of ships of any size can be handled at any time of the day or night, and the consequence of a possible occasional shortage of pilots would not be serious because there would be only a brief delay until a pilot became available.

Care should be taken not to consider the workload of one individual pilot on a given day as a basis for appraising the workload and working conditions of the other pilots, i.e., if the day's workload of this pilot results from an internal arrangement by which daily assignments have been unevenly shared among those available for duty. Such a situation is created by pilots taking unofficial leave or being divided into watches rather than employed on a strict tour de rôle with adequate periods of rest between assignments.

Because of the direct relation between the number of pilots on strength and their actual remuneration through the pooling system, the pilots' level of remuneration has not only been maintained but has increased without resorting to an increase in pilotage rates, despite a significant decrease in pilotage traffic since the peak of 1964.

COMMENTS

The considerable reduction in the pilots' strength that has occurred since 1960 is a striking example of what can be done to increase efficiency and improve the pilots' remuneration and working conditions by periodically reviewing establishment requirements in the light of changing conditions. It is prejudicial to the pilots' competency if their number is greater than needed to meet the actual demand because their opportunities to maintain and improve their *expertise* by constant practice are reduced. Furthermore, an overloaded establishment can not be justified in a state-controlled service which is heavily subsidized from public funds, nor would it be justifiable even if wholly supported by shipping interests and under legislation which fixed the price to the service to guarantee each pilot on strength an adequate income. It should be borne in mind that limiting the number of pilots in a District amounts to restricting a field of activity and that such action can not be justified except in the public interest, which is to provide sufficient pilots with a high degree of *expertise* receiving a remuneration commensurate with their qualifications and responsibilities. A pilotage organization should not exist to create jobs and the number of pilots should not be greater than realistic service requirements actually justify.

(5) SHIPPING CASUALTIES, INVESTIGATIONS, REAPPRAISAL AND DISCIPLINE

In the last decade there has not been a serious case of disciplinary action taken against a Halifax pilot, although a severe reprimand was issued after the *Imperial Halifax* incident and there may have been informal cautions.

The Halifax pilots' casualty record is good but certain improvements are indicated.

In the period 1958-1967 there were 72 shipping casualties or incidents involving pilots, of which all but two were of a minor nature. Appendix C is a comprehensive table of these accompanied by a brief summary of the 21 casualties in 1965-66-67. Since 1958, only five occurred while under way navigating and might have had serious consequences. The other events occurred while berthing, unberthing or anchoring which, at first sight, would indicate room for improvement in the pilots' competence in shiphandling or teamwork with tug Masters. Errors on the part of Masters, crews and tugs are causes of accidents over which the pilots have no control, unless perchance they are the result of poor teamwork. Pilots with their local knowledge and experience are expected to contend, among other things, with adverse winds, currents, tides, and the handling of dead ships. When tugs are used the pilot is in charge of the operation and responsible for its success. The frequency of minor accidents may well indicate a lack of competency in shiphandling

and should prompt an investigation and the necessary remedial action. This applies *a fortiori* where the causes are errors in manoeuvring or poor teamwork.

Imperial Oil Ltd. complained about numerous instances of its wharves being struck, causing considerable damage. The most serious occurred May 3, 1960, when in clear, fine weather and light wind the *Imperial Halifax* with a pilot aboard struck No. 4 Oil Dock causing damage to the ship resulting in repairs costing \$10,000 plus time lost valued at \$20,000. A Preliminary Inquiry found that the basic cause of the accident was the excessive speed of the vessel approaching the wharf. While the evidence was contradictory whether the Master had taken charge of navigation, it was considered that the pilot had failed in his duty by not warning the Master that the speed of the vessel was excessive. The Supervisor of Pilots was instructed to have the pilot appear before him and "to issue him a severe reprimand" for his part in the accident, resulting from poor shiphandling (Ex. 1179).

Foundation Maritime Ltd. recommended as a remedial measure increased use of radiotelephone by the pilots to give orders to the tugs. In their opinion, this is superior to ship's whistle and mouth whistle. The Supervisor reported that he had difficulty enforcing the use of radiotelephones by the pilots despite his written directions to that effect. This might be attributed to the fact that the sets then issued to the pilots by the Department of Transport were heavy and bulky. Pilot Crook had not found them very useful because they were sometimes out of repair and at other times the tugs used were not equipped to receive radio messages.

This situation has now been corrected. In a letter dated September 10, 1968, D.O.T. reported (Ex. 1531(s)):

"Each pilot is supplied with a Motorola Handie-Talkie F.M. radio of the H.T. series. These sets are fitted to work on channel 16 (156.8) and channel 11 (156.55). Each pilot also is equipped with a charger and a leather carrying case, complete with a shoulder strap. In addition there are three special sets held in Halifax for the purpose of breakdown back-up. This equipment was issued by the Department of Transport and is maintained by the Marine Agency Telecom Workshop.

The pilots make full use of their portable radios in communicating with tow boats. The whistle system of orders is only used when a pilot's portable radio fails".

COMMENTS

The efficiency of the service and the good safety record of the Halifax pilots demonstrate the general adequacy of the present system of recruiting and qualifying pilots. However, it is considered that adoption of the grade system would be an improvement. Although navigational difficulties in the harbour are not great, these will increase as larger ships are involved. In the interest of safety and efficiency, such assignments should be handled by the most experienced and skilled pilots. Experience has shown that a grade system should be adopted to achieve this aim.

(6) LEAVE OF ABSENCE

Subsec. 24(1) of the General By-law provides for 21 days annual leave "at a time to be determined by the Supervisor". This is generally granted during the summer months of July and August. The By-law also provides the customary leave for sickness and injury.

However, the situation at the time of the Commission's hearing in 1963 was totally different because the pilots had arranged among themselves for additional unofficial leave called periods of standby duty. During the winter season, eight weeks of active duty were followed by a week on standby duty with the result that, during the then busy season in 1962, 16 pilots out of 18 were on the tour de rôle and the other two were on standby.

The schedule for the week off was arranged by the Pilots' Committee which gave the Supervisor the names of the two pilots who were to be on standby duty each week from November to April (Ex. 373). It was explained that this arrangement produced the same result as the system prior to 1960 when two pilots were employed each week as Master of the pilot vessel.

From April to November, half the pilots took alternate weeks off, except in July and August when the official annual leave was added. The result was that half the pilots had a full month off in July and the other half in August. The schedule for this leave was also drawn up by the Pilots' Committee.

During his standby week, a pilot is technically on the tour de rôle and could be called if needed. The Supervisor stated that he never had occasion to call a pilot on standby duty and that these arrangements had never delayed shipping. Captain F. S. Slocombe, Chief of the Nautical and Pilotage Division of the Department of Transport, stated that the Department had no desire to regularize pilots' arrangements for unofficial leave, adding that, at the same time, they had no objection to such an internal agreement provided the service was adequately performed.

This system of unofficial leave has been changed a number of times since 1963 to adjust to the traffic pattern and to the reduction in the number of pilots. At the present time, the pilots on strength enjoy a work cycle of three weeks the year round. During the first two they are on active tour de rôle and available for call as required and during the third they are on standby duty. However, if an unexpectedly large volume of traffic develops, (up to late 1968 it had not) these pilots may be recalled. In addition, the pilots are entitled to the three-week annual vacation stipulated in the By-law to be taken when the Supervisor directs, usually in the summer. The Commission was informed that because traffic in the past was relatively lighter during the summer this arrangement had not affected the pilotage operations. However, since summer and winter traffic is becoming more even, the choice of vacation time may well be subject to some restrictions in the future (Ex.

1531(m)). Under such a revised system the pilots enjoy approximately 126 days of leave in a year, being on active tour de rôle the rest of the year, Saturdays, Sundays and legal holidays included.

(7) PILOTS' STATUS

Except in the early days, the Halifax pilots as individuals have never enjoyed the full privileges of self-employed free entrepreneurs. When by virtue of the 1920 General By-law the Minister as Pilotage Authority became responsible for providing pilotage services, the pilots themselves (as pointed out by the Robb Commission) had already abandoned any competition remaining through the system of companies of pilots, were making assignments according to a tour de rôle and pooling their earnings.

Since 1920, the pilots have been *de facto* employees of their Authority, the full conditions of their employment being set out in local legislation, i.e., in the By-law, which deprives them of freedom to exercise their profession by forbidding them to undertake pilotage except as directed by the Pilotage Authority's representative who is in charge of despatching, and which also deprives them of the right to retain the dues they earn. Up to 1940, their remuneration took the form of a salary paid out of monthly District revenues as a final charge. The amount of the salary was fixed in the regulations but, if funds were insufficient, the amount of each pilot's salary was reduced to an equal share of the net revenue. In 1940, the ceiling was removed.

The main drawback to such a status is uncertainty about the amount of salary because it is determined by a number of factors over which the pilots have no control (the situation that developed in the Sydney District after the end of the War is a concrete example (vide pp. 282 and ff). Hence, the pilots are constantly striving to enhance their security by asking for higher rates when pilotage is in great demand, thus producing a higher revenue to compensate for inadequate income when, for any reason, the demand is low. This situation has often occurred in the past and will no doubt arise in the future.

Under the present system, the pilots have no legal right to be heard before regulations governing their working conditions or affecting their earnings are made, or to appeal them once they are made. However, it has generally been the policy of the Pilotage Authority to consult the pilots beforehand and, in most cases, to leave the pilots free to bargain with the recognized representatives of shipping over tariff changes and conditions of work. Following such consultations, the Pilotage Authority automatically reproduced in its regulations any agreement arrived at and rarely took any other action. This system has caused both the shipping interests and the pilots considerable contention and frustration and both sides have complained, although from different points of view.

It was this problem added to the preposterous situation regarding their Pension Fund that prompted the Halifax pilots to seek the status of Crown employees in 1958.

The first step was initiated by the Pilots' Committee in a letter to the Superintendent of Pilots in Halifax, dated March 10, 1958. When nothing concrete resulted, the Pilots' Committee wrote directly to the Minister of Transport Feb. 20, 1959, asking him whether as Pilotage Authority he would extend to the Halifax pilots the opportunity he had offered to the Kingston pilots "to become civil servants at the same salary they now received".

The Minister replied in the affirmative on March 9 pointing out that, since circumstances vary so widely from one Pilotage District to another, each case had to be approached individually and required a separate study and, if they wished to pursue the matter further, the appropriate course of action would be for them to deal directly with the officials of his Department.

This was done, and on July 14, 1961, after much preparatory work in Ottawa a concrete proposal which had received approval in principle from Treasury Board was made to the Halifax pilots. The gist of the proposal was that all active pilots would become Crown employees as prevailing rate employees at an initial annual rate of pay of \$10,000 plus fringe benefits (each pilot's average "take home pay" for 1960 had been \$10,052.44 without any pension or other fringe benefits). In exchange for the transfer of the accumulated assets of the insolvent Pension Fund the Government would assume its liabilities. The proposal contained provisions for superannuation, death benefits, insurance, annual leave, sick leave, legal holidays and Workmen's Compensation protection.

The proposal was studied at a meeting held July 19, 1961, at Halifax which was attended by 15 of the 19 pilots, including all the members of the Pilots' Committee, 4 representatives of the Department of Transport and the local Supervisor.

On July 24, 1961, the Pilots' Committee wrote to the District Supervisor setting out three points which, if agreed to, would make the proposal more acceptable to the pilots:

1. The annual salary should be raised to \$12,000. Hours worked to include time when first alerted for a job until pilot card deposited in the office.
2. The individual equity or share in the Halifax Pilots Pension Fund should be estimated and transferred to the Civil Service fund so that some portion of past service would be retroactive for the pilot on becoming an employee of the Department.
3. A bank of time—to be estimated on past service as a pilot—be credited to his account for sick and vacation benefits."

On December 20, 1962, a modified proposal was sent to all concerned and the pilots were requested to make their decision known within ten days. The delay incurred in replying to the pilots' letter of July 21, 1961, was due

to the extensive actuarial computations entailed in devising a proposal to give the pilots vested rights under the Civil Service Superannuation Act for past services in return for surrendering the Halifax Pension Fund to the Crown.

The modified proposal assured the pilots security of tenure and guaranteed limited recognition for past services regarding superannuation benefits, annual leave and sick leave. The proposed annual salary remained unchanged, i.e., \$10,000 inclusive of all overtime worked.

All pilots replied, as requested, but raised many questions and an exchange of correspondence ensued relating to the amount of salary, working conditions and the number of pilots.

On March 4, 1963, Captain D. R. Jones, Superintendent of Pilotage in Ottawa, in a circular letter replied to all the queries and objections of the pilots. The main points were:

- (a) The governing policy was to establish prevailing rates of pay comparable to the rates paid in industry in the locality or immediate vicinity for similar work performed, taking into consideration the nature of the work, hours of work, fringe benefits and other pertinent matters. The Department of Labour was responsible for carrying out these studies, submitting its recommendation to the Treasury Board for final approval. Under this policy no effort would be made to establish a uniform pilot's salary across the country and, therefore, comparisons were not made between the various Districts.
- (b) The question of salary would not be negotiable by the pilots or pilots' associations but they would be free to submit briefs and other data for consideration through normal channels. They were told that it was the normal practice to review the salaries of prevailing rate employees at least once during every two-year period. It was not the Government's policy to include a cost of living clause or guarantee an increase in wages due to rising cost of living. However, this aspect was indirectly considered when the rate established was compared to the rates in private industry which might have made gains due to the cost of living.
- (c) Statutory holidays, not counting Sundays, would be replaced by days of additional leave.
- (d) There was no intention of decreasing the pilots' strength by lay-offs. However, it was pointed out that the question of strength would be reassessed. It was expected that when the proposed regulations to abandon the compulsory payment of pilotage dues were passed there would be a reduction in the demand for pilotage. It was estimated that the pilots on strength would then be eventually reduced through normal depletion to approximately ten or twelve.

- (e) With regard to the pilots' rôle in fixing their working conditions, the normal bargaining procedure available to Government employees would apply.

The scheme as amended was approved unconditionally by nine pilots but the nine others rejected it in a joint letter on the grounds that the proposals on salary, pilots' establishment and workload were unsatisfactory. At the same time, they indicated their willingness to reconsider their decision if the Departmental proposals were revised to increase the annual salary to \$12,000 with a workload based on 16 permanent pilots carrying a total annual workload of 400 assignments, which was the workload then prevailing.

The Department of Transport immediately replied that it was not in a position to alter the basic conditions of employment pointing out in particular that the suggestion to fix the establishment at 16 pilots was unacceptable because it was the Government's policy to regard such matters as a prerogative of management.

A few days later, on April 25, 1963, DOT wrote to all pilots individually indicating that unless a reasonable majority of the pilots agreed to the proposal by May 15 the matter would not be pursued further. The dissident pilots remained adamant and requested that in the circumstances the situation remain unchanged until the Report of this Royal Commission was rendered.

From representations made during the public hearings of the Commission it appears there were other reasons why this group did not favour the proposal. Their main point was that, despite the explanations they had received, it was still not clear what would be their situation. They felt that the status of prevailing rate employees did not apply to pilots and they found the process unrealistically complicated and unsatisfactory, e.g., having to deal with three different Departments in order to obtain a change in their salary or working conditions. They felt that by agreeing to the proposal they would lose what little freedom they still enjoyed in a system that had its advantages and whose implications they understood.

There was also the insecurity of the prevailing rate system. A Department of Labour official who attended the last meeting had tried to explain how the system worked and pointed out that the periodical readjustment following the Department of Labour findings might be either a decrease or an increase. As far as the Department of Transport was concerned the only guarantee it could give was their experience in other Districts, pointing out that in the Port Weller-Sarnia area the pilots had received two increases since they became prevailing rate employees. The pilots were told that they could not be classified as civil servants because the remuneration they would receive would compare with senior civil servants. However, they were impressed by the proposal and did not object in principle to becoming Crown employees.

Because the substantial majority requested was never reached, the Halifax pilots have so far retained their *de facto* employee status. Since 1962, older pilots have retired drawing only the small pension benefits they had acquired prior to the abolition of the Pension Fund as of 1956. As stated earlier, they have not been replaced and the pilots' strength is now twelve (for exchange of correspondence and proposals from April 28, 1958, to May 25, 1964, vide Ex. 1175).

COMMENTS

The prevailing rate employee proposal put forward by the Department of Transport is not what this Commission has in mind when it suggests, and recommends in certain cases, that pilots become Crown employees.

The Commission has had the opportunity to appraise the adequacy of the prevailing rate system (as defined by the Prevailing Rate Employees General Regulations, 1963, as amended, Ex. 1007) in its relationship to pilotage organization and has come to the conclusion that its failings are such that it is not acceptable nor is it applicable in law. This question is fully dealt with in Part III, Section Four and in Part V, Great Lakes Districts Nos. 2 and 3, where such a system has been in effect since 1959.

The Commission considers that any attempt to appoint pilots under the Public Service Employment Act (14-15-16 Eliz. II c. 71) is bound to fail because pilots do not fit, legally or otherwise, into any existing classification of positions and employees in the public service. The Commission believes that the occupation of pilot should be treated on an *ad hoc* basis under appropriate provisions in the proposed pilotage statute which should clearly state that, except to the extent specified, the terms and conditions of employment of pilots are not subject to the provisions of any other enactment relating to personnel management in the public service, including the Public Service Staff Relations Act (14-15-16 Eliz. II c. 72) (vide Part I, p. 547).

Whether or not the pilots are Crown employees or retain their *de facto* status, there should be little difference in the organization of the pilotage service and the working conditions of pilots. If they become true employees, the two main differences will be:

- (a) Their remuneration will be guaranteed and will not depend on District earnings; they will also be granted the various fringe benefits accruing to Crown employees (General Recommendation 39, Part I, p. 581).
- (b) Equal sharing of the workload (a prerequisite to a remunerative system based on pooling) will not apply.

The pilots as Crown employees would be employees of their Pilotage Authority. This is a mandatory prerequisite to avoid centralization and dual authority (General Recommendation 15, pp. 499 and ff.). The Pilotage Au-

thority should be a locally self-governing public corporation whose powers are derived from legislation (General Recommendation 8, Part I, pp. 476 and ff., General Recommendation 18, Part I, pp. 510 and ff. and General Recommendation 20, pp. 521 and ff.).

The employment of a pilot as employee of its Pilotage Authority should last as long as he retains his licence, the duration of the licence (re permanent and temporary licences, vide Part I, pp. 264 and ff.) being governed as at present by legislation, i.e., it may be suspended or withdrawn as provided in legislation through the same reappraisal process whatever the pilot's status (General Recommendations 26-37, Part I, pp. 556-580). The Pilotage Authority would not, and should not, enjoy the normal power of an employer to discharge an employee unilaterally (vide Part I, p. 301 and ff. and General Recommendation 12, p. 492).

The salary would be a fixed amount for a given period of duty plus higher pay for overtime or extra duty in order to maintain the incentive to work in periods of peak demand. The level of remuneration should vary with grade.

The criteria for fixing salaries should be the same as for fixing target income. The prevailing rate method should not be used because in a given region there is no similar category of workers with whom comparison can be made. Furthermore, because of the great differences in working conditions and requirements in each District such a comparison between Districts is also misleading. Remuneration combined with working conditions should be such that highly qualified mariners can be attracted to the service (vide Part I, p. 141, 3rd para.; p. 146, 2nd para.).

Remuneration should be based on availability for duty during a full year taking into account allowable periods of leave and rest periods between assignments. Daily availability should be on a 24-hour basis and, for this reason, the occupation of pilot should not be compared with that of any other public servant. It is a requirement of the pilots' profession that they be available whenever the demand arises and, therefore, irregularity of assignments must be accepted.

However, actual time on duty is another matter and an unusual number of assignments or an unusual period of duty should be compensated by extra remuneration. To establish entitlement to extra remuneration each Pilotage Authority should determine the basic duty requirement which a pilot may be called upon to perform in any day. Such duty periods may be fixed in terms of assignments during a given period, or in terms of hours per day, or a combination of both. The method used and the definition of the basic duty requirement should be what is best suited to meet the needs of the service in each District. The many determining factors are local circumstances, the level of demand for services, the type of pilotage and the average duration of assignments, which factors vary from District to District.

The assignment method generally answers service requirements best. It is indicated in Districts where the demand for pilotage fluctuates markedly during the twelve months and where, due to factors beyond control, the duration of similar assignments often varies substantially. With such a system the normal duty period should be fixed in the regulations to coincide with the number of various types of assignment pilots may be required to perform per day (or per week) during peak periods, after due allowance for reasonable periods of rest.

The "hours-per-day" method would apply only where both the demand for pilotage and the duration of assignments are fairly constant. In this case the criterion for setting the number of hours per day should be the normal longest duration of each type of assignment, with the result that a normal assignment should never call for overtime pay.

For calculating overtime, if the "hours-per-day" method is used (and in all cases for calculating duty statistics), "duty time" (as opposed to standby time) should be defined, as comprising the whole period from the moment a pilot leaves for an assignment until he returns. The method used by the State of Queensland in Australia to calculate duty time (vide Part I, p. 779, 2nd para.) is a good example: time spent actually piloting counts full time, while travelling time and idle time on assignments count one third.

Furthermore, in order to avoid disputes about travelling time (because the actual travelling time for a given assignment may vary considerably depending on numerous factors some of which are beyond the pilots' control), it is considered that an adequate average travelling time figure should be fixed by District regulation for each type of assignment and should apply whether the actual time is more or less.

There should be no difficulty calculating actual time spent on board, i.e., from ordered time or the time a pilot reported for duty, whichever is later, to the time he disembarks, because these data appear on the pilot's source form. Depending on the kind of assignment and its normal duration, the pilots could be called upon to perform more than one assignment per day, provided adequate rest periods are allowed as established by District regulations which take into account local circumstances and requirements.

The discomfort of night duty and the inconvenience of unsettled hours, which are normal occupational requirements of pilots, should be taken into consideration when fixing the basic remuneration for a given workload. This could be achieved either by fixing a smaller basic workload, or a higher basic remuneration, or a combination of both, compared to other walks of life for persons working regular daytime hours.

As stated in Recommendation 24, pilots should be allowed to become Crown employees of their Pilotage Authority only when complete control of the service by the Pilotage Authority is required in the public interest. In this event, nothing which affects the efficiency and quality of the service should be

left to the hazard of negotiations but should be settled by legislation (General Recommendation 14, Part I, pp. 495 and ff. and General Recommendation 17, Part I, pp. 507 and 509). In this regard, the situation should not differ in any way whether the pilots are *de facto* employees or salaried employees or salaried employees of their Authority. In both cases, the questions of remuneration, conditions of work and organization for the provision of services should all be settled by regulations made by the Pilotage Authority (Commission's General Recommendation 14, p. 498 and Part I, C.8, pp.301 and ff.). Approval of the regulations and the budget, and appeal procedure, as described in the Commission's General Recommendations 19, 20 and 21, would give the pilots (either individually or as a group), the shipping interests, and also the general public, adequate means and opportunity to defend their rights, to make their points of view known and to have any regulation revised when warranted.

As aforesaid, the proposed Pilotage Act should specify that no other statute affects the pilots' remuneration, conditions of work and employer-employee relations, except to the extent specifically made applicable by an appropriate provision in the new Act. Furthermore, whether they are *de facto* or true employees of their Pilotage Authority, the pilots in each District should, as a group, be a statutory corporate body as recommended in General Recommendation 25 (Part I, p. 549).

5. PILOTAGE OPERATIONS

If not delayed by fog or interrupted by extreme weather conditions, pilotage operations are conducted on a 24-hour basis. The entrance to the harbour is exposed to easterly and southeasterly gales and there are occasions when it is most difficult and dangerous to embark from the pilot vessel in the boarding area.

(1) PILOT STATION

The Department of Transport provides the pilots with free accommodation in the same building as the pilotage office, which includes sleeping quarters.

COMMENT

There appears no valid reason for maintaining sleeping accommodation. It was undoubtedly needed when the pilots were despatched from the station but not now when despatching is generally planned in advance and assignments given by radiotelephone and land telephone. Adequate vehicular transportation enables the pilots to reach the pilot vessel wharf or ships at their berths with little delay. The few occasions when despatching may be more convenient from the station do not warrant permanent sleeping quarters in the pilot station.

(2) PILOT BOARDING STATION

During normal weather conditions vessels are boarded in the vicinity of the Inner Automatic whistle-buoy off Portuguese Shoal. On those occasions when the sea is too rough for the pilot vessel to maintain station in the area, the normal procedure is for the Master of the pilot vessel to send a radio message to all approaching vessels advising them that the pilot vessel may be operating in the more sheltered waters off Mars Rock whistle-buoy, about three miles northwest of the usual station. Occasionally the pilot vessel leads ships through the harbour entrance to a position where it is safe for the pilot to board. In addition, when the Master of the pilot vessel wishes to communicate with a particular vessel he can do so with his ship-to-ship radiotelephone, if the other vessel is so equipped, or through the local radio station by relaying the message through the pilot station. On very rare occasions, generally when fog prevails or a vessel does not carry a large scale chart of the area, the pilot vessel may be required to meet an incoming vessel a mile or more to seaward of the normal boarding area.

When rough seas prevail the pilot vessel endeavours to find a sheltered area for the pilot to board because boarding at the seaward station is fraught with danger and attempts to do so have resulted in serious injuries to pilots. On these occasions the pilots use a Jacob's ladder to board because it is impractical and dangerous to use the ship's accommodation ladder. At the time of the Commission's hearings two pilots were recovering from injuries sustained in this manner: pilot R.M. Betts, a knee injury, November 20, 1962, and pilot E.L. Croft, a back injury, December 8, 1962. Pilot Betts retired June 17, 1963, at the age of 70 without returning to duty, and pilot Croft was off duty for exactly a year.

(3) PILOT VESSEL SERVICE

Since May 14, 1948, the pilot vessel service has been operated by the Department of Transport. The pilot vessels are based at Queen's wharf which is near the pilot station and easily seen from the pilotage office.

The service was designed to improve the pilots' working conditions by providing them with prompt transportation to and from trips and movages, thus allowing them to spend more time at home. Two pilot vessels are required to achieve this aim on account of the size of the harbour and the seven-mile distance from the pilot vessel harbour wharf to the seaward boarding area. One vessel exclusively provides service at the seaward boarding area by conveying pilots as required from the harbour to incoming ships and returning those disembarked from outbound ships. The second pilot vessel, which was primarily intended to provide service for vessels at anchor in the harbour, is used extensively to transport pilots to or from the piers and wharves. It is also used to transport pilots to or from the seaward pilot vessel

on those occasions when service to ships in the boarding area does not allow sufficient time (about 3 hrs.) for the seaward pilot vessel to transport the pilots to or from the harbour.

In addition, pilot vessels are occasionally used for official duties, if available, e.g. air-sea rescue, transporting Government officials or Department employees, servicing buoys and carrying out surveys connected with shipping casualties. The pilots stated in their evidence that the pilot vessels should be restricted to their own use but in their brief they were not so emphatic, merely recommending that such incidental use of the pilot vessels should never interfere with prompt pilotage service. From the evidence adduced at the Commission's hearing such use of the pilot vessel appears to be minimal. In 1961-62, there were three trips to Shut-in Island to survey a wreck, the relief pilot vessel was used for three days as a picket boat during races and the harbour pilot vessel made two trips to carry research staff. On none of these occasions did the pilotage service suffer any inconvenience. It is considered that all possible official use should be made of the pilot vessels, thereby avoiding unnecessary expenditure of public money. With proper control and planning there is little danger that the pilotage service will lose priority or suffer delay.

Before May 14, 1948, the pilots were stationed in watches on board large pilot vessels cruising off Chebucto Head and boarded incoming ships from rowboats carried by the pilot vessels. The pilots slept and lived on board. This was very costly as well as unnecessary in view of modern radio communications. It was decided to dispose of one of the vessels and use the other as a floating base off Mauger Beach inside the harbour about 4 miles from the boarding area and take the pilots out to meet vessels. This decision agitated the shipping agents in Halifax. They felt that inefficiency would result and adversely affect trade. Nevertheless, the plan was implemented to the eventual satisfaction of all concerned until it was replaced by the present system.

Three pilot vessels are used:

- (a) *Canada Pilot No. 5*, a 56-foot wooden vessel built in 1953, equipped with radar and VHF and MHF radiotelephone, is used as the outside pilot vessel and provides most of the service.
- (b) *Canada Pilot No. 6*, a 42-foot 9-inch steel vessel, built in 1956, equipped with radiotelephone only, is the harbour pilot vessel. It has been replaced since May 1, 1968, by *Canada Pilot No. 4* from Sydney (vide p. 290).
- (c) *M.V. General Page*, a 53-foot wooden vessel built in 1943, equipped with radar and radiotelephone, serves as the relief pilot vessel and replaces either of the two others when required.

The pilots have expressed their satisfaction with the pilot vessels.

The personnel assigned to these three pilot vessels are three certificated launchmen Masters, three engineers, three launchmen and since July 17, 1963, three deckhands. Casual employees, generally recruited from college students with sea experience, are hired as relief personnel during the period of annual leave.

The outside pilot vessel is manned by a crew of two, i.e., Master and engineer. A recommendation was made to increase the number to three in the interest of safety, thus following the practice adopted prior to 1960 when the pilots themselves acted as Masters of the pilot vessels. The recommendation was made in 1963 and again in 1964 by the Supervisor of Pilots on the ground of safety, since this vessel is often at the seaward station for 10 or 12 hours without re-entering the harbour. In addition, the increase would have allowed the engineer on board to attend more fully to his engineering responsibilities, 80 per cent of his time being spent serving as a deckhand. This recommendation was refused by the Department of Transport on the ground that an additional crew member was not warranted for so small a vessel. The relief pilot vessel is not manned when on standby.

In 1962, as part of the austerity program the Department of Transport attempted to reduce the ever increasing cost of the pilot vessel service by a complete reorganization. But due to the immediate and determined opposition of both the pilots and the shipping interests no action was taken and the operational deficit borne by the Government has increased steadily from year to year. The analysis of the total cost of pilotage for the years 1961 to 1965 made by the Commission's financial consultants shows that the net cost of the pilot vessel service to the Government rose from \$61,000 to \$109,000, i.e., almost two thirds of the indirect subsidies from the Government to the Halifax pilotage service (Part I, pp. 675-676). In 1967, the cost of operating the pilot vessels, not counting depreciation, amounted to \$108,029.23 of which wages and allowances for their crews amounted to \$80,191.89 (Ex. 344).

The Department had considered decommissioning *General Page*, which was expensive to repair, and replacing *Canada Pilot No. 6* by a 26-foot fiberglass boat to be used solely for harbour duties. Furthermore, the Department felt that the harbour vessel should be used less frequently to carry pilots for harbour assignments and that their transportation should be by car when this could reasonably be done. The Department's views were that, as much as possible, the harbour pilot vessel should be restricted to providing pilot vessel service to vessels at anchor, and that the shuttle service by the seaward pilot vessel should be curtailed whenever a disembarked outward pilot could attend to an inward assignment.

The pilots strongly opposed the Department's proposal. They felt that, especially during bad weather when the need for pilots is greater, it would be dangerous for a 26-foot boat to go alongside a ship in the harbour. They also opposed abandoning the standby pilot vessel because there would be no

suitable craft readily available to charter in case of a breakdown. However, this problem does not seem serious since a relief vessel has often been obtained from the R.C.N.

The Supervisor of Pilots expressed the view that two faster and more suitable vessels would suffice, provided the practice of transporting pilots by water to places that could be reached by land was abandoned. He pointed out, however, that it would be necessary to increase the time for the notice of requirement for boarding in the harbour from one hour to three hours so as to allow the pilots time to reach any berth after receiving their assignment.

Pilot Crook agreed that land transportation could well be used to service any berth in the harbour and stated that he often used it himself. He pointed out, however, that one hour's notice would be insufficient, that travel should not be by public transportation and that when land transportation is interrupted by snow storms the quickest way to travel is by water. He further stated that the pilots are willing to board ships from tugs but tugs are not always employed to assist vessels.

COMMENTS

The cost of the pilot vessel service at Halifax is unduly high. In 1965, it amounted to \$138,990, i.e., 34% of the total cost of the District service, 7% of which was borne by shipping through pilot boat charges, and 27% by the Crown. These costs have been increasing ever since.

From time to time the situation must be reassessed to determine whether the organization of the pilot vessel service needs to be adjusted in the light of changing requirements. Every reasonable effort should be made to reduce these costs, especially since the District has to be heavily subsidized to meet them.

The Commission does not possess the necessary data to enable it to assess the situation fully. This should be the responsibility of the Pilotage Authority after, *inter alia*, gathering detailed data on traffic requirements and pilots' workload and assessing the possibility of securing water transportation from other sources in case of emergency.

It should not be taken as a basic principle of organization that the pilots must never be kept waiting at the boarding station. It is part of their responsibility to make themselves available to incoming vessels and arrange for their return transportation to land after completing outward assignments. This is a matter of internal arrangement after weighing the pros and cons. At the same time, it should be noted that, while waiting for vessels at the boarding station is part of the pilots' workload, every reasonable effort should be made to improve their working conditions and employ their time to the best advantage.

If the demand at the boarding station increases, the solution must be a return to the previous system of keeping a large pilot vessel constantly on station with smaller boats to transport pilots to and from vessels and shore. This is the system still in effect at many busy ports around the world, e.g., New York.

However, the decreased pilotage traffic in Halifax (an average of about 10 assignments per day in 1967) does not warrant such an expensive system. The one in effect now (which was adopted on account of the time element for travel between the pilot vessel base and the boarding station) has proved very costly. Part of the solution may lie in a speedier vessel and/or relocation of the pilot vessel base at a suitable site nearer the boarding station (e.g., Portuguese Cove) which is easily accessible by land and sea.

Pilot Vessel Disasters And Casualties

The pilot vessel service at Halifax has had three casualties since early 1940. The most serious was the collision March 28, 1940, at the boarding station, between the pilot vessel *Hebridean* and the inward bound vessel *S. S. Esmond* which resulted in the loss of nine lives including six pilots. In 1944, the pilot vessel *Camperdown* was wrecked, and in 1963, the pilot vessel *General Page* grounded.

On March 28, 1940, the pilot vessel *Hebridean* was on station with a large number of pilots on board to service a convoy. When the first vessel, *S.S. Esmond*, arrived, the *Hebridean* approached and a pilot was sent across by row boat, in accordance with the practice followed at the time. When the *Hebridean* attempted to cross the bow of the *Esmond*, which was moving just enough to maintain steerage way, a collision occurred. The night was dark but the weather was fine and visibility was good. The Court of Formal Investigation found that the *Hebridean's* Master was guilty of an error of judgement in attempting to cross the bow of the *Esmond* without allowing a proper margin for safety. The Court added that there was the possibility of an engine failure at the crucial moment (Ex. 356).

On February 24, 1944, at approximately 5 a.m., the pilot vessel *Camp-erdown* under the command of a pilot stranded on Thrumcap Shoal. The wind was gale force accompanied by thick snow, and visibility was almost nil. The vessel was keeping routine station in the boarding area, and manoeuvring to avoid ice floes when she touched the bottom before the Master realized he was so close to shore. For some time those on board were in a precarious situation but all finally succeeded in reaching shore (Ex. 1531(n)). There was no loss of life or injury but the *Camperdown* was so seriously damaged that she was written off as a total constructive loss. The payment of insurance to the Government was to cause litigation between the

temporary war pilots and the Government (*Himmelman et al. v. the King*, 1946, Ex. C.R.1). The *Camperdown* wreck was later purchased from the insurance company, salvaged, repaired and placed back in service.

On October 27, 1963, at 0240 the pilot vessel *General Page* struck the Nova Scotia Yacht Squadron jetty but no damage was reported.

(4) DESPATCHING

Contrary to the practice in Saint John, despatching in Halifax is the responsibility of the District Supervisor of Pilots both under the By-law and in actual fact. His four despatchers maintain uninterrupted 24-hour service on 8-hour shifts. Their office is equipped with land telephones and radiotelephone.

The *Nova Scotia Pilot* reminds Masters of ships bound for Halifax that it is essential to give at least three hours' notice of their requirement for pilots. Such advance notice is necessary because the pilots no longer remain in the pilot vessel in the boarding area. When Captain Slocombe made his survey in 1947 (vide p. 182), the outer pilot vessel remained constantly on station with three pilots on board and reliefs were effected by row boat from Portuguese Cove or Herring Cove near Chebucto Head. This procedure eliminated the need for E.T.A.'s and there were always sufficient pilots at the boarding station to meet the demand. However, the new procedure requires E.T.A.'s to allow time for the pilots to be called, board the pilot vessel at her harbour base and proceed to the boarding station. When there is a need for a pilot within the harbour for ships at anchor or alongside, advance notice of one hour is required.

Requests for a pilot are made directly to the despatching office either by a shipping agent using land telephone, or by a ship through the radio station at Chebucto Head, or directly to the despatching office over the ship-to-shore radiotelephone system.

The despatchers assign the pilots according to a strict tour de rôle. Assignments are given as they are received to the pilot first on turn (there is no grade system in Halifax). If a pilot wishes to miss his turn, he arranges for a replacement.

However, the roster lists only the pilots on duty, i.e., those not on official leave or unofficial leave called standby duty. Pilots on the duty list are liable to be called at any time, day or night. Normally, the pilot first on the list remains at home awaiting his assignment by telephone.

Two-pilot assignments are very rare but occasionally, e.g., when berthing a very large ship such as an aircraft carrier with her bridge on the starboard side, a second pilot is engaged to assist the pilot conning the ship. Double assignments are not provided for in the tariff but when they occur the charge is for one full pilotage and one moorage.

Prior to the adoption of the tour de rôle system, the Halifax pilots followed an alternate weekly watch system, i.e., one week for inward assignments, and the next for harbour movages and outward assignments. They found by experience that it resulted in an unsatisfactory distribution of duties, e.g., if inward traffic was heavy on a weekend the inward watch not only attended to it but during the week that followed was responsible for all harbour movages and outward trips. The other watch had much less to do during that period and, in effect, the pilots as a whole were working at half strength.

The pilots prefer the present system based on a strict tour de rôle because it divides the work more evenly, and allows more of them to be available at any given time.

In November, 1962, as part of the austerity program, the Department of Transport proposed that, instead of operating the tour de rôle on the basis of single trips, either inward or outward, the system should be based on double assignments, i.e., one outbound and one inbound trip, thereby eliminating the shuttle service between the harbour and the boarding area. However, the pilots objected on the ground that E.T.A.'s and E.T.D.'s were unreliable. Ships sometimes arrive before their E.T.A. and departures are occasionally delayed, with the result that a pilot may not be in the boarding area when an incoming ship arrives. Pilot W. H. Crook explained that in such a case the incoming ship would suffer a substantial delay of about two hours while a pilot reached the boarding area.

The pilots urged in their brief that in order to ensure efficient despatching care should be taken that the despatching office does not serve as an information centre. Pilot Crook feared that the despatching office would become a makeshift signal service if the despatchers were allowed to give information about the position and E.T.A. of ships. At one time, the pilots themselves provided such a service but this was discontinued when the signal service telephone was placed in the despatchers' office. The pilots feared that by attending to this telephone line the despatchers would be distracted from their despatching duties.

COMMENTS

Adoption of the tour de rôle contributed to the decrease in the number of pilots because it made possible a more equitable distribution of assignments. As a result, shares from the pool became more representative of their participation and, at the same time, their remuneration increased as their establishment was reduced.

The system could be further improved by making greater use of radio communication with vessels, which would make planning more accurate, and by adopting a less rigid tour de rôle procedure, e.g., allowing despatchers to

take advantage of the presence of pilots in the boarding area or elsewhere in the harbour when they make assignments for trips and movages. In fact, such action would improve the pilots' working conditions, make better use of their time and substantially reduce demands for pilot vessel service in the harbour. This service is much too expensive and must be organized along more economical lines (vide p. 248).

The pilots' fears that incoming ships will be delayed could be overcome in a number of ways, e.g., by guaranteeing priority of service to vessels who have given a correct E.T.A. Such guarantees will be available if Pilotage Authorities are empowered to make regulations which require vessels to order pilots a fixed number of hours in advance (vide Part 1, p. 538).

Traffic Control

Traffic in Halifax Harbour is controlled by two authorities, i.e., the National Harbours Board Harbour Master for all commercial traffic, and the Queen's Harbour Master for all naval traffic.

The Harbour Master has overall control of ships' movements in the main harbour, including those involving pilotage. His duties include berthing ships at the National Harbours Board berths, allotting anchorages to ships with dangerous cargoes, granting permission to secure at mooring buoys in the harbour, keeping the harbour clear of obstructions and free of *débris* and controlling the speed of all craft within the harbour limits.

As a rule, the Harbour Master deals with the shipping agents and not the pilots.

The Queen's Harbour Master is responsible for the berthing and movements of all Canadian and foreign warships in the harbour. He controls their movements in the dockyard and in the Department of National Defence berths. As a matter of courtesy, the Harbour Master allows the Queen's Harbour Master to supervise the berthing of warships when they use National Harbours Board berths.

Canadian naval vessels do not normally employ pilots but foreign naval vessels do so when entering or leaving harbour. The berthing and unberthing of naval vessels, and occasionally Department of Transport vessels, are carried out by two special pilots called Docking Masters who are responsible to the Queen's Harbour Master and do not come in any way under the jurisdiction of the Pilotage Authority. They hold Master Mariner's certificates and are salaried and classified under the Civil Service as *Government ship officers*. They do not hold a pilot's licence. They do not pilot naval ships in

and out of harbour. If such service is required, it is performed by a licensed pilot and arrangements for his services are made by the Queen's Harbour Master through the Supervisor of Pilots.

There is no continuing liaison between the Supervisor of Pilots, the Harbour Master and the Queen's Harbour Master regarding ship movements. However, the R.C.N. does inform the pilots of the movements of vessels carrying ammunition and other dangerous cargoes or conducting underwater activities. Most information about ships' movements is readily available by calling the National Harbours Board and the Imperial Oil Wharf. The pilots felt that it would be in the interest of safety if one authority or office were responsible for plotting all ships' movements in the harbour. Thus, the exact situation could be ascertained at any given moment.

(5) WORKLOAD

When the Commission sat in Halifax the pilots said little about their workload because it then presented no problem. They were not overworked and despite their extensive unofficial leave there was no record of a pilot being recalled or of a ship being delayed for lack of a pilot. Furthermore, it would appear from the drastic reduction in the pilots' establishment since then that, in fact, their number had become too large for the current workload.

The demand for pilotage services is now rather evenly distributed with no marked recurrent peak periods. The slight winter increase in pilotage traffic has tended to disappear in recent years. Appendix B is a graph showing the variations in the number of trips on a per month basis for 1960, 1961 and 1962 compared with a similar analysis for 1967. In the three years from 1960-1962, the traffic in the four winter months of January, February, March and December then accounted for 39.5, 37.4 and 37.7% of the total traffic of the year. This was not substantially above the mathematical average of 33.3%. In 1967, the seasonal increase completely disappeared and those four months accounted for 32.7% of the demand.

Furthermore, since Halifax is not greatly affected by tides, pilotage assignments can be handled day or night. Thus a pilot may perform a number of assignments within a twenty-four hour period and, unless an adequate number of pilots are available for duty to meet the demand and work is distributed reasonably, some pilots may be overworked. However, it is reported that, even with only 12 pilots on strength and despite the prevailing system of unofficial leave (vide p. 205), no vessel has ever been delayed for lack of a pilot and at no time has it been found necessary to call upon any of the four pilots on unofficial leave.

With reservations regarding the use of statistics, the following table indicates for the period 1961-1967 the total number of assignments including movages actually performed by pilots, and the average number of assignments per establishment pilot (for comparison with other statistical data, vide graph and table in Appendix A):

Year	Total number of assignments*	Number of pilots on establishment	Average number of assignments per year per establishment pilot
1961.....	3715	19.3	192.5
1962.....	4010	18.4	217.9
1963.....	3568	17.5	203.9
1964.....	3819	17.0	224.7
1965.....	3648	16.6	219.8
1966.....	3768	14.8	254.6
1967.....	3546	12.4	286.0

SOURCES OF INFORMATION: Ex. 344 and Ex. 1308 (DOT letter Aug. 8, 1968).

* The number of assignments were arrived at by subtracting the number of trips and movages without pilots (Ex. 1308—DOT letter Aug. 8/68) from the total number of trips and movages subject to payment of dues appearing on appendices to annual reports (Ex. 344).

The following table shows that assignments are quite evenly divided among the active pilots (the difference between the averages is readily accounted for by official and unofficial leave which means that at any time never more than $\frac{1}{3}$ of the pilots are on roster):

ASSIGNMENTS

Year	Busiest month	Total	Busiest pilot	Average per establishment pilot	Least busy month	Total	Busiest pilot	Average per establishment pilot
1961	March	420	24	21.8	June	231	14	12.0
1962	March	469	36	25.5	Sept.	246	38	13.4
1963	March	427	36	24.4	Sept.	207	21	11.8
1964	March	452	31	26.6	Aug.	228	24	13.4
1965	March	472	35	28.4	Nov.	232	19	14.0
1966	March	411	32	27.8	Nov.	260	23	17.6
1967	January	302	28	24.4	Aug.	208	28	16.8

SOURCES OF INFORMATION: Exs. 1306 & 1531(r).

A mathematical division of the 3,546 total assignments for the year 1967 gives the following averages, first per establishment pilot and secondly per pilot on roster.

Assignments	Per establishment pilot	Per pilot on tour de rôle
Per year.....	286.0	286.0
Per month.....	23.8	35.8
Per week.....	5.5	8.2
Per day.....	0.78	1.2

These mathematical averages can not give an accurate picture of the situation for any given day, week or month in view of the variation in the traffic but, since the traffic is now quite evenly spread throughout the year, the foregoing figures may be taken as representative.

The duration of a tour of duty is on the average about three hours from the time a pilot leaves his residence and returns after completing an assignment. It takes the pilot vessel 60 to 80 minutes to travel the distance between the boarding station and its Halifax base. Inward and outward trips take about 1 hour but large tankers and ships destined to the Gypsum pier require an hour and a half to two hours. Movages in the harbour vary depending upon the destination but the average movage takes three hours. Occasionally, an assignment lasts longer due to bad weather.

Waiting time at the boarding area has been considerably reduced with the policy of transporting the pilots only when ships are about to arrive, a fact which can easily be ascertained in advance by radio.

Analysis of the active duty time of pilot J. H. Maxner, the busiest pilot in March, 1964, which was the busiest month that year (Ex. 353), indicates that he performed 20 trips and 12 movages (including two performed at the conclusion of a trip and counting with the trip as one assignment), had one cancellation and was detained twice. During that month he spent 51.8 hours piloting, an average of 1.62 hours per assignment. Detentions and cancellation account for 4.8 hours, making a grand total of 56.6 hours. The three longest assignments were 6.2 hours when a trip was followed by a movage, 6.3 hours where there was a combination of trip, movage and detention, and 3.3 hours when he was detained for one hour during a trip. These figures do not take travelling time into account.

Most of his assignments were during daylight:

- (a) two between midnight and 6.00 a.m.,
- (b) fourteen between 6.00 a.m. and noon,
- (c) ten between noon and 6.00 p.m., and
- (d) five between 6.00 p.m. and midnight.

In 1964, the least busy month was August and the busiest pilot was pilot E. K. Hartling (Ex. 350). He had 24 "jobs" which accounted for 20 trips, 5 movages (including two performed at the conclusion of a trip) and one cancellation. Time piloting totalled 44.4 hours making an average of 1.78 hours per assignment. Detention time amounted to 1 hour. The distribution of work throughout the twenty-four hours was as follows:

- (a) two assignments from midnight to 6.00 a.m.,
- (b) six between 6.00 a.m. to noon,
- (c) seven from noon to 6.00 p.m., and
- (d) nine from 6.00 p.m. to midnight.

COMMENTS

The positive action taken by the Pilotage Authority with regard to the pilots' strength has warded off serious problems that would doubtless have arisen otherwise. Its study of the pilots' workload indicated that they were over strength and, in contrast to developments in other Districts, the Pilotage Authority was able to increase pilotage income steadily without raising the rates by gradually reducing the number of pilots while maintaining an efficient service with a reasonable workload and adequate time off duty.

Pilotage operations in Halifax are heavily subsidized, the main item being the pilot vessel service. As stated earlier, it is considered that this service should be reorganized to reduce costs even if this means some increase in the pilots' workload. If the harbour vessel service were discontinued, it would take longer for the pilots to travel by land, especially during peak traffic periods. Before changes of this nature are made, accurate and detailed statistics must be kept in order to ascertain the effect on the pilots' workload and availability. The aim sought may be defeated if on account of the resultant increase in the pilots' time on duty a larger number of pilots become necessary.

6. PILOTS' REMUNERATION AND TARIFF

(1) PILOTS' REMUNERATION

(a) *Pooling procedure*

The Halifax pilots receive for their services a share of the net pilotage earnings of the District because the By-law compels them to pool their earnings. The By-law also stipulates how shares are computed but this section of the regulations is not observed and pooling is effected according to rules the pilots themselves devised over the years. Thus their pooling system is unique.

The By-law section concerning pooling is the same as in all other Minister's Districts where pooling is administered by the Authority. The procedure is the simplest possible, i.e., sharing the net revenue monthly. The system is based on the assumption that dues are paid immediately after services are rendered and that foreign-going ships can not obtain clearance from Customs without proof of payment (subsec. 344(1) C.S.A.). At the end of each month the Supervisor divides among the pilots, according to their availability for duty, whatever remains after the authorized expenditures have been deducted from the pilotage dues collected during the month. Once the shares have been established they must be paid to each pilot, thereby bringing to nil at the end of each month that part of the Pilotage Fund composed of pilotage dues, i.e., the pool. Since the dues are paid as they are earned, there is no necessity for financing and sharing is equitable.

However, since the principle of immediate payment is departed from, the By-law pooling procedure can not be applied without causing serious problems of equity unless the number of pilots is small and pilotage assignments (hence pilotage revenue) are evenly spread throughout the year (vide *New Westminster Pilotage Fund*, Part II, p. 361 and *Saint John, N.B., Pilotage Fund*, Part III, p. 128).

Basically, pilotage dues belong to the pilots who furnished the services, whether they are paid immediately or not. When a pilot is obliged to pool his earnings with other pilots, sharing should apply only to those who contributed to the pool during the period the dues were earned. It is for this reason that in most Districts the pilots have based their pooling procedure on *dues as earned* but, since there is a delay before they are collected, payment of shares can not be effected immediately unless money is advanced from other sources. In the B.C. District, the problem was resolved by the creation of a Reserve Fund (vide Part II, p. 185); in Halifax, the pilots have adopted another method of providing their own financing, i.e., delaying payment until collections are made.

However, this process is complicated by requirements that no longer exist, and by arbitrary practices that have developed. The rules governing pooling as practiced in Halifax can be summed up as follows:

- (i) The amount of the shares is determined monthly on the basis of net earnings during that month.
- (ii) A distinction is made between *salary* and *share* for sharing and payment purposes. *Salary* is the amount paid on the 15th and the 30th of each month (no doubt it originated merely as an advance payment of a pilot's share of the pool) while *share* (net monthly share) is that portion of each pilot's monthly gross share that remains payable. These net shares are credited to each pilot for

- each of the 12 months of the fiscal year and the accumulated amount is paid to him during the next fiscal year when sufficient funds are available.
- (iii) The monthly salary is fixed arbitrarily (in theory by the Supervisor but in practice by the pilots themselves) in advance at the beginning of each month on the basis of the total dues expected during that month, but with a portion retained to accumulate the "reserve" originally required to meet current District operating expenses (a situation that no longer exists).
 - (iv) Entitlement to "salary" is entitlement to receive "pay" as provided for in the By-law, i.e., time available for duty, or on regular annual leave, or on sick leave with full pay call for full salary; sick leave on half pay calls for half salary during the applicable period of time not on strength; when a pilot's licence is suspended or he is absent without pay, he has no entitlement.
 - (v) "Salary" is treated as a District operating expense and the remaining aggregate net amount of earned pilotage revenue is used to establish "shares".
 - (vi) According to an arbitrary rule (contrary to the By-law) for the establishment of shares, sick leave does not count for entitlement.
 - (vii) According to another unwritten and arbitrary rule, it has been the custom for the pilots to grant a "gratuity" to retiring pilots or to the estate of deceased pilots. The amount of the gratuity is decided in each case by the remaining pilots as a group. Generally they have authorized the continuation of "salary", but not "share", for the succeeding two and a half months.

The amount of the "salary" varies considerably from month to month. It was fixed as follows in 1965: January and February \$1,100; March \$1,300; April, May and June \$500; July and August \$600; September and October \$800; November \$900; December \$1,000 (Ex. 1531(j)).

The amount of the "share" can be made arbitrarily very high by fixing a small "salary" to the prejudice of those on sick leave with pay, e.g., in April, May and June 1965 the gross share was respectively \$1,071.21, \$1,064.69 and \$1,021.36. This left a substantial net "share" of \$571.21, \$564.69 and \$521.36, which the pilots on sick leave were not entitled to receive, while in February the gross share amounted to \$1,098.35 and, since the "salary" had been set at \$1,100, thereby indirectly granted full sharing rights to the pilots on sick leave with pay.

Since "salary" is the basis of "gratuity", the amount of the latter may vary widely depending upon the amount of the current "salary". A retirement May 1, 1968, would have resulted in a gratuity of \$1,250, but on December 31, 1964, \$2,850, unless the pilots as a group deviated from their established practice.

COMMENTS

It is considered that the complicated pooling procedure with its arbitrary rules should be discontinued and replaced by a pooling system fully covered in the regulations (Part I, pp. 192 and ff.).

There is no reason for using the fiscal year rather than the calendar year. The Department of Transport requested in 1960 that the annual financial statements of the Pilotage Authorities be based on the calendar year, but apparently the Halifax pilots objected to changing a procedure to which they were accustomed and the Pilotage Authority complied with their wishes and continued administering pooling on the former basis. However, since 1960, the District's annual financial reports have been submitted for the sake of uniformity on the basis of the calendar year, thus distorting the accounting procedure (vide General Recommendation No. 39, Part I, pp. 583 and 584).

There is also no reason why the net revenue that has accumulated during a month should not be fully distributed to the pilots at the end of the month, bringing the pool to nil each time. Since there are no longer any operating expenses to be paid out of pilotage earnings (vide p. 237), there is no need to deprive the pilots for any length of time of any money that belongs to them and there is no valid reason for keeping a reserve.

The arbitrary and discriminatory distinction between "salary" and "share" should be abolished. The rights of a pilot to a share of the pool should never depend upon arbitrary administrative decisions. If it is deemed advisable to provide out of the pool severance pay or coverage against loss of earnings due to illness or injury, the legislation governing the operation of the pool must include entitlement to such benefits as an acquired right (vide Part I, General Recommendation No. 39, pp. 583 and 584).

If the pilots are to retain their status as *de facto* employees and their system of financing the pool out of their own resources, it is considered that their shares should be determined at the end of each month on the basis of the net pilotage earnings (as earned) of the month (less pilot boat charges). All money on hand in the pool should be distributed to the pilots prorated on the outstanding balance owed to each. The outstanding balance owed to a retiring pilot or to the estate of a deceased pilot should take precedence. It is considered, however, that the system in force in British Columbia should be adopted because of its simplicity and adequacy.

(b) *Remuneration*

The following table shows the average remuneration, according to the various meanings given to the term "per pilot on establishment", for the years 1959/60 to 1967.

SHARE PER PILOT ON ESTABLISHMENT

Year	Pilots on Establishment*	"Take Home Pay"***	District Pilotage Earnings on Earned Basis**	Total District Pilotage Cost***
1959/60.....	20.98	\$10,135.91	\$10,744.40	—
1960.....	20	10,052.44	10,167.10	—
1961.....	19.3	10,263.81	10,917.98	\$18,109.69
1962.....	18.4	10,702.11	11,421.52	19,175.87
1963.....	17.5	10,829.77	11,566.14	20,494.11
1964.....	17.0	12,258.89	13,051.00	23,103.94
1965.....	16.6	12,791.00	13,598.72	24,381.27
1966.....	14.8	14,745.33	15,234.54	—
1967.....	12.4	16,414.44	16,495.98	—

SOURCES OF INFORMATION:

* Appendix A(2), p. 251.

** Ex. 344 (Annual Reports).

*** PART I, *Appendix IX*, pp. 639-641. (The Consultant's study on which these figures are based covers only the five-year period 1961-1965.)

The average "take home pay" shown in this table is somewhat less than the amount of "take home pay" attributed in the financial statement to the permanent pilot constantly available for duty. Furthermore, on account of the distinction between "salary" and "share" and the different rules governing their computation, a proportionately smaller number of pilots receive an equal share than would be the case in most other Districts. For instance, the alleged distribution shown in the 1967 financial statement is:

- 9 pilots received \$16,348.95¹
- 1 pilot received 16,327.89
- 1 pilot received 16,327.23
- 1 pilot received 16,288.05
- 1 pilot received 5,955.18 (gratuity included)
- 1 pilot received 1,500.00 (gratuity only)

Pilot L. C. Whorrall had retired December 15, 1966. Because of the practice of granting gratuities he was paid \$1,500 in 1967 although he was no longer on strength. In his case the gratuity granted was only for one

¹ Two pilots received a few cents more than the seven others no doubt due to indivisible amounts.

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month and a half since the "salary" for January and February was \$1,500 in each month, which would have normally entitled him to receive \$3,000 in 1967 instead. Pilot W. L. Power resigned May 21, 1967, due to ill health. The slight differences in the cases of the three other pilots are accounted for by the difference in the method of computing "salary" and the "shares", these three pilots having been absent during the year on sick leave with full pay.

Apart from the question of the average figure, the amounts shown as "take home pay" do not correspond to reality but represent a complicated bookkeeping situation due to the requirement to furnish a financial statement, based on the calendar year, of the pooling of earnings during the fiscal year. For instance, the amount quoted as the 1967 "take home pay" of the pilots who had full sharing rights is computed as follows (Ex. 1531(j)):

Payments actually made during the calendar year, i.e., the salaries paid during the 12 months of the calendar year and the amounts paid after March 31 to cover the "share" for the 1966 fiscal year.....	\$16,243.14
Less the accrued unpaid partial "share" of the 1966 fiscal year pooling as of January 1, 1967.....	2,871.53
	<u>\$13,371.61</u>
Plus the accrued unpaid partial "share" of the 1967 fiscal year pooling as of December 31, 1967.....	2,977.34
Total amount shown as "take home pay".....	<u>\$16,348.95</u>

The actual "take home pay" for the calendar year was \$16,243.14, i.e., what was actually paid to the pilots, and thus their income for income tax purposes. The accrued unpaid partial share at the end of the calendar year is not a receivable account but merely a share in the reserve fund as it then stands. From it will be paid the pilots' group expenses incurred up to the end of the fiscal year and the monthly shares of January, February and March will accrue before final payment. In fact, on March 31, 1967, the final accrued share had decreased to \$2,743.19.

In Halifax, the pilots are not reimbursed for their expenses incurred in the performance of their duties, although the By-law provides for their right to travelling expenses. Such expenses must be small because most of their travelling, even within the harbour, is in the pilot vessels.

COMMENTS

Although the amounts shown in the financial statements for a given period are not actually correct, the total over a period of years corresponds exactly to what each pilot has in fact received. Any discrepancy that may exist between the unpaid amount of the share at the end of the calendar year

and what is actually paid is accounted for by the amount shown as paid during the next calendar year. Therefore, for the purpose of assessing the pilots' level of remuneration these figures may be accepted.

From 1959/60 to 1967 the pilot's average "take home pay" has increased by 61.9 per cent, despite a slight decrease in the number of vessels (-1.5%) and aggregate tonnage of vessels (-2.6%) subject to the payment of dues. While there was a slight increase in the rates in 1960, the main reasons for such a substantial increase were the reduction in the pilots' strength (p. 202) and the discontinuation as of July 1, 1966, of the 5 per cent contribution to the defunct Pension Fund (p. 242).

(2) TARIFF

The tariff structure in Halifax has remained unchanged since voyage rates were first established in 1830 by the first Nova Scotia pilotage statute, and the other items gradually added thereafter have retained the form in which they first appeared:

This table shows the various items of tariff on an earned basis for the years 1962 and 1967 and the relative importance of each is shown as a percentage of the total earnings derived from the tariff (not counting pilot boat charges). For a complete comparative financial statement for the years 1965-1966-1967, see p. 238.

Pilotage dues	1962		1967	
	\$	%	\$	%
(A) <i>Voyages</i>				
Basic rates.....	193,203.34	91.9	187,170.58	91.5
Half rate to examination anchorages..	*	—	*	—
Rate and a half—dead ships.....	*	—	*	—
Half rate for non-exempt Canadian coastal vessels not taking a pilot.....	*	—	*	—
	193,203.34	91.9	187,170.58	91.5
(B) <i>Other services</i>				
Movage.....	15,913.88	7.6	16,350.51	8.0
D. F. calibration.....	214.50	0.1	286.00*	0.1
Compass adjustment.....	286.00	0.1		
Engine trial.....	378.95	0.2	135.85	0.1
Standby duty.....	*	—	*	—
	16,793.33	8.0	16,772.36	8.2

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Pilotage dues	1962		1967	
(C) <i>Indemnity charges</i>	\$	%	\$	%
Detention.....	264.00	0.1	288.20	0.1
Cancellation.....	165.00	0.1	319.00	0.2
Overcarriage (sec. 359 C.S.A.).....	Nil	—	Nil	—
Quarantine (sec. 360 C.S.A.).....	Nil	—	Nil	—
	429.00	0.2	607.20	0.3
	210,425.67	100.1		
Less refunds and adjustments.....	269.75	-0.1	Nil	
TOTAL DUES BELONGING TO PILOTS.....	210,155.92	100.0	204,550.14	100.0
<i>Accessory services</i>				
Pilot boats.....	30,280.00	—	28,310.00	—
Radiotelephone fees.....	Nil	—	Nil	—
GRAND TOTAL.....	240,435.92	—	232,860.14	—

SOURCE OF INFORMATION: Ex. 344 (Annual Reports).

* These items are not shown separately in the breakdown of pilotage revenues in the financial statements.

(3) PILOTAGE DUES

(A) *Voyage Charges*

Voyage charges are the main source of income of the District, accounting for almost 92 per cent of earnings.

The rates no longer differentiate between inward and outward voyages. Since the distance is relatively constant (as is generally the case in port pilotage), draught presents no problem and there are no special features to cause added difficulty, a uniform rate based on tonnage has been made applicable to all voyages (or trips as they are also called).

The voyage rate is based on net tonnage and is expressed in the form of a variable scale for each 100 tons beginning with a minimum charge set at 200 tons. The scale is arranged so that on a per ton basis the resultant rate decreases as tonnage increases. While for the first and second 100 tons the charge is \$7.23 for each 100 tons, the rate gradually decreases to \$5.41 for the sixth hundred tons, 90¢ for each additional 100 tons up to 6,000 tons and 80¢ each thereafter.

This method of calculating rates is a relic of free enterprise when the rates were designed to compensate for the difficulty of each assignment, but it is an anachronism in fully controlled pilotage whose main criterion for rate-

fixing is to share the total cost of the service equitably among the users. It is considered that the fairest way to achieve this objective is to base voyage charges on an invariable unit price per ton with a minimum charge (for minimum charge, vide Part II, p. 351). With the trend to fewer but larger ships, the existing scale results in diminishing aggregate revenues while the aggregate tonnage piloted remains fairly constant.

Both the Supervisor and the pilots considered tariff based on NRT was becoming increasingly unfair for another reason: the weaknesses of net tonnage measurements. The Supervisor and pilot William Crook each recommended a new system for assessing ships based on ships' dimensions. The whole problem, including their suggestions, is studied at length in Part I pp. 165 to 181. The Commission's conclusion was that, unless there were some special local factors to be considered, the most equitable method of apportioning the cost of the service was by using solely a price unit per ton of maximum gross tonnage. The general rule should apply in Halifax because there is no special local factor.

The amount of voyage rates has been increased and decreased many times during the last 100 years but the net increase has been small as is shown by this table which shows the scale in 1874 and 1967:

For vessels of N.R.T. between	1874		1967
	Inward	Outward	Inward and Outward
	\$		\$
0-200.....	10.00	6.00	14.45
200-300.....	13.00	8.00	19.80
300-400.....	16.00	11.00	25.25
400-500.....	18.00	12.00	28.85
500-600.....	20.00	13.00	32.45
600-6000 (per additional 100 tons).....	1.00	0.80	0.90
6000 plus (per additional 100 tons).....	1.00	0.80	0.80

The last significant increase in trip rates occurred in 1960 when the charge per 100 tons between 1,000 and 6,000 was raised from 82¢ to 90¢ and over 6,000 from 72¢ to 79¢.

According to the tariff, voyage rates are separated into basic rates, half rates for vessels calling only at the examination anchorage, one and a half rates for dead ships. In addition, coastal and inland Canadian traders of over 1,000 NRT are required to pay half regular rates if they do not employ a pilot.

It is not possible from the information available to segregate the actual yield of each of these items because they are not accounted for separately in the annual financial statements. In reply to the Commission's inquiry the Pilotage Authority wrote on September 12, 1968 (Ex. 1531(u)):

- (a) No use has been made of the examination anchorage over a period extending for at least ten years.
- (b) There are approximately ten instances monthly of dead ship movements, usually in connection with vessels proceeding to or from the local shipyard. For financial statement purposes the resulting collections are included in the total of voyage or movage income as the case may be.

The data regarding the number of non exempt ships that used pilots or dispensed with their services and the revenues collected in such cases are not segregated on the financial statement. The information in the table on p. 196 was obtained from the Department of Transport. These data, however, do not differentiate between ships that paid full rates and half rates.

It was not considered necessary for the purpose of this Report to obtain the amount of revenue collected on each of these items because the information available conveyed a sufficiently accurate idea of the importance of each. It is recommended that future financial statements should contain complete details in order to provide precise statistics.

(B) *Other Services*

(a) *Movages*

Movages account for the greater part of the balance of District revenues, i.e., about 8 per cent. The pilots have expressed their dissatisfaction with the rates for movages which they consider too low, pointing out that there is as much work involved in a movage as piloting a ship in or out of harbour.

The last increase in movage charges occurred in 1960 when they were revised upward by 10 per cent.

The rate structure takes the form of four charges. The tariff differentiates between movages performed wholly inside the main harbour and others, and in each case two flat charges are provided, the smaller for ships under 3,000 tons and the larger for those in excess. This structure was already in effect when the Minister published his By-law in 1920. Originally, however, the By-law did not provide for movages (vide 1875 By-laws, Ex. 1531(d)).

The movage of a dead ship calls for one and a half rates. The incidence of this last item can not be ascertained since it is not segregated. For movages fees paid on account of the compulsory payment of dues reference is made to the table on p. 196.

While movages account for about 8 per cent of the dues, they amount to about 20 per cent of the total number of trips and movages for which dues are paid (18.9% in 1962 and 21.7% in 1967).

The relative value of the various types of movages compared to pilotage voyages should be a matter for the Pilotage Authority to determine. This Commission does not possess the necessary data to give an opinion and, therefore, its comments on the subject must be of a general character only.

The complaints of the Halifax pilots arise from the fact that in port type Pilotage Districts there is little difference at times between a voyage and a movage. The main service rendered in a pilotage voyage is navigating a ship into the confined waters of a District; berthing or unberthing does not occur in all cases and, when it does, it is considered merely an accessory to the trip and is not taken into account. The pilotage service rendered in a movage consists mainly of berthing or unberthing and the navigation entailed is generally of short duration and in sheltered waters, often with the assistance of tugs. Hence, it is disregarded. The required *expertise* in either case varies in nature and importance. Even in Halifax the responsibilities involved and the possible consequences differ greatly and trips should call for a higher charge than movages. One possible solution would be to restrict voyage charges only to navigation inward or outward, abolish movage charges as such and establish a berthing charge. Inward or outward voyages would then call for a voyage charge plus extra charges for berthing and unberthing. But, if a ship anchored, only the trip charge would be made. A movage would call for one or two berthing charges, depending on whether an unberthing and berthing was involved, or only one of them. The small amount of navigation involved should not as a rule call for any extra charge. A special charge should be devised for the occasions when a ship may be moved from one anchorage to another.

Here again, it is considered that the charge should vary with the size of the ship and the same method should apply as for the voyage rate, i.e., a price unit per ton of maximum gross tonnage with an adequate minimum.

(b) *D.F. calibration, compass adjusting and trial trips*

These three items amount to very little in the aggregate District earnings (0.4% in 1962 and 0.2% in 1967).

The By-law does not provide specifically for D.F. calibration. In practice, the charge for compass adjusting is applied. It is considered that the tariff should be amended to cover both items.

The wording in the tariff (sec. 5) corresponds to sec. 5 of the Saint John tariff with the difference that when the service is performed within the Halifax District the specific dues are payable "in addition to movage charges", a stipulation that is obviously missing in the Saint John tariff. When such services are performed outside the District, the remark on pp. 125-127 concerning the Saint John tariff also applies.

(c) *Standby duty*

The Halifax tariff (subsec. 7(2)) is the only one which provides remuneration for "standby duty" (also called "security watch", Part I, p. 136). However, it is entered under "detention" although it is of a totally different nature. Detention means that a pilot's availability is retained but he performs no service, whereas a pilot on security watch is on active duty, has to be on the alert for any emergency and is responsible for the safety of the ship concerned. Such duty occurs occasionally during severe weather when a ship is at anchor or berthed.

There is a realistic difference between the two services in the tariff: the hourly charge is the same (\$2.20) but on safety watch remuneration begins with the first hour and the daily maximum is greater.

This item is also not shown in the financial statement. The Pilotage Authority reported that it is applied only on very rare occasions, not more than once a year. Collections arising from security watch are included in the total of detentions (Ex. 1531(u)).

(c) *Indemnity Charges*

The tariff provisions governing quarantine, overcarriage, detention and cancellation are the same as for Saint John and the comments in Section Two apply *mutatis mutandis* (vide p. 127).

(d) *Accessory Services*

In the field of accessory services the tariff provides a separate rate for pilot vessel service only. Since such a charge was first introduced in 1959 (P.C. 1959-1601 dated Dec. 18, 1959), it has been \$10 each time a pilot vessel is used. As is always the case when this service is provided by the Department of Transport, the By-law provides that dues collected from that source do not form part of the pool but are to be paid to the Receiver General of Canada (subsec. 9(2)(c)).

Although radiotelephone sets are furnished by the Department of Transport free of charge to the pilots (except the obligation to meet the cost of replacement in case of loss, vide p. 204), a radiotelephone charge has not been introduced in the tariff as is the case in the other Districts where these sets are supplied (e.g., B.C. Tariff, sec. 14, as of Jan. 12, 1966). The Department of Transport has informed the Commission that there was no special reason why a charge was not made in Halifax (D.O.T. letter of Sept. 10, 1968, Ex. 1531(s)) but "when the opportunity arises the introduction of a charge for the use of radiotelephones will be considered".

7. FINANCIAL ADMINISTRATION

There are three funds in the Halifax District: the Pilotage Fund and the Pension Fund, which are kept by the Pilotage Authority, and the pilots' "Group Fund", that is kept by the Pilots' Committee.

The Pension Fund will be studied at the end of this chapter. The pilots' "Group Fund" corresponds to the *Club Fund* the B.C. pilots used to have (vide Part II, p. 187). It is a private fund kept and administered by the pilots themselves to meet incidental non recurring group expenses such as floral tributes, gifts and Christmas cards. It is supported by equal personal contributions from the pilots (p. 242) and the bookkeeping is done by the District Accountant as a personal service. Withdrawals are made by cheques signed by two members of the Pilots' Committee.

When the Minister of Marine and Fisheries became the Pilotage Authority in 1918, the financial administration of the District was centered in Ottawa (as for all Districts which came under the Minister's jurisdiction). Dues were collected by the local Customs officers and paid to the Department; all payments out of the Pilotage Fund, including the pilots' shares in the pool, were made by cheques issued from Ottawa. It is only since 1948 that the financial administration has been decentralized and the Pilotage Fund has become the responsibility of the local Supervisor.

The Supervisor stated that he never had difficulty collecting pilotage dues for services rendered except once when he was forced to have a ship's clearance held at Dalhousie under subsec. 344(2) C.S.A. The bill was paid within a few days.

The interpretation of the compulsory payment provision of the By-law has also caused him some difficulties, e.g., three coastal traders belonging to the Irving interests, one over 1,000 net tons Canadian registry and two below 1,000 net tons but over 250 net tons, both registered in Nassau. On account of the ambiguity of subsec. 6(3) of the By-law, the Department of Justice ruled that the Pilotage Authority had not established that these ships were not exempt (Ex. 1495(a)). The By-law provision was amended in November, 1963, to overcome this defect (vide p. 167).

The only financial document prepared annually by the Pilotage Authority is no longer a financial statement in the accepted sense but has become merely a document containing limited statistical information of a financial nature covering the calendar year. The information is limited to that part of the Pilotage Fund which comprises pilotage earnings and the disbursements made from them. It is divided into two completely separate parts. The first contains statistical information regarding the items that enter into the operation of the pool, and the second is a partial financial statement of receipts and earnings concerning pilot boat charges. Since the second part of the document is self-explanatory, only the first part will be discussed.

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For easier comprehension, the annual statements for the years 1965, 1966 and 1967 are presented in combined form. The schedules attached to the annual statements are not reproduced because the information contained in them has already been studied. Schedule A details the pilotage dues earned (not collected) during the year (vide pp. 231-232) and Schedule B shows the amounts paid during each calendar year (salary paid during the calendar year and share paid during the same calendar year but earned in the fiscal year which ended March 31 of that year) to each pilot during the calendar year, plus the extent of their aggregate "share" in the reserve (based on the fiscal year) as of December 31 (vide p. 230).

INCOME STATEMENT
January 1-December 31

	1965	1966	1967
<i>Earnings</i>			
Pilotage.....	\$225,731.06	\$225,471.16	\$204,550.14
Adjustments.....	7.75	nil	nil
	\$225,738.81	\$225,471.16	\$204,550.14
<i>Disposition of Income</i>			
Pilots' shares.....	\$166,833.16	\$178,928.00	\$167,914.64
Pilots' Pension Fund.....	11,211.56	6,141.89	nil
<i>Expenses:</i>			
Administration, etc.....	373.00	358.00	226.00
Pilots' indemnity policy.....	881.33	740.46	650.07
Radiotelephone insurance.....	nil	nil	135.00
	\$179,299.05	\$186,168.35	\$168,925.71
<i>Reserve and Surplus</i>			
Cash in bank.....	\$27,591.99	\$20,457.15	\$18,460.48
Accounts receivable.....	18,847.77	18,845.66	17,163.95
	\$46,439.76	\$39,302.81	\$35,624.43
	\$225,738.81	\$225,471.16	\$204,550.14

FINANCIAL STATEMENT-PILOT BOAT SERVICE
January 1-December 31

	1965	1966	1967
Outstanding as at January 1.....	\$ 2,390.00	\$ 2,440.00	\$ 2,740.00
Earned: January 1-December 31.....	29,990.00	30,860.00	27,770.00
	32,380.00	33,300.00	30,510.00
Collected: January 1-December 31.....	29,940.00	30,560.00	28,310.00
Balance outstanding as at December 31.....	\$ 2,440.00	\$ 2,740.00	\$ 2,200.00

SOURCE OF INFORMATION: Exhibit 344.

Up to the fiscal year 1959/60 this income statement was a true final account to the pilots of the operation of the pool for the fiscal year just ended. During those years this "income statement":

- (a) showed the aggregate earnings (on earned basis) during the fiscal year which made up the pool for that year (shown as *Earnings*);
- (b) summarized the expenditures actually paid out of the pool during the fiscal year, which then comprised the District operating expenses, the pilots' group expenses and the compulsory contribution paid to the Pension Fund;
- (c) established the pilots' final rights in the pool by summarizing the 12 monthly sharings and showing the aggregate amount of the "salaries" paid during the fiscal year to the pilots as well as the aggregate amount of the pilots' monthly "shares". The aggregate amount of these "shares" together with the 5 per cent payable to the Pension Fund when the "shares" are paid comprises the item *Reserve and Surplus* which is, therefore, the aggregate of the amounts that have been credited monthly to the account of each pilot and to the Pension Fund but not paid for the purpose of financing pooling.

Because the "income statement" was not an annual financial statement (not even of the pool), it did not provide continuity from one year to the next and did not reflect all the financial transactions that occurred, but only what was needed to establish each pilot's entitlement. This explains why, contrary to the procedure followed in the *Statement of Boat Service*, the *Surplus and Reserve* is not shown at the beginning of the next year's statement.

This "income statement" lost its intended purpose and meaning when the pilots declined in 1960 to comply with the Department of Transport's request that henceforth accounting should be effected on the basis of the calendar year, and when, despite the factual situation, the Pilotage Authority began to produce an income statement based on the calendar year. Such a statement is no longer a final account of pooling and does not establish the rights of the pilots in the pool, but merely contains statistical information of a financial nature taken from two different pools, the figures of one not being final since it is not yet concluded (vide p. 229).

With the foregoing reservation, the various items shown on the "income statement" are reviewed as follows:

(1) ASSETS AND ITEMS OF REVENUE

Because of the nature of the financial statement, only those items that form part of the pool are entered as assets and revenues, i.e., pilotage dues and the statutory indemnities for overcarriage and quarantine which form

part of the pool according to the By-law. These items were studied earlier (pp. 231-239). The other small items of revenue that enter into the Pilotage Fund are not shown.

The item *Refunds and Adjustments* is used to correct errors made computing dues and billing. These may be debits or credits depending upon the type of error, e.g., when checking source forms, errors such as wrong tonnage are found, or full dues may have been charged under the compulsory system to a ship enjoying a partial exemption. When such an error is found, a new bill is sent and the correction in the Pilotage Authority's books is made through this item so that the final amount under "Earnings" shows the exact amount of the pool for that year.

(2) LIABILITIES AND ITEMS OF EXPENDITURE

Here again, since the Halifax financial statement shows only earnings belonging to the pool, the expenditures from the Pilotage Fund show only those that affect pooling. Hence, this part of the *Income Statement* originally indicated how the pool monies had been and were to be paid to, or on behalf of, the pilots. Expenditures may be grouped as follows:

- (a) Group expenses.
- (b) Pension Fund deductions.
- (c) Distribution to pilots.

(a) *Group Expenses*

(i) *Pilots' group indemnity insurance*

The pilots as a group possess an insurance coverage entitled *Pilots' Loss of Income Indemnity and Legal Defence Policy*. In 1963, for a premium of \$55.80 per pilot they were guaranteed for a maximum period of six months a monthly income of \$500 in case of unemployment during suspension or the cancellation of their licence (Ex. 357).

The pilots do not participate in the benefits of the provincial Workmen's Compensation legislation, nor are they covered by any group insurance because they felt that sec. 24 of the By-law covering sick leave in case of injuries sustained while on duty provides very satisfactory coverage which each pilot could complete personally by taking out a policy covering disability. Pilot W. H. Crook stated that most of the pilots carried personal accident insurance but were required to pay a risk premium on account of their occupation.

The pilots have also covered by insurance their responsibility for the replacement, in case of loss, of the radiotelephone sets they have on loan. The Department of Transport has informed the Commission (Ex. 1531(w)) that "the decision to take care of the cost of replacement" was taken voluntarily by the pilots themselves.

(ii) *Administration, postage, etc.*

Under this item are entered small items of District operating expenses and miscellaneous expenses of the pilots as a group. For accounting purposes it would have been preferable to segregate them in detail. The payment of District operating expenses is a relic of the past when the District operating expenses had to be paid as provided for in sec. 328 C.S.A., i.e., from licence fees and pilotage dues. Some small items of Halifax District operating expenses are still paid out of the dues, despite the fact that the required authorization of the Governor in Council was not obtained and that these disbursements are not even purported to be authorized by subsec. 9(2) of the By-law which lists the only deductions that may be made out of pilotage earnings. These small items of the District operating expenses are for stamps, rental of the post office box, telegrams and similar expenditures. The stamps used for official correspondence concerning the Department of Transport are paid out of the pool but are reimbursed by the Government every month. Those used to send out bills to agents remain a charge on the pilots' earnings. By way of explanation, it was stated that bills are not Government business but pilotage business. On the other hand, the Department of Transport furnishes the stationery including the source forms and the bill forms free of charge. This is an anachronism which should be corrected. It is furthermore a discriminatory practice in that in other Districts, such as Saint John, N.B. where the Department of Transport has assumed District operating expenses under the same authority (vide p. 133), the Department pays for all these small items.

The miscellaneous expenditures that concern the pilots as a group are also entered under this heading. For instance, in 1962, this item amounted to \$876.70 of which \$600 went to the Pilots' Committee as an advance for their travelling expenses connected with a trip to Ottawa to meet the officials of the Department of Transport. The refund of the unexpended money was not paid to the pool but to the pilots' "Group Fund". Before any group expenditure is made it must be officially requested by the Pilots' Committee and approved by the Supervisor.

(b) *Pension Fund Deductions*

The authority for this was subsec. 9(6) of the By-law. As will be explained at the end of this chapter, these deductions were merely intended to re-establish the actuarial solvency of the pension scheme which has been closed as of 1956. Since this objective was attained in 1966, deductions have been discontinued from that date.

(c) *Pilots' Personal Deductions*

Either because the pilots are considered actual employees of their Pilotage Authority, or as a personal service to them, the Supervisor also takes from their "take home pay" the deductions at source for income tax and the

Canadian Pension Plan. The pilots' contribution to their "Group Fund" are similarly paid in the amount decided by the Pilots' Committee. The contribution was \$2 per month until June, 1967, when it was raised to \$4. However, a special assessment has to be made occasionally, e.g., the contribution for February, 1961, was \$17. None of these deductions, which are all of a private nature, appear on the financial statement.

COMMENTS

The foregoing is another example of the extensive and unnecessary discrepancies in the accounting procedure of the various Districts. (Vide Part I, General Recommendation 17, item 15, p. 508; General Recommendation 20, pp. 522 and 523.) Furthermore, a financial statement should always correspond to reality and the practice now followed in Halifax should be corrected.

8. PENSION FUND

For a number of years the Pension Fund has been a source of frustration for the Halifax pilots. The problem has been solved by discontinuing the pension scheme and letting the pilots provide for retirement protection on their own. The pension benefit scheme was terminated with the fiscal year 1955/56 and the Pension Fund maintained solely for the purpose of meeting the accrued liabilities. The limited contributions the pilots were required to make were discontinued as of July 1, 1966, when the Fund attained solvency.

When first established, the Fund was a true Pilot Fund, the only permissible type under the Act (vide Part I, C. 10). For instance, the 1893 amendment to the District By-law left the amount of the pension benefits to be awarded to retired pilots and to the dependents of deceased pilots to the discretion of the Pilotage Authority within a minimum of \$50 per year and a maximum of \$300 per year; benefits were paid directly out of the Fund and investment was considered only for that part of the Fund that remained unexpended after current liabilities had been met.

When the Minister became the Pilotage Authority the Fund was changed into a Superannuation Fund for which the benefits were no longer left to the discretion of the Pilotage Authority but were fixed by the regulations. The first By-law made by the Minister (P.C. 1042 of May 15, 1920) provided a retired pilot after five years' service with pension benefits amounting to \$20 per year of service with a maximum of \$600; the pilots' compulsory contribution was set at 5 per cent of the gross earnings. The pension provisions were modified many times and when the pension scheme was cancelled in 1955/56 the benefits stood at \$40 per year with a \$1,600 maximum.

The loss of the pilot vessel *Hebridean* in 1940 when six pilots drowned, and the reimbursement to the war-time temporary pilots of their aggregate contribution when they were retired created a heavy drain on the already insolvent Fund.

The unsatisfactory state of affairs was aggravated by the fact that the pilots requested that the benefits be increased despite the Fund's insolvency. Actuarial surveys were made and the pilots were faced with the obligation of paying heavy contributions while receiving very few benefits. Instead, the Halifax pilots requested liquidation of the fund and repayment to the active pilots of their equity. However, it was ruled that the Fund should be maintained to pay the then acquired pension benefits. This meant that part of the active pilots' contributions would have to be diverted to make good the accrued deficit gradually, as was done in the Saint John District (vide p. 136). This posed a serious problem because the Halifax Fund then showed a deficit of \$72,000. In 1953, the Government made an *ex gratia* payment of \$56,000 to the Fund upon receiving the pilots' agreement to make a contribution of 10 per cent of their earnings.

But this did not resolve the basic problem of providing reasonable pension benefits. The pilots then proposed that for the future the nature of the pension scheme should be basically modified. They suggested that the pension scheme be concluded as of March 31, 1956; that the contribution be raised to 15 per cent, 5 per cent being attributed to the old scheme to meet its liabilities; that pilots with less than five years' service (of whom there were four), would be reimbursed the aggregate of their contributions; that the remaining 10 per cent of the contribution be used to purchase Government bonds to provide pensions for the active pilots. The proposal was implemented but lasted only from March 31, 1956, until June, 1957, because tax-free deductions for the purpose of purchasing bonds for superannuation were not permissible. The 10 per cent already collected was reimbursed with the result that, except for the rights acquired up to the end of the fiscal year 1955/56, the pilots were no longer provided with any pension benefits. Nevertheless, they were required to pay 5 per cent of their earnings until the solvency of the Fund was re-established. When tax-free deductions for pension purposes were later authorized by an amendment to the Income Tax Act the pilots did not ask for a revision of their pension situation because they felt that they could do better individually. This was the situation when the Commission sat in Halifax in 1963 and not unnaturally the pilots were extremely dissatisfied with the situation. They recommended that they be brought under the Public Service Superannuation Act on an equal footing with public servants so that half of the pension contribution be paid directly out of public funds, which can not be done unless the governing Act is changed.

The most attractive feature of the proposal that the pilots become prevailing rate employees was the pension advantages involved, especially for the older pilots.

Study of Halifax, N.S., Pilotage District

When the Fund became solvent in 1966, it was decided to discontinue the 5 per cent contribution as of July 1. The pilots were warned, however, that if the mortality experienced turned out to be unfavourable or if investment returns decreased, contributions would have to be reimposed for a period, the length of which would depend upon the extent of the shortage (Ex. 1531 (o)).

For the Commission's views on the course of action to adopt, reference is made to Part I, General Recommendation 39, pp. 581-4.

Chapter D

RECOMMENDATIONS

SPECIFIC RECOMMENDATIONS AFFECTING THE HALIFAX PILOTAGE DISTRICT

RECOMMENDATION No. 1

That an Order Be Made without Delay by the Governor in Council to Give Legal Existence to, and Fix the Limits of, the Halifax Pilotage District

As demonstrated (p. 156), the Halifax Pilotage District ceased to exist legally when the 1934 Canada Shipping Act came into force. Furthermore, as explained on pp. 157 and ff., the only existing Governor in Council's Order dealing with its limits purported to make it a coastal District extending some 115 miles. In view of the importance of Halifax as a port and the need for maintaining an adequate pilotage service there, the present situation should be remedied immediately by the issuance of an Order by the Governor in Council under sec. 324 C.S.A. to restore the legal existence of the Halifax District and fix its limits realistically as a port Pilotage District covering only the waters of the harbour, including Bedford Basin, and its immediate seaward approaches.

RECOMMENDATION No. 2

Pilotage in Halifax to Be Classified as a Public Service

Halifax is one of Canada's safest and least difficult harbours to navigate (vide pp. 187 and ff.). There is only a remote possibility that a serious shipping casualty could block the main channels of Halifax Harbour for any appreciable period. On the other hand, in view of the importance of the ocean-going traffic calling there and of the port as a national harbour, it is necessary in the public interest to place an efficient pilotage service at the disposal of shipping. Therefore, in accordance with the criteria established in General Recommendation 17, it is considered that pilotage at Halifax can not normally be classified an *essential service* but should be classified as a *public service* (vide Part I, p. 509, for the meaning of these terms).

The main consequence of this classification would be that pilotage would not be compulsory unless made so by a Pilotage Order issued by the Central Authority and to the extent decreed therein (Part I, General Recommendation 22, p. 532).

The Commission's study of pilotage operations in Halifax indicates that the application of the present compulsory payment system was not dictated by considerations of safety but was merely a means of increasing pilotage revenues by taxing shipping and imposing compulsory payment on vessels which generally neither need nor employ pilots and enjoy a relative statutory exemption. This conclusion is further supported by the large percentage of ships that dispense with pilots (despite the fact they are obliged to pay dues in full or in part) without imperilling the safety of navigation or port installations.

The evidence has shown that the Pilotage Authority fully appreciated the fact that there was no need for compulsory pilotage in the District and intended to abolish it eventually (vide p. 208).

If General Recommendation 22 is implemented, it will be possible for the Central Authority to impose compulsory piloting in certain very specific cases by an appropriate Pilotage Order, e.g., for vessels carrying dangerous cargoes, but only to the extent required by considerations of general safety and public interest.

If General Recommendation 21 is implemented, classification as a *public service* will enable the District to benefit from the Central Equalization Fund maintained and administered by the Central Authority, to the extent the subsidy is genuinely needed in the public interest.

RECOMMENDATION No. 3

Pilotage Administration and Pilot Vessel Service in Halifax to Be Reorganized on a More Economical Basis

The organization of the pilotage service at Halifax should be reassessed to ascertain whether the existing expensive system is warranted now and in the foreseeable future. As the demand for pilotage in the District diminishes there is a tendency to retain the organization and division of functions justified by high demand, and a consequent reluctance to reduce staff. The correct approach to the problem is to disregard present arrangements and plan afresh for a suitable organization in the light of today's circumstances and needs and those likely to be encountered in the future. Only when such a study has been completed can the adequacy of the existing organization be weighed and any necessary changes made.

At first sight, it appears excessive to employ a permanent staff of 20 (not counting temporary personnel or the officers and employees at Ottawa headquarters) merely to attend to the local administration and transporta-

tion of 12 pilots who completed a total daily average of 9.7 assignments in 1967. Halifax is organized on a basis comparable to Districts handling extensive traffic, e.g., Quebec, Montreal and British Columbia, where the number of pilots and their aggregate workload are many times greater.

Supporting staff and the pilot vessel service should be reconsidered in the light of the present demand for pilotage, observing that the trend is to larger but fewer ships. Advantage should also be taken of the present state of technology and general progressive changes.

It is suggested that a *job analysis* of the workload and function of each member of the staff would permit a considerable reduction without affecting the efficiency of the service.

The despatching system should be reorganized and simplified. The existing organization is a relic of the past and has not been adjusted to the present. A large staff was necessary when traffic was heavy and forward planning was impeded by lack of communications with ships at sea and by the unreliability of ships' movements, generally due to weather conditions. The situation is now completely changed by more powerful and faster ships equipped with electronic shipborne navigational and communication aids which permit them to maintain a more accurate schedule. The average margin of error in a 12-hour ETA is now so small it can be disregarded.

In Halifax and elsewhere, the despatching system should be reorganized on the basis of advanced ETA's from vessels requiring a pilot. Any inconvenience caused by failure to give such an ETA should be borne by the ship concerned and not by other ships which have complied. This requirement will have to be specifically provided for in the new pilotage legislation as pointed out in Part I, pp. 208 and 209; pp. 230 and ff.; and p. 250.

Vessels should be required to give a stated minimum advance ETA (e.g. 12 hours). If there is any delay, this ETA should be confirmed or corrected at a given time (e.g. nine hours later) and a final ETA sent (e.g. three hours in advance). Such notices would enable the Supervisor or the official in charge of despatching to effect most assignments during normal office hours. In Victoria B.C., assignments for the night and for the first part of the next morning are usually given to the pilots before 6 p.m. There is no reason why this could not be done elsewhere.

The present despatching staff of four should be dispensed with. It is preposterous to have an average of less than 10 assignments per day handled by four despatchers, in addition to the Supervisor, his accountant, his secretary and the 13 persons attached to the pilot vessels. What little despatching has to be done could well be attended to during normal office hours by the Supervisor himself, with the routine part being attended to by the accountant whose work is directly connected. In British Columbia, the despatchers also compute dues and bills with satisfactory results. In a port like Halifax where there is so little despatching and, therefore, few accounts, the two functions should be combined.

The small number of night assignments do not warrant keeping a special despatching staff on duty all night. Advantage should be taken of the availability of the pilot vessel crews since their service must be maintained on a 24-hour basis. The pilot vessels are already equipped with radiotelephone for ship-to-ship and ship-to-shore communication. They could also be equipped with a land telephone on the same line as the pilotage office telephone. The pilot vessel telephone could be attended to after normal office hours by the Master who would receive daily the list of night assignments already given and the names of the pilots next on the tour de rôle. Thus, if an unexpected requirement for a pilot arose, the Master could call the next pilot in turn, and in case of difficulty he could contact the Supervisor who would take the necessary despatching action.

From the point of view of time on duty, the functions of Supervisor, or officer in charge of the pilotage office, should be comparable to those of a Master of a ship and not to an office employee who works only during certain hours of the day. Like the Master of a ship he should be considered on duty at all times. When he has to be absent from the District or for any reason is not in a position to exercise his functions, there should be some one in authority to relieve him.

Considerable additional savings might well be effected by reorganizing the pilot vessel service to take full advantage of the land transportation system and water transportation in the harbour available from other sources. Consideration should also be given to moving the base of the main pilot vessel from the harbour to a suitable shore site as close as possible to the boarding area. (For further comments, vide pp. 217-218.)

Chapter E

APPENDICES

APPENDIX A

- (1) Per Cent Increase or Decrease in Earnings and Workload of Pilots in the Pilotage District of Halifax, N.S.
- (2) Earnings and Workload of Pilots in the Pilotage District of Halifax, N.S.

APPENDIX B

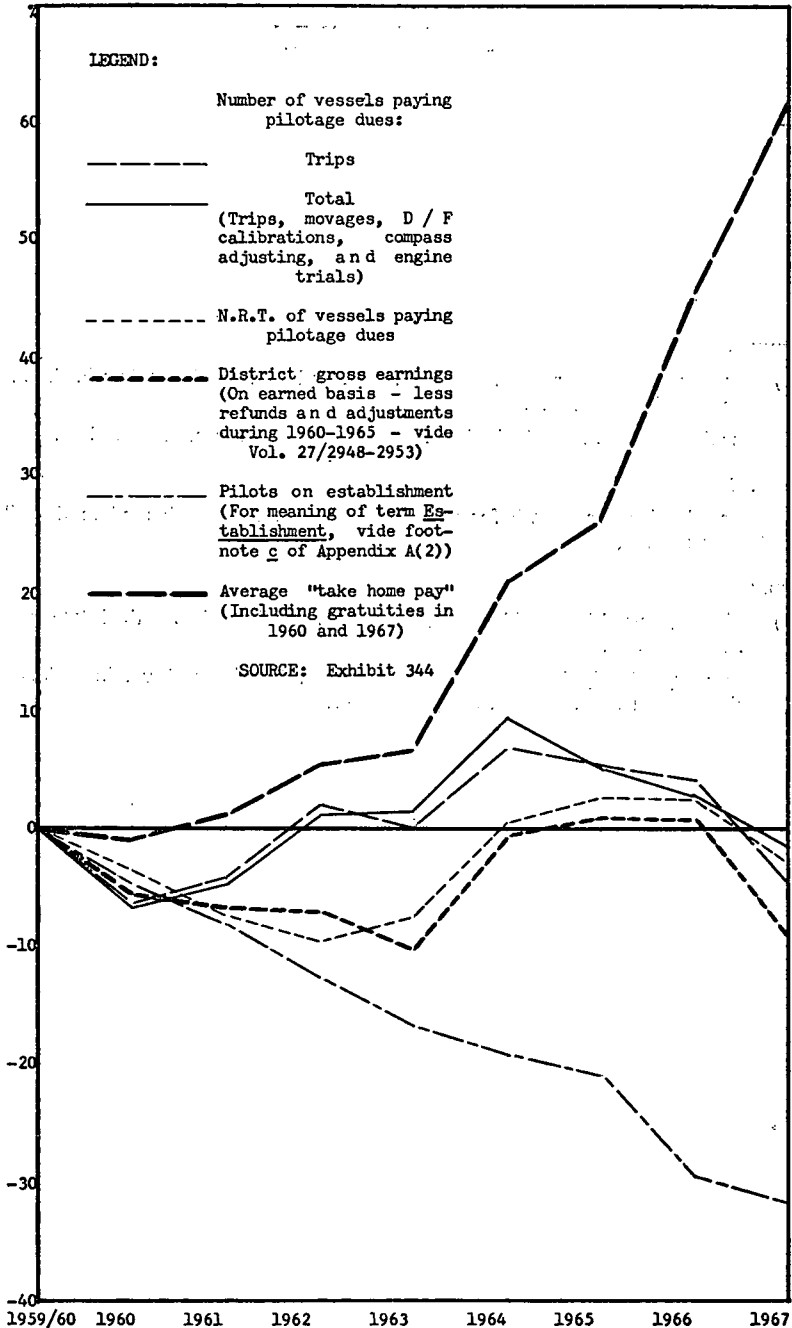
Number of Trips per Month for which Pilotage Dues were Charged in the Pilotage District of Halifax, N.S.

APPENDIX C

- (1) Shipping Casualties, Accidents and Incidents Involving Pilots of the Pilotage District of Halifax, N.S.
- (2) Summary of Shipping Casualties, Accidents and Incidents Involving Pilots of the Pilotage District of Halifax, N.S., 1965-1967.

Appendix A (1)

PER CENT INCREASE OR DECREASE IN EARNINGS AND WORK-LOAD OF PILOTS IN THE PILOTAGE DISTRICT OF HALIFAX, N.S.



SOURCE OF INFORMATION: Exhibit 344.

Appendix A (2)

EARNINGS AND WORKLOAD OF PILOTS
IN THE PILOTAGE DISTRICT OF HALIFAX, N.S.

Year	Number of Vessels Paying Pilotage Dues		N.R.T. of Vessels Paying Pilotage Dues	District Gross Earnings ^b	Pilots on Estab- lishment ^c	Average "Take Home Pay"
	Trips	Total ^a				
1959/60....	3,514	4,376	15,865,469	\$225,417.43	20.98	\$10,135.91
1960.....	3,297	4,084	15,330,441	213,341.90	20.0	10,052.44 ^d
1961.....	3,374	4,173	14,700,436	210,717.03	19.3	10,263.81
1962.....	3,591	4,425	14,370,845	210,155.92	18.4	10,702.11
1963.....	3,518	4,451	14,689,733	202,407.50	17.5	10,829.77
1964.....	3,760	4,796	15,965,172	221,867.06	17.0	12,258.89
1965.....	3,708	4,603	16,320,782	225,738.81	16.6	12,791.00
1966.....	3,662	4,507	16,282,010	225,471.16	14.8	14,745.33
1967.....	3,363	4,313	15,454,974	204,550.14	12.4	16,414.44 ^d
<i>Per Cent Increase or Decrease</i>						
1959/60....	0.0	0.0	0.0	0.0	0.0	0.0
1960.....	-6.2	-6.7	-3.4	-5.4	-4.7	-0.8
1961.....	-4.0	-4.6	-7.3	-6.5	-8.0	1.3
1962.....	2.2	2.3	-9.4	-6.8	-12.3	5.6
1963.....	0.1	1.7	-7.4	-10.2	-16.6	6.9
1964.....	7.0	9.6	0.6	-1.6	-19.0	21.0
1965.....	5.5	5.2	2.9	1.0	-20.9	26.2
1966.....	4.2	3.0	2.6	1.0	-29.5	45.5
1967.....	-4.3	-1.5	-2.6	-9.3	-31.4	61.9

SOURCE OF INFORMATION: Exhibit 344

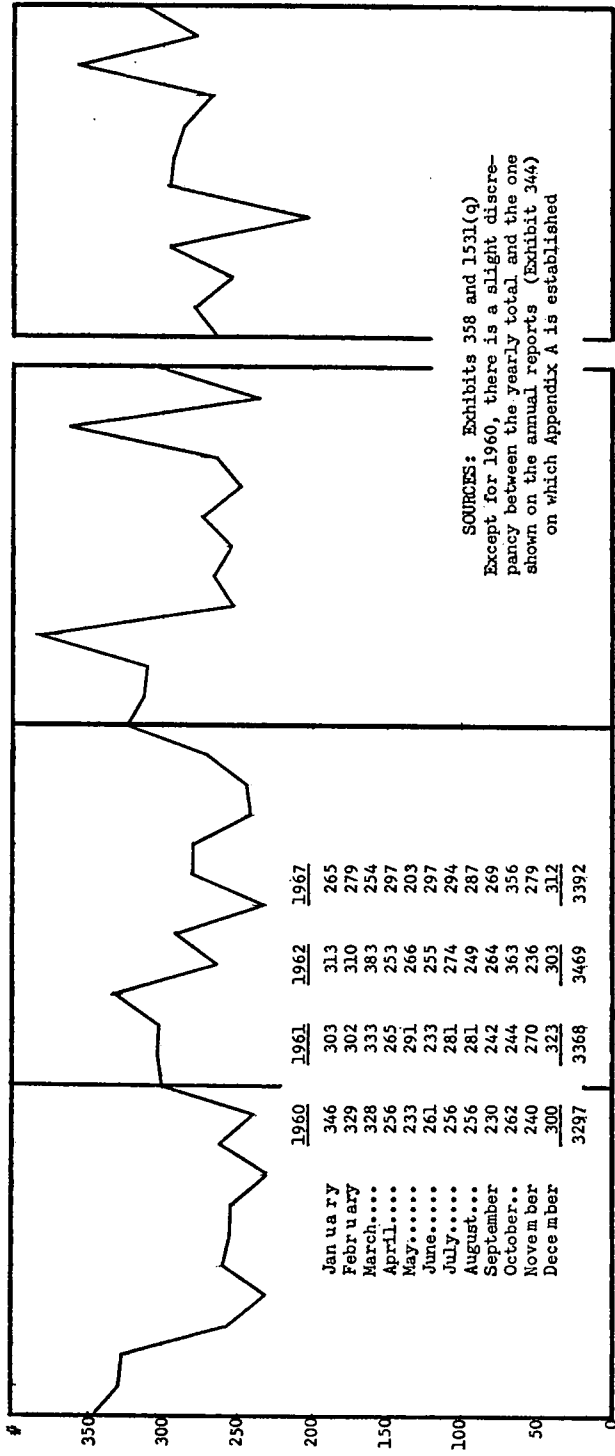
^aTrips, movages, D/F calibrations, compass adjusting, and engine trials.

^bOn earned basis—less refunds and adjustments (1960-1965).

^c*Establishment* means the number of pilots on a yearly basis, taking into consideration any increase (i.e., new or probationary pilots) and any decrease (i.e., retirements, deaths, etc.) that occurred during the year.

^dIncluding gratuities.

Appendix B
**NUMBER OF TRIPS PER MONTH FOR WHICH PILOTAGE DUES WERE CHARGED
 IN THE PILOTAGE DISTRICT OF HALIFAX, N.S.**



SOURCES: Exhibits 358 and 1531(q)
 Except for 1960, there is a slight discrepancy between the yearly total and the one shown on the annual reports (Exhibit 344) on which Appendix A is established

JANUARY - DECEMBER 1960 JANUARY - DECEMBER 1961 JANUARY - DECEMBER 1962 JANUARY - DECEMBER 1967

Appendix C (1)
**SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING PILOTS OF THE
 PILOTAGE DISTRICT OF HALIFAX, N.S.**

	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967
A. EVENTS HAPPENING WHILE NAVIGATING:										
I. Major Casualties										
(with or without loss of life):										
a. Loss or abandonment of ship.....	0	0	0	0	0	0	0	0	0	0
b. Major stranding.....	0	0	0	0	1	0	0	0	0	0
c. Heavy damage to ship (excluding above).....	0	1	0	0	0	0	0	0	0	0
	—	—	—	—	—	—	—	—	—	—
II. Minor Casualties (without loss of life):										
a. Minor strandings.....	0	0	0	0	0	0	0	0	0	0
b. Minor damage to ships.....	1	0	1	0	0	0	0	0	0	0
	—	—	—	—	—	—	—	—	—	—
III. Accidents (without damage to ships)...	0	0	0	0	0	0	0	0	0	0
IV. Incidents (without any damage whatsoever)										
a. Touching bottom in channel.....	0	0	1	0	0	0	0	0	0	0
b. Others.....	0	0	0	0	0	0	0	0	0	0
	—	—	—	—	—	—	—	—	—	—
	1	1	2	0	1	0	0	0	0	0

Appendix C (1)
 SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING PILOTS OF THE
 PILOTAGE DISTRICT OF HALIFAX, N.S.—concluded

	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967
B. EVENTS HAPPENING WHILE BERTHING, UN-BERTHING, OR AT ANCHORAGE:										
I. Major Casualties										
(with or without loss of life).....	0	0	0	0	0	0	0	0	0	0
II. Minor Casualties:										
a. Minor strandings.....	0	0	0	0	0	0	1	0	0	0
b. Minor damage to ships:										
i. Striking pier.....	10	9	3	4	8	1	4	4	5	4
ii. Striking vessel berthing.....	0	2	0	0	0	0	1	0	0	2
iii. Striking vessel at anchorage.....	0	12	0	4	0	1	0	4	0	6
iii. Striking vessel at anchorage.....	10	12	3	4	8	1	5	4	5	6
c. Others.....	0	0	0	0	0	0	1	0	1	0
a. Damage to pier.....	0	0	0	0	0	0	0	0	0	0
b. Damage to buoys.....	0	0	0	0	0	0	0	0	0	0
c. Others.....	0	0	0	0	0	0	0	0	0	0
III. Accidents (without damage to ships):										
a. Striking pier.....	0	0	0	0	0	0	1	0	1	0
b. Striking vessel.....	0	0	0	0	0	0	0	0	0	0
c. Striking vessel at pier.....	0	0	0	0	0	0	0	0	0	0
b. Striking vessel at pier.....	0	0	0	0	0	0	1	0	2	0
c. Striking vessel at pier.....	0	0	0	0	0	0	0	0	1	1
c. Striking vessel at pier.....	10	12	3	4	8	1	8	4	9	8
Total Shipping Casualties, Accidents and In-	11	13	5	4	9	1	8	4	9	8
cidents Involving Halifax Pilots.....										

SOURCES OF INFORMATION: Exhibits 342, 347, 866, 1451 and 1467

Appendix C (2)

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS
INVOLVING PILOTS OF THE PILOTAGE DISTRICT OF
HALIFAX, N.S., 1965-1967.

During the ten-year period 1958-1967, seventy-two casualties, accidents etc., involving pilots occurred. For the past five years, the entire thirty events happened while berthing or unberthing. Details of the twenty-one casualties occurring in 1965, 1966 and 1967 are as follows:

A. EVENTS HAPPENING WHILE NAVIGATING—Nil.

B. EVENTS HAPPENING WHILE BERTHING, UNBERTHING OR AT ANCHORAGE:

I. MAJOR CASUALTIES (with or without loss of life)—Nil.

II. MINOR CASUALTIES:

a. Minor Strandings—Nil.

b. Minor Damage to Ships:

(i) Striking pier:

1. January 23, 1965—*Manchester Spinner*—cause: high wind.
2. February 1, 1965—*Sumnar*—cause: wind and tug; dead ship.
3. February 19, 1965—*Halifax City*—cause: wind and poor visibility.
4. July 12, 1965—*Costas Michalos*—cause: engine trouble.
5. January 8, 1966—*Than Giutigte*—cause: dead ship.
6. January 30, 1966—*Husaro*—cause: wind.
7. June 7, 1966—*Aragats*—cause: Master's error.
8. June 8, 1966—*Irvinglen*—cause: wind.
9. November 24, 1966—*Newfoundland*—cause: tug error.
10. March 4, 1967—*Irvingstream*—cause: manoeuvring.
11. May 28, 1967—*Lockfethersand*—flare of bow struck roof of shed; cause: tidal current.
12. August 14, 1967—*Gem* struck drydock shoulder; cause: poor team work.
13. November 20, 1967—*City of Melbourne*—cause: engine failure.

(ii) Striking vessel berthing:

1. March 30, 1967—*Ste. Foy* struck life-boat of M.V. *Brion* at Dartmouth Shipyards; cause: engine failure; damage: life-boat.
2. May 8, 1967—*Neptune* struck *Federal Pioneer* when being placed alongside her by two tugs; cause: alleged tug error; damage: slight.

III. ACCIDENTS:

a. Damage to pier:

1. February 3, 1966—*P.M. Crosbie's* rail hooked top of wharf; cause: manoeuvring; no damage to ship.

b. Damage to buoys—Nil.

c. Others:

1. April 6, 1967—*Surrey Trader* struck elevator gallery support while berthing; cause: speed; some damage to elevator support—no damage reported to ship; *pilot cautioned*.

IV. INCIDENTS:

a. Striking pier:

1. March 1, 1966—*Sunvalley*—cause: wind; no damage.
2. May 10, 1966—*Ohshima Maru*—cause: current; no damage.

b. Striking vessel at pier:

1. November 11, 1966—*Cintra* struck *North Star VI* at quay; cause: wrong engine movement; no damage reported.
2. January 17, 1967—*Niobe* settled alongside *Tariq* while berthing; cause: manoeuvring; no damage.

Section Four

CAPE BRETON ISLAND AREA

INTRODUCTION

The only pilotage services of importance which now exist in the Cape Breton area are in (a) the ports of Sydney and North Sydney, (b) the Bras d'Or Lakes and their access routes, (c) the Point Tupper-Port Hawkesbury section of the Strait of Canso.

Although these services are divided into two separate Districts (Sydney and Bras d'Or Lakes Districts) and one non-organized area, they are, in fact, interconnected either administratively or because they are performed by the same pilots.

Originally, the confined waters along the Cape Breton Island coast and its inland waters were all divided into a number of small separate, independent Pilotage Districts¹ but with the changing situation they have either disappeared or been amalgamated in fact or in law. The present Bras d'Or Lakes District is the result of the 1943 amalgamation of the former Bras d'Or District and the Richmond County District. At the same time, the new District, while remaining separate for pilotage services, was merged with the Sydney District for administrative purposes under the same Pilotage Authority. Most pilotage in the non-organized area of the Strait of Canso is performed by the Bras d'Or Lakes District pilots with the permission and assistance of their Pilotage Authority.

On account of their inter-relation, these services are studied together in this Section: Subsection I deals with the District of Sydney, Subsection II with the Bras d'Or Lakes District and the unorganized area of the Canso Strait, and Subsection III contains the Commission's Recommendations applying to the whole of the Cape Breton area as well as to each separate pilotage zone.

¹In 1889, the following Pilotage Districts existed in Cape Breton: Bras d'Or Lake and Great and Little Bras d'Or; Glace Bay; Louisburg; Richmond County; Sydney and North Sydney.

Subsection I

PILOTAGE DISTRICT OF SYDNEY, N.S.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

PREAMBLE

Except for the Appropriation Act No. 9, 1966, Schedule D, item 8c, Department of Transport, there are no statutory provisions of exception for the Pilotage District of Sydney. It is wholly governed by the provisions of the Canada Shipping Act which are applicable generally to the pilotage service and its organization. There are, however, a number of Orders in Council, by-laws and regulations that specifically concern this District.

(1) CREATION OF THE DISTRICT

The present District of Sydney was created by an Order of the Governor in Council of June 19, 1885 (P.C. 1177, Ex. 1535(c)) which divided the coastal Pilotage District of Sydney established by a Governor in Council Order dated April 9, 1874 (Ex. 1535(a)), thereby cancelled, into two separate Districts, the present Sydney District and the Glace Bay District (abrogated as inoperative in 1920).

Its official name is the Pilotage District "for the Ports of Sydney and North Sydney".

This 1885 Order in Council has never been amended or repealed and, hence, is still in effect. The 1889 Order in Council (P.C. 1261 dated June 12, 1889, Ex. 1532), which deals with the same subject in sec. 35, was, in fact, merely a consolidation of all the relevant sections of the existing Orders in Council (vide pp. 159-160) and did not abrogate or modify the 1885 Order in Council either explicitly or implicitly.

(2) DISTRICT LIMITS

The limits of the District were last defined by Order in Council P.C. 1964-1322 of August 25, 1964 (Ex. 1535(b)) as follows:

"The Pilotage District of Sydney, Nova Scotia, comprises the navigable waters inside a line drawn from Swivel Point to McGillivray Point, and the waters six miles to seaward of such line".

This Order in Council revoked the description of the limits as fixed by the 1885 Order in Council referred to above.

(3) PILOTAGE AUTHORITY

The Minister of Transport is the Pilotage Authority. The last appointment to this office was effected by Order in Council P.C. 1956-1264 dated April 15, 1956 (Ex. 1143).

(4) COMPULSORY PAYMENT OF PILOTAGE DUES

The 1885 Order of the Governor in Council creating the District decreed the compulsory payment of dues. This part of the Order in Council has never been revoked and is still in effect. The remark in *Creation of the District* concerning the 1889 Order in Council also applies in this connection.

(5) ORDERS IN COUNCIL NOT PASSED UNDER THE CANADA SHIPPING ACT AND AFFECTING THE ORGANIZATION OF THE PILOTAGE DISTRICT

(a) *Assumption by the Crown of District and Service Operating Expenses*

By Order in Council P.C. 1959-19/1093 dated August 27, 1959 (Ex. 52) the Department of Transport was granted authority with respect to a number of Districts, including Sydney, to assume the cost of pilot stations and pilot vessel service whether owned or hired. It replaced Order in Council P.C. 120/422 of January 25, 1951 (Ex. 52) which had granted similar authority as far as Sydney was concerned. It is under this authority that the Department of Transport absorbs all the operating costs of the District and the operational deficit of the auxiliary services.

(b) *Legislation Relating to the Pilots' Status as Crown Employees*

On March 17, 1966, the Treasury Board, pursuant to sec. 7 of the Financial Administration Act (T.B. Minute 649126 (Ex. 1535(i))), authorized the employment of the Sydney pilots in the Public Service as prevailing rate employees. This Order will be studied later (pp. 293-294).

Because the pilots became entitled to pension benefits under the Public Service Superannuation Act, it became necessary to settle the question of the *Sydney Pension Fund*. By a provision contained in the Appropriation Act No. 9, 1966, the Crown was authorized to take over the assets and liabilities of the Sydney Pension Fund on terms and conditions to be fixed by the Governor in Council. On January 19, 1967, by P.C. 1967-114 (Ex. 376) the Governor in Council under the said authority made the "Sydney Pilots' Pension Regulations", fixing terms and conditions to cover, *inter alia*, the transfer of assets, the assumption by the Crown of liabilities and the retroactivity of superannuation benefits for active pilots. This legislation is studied pp. 299-300.

(6) PILOTAGE AUTHORITY'S ENACTMENTS CONFIRMED
BY GOVERNOR IN COUNCIL

No regulations made by the Pilotage Authority under subsec. 327(2) C.S.A. now exist nor is there any authorization granted by the Governor in Council under sec. 328 C.S.A.

The only regulations made by the Pilotage Authority were those made under subsec. 346(c) and sec. 347 C.S.A. regarding exemptions, and the By-law under sec. 329 C.S.A.

(a) *Exemptions for Small Ships (subsec. 346(c) C.S.A.) and Withdrawal of Exemptions (sec. 347 C.S.A.)*

At the time of the Commission's hearing at Sydney, sec. 6 of the By-law then in force made the following provisions for exemptions:

(i) All vessels of less than 1,000 tons net were indirectly exempt in that subsec. 6(1) made the payment of dues as set forth in the schedule compulsory only for vessels of 1,000 tons net and over. This was obviously illegal because the limit of the legislative power of the Pilotage Authority in this domain is restricted by subsec. 346(c) C.S.A. with regard to foreign ships not exceeding 250 tons net. This provision was also ultra vires in that it purported to withdraw all the absolute exemptions for over 1,000 tons net (vide Part I, pp. 221 and ff.).

(ii) The relative exemption of subsec. 346(e) C.S.A. for steamships registered in any of Her Majesty's dominions was left unchanged insofar as it applied to steamships engaged in voyages described in subsec. 346(e)(i), i.e., voyages wholly performed within the confines of the harbour, and it was withdrawn partially for such steamships engaged in other voyages mentioned in subssecs. 346(e)(ii) and (iii) in that two-thirds of the dues were payable if a pilot was not employed. This provision was legal. (One result was that the C.N.R. ferry vessels plying daily between North Sydney and Port aux Basques came under this provision.)

(iii) It further provided for a general exemption for all vessels that did not enter the harbour but remained in the open waters of the District boarding area, i.e., seaward of a line drawn from Cranberry Head to Flat Point, provided that they did not load or discharge cargoes or take on fuel or stores.

Following the Commission's hearings these provisions were amended three times, mainly to reduce gradually the large indirect subsidy the District was obtaining from the C.N.R. ferries:

(i) In 1964, full exemption was granted to all small vessels not exceeding 250 tons and the fraction of pilotage dues compulsorily payable by the ferry vessels was lowered to one-third.

(ii) In 1965, the amount of dues to be paid by ferries was lowered to one-fifth.

(iii) In 1966, sec. 6, as amended, was repealed and replaced by the existing provisions. These leave the statutory exemptions of sec. 346 C.S.A. unchanged and extend full exemption to all small foreign vessels not exceeding 250 tons. The only point left in doubt was the use of the word "vessel" as defined in the By-law (vide Part I, pp. 218 and ff.). As a result of this amendment the C.N.R. ferry vessels are now completely exempt.

(b) *General By-law*

All the by-laws and regulations enacted by the Pilotage Authority still in effect are contained in a General By-law confirmed by Order in Council P.C. 1961-1284 (Ex. 376) dated September 7, 1961. It has been amended substantially since the Commission's public hearing in Sydney in 1963.

The regulations covering exemptions have already been reviewed. The other main features may be summed up as follows (the cross-reference at the end of para. (i) indicates where the validity of the matter is dealt with):

(i) The Pilotage Authority exercises full control over the provision of pilotage services through its local representative, the Supervisor of Pilots (Part I, c. 4, pp. 73 and ff.).

(ii) The 1961 By-law first provided for pilots whose status was that of *de facto* employees and whose remuneration was provided through a pool system. The fact that the pilots have since become Crown employees under the prevailing rate system is only indirectly dealt with in that all the provisions inconsistent with their new status were deleted December 9, 1966, i.e., sec. 9 dealing with the existence, administration and sharing of the pool; sec. 5 which provided for a Pilots' Committee; sec. 14 dealing with probationary licences; sec. 23 purporting to give the Pilotage Authority disciplinary powers and setting out the disciplinary procedure; subsecs. 5, 6 and 7 of sec. 24 dealing with sick leave, and secs. 26 to 38 dealing with the Pension Fund. However, licensing was retained together with the customary provisions regarding despatching (P.C. 1966-2313 of December 9, 1966).

(iii) The prerequisites for obtaining a pilot's licence remain unchanged. They are the same as for Saint John except that a certificate of competency as second mate of a foreign-going steamship is also accepted (vide p. 33).

(iv) The dues for pilotage voyages and movages are based on net tonnage alone in the same fashion as for Halifax, i.e., providing fixed rates according to a scale based on net tonnage.

(v) There was a Pension Fund to which the pilots were contributing 16 per cent of their earnings (reduced to 12 per cent as of January 31, 1966); all these provisions were deleted by P.C. 1966-2313 when the pilots became Crown employees and, hence, were entitled to receive superannuation benefits under the Public Service Superannuation Act (vide p. 261).

2. HISTORY OF LEGISLATION

Up to 1831, in Sydney as in Halifax there was no pilotage legislation of any kind, anyone could offer his services as pilot and the profession was uncontrolled. Those who required pilotage services were free to set up their own organization or make arrangements with whoever was available.

This situation was changed in Sydney when an *ad hoc* statute was passed in 1831 to regulate pilotage in the "Port of Sydney". This Act (1 William IV c. 6, N.S.) contained the same general provisions as for Halifax the year before (vide p. 169). It empowered the Governor in Council to appoint a licensing authority in the form of a four-member Commission whose territorial jurisdiction extended to the limits of the port. The pilotage rates were fixed in the Act itself as a scale based on tonnage: first, per 100 tons from a minimum of 200, but by a 1837 amendment per 50 tons after the first 100 tons. This tariff structure is still in effect.

The Act, according to the legislative procedure then followed, was enacted for one year only but was periodically renewed on which occasions amendments were made. One of the more important amendments appeared in 1837 (7 William IV c. 10, N.S.). It provided for compulsory payment of dues at one-third rate for ships owned in the province; otherwise at one-half rate; vessels owned in the province and engaged in the coastal trade or fishery, vessels under 80 tons coming from New Brunswick, Prince Edward Island or Newfoundland and Government vessels were exempted.

The 1831 Act as amended was superseded in 1851 by a consolidation of all the *ad hoc* pilotage statutes and remained in force with minor amendments until superseded by the federal Pilotage Act of 1873 (vide p. 170). The two main amendments were in 1863 (26 Vic. c. 20, N.S.) extending the jurisdiction of the Sydney Commissioners to the port of Glace Bay, and in 1864 providing that the Port of Sydney included Glace Bay, Bridgeport, Lingan, Cow Bay and Little Glace Bay.

The 1873 Pilotage Act made no specific mention of the Pilotage District of Sydney. The only later statutory provision in which the Sydney District was specifically mentioned was sec. 36 of the 1886 Pilotage Act as amended in 1902, which authorized certain named Pilotage Authorities, including Sydney, to vary the relative statutory exemptions granted to steamships engaged in coastal and inland trading. This provision was retained in succeeding statutes until the privilege was extended by the 1934 C.S.A. to all Pilotage Districts.

On April 9, 1874, the Governor in Council, acting under the general power given to him under sec. 17 of the 1873 Pilotage Act, implicitly created the Sydney Pilotage District by fixing its limits and appointing a five-member Commission as its Pilotage Authority and made the payment of the dues compulsory (Ex. 1535(a)).

The limits fixed in the Order in Council covered the territory over which the former Pilotage Commission had had jurisdiction since the 1863 and 1864 amendments to the governing Nova Scotia statute, i.e., making it a coastal Pilotage District with limits

“...embracing the Ports, Bay, Harbors and Coasts situated between Cranberry Head, on the northern side of Sydney Harbor, and the southern Head of Cow Bay, in the said county of Cape Breton”.

Therefore, in substance, the same pilotage organization was maintained with the same territorial limits.

On June 14, 1875, new By-laws were sanctioned (Order in Council P.C. 628, Ex. 1535 (d)) retaining the features of the previous legislation. A two-year apprenticeship under a licensed pilot was one of the prerequisites to obtain a licence. It was the pilot's own responsibility to arrange for his transportation: he could either own a boat or belong to a “company of pilots”. Pilotage certificates were issued for an annual fee of four dollars; the fee for the first pilot's licence was four dollars, and two dollars for renewals. Pilots could not engage in any other employment between April 15 and December 31. The rates as fixed by the repealed Nova Scotia statute were continued in effect. Licensing was on the basis of ports and a Sydney harbour pilot on a vessel bound to one of the outports of the District had to surrender charge of the ship “upon being spoken by a Pilot properly belonging to the port for which the vessel is bound”. The maximum number of pilots for Sydney was 26 (raised to 27 in 1876), Lingan 10, Little Glace Bay and Port Caledonia 8.

The only sources of revenue for the Pilotage Authority to pay its limited administrative expenses were the fees for licences and pilotage certificates. Since the By-law did not make the dues payable to the Pilotage Authority, they remained payable to the pilots. There was no Pilot Fund.

The 1875 By-laws, which were amended several times, remained in effect for ten years.

In 1885, the present Sydney District was created by the division of the coastal Sydney District of 1874 into the District of Glace Bay and the District for “the Ports of Sydney and North Sydney” (P.C. 1177 of June 19, 1885, Ex. 1535 (c)). Its seaward limit, well inside the present limit, was “an imaginary line drawn between Cranberry Head on the northern side of Sydney Harbor and Low Point on the southern side of said Harbor”. This limit remained the only legal limit until it was altered in 1964.

The first set of By-laws of the Pilotage Authority of the new District of Sydney (P.C. 1959 dated October 19, 1885, Ex. 1535 (e)) barely reflected the change. The pilots were required to furnish securities as in the Halifax District. A system was created to provide for financing the Authority's operating expenses out of pilotage dues and fees obtained from licences,

pilotage certificates and bonds and to achieve this aim the By-laws provided for the collection of dues by the Authority using its appointed paid collectors. Five per cent of the pilots' earnings were to be "reserved as a pilotage fund", which fund was to serve for paying operating expenses. The collectors were to remit the monies collected to the Secretary-Treasurer who, after making the 5 per cent deduction, paid each pilot the net amount of his earnings (Ex. 1535 (e)).

These By-laws were also amended from time to time until superseded by a new set of By-laws from September 21, 1906, (P.C. 1876, Ex. 1535 (f)). One of the main amendments was to fix the remuneration of the Collectors of pilotage dues, the Secretary-Treasurer and the members of the Pilotage Authority. Sydney was one of the Districts listed in the General Order issued by the Governor in Council (P.C. 1194 of May 27, 1889, Ex. 1533) requiring the Pilotage Authorities to cease paying themselves a remuneration and paying their operating expenses without proper authority (vide p. 173). The Secretary of the Authority was to receive a salary of \$500, the Collector \$450 and the sum of \$600 was allowed for the expenses of the members of the Pilotage Commission. Other main changes were the increase of the annual fee for pilotage licence certificates to \$100; the reduction of the permissible number of pilots to 32 and of apprentices to 6; the appointment of a Superintendent of Pilots, to be chosen from the pilots, whose duties were to see that each pilot station was properly manned at all times, that steamers ready for sea were provided with pilots so that no possible delay would occur, to report to the Pilotage Authority all violations of regulations, to assist the Secretary in his inspection of boats and the Collectors in the collection of the pilotage dues, and to be always on hand to give information to Masters and receive instructions from the Pilotage Authority; the Superintendent's remuneration was fixed at "\$250 over and above his allowance as a pilot". The By-laws also provided for the operation of a Pilot Fund from which, at the discretion of the Pilotage Authority, retired pilots were to be paid a retiring allowance not exceeding \$100 per annum, and a pension of \$30 per annum to the widows of deceased pilots.

Robb Report

The Sydney District was included in the terms of reference of the 1918 Robb Royal Commission. Its report noted a number of unsatisfactory features:

- (a) There were by then a number of Collectors, one of whom was also a member of the Pilotage Authority. In 1913, he had misappropriated funds and had failed to make reimbursement despite demands from the Pilotage Authority. After he appeared before

the Royal Commission, the outstanding amount was finally collected by deductions from the remunerations he was drawing both as a Collector and a member of the Pilotage Authority.

- (b) A finance committee consisting of three pilots met every month with the Secretary-Treasurer to discuss the previous month's business and to decide on the division of the pooled earnings among the pilots and the apprentices and the settlement of accounts.
- (c) The 30 branch pilots in the District were divided into two shifts, each shift working one week in turn. They provided pilotage services in the "Bras d'Or Lakes" with permission from the Pilotage Authority to do so but receipts for these services were not entered into the pool.
- (d) Some of the pilots had little or no knowledge of charts and were using very crude methods to perform their duties.
- (e) Eight of the apprentices had apparently been appointed through political patronage. The branch pilots took no interest in assisting them to become acquainted with the Pilotage District of Sydney and their only duties were connected with manning the pilot vessel. The apprentices received half a pilot's share, which the Commission considered to be a most unusual and unnecessary tax on shipping.
- (f) The pilot vessel service was provided by one 30-foot gasoline launch owned by the pilots and manned by them and the apprentices. It had no sleeping accommodation and carried two small boats.
- (g) A number of pilots recommended that their number be reduced to 26 and the number of apprentices to four.

The Commission made the following recommendations for the Sydney District:

- 1 — The dues to be collected by the Collectors of Customs and the existing practice discontinued.
- 2 — A steam pilot vessel with accommodation for 12 pilots to be provided and used for Louisbourg when Sydney was closed during the winter; 7½ per cent of the gross earnings of the District to be applied toward the upkeep and running expenses of the pilot vessel; the pilots to be required to pay for meals on board at a rate fixed by the Superintendent.
- 3 — The Pension Fund to be taken over and managed by the Minister of Marine and Fisheries and the compulsory contributions raised from 2½ per cent to 5 per cent.

- 4 — The number of pilots to be gradually reduced by normal attrition until it reached 20.
- 5 — The local Commission to be replaced by the Minister of Marine and Fisheries as Pilotage Authority and a Superintendent with sea-going experience, (but not a pilot of the District) placed in full charge of the Sydney and Louisbourg Districts combined.
- 6 — Apprenticeship to be abolished.

Order in Council P.C. 854 of April 26, 1922, made the Minister the District Pilotage Authority (Ex. 1535 (g)).

On April 7, 1923, the Minister made his first General By-law which superseded the existing ones (P.C. 602, Ex. 1535 (h)). This By-law implemented a great number of the Robb Commission's Recommendations. Apprenticeship was abolished; recruiting was from qualified mariners with local experience in District waters; the first licence was probationary for six months; temporary licences could be issued in case of emergency; the system of Collectors was abolished; the principal officer of Customs was made the sole collector of pilotage dues; financial administration was centred in Ottawa; the bonding of pilots was abolished; the system of pilotage certificates was retained but the annual fees were substantially increased up to \$500 in certain cases; the same rate structure was retained but the distinctions between inward and outward voyages and between "the Ports of Sydney and North Sydney" were abolished; pilots were placed on either a salary of \$300 per month or a share of the net pilotage revenue of the District, whichever was less; sick leave and annual leave were introduced; the Pilot Fund became a superannuation fund providing \$20 pension per year of service to a maximum of \$800; the Pilots' Committee was established; compulsory payment did not apply to moorage charges.

This By-law was amended from time to time and complete new By-laws appeared in 1934, 1940 and 1955 before the existing By-law was enacted in 1961. Among the more important changes up to 1947 were: increasing the salary ceiling to \$4,500 per year (P.C. 2805 of January 26, 1940) and removing it because of increased work in wartime (P.C. 746 of January 31, 1941).

Slocombe Report

When Captain F. S. Slocombe made his survey in 1946-7 he found the Sydney District in a financial retrogression caused by an excess number of pilots for the greatly diminished traffic. Each pilot's monthly share was down to \$150, despite the fact that the By-law had been revised in 1940 to produce more pilotage revenue, first, by abolishing the practice of issuing pilotage certificates and, secondly, by partially withdrawing the

relative statutory exemptions granted to coastal and inland traders. However, the By-law still provided special rates for ships owned or chartered by the local producers of coal or local manufacturers of iron or steel. In addition, there was an unofficial arrangement not mentioned in the By-law whereby the Reid Newfoundland Company Limited, then operating the ferry service with Newfoundland, paid a flat rate of \$1,000 per year for their ferry passenger vessels *Burgeo* and *Kyle*, which between them made 143 visits to Sydney during the fiscal year 1945-46.

Re the operation of the service he reported as follows:

"The pilots are stationed in a building situated on Swivel Point which commands a view of the approaches to the harbour. When a ship is sighted a pilot is taken out to meet her.

There are two boats, the *Highlander 2*, ... and the *Irene H*, ... Both boats were fully paid for out of the Sydney Pilotage Fund and are owned by the Minister of Transport as Pilotage Authority. ... The *Highlander 2*, 55 feet in length, is used for boarding purposes. Her size permits her to be taken alongside the ships and in calm weather or with a wind offshore she is moored in Llyod's Cove just below the pilot station at Swivel Point. From these moorings the pilots must land on the beach by dory, and when the wind is from seaward the Cove provides no shelter, so that the vessels must be moored to a wharf at North Sydney, three miles up the harbour. In addition to the main station at Swivel Point, there is a building at Whitney Pier in Sydney. Both buildings were paid for out of the Pilotage Fund and are owned by the Pilotage Authority".

There were 17 pilots on strength at that time but two were on leave of absence. The 15 pilots worked in two shifts of seven, one week on and one week off duty, the extra man working from Thursday to Wednesday at the pilot station. Five of the seven pilots on duty were stationed at Swivel Point and two or three at Whitney Pier; all rotated in the various duties. A continuous visual watch was kept to seaward from Swivel Point station. If an incoming vessel was sighted when *Highlander 2* was in Lloyd's Cove, the pilot second in turn took charge and the pilot on turn met the ship. But when the pilot vessel had to moor at North Sydney the two pilots next on turn had to remain on board at the wharf, which left only three pilots on lookout duties at Swivel Point. After a pilot completed an inward assignment he had to return by land transportation to Swivel Point. Each pilot was allowed \$10 per month travelling expenses out of the Pilotage Fund for that purpose.

Movages and outward assignments were handled by the two or three pilots at Whitney Pier station. Upon completion of an outward assignment, the pilot was disembarked by the pilot vessel and returned to Whitney Pier.

Captain Slocombe also reported that the pilots did not claim any outstanding difficulty associated with pilotage into the harbour except in fog. The harbour was "usually closed by ice for a portion of the winter, but not always."

Study of Sydney Pilotage District

The pilots made strong representations to Captain Slocombe for a 25 per cent increase in all rates, abolition of special rates and the unofficial arrangement with the Reid Newfoundland Co. and complete withdrawal of relative exemptions. These recommendations were opposed by the shipping interests on the ground that the factors which had caused the reduction in earnings were temporary only.

On June 3, 1947 (Order in Council P.C. 2172) the tariff was amended to provide a 30 per cent increase in pilotage rates and special rates were abolished.

Audette Report

The 1949 Audette Report (Ex. 1330) contained nothing of importance dealing specifically with Sydney, but the District benefited greatly from those general recommendations that were implemented. One of these was the assumption by the Crown of the full cost of the pilot station and the pilot vessel service, which automatically resulted in a substantial increase in the individual pilot's "take-home pay".

The Committee's report also resulted in granting Sydney an indirect subsidy from public funds which was a substantial source of revenue for the District during the next 16 years. Before 1950, the Canada Shipping Act (sec. 338, 1934 C.S.A.) provided an absolute statutory exemption from the compulsory payment of pilotage dues for "Government ships". The Saint John and Sydney pilots saw in the C.N.R. ships that came regularly to their District a substantial potential source of income to improve their acute financial situation without increasing the rates. They urged that these vessels be required to make a contribution to the upkeep of the pilotage service like other coastal commercial vessels which were penalized by the partial withdrawal of relative exemptions in the By-law. The Audette Committee in a majority decision advocated the change. The Act was amended in 1950 and the absolute exemption was limited to Government ships that were not "entrusted for operation and management to an agency of Her Majesty" (subsec. 346 (b)) (14 Geo. VI c. 26 sec. 19).

This amendment made the C.N.R. ferry vessels fall into the category of ships enjoying relative statutory exemptions which could be withdrawn by By-law (as was then the case at Sydney). Therefore, until the By-law provision was repealed in 1966 the C.N.R. ferry vessels were required to pay part of the dues on each inward and outward voyage. This accounts for the high percentage of revenue derived from non-exempt ships dispensing with pilots.

The next important change occurred in 1966 when the pilots became Crown employees under the prevailing rate system. This will be studied later.

Chapter B

BRIEFS

Four briefs concern the District:

- (1) The Pilots of the Pilotage District of Sydney, N.S. (B. 22, Ex. 401).
- (2) Dominion Steel and Coal Corporation, Limited (B.25, Ex. 397).
- (3) Canadian National Railways (B.26, Ex. 402).
- (4) The Canadian Merchant Service Guild (B.53, Ex. 1382).

The cross-references indicate where the subject matter of each recommendation is dealt with in the Report.

(1) THE PILOTS OF THE PILOTAGE DISTRICT OF SYDNEY, N.S.

The pilots are not grouped in any association or corporation. Their brief contained the following recommendations:

- (a) The present (1963) basic pilotage system be preserved for the safety of navigation and shore installation.
- (b) The Southeast Bar fog alarm be relocated closer to the turning point off the Bar and improvements be made to the Battery Point Ranges (pp. 276-277).
- (c) Two pilot boats are necessary (pp. 290-291).
- (d) The number of active pilots not to be reduced below ten (pp. 282-284).
- (e) Pilotage dues to be computed on the net tonnage of ships as shown in Lloyd's Shipping Register and not on the reduced net tonnage resulting from subsequent re-measurement (p. 296 and Part I, C. 6).
- (f) Pilotage to be made the responsibility of a board of three members under the jurisdiction of the Minister of Transport (p. 281 and Part 1, General Recommendations 16, 17 and 18).

(2) DOMINION STEEL AND COAL CORPORATION, LIMITED

This Corporation operates a large steel mill and produces coal in Sydney and other Cape Breton areas. Vessels carrying its products are the largest employers of pilots. It recommends:

- (a) Pilotage dues to be more reasonable and set at a relative level with other ports in the area (p. 296).
- (b) The number of pilots to be reduced (pp. 282-284).
- (c) The cost of the service to be kept at a reasonable level (p. 296).

(3) CANADIAN NATIONAL RAILWAYS

This Crown Corporation operates vessels in two services which involve pilotage dues, a coastal service to the outports of Newfoundland and a ferry service between North Sydney, N.S. and Port aux Basques, Nfld.

The Company's brief contains six submissions directed to pilotage in ports of the Maritime Provinces, in particular to the pilotage dues assessed at Sydney and Port aux Basques. They recommended:

- (a) That vessels operating in a ferry service (whether operated by Canadian National Railways or by any other person or persons) should be wholly exempt from the payment of pilotage dues, except on those occasions when a pilot is actually engaged (p. 268, and Part I, Recommendation 23).
- (b) That the number of pilots employed in any Pilotage District should be no greater than those required to handle the traffic and that, regardless of the amount of pilotage dues collected, they be paid wages commensurate with the work they actually perform. If money collected as pilotage dues is more than is required to pay reasonable wages, such excess should be paid into the public treasury and applied toward the cost of providing harbour facilities (Part I, General Recommendation 20).
- (c) "The amount of work required of a pilot in the navigation of any ship bears little, if any, relationship to its tonnage; and since the liability of the pilot for error does not vary according to the tonnage of the ship being navigated, it is submitted that there is no sound basis for any variation in the amount of pilotage dues payable" (Part I, Cs. 6 and 7).
- (d) "If a variation in the amount of pilotage dues is to continue, a pilot who assumes control of the navigation of a ship should be responsible in damages to the extent of loss, damage or injury sustained by reason of his acts of omission or commission" (Part I, General Recommendation No. 11).
- (e) That the licensing of pilots should be entrusted to the Department of Transport rather than as, at present, to the Pilotage Authority

in order to ensure greater uniformity in the qualifications of pilots and, as a result, in the quality of pilotage Part I, General Recommendations Nos. 12 and 31).

- (f) That pilotage is as much a port facility as the provision of dockage, the dredging of channels, the locating of buoys, and the provision of other safety features and should, therefore, be provided by the Crown (preferably through the Department of Transport) as a port facility, and that those engaged in the occupation of piloting ships should be servants of the Crown (Part I, General Recommendations Nos. 14, 15 and 24).

(4) THE CANADIAN MERCHANT SERVICE GUILD

This brief, which is general in character, contains two submissions specifically concerning Sydney:

- (a) The Guild's National Pilots' Committee supports the position taken by the Sydney pilots against the exemption of vessels belonging to and/or chartered by Canadian National Railways. "Since any occasional or regular user of pilotage services should in all fairness to other users be called upon to contribute towards the cost of the service, there is no valid reason for the Canadian National Railways to be exempt from such obligation" (Part I, General Recommendations 22 and 23).
- (b) Following the above principles, non-exemption should also apply to coastal vessels of the type and size referred to in submissions by Imperial Oil Limited and Dominion Steel and Coal Corporation Limited (Part I, General Recommendations Nos. 22 and 23).

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

(1) DISTRICT LIMITS

At the time of the Commission's hearing, the seaward limit of the District could not be fixed with certainty. Since 1923, the District By-law had purported to fix the seaward District limit as a line drawn from Swivel Point to McGillivray Point and the waters six miles to the seaward of such line. However, it was realized that this By-law provision had no validity because it was not within the legislative jurisdiction of the Pilotage Authority to fix the District limits. When a new By-law was drafted in 1961 this provision was not retained and the term "District" was defined simply by a general reference to the Governor in Council's Order made pursuant to sec. 324 C.S.A.

This action corrected the legal aspect of the question but doubt remained whether it amended the 1874 description of the District limits which made Sydney a coastal District. The 1885 Order in Council was known to the local authorities but they were uncertain because the Order made no reference to the "Pilotage District of Sydney" but to the "Pilotage District for the Ports of Sydney and North Sydney" (which is, in fact, one and the same). The description contained therein, which was the only legal definition, was in effect from 1884 until superseded in 1964. It reads as follows:

"The limits of which District shall comprise all ports, bays and harbors within an imaginary line drawn between Cranberry Head on the northern side of Sydney Harbor and Low Point on the southern side of said Harbor;..." (Ex. 1535(c)).

That line was well inside the six miles seaward from Swivel Point and McGillivray Point, which under the By-law purportedly formed part of the District and wherein the compulsory payment of dues was supposed to apply.

As stated earlier, after the Commission's hearing in Sydney the legal seaward limit was legally fixed by a new Order from the Governor in Council which amended *pro tanto* the 1885 Order. The new description corresponds to the former By-law description (p. 260).

However, this Order in Council fails to clarify a practical problem on which opinions are divided, i.e., whether the six-mile area is to be calculated

as an arc of six miles from Swivel Point and McGillivray Point or as an imaginary straight line drawn six miles from the first line. No practical problems have arisen but they are possible if, at any time, a rigid attitude is taken on the application of the regulations, e.g., enforcing compulsory pilotage or determining the point up to which the pilots may be compelled to pilot.

In practice, however, the pilots consider the outer whistle-buoy as the District limit. It is situated four and a half miles to seaward of the bell-buoy situated in the middle of the imaginary line from Swivel Point to McGillivray Point.

COMMENTS

It is considered that contention arises because no distinction is made in the regulation, as required by subsec. 349(1)(b) C.S.A., between confined waters which are pilotage waters properly speaking and the expanse of open water included within the limits of a District for the sole purpose of boarding and disembarking (secs. 348, 349 and 363 C.S.A.) (vide Part I, p. 49, first para, p. 208, and p. 250, first para). Before the 1950 amendment (14 Geo. VI c. 26 sec. 18) to subsec. 337(a), 1934 C.S.A. (subsec. 345(a) present C.S.A.), the compulsory system applied only when a ship entered confined waters but the pilots were still within their territorial jurisdiction when they navigated a ship into the open waters of a boarding area. If the compulsory payment of dues remains in effect, or if compulsory pilotage is imposed, the District limits should be revised accordingly and the six-mile expanse of open water should be retained in the District merely as a boarding area, with the pilotage waters properly speaking being limited to the confined waters of the ports of Sydney and North Sydney.

(2) PHYSICAL FEATURES

Sydney Harbour is deep, commodious and easy of access. Some 4 miles from the entrance the navigable channel contracts to half a mile between the Northwest and Southeast Bars, which extend from the shore on either side, and about a mile further south lies Point Edward where the harbour divides into the North West Arm and South Arm.

The Port of Sydney comprises the waters of the South Arm within a line from Point Edward to the Southeast Bar, and southward to Sydney Bridge at the head of the Arm. Opposite Sydney across the South Arm and 2 miles south of Point Edward lies the site of the one time Naval Base of Point Edward, now used by the Canadian Coast Guard College (D.O.T.), where a basin is enclosed by a quay wall 1,075 feet long and a jetty of 800 feet with a depth of 24 feet along its outer face. The Dominion Steel and Coal Corporation complex lies in the northern part of the city where its International Piers are the shipping point for its products and the coal from

the extensive fields in the region. There are several wharves and finger piers, the largest being International Pier No. 4 with a berthing length of 810 feet and a depth of 30 feet alongside. Most piers and wharves can accommodate large vessels; they have railway tracks and modern facilities for rapid discharging and loading. The Sydney Engineering and Dry Dock Company operates marine railways, of which the largest can accommodate a vessel 350 feet in length. The Department of Transport wharf is 794 feet long with a depth alongside of 30 feet.

The District Pilotage Office is also located at Sydney.

North Sydney lies at the entrance to the North West Arm, south of and adjacent to the Northwest Bar and $3\frac{1}{2}$ miles northwesterly from the International Piers at Sydney. It has not the prominence of Sydney as a commercial shipping centre, but is the terminus of the Newfoundland ferries and freight vessels operated by the Canadian National Railways and a shipping point for the coal mines in that vicinity.

There are also several wharves and finger piers, the largest being the New Terminal Wharf 880 feet long (which is being extended) with depths alongside ranging from 19 to 25 feet.

The depth of water in the harbour's fairways ranges from 39 to 54 feet and tides rise 5 and 4 feet during springs and neaps respectively. There are several good anchorages within the harbour and those close to Sydney and North Sydney have depths from 5 to 7 fathoms.

Sydney is a control base for the St. Lawrence River winter shipping operations and the icebreakers based there during that period keep the harbour open throughout the winter. Thus the season of navigation which was generally closed from about the middle of January to the beginning of April is now considered year round, although during occasional periods of heavy ice formation delays do occur until a passage is cleared by the icebreakers.

(3) AIDS TO NAVIGATION

The approach from the open sea to Sydney Harbour presents no navigational difficulties. A light is exhibited at an elevation of 78 feet from a white octagonal tower on Low Point where a fog signal apparatus and radiobeacon are also located. Thence leading range lights in the vicinity of Dixon Point, southwest of Point Edward, guide vessels midway between the Northwest and Southeast Bars. The Bars are marked by lights and buoys and there is also a fog signal apparatus at Southeast Bar. From the turning point for Sydney off Southeast Bar leading lights located at Battery Point lead to the berthing facilities in the harbour.

North Sydney, with a frontage of unobstructed deep water, is situated at the northern end of the North West Arm and its approach from seaward is marked by a buoy and light at Northwest Bar.

At the time of the Commission's hearing in 1963, the pilots stated they were generally satisfied with the aids to navigation, but would have liked the fog signal apparatus at Southeast Bar relocated and improvements made to the Battery Point range marks and lights. The Department of Transport recently informed the Commission that for physical reasons it is not practical to relocate the fog signal apparatus, but that the day marks at the Battery Point Ranges were improved in 1964, and later in 1965 new front and rear towers were established and fitted with fluorescent orange day marks (vide Notices to Mariners, No. 182). Also in 1968, at the request of Canadian National Railways, a new light was established at the end of the breakwater at Northwest Bar for additional guidance for vessels, especially the large ferries that call at North Sydney.

(4) MARITIME TRAFFIC

Traffic in Sydney Harbour may be divided into two categories: vessels bound to and from North Sydney, where the traffic is heaviest, and those bound to and from Sydney.

From North Sydney the Canadian National Railways operate a large passenger-car ferry which makes a daily round trip to Port aux Basques, as well as other vessels engaged in Newfoundland services which arrive and depart daily. There are also fishing vessels, occasional ocean freighters, coastal vessels and small bulk carriers.

The main traffic at Sydney consists of large and small bulk carriers for the carriage of ore, coal and oil, ocean freighters, coastal and fishing vessels. Pilot A. M. Huntley stated in his evidence that the larger vessels are double the size of those in earlier years. However, recently traffic at Sydney has rapidly declined as shown by the following shipping statistics of vessels of 250 N.R.T. and over provided by the Dominion Bureau of Statistics, for the years 1962 to 1967 inclusive (Ex. 1483).

SYDNEY

Year	No. of Arrivals	Registered Net Tons	Total Cargo Handled (Tons)	
			Foreign	Coastwise
1962.....	463	1,500,931	638,391	2,648,709
1963.....	439	1,514,553	963,830	2,208,346
1964.....	409	1,595,774	998,644	2,360,421
1965.....	444	1,306,146	939,270	1,712,761
1966.....	306	1,540,172	1,067,612	2,205,180
1967.....	182	1,107,927	715,412	1,633,445
1968*.....	113	592,016	577,319	665,270

*First semester

Study of Sydney Pilotage District

The rapid decrease in traffic for the years 1966 and 1967 reflects the decline in operational activities of the Dominion Steel and Coal Corporation. The statistics for the first semester of 1968 were added to show the slight upward trend in shipping due to resurgence in the operations of this firm since it became a provincial Crown Corporation.

NORTH SYDNEY

Year	No. of Arrivals	Registered Net Tons	Total Cargo Handled (Tons)	
			Foreign	Coastwise
1962.....	841	1,614,379	4,876	311,962
1963.....	980	1,679,907	4,397	348,185
1964.....	944	1,708,387	8,228	370,650
1965.....	931	2,548,184	9,913	394,967
1966.....	1,081	3,162,147	11,282	434,562
1967.....	1,050	3,489,264	9,067	395,541

The increased activities of the services provided by the Canadian National Railways, including the ferry service, are reflected in the increased traffic for the years 1966 and 1967.

2. NATURE OF PILOTAGE

Navigation in the confined waters of the District presents no unusual difficulty that requires special local knowledge. Pilotage is required mainly for the convenience of Masters who are not familiar with the local waters and conditions in order to expedite traffic.

Safety of navigation was not considered when the compulsory payment of dues was imposed to such a drastic extent. The governing factor was not to make all users of the port contribute to the maintenance of an efficient pilotage service, but rather to provide adequate remuneration for a number of pilots far in excess of actual requirements, whose numbers could not be reduced other than by normal attrition on account of the security of tenure afforded by the Canada Shipping Act to the holders of permanent pilots' licences.

Since the end of World War II the excessive number of pilots above requirements has been the Pilotage Authority's main problem.

Apart from the Canadian National ferry and steamship services with Newfoundland, the District almost wholly serves local requirements and, therefore, is directly affected by fluctuations in the regional economy. Under normal conditions a small number of pilots could provide and maintain an adequate service.

During the war, Sydney, as a convoy port, required a large number of pilots. At Halifax, similar increased requirements were met by the appointment of temporary pilots whose services were dispensed with at the end of the war. The situation in Sydney, however, was not the same because the pilots were almost at their peak strength when war broke out. In 1937/38, their number increased from 15 to 19, due, no doubt, to increased local industrial activities. The new demand for pilotage service, brought about by the wartime rôle of the port, was partially offset by the decreased local demand, with the result that the peak strength reached in 1941/42 amounted to only 21 pilots.

At the end of the war, the loss of the wartime demand was not compensated by an expected increase in local shipping activities thus creating serious financial difficulties for the pilots (vide Slocombe Survey, p. 268). The situation did not improve but became worse with the decreasing industrial activities of the local coal and steel industry. Another factor which has adversely affected the demand was the trend to large ships. For example, in 1964 and 1965 two large bulk carriers especially constructed for the carriage of coal entered into regular service between Sydney and province of Ontario ports and replaced a number of smaller, slower ships. The *Cape Breton Miner* was commissioned in 1964, gross tonnage 18,809, net tonnage 11,547, length 657 feet, breadth 75 feet 3 inches. The *Ontario Power* went into service in 1965, gross tonnage 20,624, net tonnage 12,768, length 689.4 feet, breadth 75.2 feet. Both trade regularly during the St. Lawrence Seaway season of navigation.

The withdrawal of exemptions together with an increase in rates had been the method of providing the pilots with an adequate income. Dosco, one of the pilots' principal customers had seen the reduced rates which it had enjoyed with other local industries withdrawn. It complained in its brief that pilotage in Sydney was 40 per cent more expensive than in Halifax. It was undoubtedly because the rates had reached a saturation point that the withdrawal of exemptions was carried to an extreme which required an amendment to the Canada Shipping Act in 1950 (vide p. 270) to impose the compulsory payment of dues on the C.N.R. ferry and other C.N.R. vessels.¹

Following the Commission's hearings, a policy was adopted by the Pilotage Authority which decreased the indirect subsidy derived from the C.N.R. ferry ships by progressively modifying the exemption provisions as the number of pilots was reduced through normal attrition but, at the same time, maintained the prevailing level of remuneration for the remaining pilots. This explains the exemption amendments of 1964 and 1965. In 1966, the still contentious situation was resolved when the remaining nine pilots agreed to become prevailing rate Crown employees, effective October

¹ This incongruous solution had unexpected and totally unwarranted results at the Newfoundland terminal of the ferry service at Port aux Basques, a situation which the C.N.R. denounced in their brief to the Commission.

1, 1966. The By-law provisions affecting statutory exemptions were abrogated, thus fully restoring the relative statutory exemptions and releasing, *inter alia*, the C.N.R. vessels, both ferry and coastal, from the compulsory payment of dues. At the same time, small foreign ships under 250 NRT were granted full exemption (vide p. 263). Despite this, a large number of the remaining vessels subject to the compulsory payment of dues dispensed with pilots in 1967, although they had to pay full rates.

The following table shows the amounts which the C.N.R. alone was compelled to pay from 1959 to 1967 and which accrued to the Pilotage Fund without pilotage services being rendered, together with the percentage of these amounts in relation to the total District earnings (Ex. 402):

1959	\$48,638.10	35.4%
1960	55,821.52	40.1
1961	52,712.20	40.1
1962	49,130.82	40.8
1963	44,359.38	36.3
1964	28,597.60	28.3
1965	21,539.05	25.9
1966	16,516.00	19.0
1967	Nil	0.0

The following table details how the Sydney pilots were employed 1962-1967 and the number of times non-exempt ships dispensed with pilots despite the fact that they had to pay full or part dues:

BREAKDOWN OF SHIPS WITH/WITHOUT PILOTS 1962-1967

Year	Trips				Movages			
	With Pilots	Without Pilots	Total	% Without Pilots	With Pilots	Without Pilots	Total	% Without Pilots
1962.....	1,080	793	1,873	42.3	199	36	235	15.3
1963.....	875	896	1,771	50.6	239	54	293	18.4
1964.....	766	949	1,715	55.3	180	51	231	22.1
1965.....	584	1,301	1,885	69.0	144	69	213	32.4
1966.....	602	1,634	2,236	73.1	96	105	201	52.2
1967.....	335	133	468	28.4	51	3	54	5.6

SOURCE: EX. 1535(j).

The table reveals an alarming situation. For instance, in 1966, non-exempt vessels dispensed with pilots on 73.1 per cent of their trips and more would doubtless have done so but for the obligation to pay dues. Despite the re-establishment of all relative statutory exemptions, 28.4% still dispensed with pilots in 1967.

The table also clearly indicates how the pilotage service depends on the local economy: the aggregate number of trips where pilots were employed decreased from 1962 to 1967 by 69 per cent. (Vide also Appendix A.)

At the Commission's hearings no argument was presented in favour of compulsory pilotage, but it was stated that a pilotage service was necessary and the pilots were praised for their efficiency and cooperation. It was noted that they rendered valuable accessory services such as checking buoys or changes in harbour depths and providing information on local wharves, depths and accommodation.

3. ORGANIZATION

Since the Minister of Transport is the Pilotage Authority, administrative directions come from Ottawa and local administration is attended to by an employee of the Department of Transport, the Supervisor of Pilots, who also acts as Supervisor for the Bras d'Or Lakes District, although the two Districts are separately administered. Good relations prevail between the pilots and the Supervisor. At the time of the Commission's hearings, he stated that he seldom had to make a ruling because the pilots abided by their own rules and, in fact, his function was merely clerical. He was assisted by a staff of eight: one stenographer, one clerk and six boatmen employed in the Sydney District.

The Supervisor further stated that he deals with the Pilots' Committee, and rarely with pilots individually, and that meetings are held whenever there is any matter to discuss. The Pilots' Committee was abolished in 1966 when the pilots became Crown employees.

The pilots recommended in their brief that the immediate responsibility for pilotage in Canada be removed from the Department of Transport and transferred to a Pilotage Board directly responsible to the Minister of Transport. While the pilots' relations with the Department were not strained, they felt that the Department did not have time for their problems. They recommended that the proposed Board consist of three members representing the pilots, the shipping interests and the Minister. It was suggested that the pilots' representative be appointed on a rotating basis as the Canadian Merchant Service Guild had previously recommended to the Audette Committee. They complained that there had never been a pilot in the Nautical and Pilotage Division of the Department of Transport. (For the Commission's views on the question of a Pilotage Board, its relationship to the Government and the selection of its members, reference is made to General Recommendation 16, Part I, pp. 502 and ff.)

4. PILOTS

The pilots are not grouped in any association or corporation. As a body, their only representation was through their Pilots' Committee until it was abolished when they became Crown employees. However, they are all members of the Canadian Merchant Service Guild on an individual basis.

(1) RECRUITING AND QUALIFICATIONS

Recruitment and examination procedure are the same as in Saint John and Halifax. Pilot candidates must hold a certificate of competency as second mate of a foreign-going steamship (unlimited as to tonnage) and have served two years as Master or deck officer of a vessel trading regularly into the District.

(2) PILOTS ON STRENGTH

No licence has been issued since 1941 because the pilots have either been up to strength or over strength and, since the demand for pilotage continues to decrease, it is not expected that additional pilots will be required for a number of years, despite the average advanced age of the pilots now licensed.

Sec. 4 of the By-law contained the usual provision regarding the number of pilots, which was to be determined by the Pilotage Authority after consultation with the Pilots' Committee, but it was also deleted in 1966 when the pilots became Crown employees.

In February, 1963, the number of pilots was 13; as of October, 1968, five had retired, reducing their number to eight. Captain F. S. Slocombe stated in 1965 that the practice in previous years had been to renew licences until the pilots reached the age of 70, unless they failed their medical examination, but this practice was discontinued after 1963 in order to reduce their number as quickly as possible with the aim of correcting the incongruous situation created by the withdrawal of relative exemptions (40 per cent of the District revenues were derived from services not rendered). Since 1963, two pilots who had reached the age of 65 had been given a six-month extension and a third a one-year extension. Their retirement date was adjusted to coincide with the gradual abrogation of the compulsory payment of dues by the C.N.R. ferry ships (vide p. 280).

COMMENTS

As long as the Sydney District is to remain a pilotage area where a pilotage service has to be maintained in the public interest, the general criterion for fixing the number of pilots must apply. Since there is no special feature that must be taken into account, the number of pilots should be

sufficient to meet expected peak demands of long duration without serious overwork but, due to the nature of the service, the pilots should expect to be required to work longer hours during occasional peak periods and vessels should also accept occasional short delays if a pilot is not immediately available. In view of the favourable navigational conditions and the comparatively short time periods of pilotage trips, such delays would always be of short duration.

Even if pilotage traffic remains at the present level or shows a marked increase, the present number of pilots and the administrative staff are still much too large. Both should be drastically reduced. For example in 1966, using the workload of the Halifax pilots as a criterion (vide p. 223), three pilots could easily have met the whole demand for pilotage but it was shared by nine pilots. In 1967, the number of assignments performed by two Halifax pilots exceeded by 48 per cent the total workload of the eight Sydney pilots.

The Sydney District is a striking example of the difficult problem posed by an excess number of pilots. Under the present legislation, unless temporary licences have been issued to some pilots, the Pilotage Authority is powerless to reduce numbers except through normal attrition. An unlimited pilot's licence confers security of tenure for its duration, subject to the terms and conditions posed by the valid legislation existing when it was issued. This principle was reaffirmed in a judgment rendered October 1, 1968, by the Supreme Court of Canada in the case of "*Gamache v Minister of Transport et al*" (Ex. 1521(c)).

(Re the right of a pilot holding a permanent licence to obtain a temporary licence until he reaches the age of 70 and the duration of such licence, reference is made to Part I, pp. 266 & 267.)

To provide for compulsory retirement at the age of 65, or between 65 and 70, the Pilotage Authority must first have a provision in its By-law pursuant to subsec. 329(i) C.S.A. and, in the absence of such a provision, it is a right (which he could abandon if he so wishes) for a pilot to obtain annual renewals until he reaches the age of 70. Far from containing such a restricted provision, the District By-law specifically recognizes the right of pilots to such renewals if found medically fit (subsec. 25(5)).

It would appear that, if no restrictive regulation made pursuant to subsec. 329(i) C.S.A. existed when a permanent licence was issued, the licence holder has an acquired right to remain in the service until he reaches the ultimate age limit of 70, provided he meets the physical requirements (sec. 338 C.S.A.). This section should be read in conjunction with subsec. 329(i) and with the context of the Act. Hence, the word "may" means "shall" if at the time the licence was issued the Pilotage Authority had not exercised its discretion in the manner provided in the Act, i.e., through a regulation made under subsec. 329(i).

The fact that the Sydney pilots have become prevailing rate employees does not alter the situation. The terms and conditions of their licence remain governed by Part VI C.S.A. and, although they can no longer remain prevailing rate employees after the age of 65 according to the regulations governing such status, their rights to their pilot's licence are not affected.

The Quebec Pilotage Authority was faced with this problem in 1905 at the time of its reorganization when the Minister took over as Pilotage Authority. The required reduction in numbers was obtained by voluntary retirement, a step the pilots were encouraged to take by the payment out of public funds of accrued pension benefits (Part I, p. 119).

This illustrates the responsibility a Pilotage Authority bears in limiting the number of pilots because, in fully controlled pilotage, the action of issuing a permanent licence binds shipping and the Crown, in fact, if not in law, to guarantee the licensee adequate remuneration for the duration of his tenure.

The situation that has prevailed in this District since the end of the war could have been avoided if a certain number of licences had been issued on a temporary basis, as was done in Halifax. Pilots need security of tenure and retention of the most experienced pilots is to the advantage of the service. One method of attaining these aims would be to divide the establishment into two groups of pilots, one holding permanent licences and the other holding term licences. Promotion to a permanent licence could be integrated with the grade system and based mainly on qualifications and not on seniority alone (vide Part I, p. 270).

(3) PILOTS' STATUS

Since October 1, 1966, the Sydney pilots have changed their status from *de facto* employees to Crown employees under prevailing rates. (Re the propriety of such status, vide the study and comments on the subject in the Halifax District.) The conditions and terms of this new status are studied later.

(4) LEAVE AND HOLIDAYS

In 1963, according to the By-law, the pilots were allowed 21 days annual leave of absence at a time to be determined by the Supervisor. (This was normally the slack period during the winter months.) Subsec. 24(2) made provision for temporary leave of absence for such periods and under such conditions as the Authority determined. This last provision had never been invoked because emergency situations were met unofficially by the pilots arranging among themselves to take turns for others with the Supervisor's knowledge and implicit consent.

In addition to official leaves they enjoyed extensive unofficial leave based on the watch system prevailing at the time. The pilots worked on a week-on week-off routine from spring to December and had at least two

periods of three weeks off during the winter. (Only three pilots were usually kept at the seaward station in winter because there was no requirement for more.)

In addition, sec. 24 provided for sick leave, i.e., six months with full pay, and three additional months with half pay and a further extension without pay up to a total of 36 months. This extension of leave beyond twenty-four months is illegal because sec. 336 C.S.A. provides for the automatic forfeiture of a licence whenever a pilot has not been acting as a pilot for a period of two years.

In case of injury while on duty, sick leave with pay extended for a period of 12 months and for a further 12 months on half pay. The By-law stipulated that, if by then the pilot was still unable to perform his regular duties, consideration was to be given to his retirement.

This situation was completely changed when the pilots became prevailing rate employees. Sec. 24 was deleted in December, 1966, and the pilots are now supposed to be governed by the leave of absence and sick leave provisions as defined in the Prevailing Rate Employees General Regulations. The Treasury Board Minute (T.B. 649126 dated Dec. 15, 1965) which authorized the employment of the pilots as prevailing rate employees (Ex. 1535(i)) gave the pilots credit for past service for the purpose of determining the rate of accumulation of vacation leave under these regulations and deemed each had earned "one-third of the sick leave he would have earned if his employment as a ship's pilot had been continuous employment under the Prevailing Rate Employees General Regulations". (Vide pp. 293 and ff.)

(5) SHIPPING CASUALTIES, INQUIRIES AND DISCIPLINE

In Sydney there have been no problems regarding discipline and there is no record of any pilot even being reprimanded.

During the period 1958-1967 there were 19 "shipping casualties" in which a pilot was involved, all of a minor character. None was^o found serious enough by the Department of Transport to warrant holding an inquiry under Part VIII of the Act.

Appendix B is a comparative table and brief summary of the 19 shipping casualties and incidents. They are grouped following the method described in Part II of the Report, pages 89 and 90.

The summary in Appendix B merely indicates the reported cause of the accident or incident. In only two cases is the fault attributed to the pilot. However, other causes quoted such as darkness, winds, manoeuvring and bad weather imply a pilot's error because these are conditions a pilot should normally be able to handle. The unimportance of these accidents and incidents did not warrant detailed study of the records to establish the exact circumstances in each case. Some were caused by the added difficulties

resulting from the coal piers which were built many years ago with protruding chutes before ships had the high modern superstructures which create a hazard while berthing.

5. PILOTAGE OPERATIONS

(1) PILOT STATIONS

The pilot station has been closed down since May 1, 1968, and the pilots are despatched by the pilotage office, generally from their homes.

When the Commission sat in Sydney in 1963, there was one pilot station located at Indian Beach, northeast of and adjacent to North Sydney. The building contained a common room, a bathroom, cooking facilities and seven private rooms or cubicles for the pilots, and was equipped with a radiotelephone installed by D.O.T. and a land telephone.

At one time, the pilots maintained two stations, one near the seaward boarding area at Swivel Point, the other in Sydney Harbour at the International Pier where two or three pilots were on duty to deal with movages and outbound trips (vide p. 269).

When it was suggested in 1962 that the North Sydney station be abolished, the pilots objected, but the proposal was implemented in 1968 after the pilots became Crown employees and it was realized that the decreasing demand for pilotage services did not justify the expense of maintaining the station, which, like the other operating costs of the District, was borne by the Federal Government.

(2) BOARDING AREA

Most inbound ships are boarded anywhere between the fairway buoy off Swivel Point and the outer whistle-buoy. Occasionally during adverse weather conditions, the pilots have to lead ships into calm waters well inside the District before boarding. They have experienced difficulties boarding in rough seas and disembarking is even more difficult. They pointed out that accommodation ladders are too dangerous and they have to use Jacob's ladders. They complained that some of the ladders carried by ships are badly made and dangerous and urged that ships be obliged to carry an approved Jacob's ladder.

(3) DESPATCHING

Since May 1, 1968, the pilots have been despatched by tour de rôle from the District pilotage office in the Federal Building at Sydney, generally from their homes. During the day the Supervisor is responsible for despatching but advantage is taken of the 24-hour pilot vessel service so that at night and during weekends and holidays the launchman in charge of the pilot vessel assigns the pilots under the authority of the Supervisor.

Up to that time, despatching in Sydney had always been handled by the pilots themselves according to a system they had developed many years before. They were divided into two watches alternating on active duty and standby duty on a weekly basis. One group went on duty on Wednesday at 10 A.M. and remained continuously on duty on a 24-hour basis until the following Wednesday when it was replaced by the other watch. Each man on the active watch performed assignments in rotation according to a strict tour de rôle. The rule was that throughout their week of duty all the pilots of the duty watch lived at the North Sydney pilot station.

The pilots attended to despatching in turn. Requests for pilots were received by land telephone or radiotelephone and the pilot vessel was in direct contact by radiotelephone. Generally, the pilots knew of requirements well ahead of time, and, because of their constant availability at the pilot station, needed very little notice. However, in their experience it was impossible to know with any accuracy the exact time coal ships would depart on account of various delays incurred in loading.

Before the ETA system was instituted, the pilots had to maintain a 24-hour lookout all year round but Notices to Mariners now require ships to give a three-hour ETA, although sec. 10 of the By-law merely requires notification "in sufficient time to enable the pilot to meet the vessel". If a ship is to arrive at night, the arrangement is for the D.O.T. radio station to transmit the message to the pilots three hours ahead of time. They have found that ETA's are not always accurate. The pilot vessel has occasionally had to wait three or four hours in the boarding area for the arrival of a vessel and, at times, come back to the station. However, this was not a serious problem.

The first pilot on the duty watch list was in charge of the pilot station until he proceeded to an assignment. He attended to telephone calls until a request for a pilot was received, whereupon he assigned himself. He then made the necessary arrangements for his transportation with the pilot vessel which he contacted by VHF. Before leaving the station he notified the pilot next on turn who then became responsible. At night, he merely put the land telephone beside this pilot's bed. If several ETA's were received before the pilot in charge's departure, he informed the next pilots on turn about their assignments.

However, this procedure was not strictly adhered to during slack periods and the pilots at the bottom of the list could leave the pilot station provided the duty pilot knew where they could be reached by telephone. Occasionally, a pilot missed a turn in which case his next on turn took his assignment exchanging turns with him for that assignment.

Captain Slocombe stated that the pilots had instituted this system of despatching themselves and the Department had seen no reason to interfere as long as ships were properly serviced. In fact, ships have never been delayed. He was of the opinion that fewer pilots would be required if a regular rotation system were in effect instead of the existing system of week on, week off.

The Department of Transport suggested in 1962 that the pilot station be closed, with the result that despatching would have to be done from the pilotage office and would become the responsibility of the Supervisor who would be assisted at night by the launchman in charge of the pilot boat. The Supervisor expressed the opinion that this could not be done and that it would be necessary to adopt the procedure followed in Halifax, i.e., employ four despatchers to maintain a 24-hour service provided by the pilots.

The Department of Transport explained that abolishing the watch system, relieving the pilots of despatching responsibilities and closing down the pilot station were changes warranted by present circumstances and were unrelated to the changeover in the pilots' status. The Department added that when the Government agreed to make the pilots Crown Employees the intention was "to leave the local organization at Sydney undisturbed" (Ex. 1535(n)).

COMMENTS

The changes were realistic and warranted but long overdue. The belated implementation of the 1962 proposal can be accounted for, on one hand, by reluctance on the part of the pilots and shipping to change the organization and routine they were used to and, on the other, unwillingness on the part of the Authority to act unless supported by the pilots' acquiescence.

If pilotage traffic does not improve substantially, additional measures will have to be taken to reduce costs, *inter alia*, by finding a suitable alternative to the disproportionately expensive pilot vessel service. One possibility would be to employ, for the small amount of night despatching that still remains, personnel with other regular duties, e.g., the D.O.T. radio station staff who always play an important rôle in the process in that they receive ETA's and transmit them to the Supervisor during the daytime or to the launchman in charge at night. The only change would be that at night they would call the pilot next on turn according to the list supplied by the Supervisor every twenty four hours. Since advance ETA's are required and night assignments are infrequent, there will be very few calls of this nature.

Since navigation of the District waters does not present serious problems and all the pilots now on strength have had long experience, there is no reason why despatching should not continue according to an automatic tour de rôle until new pilots are licensed. The system should be reviewed at that time.

(4) PILOT VESSEL SERVICE

Two D.O.T. pilot vessels serviced the District until February, 1964, when the smaller vessel *Pilot Boat No. 3*, was transferred to St. John's, Newfoundland. The primary use of the second pilot vessel was to service ships in the inner harbour, but it was also used to return pilots from berths to the pilot station and made occasional trips to the boarding area, although it was not suitable for this latter purpose.

Since February, 1964, service has been provided by only one pilot vessel. Before the change was made, the Sydney pilots, like the Halifax pilots, had argued that two vessels were necessary because they were often in use simultaneously; the second vessel was available when the other broke down and private vessels that might be hired were most unsatisfactory. They were also concerned about delays in connection with land transportation.

During the Ottawa hearings in June, 1964, Pilot D. F. Ryan conceded that one pilot vessel had proved sufficient noting, however, that traffic had decreased. Captain F. S. Slocombe stated that the change was working out well as far as the Department was aware. Among the reasons for the change was the fact that the pilot vessel crew claimed they were working too hard when there were two vessels. Since it was difficult to cover the crews by the prevailing rate regulations and the Department was not permitted to increase staff, they were all assigned to one pilot vessel, thus reducing their hours on duty. Furthermore, the second pilot vessel was needed in St. John's.

The remaining pilot vessel is used to transport pilots across the harbour whenever necessary rather than incur the expense and delay involved in having them proceed around the harbour by land. Pilots who live in Sydney have been allowed taxi fare when proceeding to or from the Dominion Steel and Coal Corporation wharf (Ex. 1535(n)).

In addition to its use for pilotage service, the pilot vessel was used occasionally, perhaps ten times a year, to assist Customs or Immigration officers or the District Marine Agent to service buoys, but this occurred only when the vessel was not engaged on pilotage duties.

On October 9, 1967, the former *Canada Pilot No. 4* was replaced by a new vessel bearing the same name built at a cost of approximately \$273,000. Her particulars are:

Length	57'3"
Breadth	15'3"
Depth	7'4½"
Propulsion Unit	Cummins Diesel—302 h.p.
Equipment	VHF, MF & HF radios and radar.

The vessel is operated by a crew of two: one launchman, who is required to hold a certificate entitling him to take charge of a passenger vessel under four tons gross tonnage, and one deckhand. In order to provide 24-hour service,

six launchman and deckhands are employed. In addition, a Supervisor of boat machinery was engaged when this vessel was built. He does not serve as a member of the crew but supervises the maintenance of her engines and machinery.

This vessel was transferred to Halifax on June 8, 1968, to replace *Canada Pilot No. 6* which was transferred to Sydney. At the same time, the Supervisor of boat machinery was also transferred to Halifax with the result that the total complement of pilot vessel crew at Sydney remains at six, while at Halifax it has been increased to 10.

There was only one pilot vessel on duty in Sydney throughout 1967. One vessel was fully capable of meeting the requirements of the service in 1964 and, with the sharp decrease in the traffic that has taken place since, one vessel can effectively handle a considerably greater demand (Ex. 1535 (m)).

In 1965, the cost of the pilot vessel service, both to the Crown and shipping, amounted to \$51,270 and accounted for 32 per cent of the total cost of the pilotage service in the District (vide Part I, p. 639). In 1967, this percentage was much higher as a result of the discontinuation of the indirect subsidies received from the C.N.R. vessels, which were shown in the form of unearned pilotage dues, and, hence, part of the cost to shipping. The pilot vessel service in 1967 cost the Government \$50,900, not counting depreciation of the vessel and material (Ex. 1535(m)). It is evident that this expense is disproportionate in comparison to the total pilotage earnings of the District in that year, which amounted to only \$36,997.62, including \$3,320 for pilot boat charges (Ex. 386).

COMMENTS

It is considered that such an expensive pilot vessel service can no longer be justified in view of the steady decrease in pilotage traffic since 1962. The average daily use of the pilot vessel (less than twice a day in 1965 and 1966 and once a day in 1967) does not warrant keeping it manned on a 24-hour basis.

Unless there are reasonable grounds to believe that there will be a substantially increased demand for pilotage in the near future, an alternative solution should be sought to provide pilot vessel service. In 1967, the average cost for each use that was made of the pilot vessel amounted to over \$150, not counting depreciation of the vessel and equipment. The main item of expenditure is the aggregate amount of the wages and allowances for the six crew members required to provide 24-hour service.

In view of the fact that the small number of demands for pilotage can be ascertained well in advance, there should be a reduced pilot vessel crew on 24-hour standby duty like the pilots. If this is not permissible under existing legislation, appropriate provisions should be included in the new

Pilotage Act to make such arrangements possible. It seems reasonable that accessory pilotage services should be governed by pilotage legislation so that their organization can be adapted to the needs and circumstances of each locality.

An alternative would be to adopt the system that prevails at Bras d'Or Lakes, Churchill, Quebec and outports on the B.C. Coast, i.e., to take advantage of local transport facilities.

Furthermore, in order to reduce requirements for pilot vessel service, the limit of the boarding area might well be brought nearer the harbour entrance, as occurs in adverse conditions when an incoming vessel is required to proceed into sheltered water to embark a pilot. If this can be done under such conditions, there appears to be no reason why it can not become the general practice. Since the channel at the entrance to the harbour is wide and clear of obstructions, additional aids to navigation (if necessary) should obviate any serious difficulty in implementing this proposal.

(5) WORKLOAD

The pilots have been over strength since the end of World War II. Since the present legislation did not permit an adjustment in numbers commensurate with the actual demand for pilotage, except by the slow process of normal attrition, despite the fact that assignments diminished substantially in the last few years, there was no necessity to determine the actual workload of the pilots until they became prevailing rate employees.

Therefore, under the present circumstances, this Report does not require an exhaustive study of the question. A sufficiently accurate picture of their workload can readily be established with the evidence given at the Commission's hearing and the information contained in the statistical data furnished.

The following table shows the workload per establishment pilot for the years 1965, 1966 and 1967. To calculate the workload per week and per day it has been assumed that the pilots were on holiday and leave for one-third of the year. Assignments mean trips and movages performed by pilots.

Year	Total Assignments	Establishment Pilots	Average Number of Assignments per Establishment Pilot on Active Duty		
			Per Year	Per Week	Per Day
1965.....	728	9.4	77.5	2.2	0.32
1966.....	698	8.9	78.4	2.3	0.32
1967.....	386	8.0	48.3	1.4	0.20

According to the above assignment figures, each pilot averaged less than one hour of duty time per day of active duty and not more than seven hours per week. In 1967, the average travelling time and actual piloting amounted to 36 minutes per day.

According to the evidence adduced before the Commission, three hours is the average time for a pilotage assignment (trip or movage) from the time a pilot boards the pilot vessel or the ship to be piloted to the time he disembarks. About three-quarters of an hour is spent on board the pilot vessel, provided the ship is on time. If the incoming ship is not familiar with the port, the pilot embarks at the fairway buoy, which the pilot vessel takes about an hour to reach, but regular traders are met much farther inside the District limits, in which case only half an hour is spent in the pilot vessel.

Normally it takes an hour and a half to pilot a vessel from the fairway buoy to the International Pier and berth her but in adverse weather conditions during the winter it may take from five to twelve hours. On one occasion a pilot was overcarried to Halifax due to a gale force blizzard.

Up to 1968, the pilots attended in turn to what little despatching was required, but the pilotage office staff now performs these duties, thus restricting the pilots' workload to their assignments.

6. PILOTS' REMUNERATION AND TARIFF

The amount the pilots are paid has not been dependent upon District earnings (hence upon the tariff) since October 1, 1966, when they became prevailing rate employees of the Department of Transport.

(1) PILOTS' REMUNERATION

Up to Oct. 1, 1966, the pilots' remuneration was a share of the pilotage earnings of the District on the basis of availability for duty. As in Saint John, N.B., the dues collected were shared at the end of each month.

However, although the By-law required full sharing at the end of the month and there was no problem of financing the shares (since they were derived from dues collected and not as earned), a sizable amount was always left undistributed, e.g., the balance brought forward Jan. 1, 1965, was \$17,709.43. There was no valid reason why full sharing was not effected at the end of each month, thereby bringing the bank account to nil, since all the operating expenses of both the District and the service were assumed by the Department of Transport and all pilotage dues (except pilot boat charges) belonged to the pilots and were, in fact, eventually paid in full either to them or on their behalf. The only possible explanations are that this practice was a relic of the period when the operating expenses had to be paid or financed out of the pilotage dues, or that it was a way of prorating the pilots' remuneration in order to ensure regular salaries in months when there was

little to share. This, however, was not a valid reason for departing from the rules established by the By-law. The pilots as mature men should have been able to solve their own financial problems. If it was known that the amount of their share was likely to vary substantially from month to month, it should have been left to them to foresee the consequences and the Pilotage Authority had no right to deprive any of them of the full share to which he was entitled in any given month.

Since pilotage dues (except pilot boat charges) are the pilots' earnings, the only deductions made before sharing were the compulsory contribution to the Pension Fund, which was quite substantial, and the pilots' own group expenses.

The pilots' remuneration when they became prevailing rate employees was fixed at \$800 per month on an annual basis by the Treasury Board Order authorizing their employment as such (T.B. 649126 of Mar. 17, 1966, Ex. 1535(i)). As of December, 1968, this basic remuneration had not been changed. According to the Prevailing Rate Employees General Regulations, such employees are entitled to extra remuneration for overtime, standby time, work on rest days and work on statutory holidays but none of the pilots has drawn any such extra remuneration. However, entitlement to such extra remuneration can not be established because the "work day" and the "work week" have not been defined as required by these regulations (Ex. 1535(k)).

The Prevailing Rate Employees General Regulations, 1963, as amended, apply *in toto* to the Sydney pilots because none of these provisions was declared inapplicable to them by Treasury Board as required under subsec. 2(3) (as was specifically done in the case of the Port Weller-Sarnia pilots in Treasury Board Minute T.B. 652402 of the same date, March 17, 1966, (Ex. 1362) which excepted secs. 8, 9 and 10). According to these regulations, the Sydney pilots are entitled to extra remuneration, e.g., because they are on standby duty 24-hours a day (except when they are on leave of absence), a service requirement which should not be interfered with, or because on occasional assignments they work longer hours than a normal work day.

The fact that in the submission, which became the Treasury Board Order when approved, in the paragraph titled *Remarks* a general mention was made of the application of the Prevailing Rate Employees General Regulations to the Port Weller-Sarnia pilots without any reference to any order does not make the conditions and terms governing the employment of the Port Weller-Sarnia pilots part of the Sydney submission. A specific mention to that effect would have been required. This part of the submission reads as follows:

"REMARKS: Subsequent to the appointment of the pilots in the Port Weller-Sarnia area under the Prevailing Rate Employees General Regulations, this type of employment was made available to other pilotage districts. Recently, the pilots in the Sydney, N.S. District approached the Department for a firm offer of

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employment. Under this arrangement revenues are credited to the Receiver-General of Canada and expenditures are charged to the appropriate vote approved on the basis of earlier estimates."

A more serious argument could be drawn from the paragraph entitled *Cost* which reads as follows:

"Cost: Approximately \$86,400. (Rate of \$800. per month recommended by Department of Labour, letter attached.)"

This letter dated Oct. 8, 1965, which was addressed to the Deputy Minister of Transport from the Director of Labour Standards Branch, reads:

"In compliance with a request received from your Department on September 30, the rate of \$800 per month is recommended for payment to ships' pilots in the Sydney, N.S., pilotage district.

The above rate includes remuneration for all necessary overtime."

This last qualification does not appear anywhere in the submission.

The *Proposal* is clear: "To establish nine prevailing rate positions of ships' pilot at a recommended rate of \$800. per month". This rate per month should be interpreted in the light of the Regulations, that is, subject to extra remuneration for standby time, overtime and time worked during days of rest or statutory holidays. The fact that the reference to the letter of the Director of Labour Standards Branch is between brackets would indicate that it was not intended that its contents should become part of the proposal. Furthermore, to include in the monthly rate "all necessary overtime" would have amounted to making an exception to the Regulations, and according to the rules of interpretation any doubt should be resolved in favour of the rule. In this case, the manner in which this condition is supposedly expressed creates more than a doubt. In addition, this can not solve the problem of calculating annual leave and sick leave credits. The only method provided in these Regulations for computing these benefits is on the basis of hours a pilot is supposed to work per day and per week.

It is obvious that if these regulations were applied to the Sydney pilots a preposterous situation would result, because they were not devised for a group of persons working irregular hours and being on standby on a 24-hour basis every day of the week. The only permissible way to handle this situation under the Prevailing Rate Employees General Regulations would have been to have *ad hoc* regulations enacted for the Sydney pilots by Treasury Board. (For comments on the applicability of this system to pilots, vide pp. 210 and ff.)

The following table shows from 1959/60 to 1967 inclusive the gross pilotage earnings of the District (excluding pilot boat charges) on an earned basis; the average establishment of pilots for the year; the average "take home pay" per establishment pilot based on the aggregate amount of the shares or salaries actually paid to the pilots that year; the share of the District pilotage earnings (excluding pilot boat charges) earned during that year being the amount paid to or on behalf of each pilot, i.e., including "take

home pay", pension contributions and group expenses; and for the years 1961 to 1965 and estimated for 1967 each establishment pilot's share of the total cost of the District, which includes indirect subsidies.

Year	Gross Pilotage Dues Earned	Average Pilots' Establishment	Average Share per Establishment Pilot		
			"Take Home Pay" (Actual)*	Pilotage Dues Earned*	District Total Cost**
	\$		\$	\$	\$
1959/60	137,354.70	14.0	8,056.95	9,811.05	—
1960	139,050.99	14.0	8,556.95	9,932.21	—
1961	131,361.55	13.6	8,576.53	9,658.94	14,333.24
1962	120,345.44	13.0	7,800.00	9,257.34	14,318.85
1963	122,099.14	12.4	8,229.93	9,846.70	15,386.21
1964	100,944.80	10.2	8,418.88	9,896.55	16,623.04
1965	83,148.85	9.4	7,873.86	8,845.62	16,799.89
1966	86,809.50	8.9	9,535.65	9,753.88	—
1967	33,677.62	8.0	9,600.00	4,209.70	(19,200.00)

SOURCES:

*District Annual Reports, Exs. 386 to 389.

**For 1961-65 vide Part I, App. IX, pp. 639-641; the 1967 figure is a conservative assumption, the 1965 figure being taken for the item "Cost of Administration".

Up to 1966, the gradual decrease in earnings was due to two main causes, first a decline in traffic and second, the gradual exemptions applied to the C.N.R. ferries during the years 1964 to 1966. The steep decrease in 1967² is also due to two causes, i.e., the continuing decline in traffic, brought about by the economic situation in the areas, and the full reinstatement of statutory exemptions, whereby coastal and local trading vessels of dominion registry were granted total exemption.

Despite the foregoing, the pilots' "take home pay" remained fairly constant due to the fact that exemptions were reintroduced to coincide with the reduction in the pilots' strength (vide App. A). It increased in 1966 partly due to an increase in traffic but mostly because the pilots received a fixed salary of \$800 per month for the last three months of that year. In 1967, the pilots received their highest remuneration in ten years, despite the considerably reduced earnings of the District, because by then they were on a straight salary of \$9,600 per year. The resultant deficit, estimated at \$116,800, is borne by the Government.

The fact that the District is heavily subsidized accounts for the large share per pilot of the District total cost. The figures shown here are only for the five years covered in the Report of the Commission's accounting consultants (Part I, App. IX).

² In round figures the 1967 earnings, including boat charges, were \$37,000. Expenses were \$76,800 in pilots' salaries, \$50,900 for the pilot vessel service, and administration costs estimated at the 1965 figure of \$26,100, a total of \$153,800. The operational deficit paid by the Government was \$116,800.

(2) TARIFF

The tariff structure is the same as in Halifax and the By-law provisions on the subject are almost verbatim, except for the rates. In Sydney, these are slightly higher on all items with the exception of the basic rates which are substantially higher. As in Halifax, the basic rate for inward and outward trips takes the form of a scale but it provides a specific rate for each 50 tons after the first 100 tons up to 1,000, above which a constant price of \$1.68 is added per additional 100 NRT (compare p. 232).

Dominion Steel and Coal Corporation Limited in its brief complained that the rates for pilotage voyages in Sydney averaged 40 per cent higher than in Halifax. The obvious reason was that, due to the excessive number of pilots, the District had to exploit to the maximum all possible sources of revenue, partly by raising the rates, partly by withdrawing the statutory exemptions beyond all reasonable limits, and partly by indirect subsidies.

As far as Dosco is concerned, the situation has now been remedied because its ships engaged in coastal and home trade have enjoyed full exemption since December 9, 1966.

If pilotage is to continue to be fully controlled by the Pilotage Authority until the number of pilots on strength is reduced to those required to meet the demand, the service will have to be heavily subsidized for some time to come.

Contrary to the practice in other Districts, the annual financial statement of the Pilotage Authority gives only the aggregate of dues earned and collected during the calendar year without itemized details. Since the pilots' actual remuneration is no longer dependent upon the tariff and the District earnings, it was not considered necessary to study the percentage of the aggregate earnings each tariff item comprises. The statistics in this Section, especially Appendix A(2), provide a sufficiently accurate approximation.

COMMENTS

The normal process of fixing the amount of various rates, i.e., so that the aggregate amount they yield meets the estimated cost of the service (Part I, C.6), does not apply in Sydney because the resulting rates would be prohibitively high. In this case, at least until the number of pilots is reduced to a reasonable level, the criterion should be a scale of rates comparable to those charged for similar services in other Districts.

As noted when the Halifax system was discussed (p. 233) it is considered that a more rational rate structure should be adopted, namely, a rate per ton of maximum gross tonnage over a certain minimum. In this case, the minimum should be low because the pilots have few assignments.

7. FINANCIAL ADMINISTRATION

Up to October 1, 1966, as in most other Districts, three funds were kept at Sydney, i.e., the Pilotage Fund, Pension Fund, and Welfare Fund. The Pension Fund will be dealt with later.

The Welfare Fund is a private fund subscribed by the pilots and placed at the disposal of the Pilots' Committee to finance various collective expenses. It is made up of individual pilot's contributions (at the rate of \$8 per month per pilot in 1963) out of which the pilots pay their annual dues to the Canadian Merchant Service Guild and such other expenses as flowers, Christmas cards and gifts. The bookkeeping is attended to by the pilotage office accountant for a small remuneration. The Pilotage Authority is not concerned with this Fund.

According to the General By-law of the District, all receipts that came into the hands of the Pilotage Authority before Oct. 1, 1966, comprised the District Pilotage Fund. The annual financial statement appeared to be a true picture of the Fund, although only items of receipt and expenditure that concerned pilotage earnings in the pool appeared in the financial statements examined by the Commission, i.e., from 1959/60 to Sept. 30, 1966.

Furthermore, these statements, contrary to the situation in Halifax, are true financial statements made on the basis of assets and disbursements, cash receipts and expenditures, and there is continuity from one statement to the next. Disbursements show the total amount paid to the pilots, i.e., their "take home pay", the boat charges paid to the Receiver General, amounts paid on behalf of the pilots, i.e., their compulsory Pension Fund contributions and their group expenses, and, finally, the unspent balance on hand at the end of the year.

Among the pilots' group expenses were premiums for medical and hospital group insurances, the expenses of the Pilots' Committee and the cost of sending representatives to the Canadian Merchant Service Guild convention.

The Pilotage Fund and its governing By-law provisions were abolished effective Oct. 1, 1966, i.e., when the pilots became Crown employees, since when they ceased to have any vested interest in the District earnings. From that date the annual financial reports that the Pilotage Authority had always furnished were also discontinued.

The General By-law as it now reads provides that both the pilotage dues and the statutory indemnities of secs. 359 and 360 C.S.A. are payable to the Pilotage Authority through the local Supervisor to be deposited *in toto* to the credit of the Receiver General of Canada (By-law, secs. 8 and 9 as amended by P.C. 1966-2313 of Dec. 9, 1966).

The provision regarding statutory indemnities is ultra vires since this is not a matter within the Pilotage Authority's regulation-making power. It is true that the pilots' entitlement to these indemnities is incompatible with their status as Crown employees, but this is so because this status is incompatible with the present statutory pilotage legislation contained in Part VI of the Act.

The same remark applies to title to pilotage dues. Part VI makes it permissible, and even advisable, that they be made payable to the Pilotage Authority, and there is no objection if they are deposited with the Receiver General in trust for the pilots who earned them (vide Part I, C.5). An amendment to the Act is required to change or authorize the Pilotage Authority to alter title to pilotage dues.

With the disappearance of the pool the pilots have lost a method of covering their group expenses. However, these are now greatly diminished since each individual pilot now benefits from, or may participate in, the group protection plans provided by the Government to its employees and which advantageously replace the various group insurance policies they had to take out previously for their own protection. The remaining group expenses will have to come from the Pilots' own Welfare Fund. If the pilots as a group were a corporation, as they will be if the Commission's General Recommendation No. 25 (Part I, p. 549) is acted upon, the corporation fund would, *inter alia*, serve this purpose.

In view of the fact that financial statements are no longer prepared, and also because of the many changes that have occurred, it would serve no useful purpose to review the financial situation in detail.

COMMENTS

The foregoing indicates that the change in the pilots' status has made it more difficult than ever to distinguish between the functions of the Pilotage Authority and the Minister of Transport and has resulted in more complete centralization. This state of affairs is in conflict with the Commission's General Recommendation No. 15 (Part I, p. 499). When the pilots have to be Crown employees, they should be employees of their Pilotage Authority (pp. 210-213), each District should be a separate accounting unit where the pilots' salaries form part of the District operating expenses, budget and financial statements should be furnished and a uniform accounting procedure should be defined by the proposed Central Authority through Pilotage Orders (Gen. Recs. Nos. 16 to 21).

8. PENSION FUND

The Sydney Pension Fund ceased to exist when the pilots became Crown employees.

This Fund had been solvent for a number of years, mainly on account of the sizable contributions the pilots were required to pay (they were increased Aug. 1, 1954, to 16 per cent and lowered to 12 per cent Jan. 31, 1966). The actuarial evaluation carried out by the Commission's consultants showed a surplus of \$81,890 December 31, 1963 (vide Part I, C: 10, and App. XII).

One of the terms and conditions of the pilots' agreement to become Crown employees was that recognition be given for superannuation purposes to their past service as pilots. Furthermore, the existing Sydney Pension Fund no longer had to be maintained, except to meet the pension benefits then accrued when they became due.

The solution adopted was that, in consideration of the transfer to the Crown of the Fund assets, the Crown assumed the liabilities of the Fund toward the pensioners, and retroactivity was given the active pilots for pension benefits under the Public Service Superannuation Act in proportion to both past service and the extent of individual contributions to the District Fund.

Since this was not permissible under the present statute, an Act of Parliament was necessary. The same legislative procedure was followed as adopted for the transfer of the British Columbia Pension Fund in 1966 (Part II, p. 193), i.e., through the device of an *ad hoc* provision in an Appropriation Act. By Appropriation Act No. 9, 1966 (14-15 Eliz. II c. 55) a sum of \$1 was voted for the purpose of giving effect to the agreement. Vote No. 8c of the Department of Transport under Schedule D reads as follows:

"8c Subject to such terms and conditions as the Governor in Council may prescribe, to authorize the transfer of the assets of the Sydney Pilots' Pension Fund to the Superannuation Account under the Public Service Superannuation Act, to deem that all licensed pilots of the Sydney Pilotage District who became employed in the Public Service on the first day of October, 1966 are required by subsection (1) of section 4 of the Public Service Superannuation Act to contribute to the Superannuation Account as of that date, to authorize the counting as pensionable service for the purposes of the Public Service Superannuation Act the service of such licensed pilots with the Sydney Pilotage District and to authorize the payment out of the Superannuation Account of any pensions which, prior to the transfer of assets were paid out of the Sydney Pilots' Pension Fund."

On Jan. 19, 1967, the Governor in Council made the necessary regulations entitled "Sydney Pilots Pension Regulations" (P.C. 1967-114). In *résumé*, these regulations provide for:

- (a) the transfer from the Pilotage Authority to the Superannuation Account of the Government through the Minister of Finance of all the assets of the District Pension Fund;

- (b) making the Crown Superannuation Account responsible for the payment of the pension benefits acquired under the District Pension Fund;
- (c) making each active pilot a contributor under the Public Service Superannuation Act and devising the method of computing the retroactivity of superannuation benefits for past service and contributions to the former Pension Fund.

During that time, the Sydney Pilotage Authority by an amendment to its By-law dated Dec. 9, 1966 (P.C. 1966-2313) revoked Part II of its By-law which dealt with its Pension Fund and also the other provisions which fixed the compulsory contribution, thereby abrogating the Pension Fund.

For the Commission's comments on Pension Funds, vide Part I, C. 10, and on the disposition of the Sydney Pension Fund, vide Part I, page 583.

Chapter D

The Recommendations for the Pilotage District of Sydney are included in Subsection III which deals with the whole Cape Breton area.

Chapter E

APPENDICES

APPENDIX A

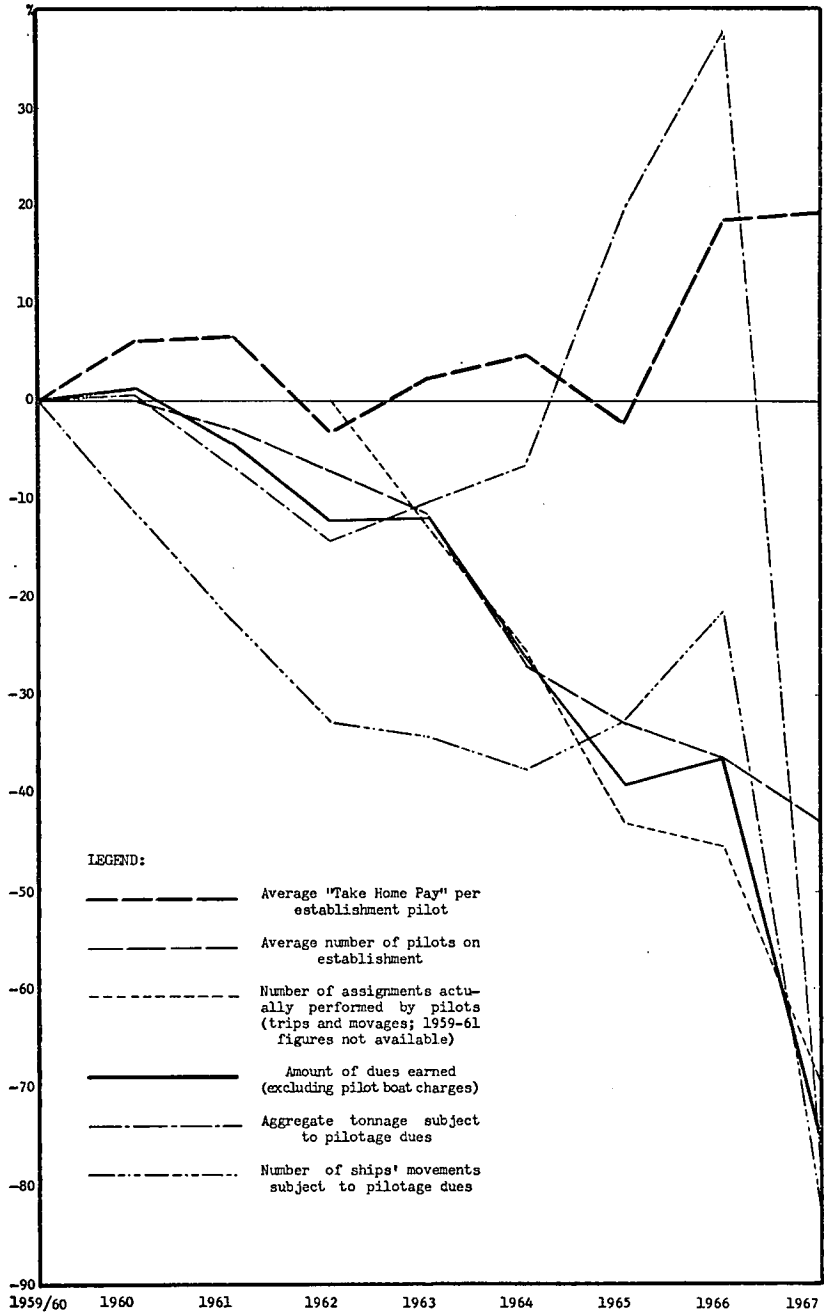
- (1) Graph—Per cent Increase or Decrease in Earnings and Workload of Pilots in the Pilotage District of Sydney, N.S.
- (2) Table—Earnings and Workload of Pilots in the Pilotage District of Sydney, N.S.

APPENDIX B

- (1) Table—Shipping Casualties, Accidents and Incidents involving Pilots of the Pilotage District of Sydney, N.S.
- (2) Index—Summary of Shipping Casualties, Accidents and Incidents involving Pilots of the Pilotage District of Sydney, N.S., during the Ten-year Period 1958–1967.

Appendix A (1)

PER CENT INCREASE OR DECREASE IN EARNINGS AND
WORKLOAD OF PILOTS IN THE PILOTAGE
DISTRICT OF SYDNEY



Appendix A (2)

EARNINGS AND WORKLOAD OF PILOTS
IN THE PILOTAGE DISTRICT OF SYDNEY, N.S.

Year	Number of Ships' Movements Subject to Pilotage Dues ^a	Aggregate Tonnage Subject to Pilotage Dues	Amount of Dues Earned (Excluding Pilot Boat Charges)	Number of Assignments Actually Performed by Pilots ^b	Average Establishment ^c of Pilots	Average "Take Home Pay" per Establishment Pilot
1959/60	3,156	6,669,086	\$137,354.70	not available	14.0	\$8,056.95
1960	2,799	6,711,492	\$139,050.99	not available	14.0	\$8,556.95
1961	2,448	6,213,612	\$131,361.55	not available	13.6	\$8,576.53
1962	2,121	5,711,694	\$120,345.44	1,279	13.0	\$7,800.00
1963	2,078	5,989,482	\$122,099.14	1,114	12.4	\$8,229.93
1964	1,965	6,214,466	\$100,944.80	946	10.2	\$8,418.88
1965	2,122	7,982,780	\$ 83,148.85	728	9.4	\$7,873.86
1966	2,485	9,182,655	\$ 86,809.50	698	8.9	\$9,535.65
1967	537	1,391,489	\$ 33,677.62	386	8.0	\$9,600.00

Per Cent Increase or Decrease

1959/60	0.0	0.0	0.0	—	0.0	0.0
1960	-11.3	0.6	1.2	—	0.0	6.2
1961	-22.4	-6.8	-4.4	—	-2.9	6.5
1962	-32.8	-14.4	-12.4	0.0	-7.1	-3.2
1963	-34.2	-10.2	-11.1	-12.9	-11.4	2.2
1964	-37.7	-6.8	-26.5	-26.0	-27.1	4.5
1965	-32.8	19.7	-39.5	-43.1	-32.9	-2.3
1966	-21.3	37.7	-36.8	-45.4	-36.4	18.4
1967	-83.0	-79.1	-75.5	-69.8	-42.9	19.2

SOURCES OF INFORMATION: Exhibits 386-389^b.

^aTotal bills: comprises all assignments, both performed by pilots and subject to compulsory payment system.

^bTrips and movages (vide Exhibit 1535(j)).

^cEstablishment means the number of pilots on a year basis, taking into consideration any increase (i.e., probationary pilots) and any decrease (i.e., retirements) that occurred during the year.

Appendix B (1)

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING PILOTS OF THE DISTRICT OF SYDNEY, N.S.

	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967
A. EVENTS HAPPENING WHILE NAVIGATING:										
I. Major Casualties (with or without loss of life).....	0	0	0	0	0	0	0	0	0	0
II. Minor Casualties (without loss of life).....	0	0	0	0	0	0	0	0	0	0
III. Accidents (without damage to ships).....	0	0	0	0	0	0	0	0	0	0
IV. Incidents (with no damage involved).....	0	0	0	0	0	0	0	0	0	0
B. EVENTS HAPPENING WHILE BERTHING, UNBERTHING OR AT ANCHORAGE:										
I. Major Casualties (with or without loss of life).....	0	0	0	0	0	0	0	0	0	0
II. Minor Casualties:										
a. Minor standings.....	0	0	0	0	0	0	0	0	0	0
b. Minor damage to ship:										
i. Striking pier.....	1	4	1	1	3	1	1	1	0	0
ii. Striking vessel berthing or unberthing.....	0	2	0	0	1	1	0	0	0	0
iii. Striking vessel at anchorage.....	0	0	0	0	0	0	0	0	0	0
iv. Others.....	0	1	0	1	0	2	0	1	0	0
III. Accidents (without damage to ships):										
a. Damage to pier.....	0	0	0	0	0	0	0	0	0	0
b. Damage to buoys.....	0	0	0	0	0	0	0	0	0	0
c. Others: damage to cable.....	0	0	0	0	0	1	0	0	0	0
IV. Incidents (with no damage involved):										
a. Striking pier.....	0	0	0	1	0	0	0	0	0	0
b. Striking vessel berthing or unberthing.....	0	0	0	0	0	0	0	0	0	0
c. Striking vessel at anchorage.....	0	0	0	0	0	0	0	0	0	0
d. Striking buoys.....	0	0	0	0	0	0	0	0	0	0
e. Others.....	0	0	0	0	0	0	0	0	0	0
	1	6	1	2	4	3	1	1	0	0
Total Shipping Casualties, Accidents and Incidents.....	1	6	1	2	4	3	1	1	0	0

SOURCES OF INFORMATION: Exhibits 390, 866, 1451 and 1467.

Appendix B (2)

SUMMARY OF SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING PILOTS OF THE PILOTAGE DISTRICT OF SYDNEY, N.S.

During the Ten-Year Period 1958–1967*

A. EVENTS HAPPENING WHILE NAVIGATING: Nil

B. EVENTS HAPPENING WHILE BERTHING, UNBERTHING, OR AT ANCHORAGE:

I. Major Casualties (with or without loss of life): Nil

II. Minor Casualties:

a. Minor strandings: Nil

b. Minor damage to ship:

i. Striking pier:

1. January 1, 1958—*Granada*; cause: darkness.
2. September 3, 1959—*Tramontana*; cause: wrong engine movement.
3. October 5, 1959—*Mapledore*; cause: pilot error.
4. October 31, 1959—*Charlton Mira*; cause: unknown.
5. December 17, 1959—*Georgios A.*; cause: wrong engine movement.
6. September 30, 1960—*Ardglen*; cause: pilot error.
7. November 12, 1961—*Rio Umia*; cause: crew error.
8. June 7, 1962—*Wabana*; cause: winds.
9. August 7, 1962—*Dicoronia*; cause: winds.
10. December 15, 1962—*Gulfport*; cause: winds.
11. September 27, 1963—*Makaweli*; cause: while berthing, vessel fell heavily against government wharf.
12. June 20, 1964—*Charlton Mira*; cause: avoiding small ship.
13. April 27, 1965—*Chernovici*; cause: manoeuvring.

ii. Striking vessel berthing or unberthing:

1. June 11, 1959—*Aviz* collided with *Joas Ferreira*; cause: crew error.
2. June 14, 1959—*Argus* collided with *Joas Ferreira*; cause: wrong engine movement received.
3. December 15, 1962—Tug collided with *Camelia*; cause: unknown.
4. December 30, 1963—*Yorkwood* struck moored *Arthur Cross* while approaching berth; cause: bad weather (no action taken; pilot now retired).

III. Accidents:

a. Damage to pier: Nil

b. Damage to buoys: Nil

c. Others:

1. January 3, 1963—*Imperial Sarnia* caught cable in anchor; cause: winds; emergency anchor.

IV. Incidents:

a. Striking pier:

1. June 1, 1961—*Joas Ferreira* suspected of striking pier; cause: unknown.

*For detailed statistical breakdown by year, vide Appendix B(1).