

(2) PILOTS' ORGANIZATIONS

The various pilots' organizations in the Quebec District and those to which the Quebec pilots belong are studied hereunder in some detail in order to ascertain (a) the reasons for such unusual proliferation, (b) the merit of the charges that the Directors of these organizations behaved autocratically and mishandled the pilots' finances, and (c) to establish the main facts on which the Commission's General Recommendation No. 25 (Part I, p. 549) is based.

The study does not go beyond 1965. Since then there have, no doubt, been certain changes in the by-laws of these organizations as well as new activities. However, there have been no substantial changes in their structure. It was considered that, for the purpose of this Report, the study of the situation up to and including 1965 was sufficient.

The Commission has been impressed by the dedication of those pilots who have had the responsibility of administering these organizations and directing the professional and group activities of their colleagues as well as by their profound respect for the liberty of the individual and their deep concern to operate frankly and legally. The evidence clearly indicates how the procedures leading to the creation of the Corporation and the Federation have been developed openly and democratically, how every effort is made to keep every pilot (including the dissidents) fully informed about the Corporation's and Federation's activities. It is significant that every pilot has the right to attend (but not to speak at) the meetings of the Corporation's Directors, a most unusual practice. It is also noteworthy that no effort is spared to ensure that there is no mishandling of money belonging to the pilots, the Corporation or the Federation; the books are audited and the pilots given any detailed information requested about financial operations.

For the Commission's comments on the usefulness and adequacy of these corporations and the legality of certain of their operations, reference is made to the study contained in Part I, pp. 84 to 95; and for the Commission's recommendation on the question, to General Recommendation No. 25 (Part I, p. 549).

Of all the Pilotage Districts in Canada where the pilots are not employees of the Crown, Quebec has the largest number of professional organizations. The multiplicity of organizations in Quebec is the result of the long past of the pilotage service in Quebec. The pilots agree that it would be preferable to have all these organizations replaced by one suitable organization but to do so would mean amending existing legislation and they fear that in the process they would lose some of the rights they now have. They are not in full agreement among themselves about the nature of such an organization and, furthermore, it would mean extra expense to bring about the necessary changes. For all these reasons they prefer to stay as they are.

In addition to being represented by their Pilots' Committee, they have three organizations operating concurrently:

- (a) The Corporation of Pilots for and below the Harbour of Quebec;
- (b) L'Association des Pilotes licenciés pour le Havre de Québec et en aval;
- (c) The Corporation of the Lower St. Lawrence Pilots.

The second named is a group member of the Federation of the St. Lawrence River Pilots (Fédération des Pilotes du Saint-Laurent) which groups the pilots' organizations of all the Districts on the St. Lawrence River. In addition, all the pilots in the District, individually by decision of the Association and later on of the Corporation, are members of the Canadian Merchant Service Guild which provides national representation for Masters and mates as well as pilots.

(a) *Corporation of Pilots for and below the Harbour of Quebec*

This Corporation, hereinafter also referred to as the Pension Fund Corporation, which was created in 1860 as a public corporation by an Act of Parliament (23 Vic. c. 123 (vide p. 40)), is the first organization the Quebec pilots had. In fact, it was a compulsory partnership to which all the licensed pilots automatically belonged. Under the supervision of the Pilotage Authority, it was entrusted with the management of the pilotage service and the distribution of the earnings of the pilots through a pooling system. In addition, when Trinity House was abolished in 1875 (38 Vic. c. 55), the Corporation was given responsibility for the administration and trusteeship of the "Decayed Pilot Fund". The Corporation organized the service on a compulsory partnership system, abolished the free enterprise system, acquired, maintained and operated pilot schooners and pilot stations, collected the pilotage earnings, paid both the service operating expenses and the Corporation expenses out of these earnings and divided the net revenues in equal shares among the pilots according to the time they had been available for duty. It also operated the Decayed Pilot Fund, or Pension Fund.

In 1914, following the Lindsay Commission Report, an Act of Parliament (4-5 Geo. V c. 48) deprived the Corporation of all its powers with respect to the examination, management and control of pilots and of apprentice pilots; the control and management of the pilot schooners, boats and other vessels; the collection of pilotage dues; and the management and control of pilotage, all of which were vested in the Minister of Marine and Fisheries (vide p. 59).

The Corporation was not abolished, but its only remaining powers were those regarding the administration and disposal of the Pension Fund and this is still the only function the Corporation exercises today. In 1950, an amendment to the Canada Shipping Act (14 Geo. VI c. 26) abrogated this last remaining power of the Pilots' Corporation by vesting the administration

of the Pension Fund in the Pilotage Authority (as is the rule in all other Districts) but this part of the amendment was not to come into force before it was specifically proclaimed. The 1950 amendment with its reservations was incorporated in the 1952 revised version of the Act. To date it has not yet come into effect, not having been proclaimed, with the result that the 1860 public Corporation still administers and controls the Quebec District Pilot Fund and does nothing else (vide Part I, pp. 18 and 437).

The main problem is that the Corporation's activities are regulated by legislative provisions that are now out of context.

From time to time it was felt necessary to amend the Corporation's by-laws but it was found that it was no longer possible to follow the stipulated procedure because the by-laws had to be approved by Trinity House or the authority which was vested with the statutory powers of the defunct Trinity House. The special provisions in the Act to ensure this succession were simply abrogated by the 1934 Act (vide 38 Vic. c. 55, sec. 413 (1906) C.S.A., sec. 395 (1927) C.S.A. and sec 312 (1934) C.S.A.). On August 2, 1935, the Corporation obtained an opinion from its legal adviser to the effect that, with regard to the modification of the pension benefits and the method of administration of the Pension Fund, the Corporation was bound by the procedure that had been imposed on Trinity House when it had the trusteeship of the Fund, i.e., by by-law published twice during two weeks in the French and English newspapers of Quebec City, followed by the approval of the Governor in Council, and published again in the Canada Gazette, and also in a French and English newspaper of Quebec City twice a week for two weeks.

On February 27, 1951, the new legal advisers of the Corporation gave a contradictory opinion, pointing out that the Corporation in its corporate activities was not bound by the procedures that had been stipulated for Trinity House. When Trinity House was dissolved in 1875 and the Corporation inherited responsibility for the Pilot Fund, it had not been decreed that the Corporation was to follow the by-law procedure of Trinity House, and that the necessary by-laws thereafter had to be made according to the procedure contained in the Corporation's own charter, i.e., in accordance with sec. 5 of the 1860 Act, i.e., a by-law had to be published at least twice for three weeks in a French and English newspaper in Quebec City, then approved by Trinity House fifteen days at least after the last publication. The advisers added that since Trinity House had been dissolved, this last requirement no longer existed and that, therefore, the Board of Directors could change the pension benefits at any time, provided this was done by a by-law duly published, and that the approval of no one, not even the Governor in Council, was required.

In 1957, it was found that the Pension Fund was in a deplorable state. The situation did not improve and in 1960 it was realized that drastic changes had to be made. These took the form of by-law amendments made in 1961 whose aim was to define the function of the Directors and to limit their powers which were unlimited before. For instance, on their own accord they could augment the benefits from the Pension Fund without the pilots' consent and without ascertaining whether the Fund could support these increases, as they did in 1959 when the Board of Directors increased the pension benefits from 15% to 17% without waiting for the report the actuaries were about to submit.

The Corporation then faced the same problem: how could the necessary amendments be made legal? After consulting their legal advisers, the Corporation had the new by-laws published twice a week for three weeks in one French and one English newspaper in the City of Quebec. No further action was taken and no approval was sought either from the Pilotage Authority or the Minister or the Governor in Council.

The Corporation is greatly influenced by the other pilot organizations. From 1922 to 1960, its Board of Directors was the same as the Board of the Association and since then it has been composed of the same members as the Board of the Lower St. Lawrence Pilots' Corporation; hereinafter referred to as the Pilots' Corporation. While this has been the practice, it obviously could be otherwise if the pilots so wished. The practice followed is to hold the annual meetings of all the organizations on the same day. The Pension Fund Corporation meeting is held last. The elections are only a *pro forma* procedure: the newly elected Board of Directors of the Pilots' Corporation is proposed for the Pension Fund Corporation and the necessary resolution is passed.

Due to the fact that the Pension Fund Corporation Board of Directors is composed of only six directors in accordance with the 1860 Act, the practice had been for one of the seven members of the Pilots' Corporation not to be a candidate for the other Board and to have a regular nomination for the six others who are automatically elected without opposition. If there were any competition, a normal ballot would be held (Ex. 1461(1)).

The Secretary-Treasurer is the same for all three organizations; he is paid by the Corporation of the Lower St. Lawrence Pilots.

Since 1920, the administration required by the Pension Fund Corporation has been conducted by the staff of the other organization which has also absorbed its necessary expenses, including trust company charges (p. 286).

The 1961 revision of the by-laws brought the by-laws of the Pension Fund Corporation into line with those of the Association and the Pilots' Corporation and limited the Directors' powers. By-law No. 1 limits the functions of the Board of Directors mainly to investing the available funds in accordance with the law and deciding the merits of claims for benefits

from the Pension Fund. It states that the fiscal year ends on December 31, the books and financial statements of the Corporation are to be audited and all previous by-laws are repealed. By-law No. 2 deals specifically with the administration of the Pension Fund, states how pensions are to be computed, stipulates the nature and amount of benefits and those who are entitled to them. It is also provided that By-law No. 2 can not be amended except by two-thirds of the members present at a general annual or special meeting of the Corporation and that any draft amendment must be forwarded to the members at least thirty days prior to the meeting (Ex. 672).

(b) *L'Association des Pilotes licenciés pour le Havre de Québec et en aval*

By the 1914 Act (4-5 Geo. V c. 48) the Corporation had been deprived of its powers, *inter alia*, of pooling the pilots' earnings. Despite the prohibition contained in the law, the Corporation continued to claim the pilots' earnings and to operate a common fund.

One pilot, by the name of Joseph Paquet, objected and sued the Corporation for reimbursement of what he had earned. Paquet lost in appeal and the Crown brought the case to the Privy Council on the recommendation of the Robb Commission (p. 64).

While the case was pending, the pilots, who were determined to continue pooling their earnings, prepared a civil deed of partnership for that purpose which they could put into effect immediately if the judgment was not in their favour.

When judgment was rendered (Part I, pp. 66 and 187) denying the Corporation power to control the pilots' earnings, all the pilots were unanimous in their desire to maintain the pooling system and all subscribed to the partnership agreement (dissident pilot Paquet had died some time before). All the pilots who have been licensed since have signed the deed, despite the fact that membership in the Association is in no way a prerequisite to obtaining a pilot's licence. Once two pilots were unwilling to join the Association but they experienced difficulties with their fellow pilots and finally were obliged to sign up. Since that time no pilot has stayed out (Ex. 650) but no overt pressure seems to have ever been exercised to force anyone to become a member.

The partnership was first known under the name of "L'Union des Pilotes licenciés pour le Havre de Québec et au-dessous". This was changed in 1924 to its present name, "L'Association des Pilotes licenciés pour le Havre de Québec et en aval"; originally the deed of association was for a period of 25 years but this was later extended to May 21, 1980.

No request is known to have been received from any member to withdraw from the Association and no complaints were received from any pilot about the fact that they are bound to remain members during the full extent of their service as pilots.

Clause 10 of the deed provided for the continuation of the pooling system that had existed since 1860. The pilots considered that the nature of their work makes this system almost a necessity, otherwise there would be disputes and the efficiency of the service would suffer. All the pilots who have been licensed since incorporation in 1960 have signed the deed of the Association, despite the fact that they also became members of the Corporation (Ex. 592).

Clause 14 provided for aid to pilots incapacitated by illness or under suspension in the amount of 50 per cent of a normal share of the pool during the whole period of incapacitation or suspension, unless the suspension was caused by indulgence in alcohol.

Clause 24 gave the Directors almost complete control over the Association during the year for which they were elected. They were empowered to take any decisions or perform any actions that were not foreseen in the agreement and all the members bound themselves in advance to approve these decisions subject to ratification by the general meeting.

However, a change in the terms of the Association deed or in the by-laws could be effected without holding a general meeting of the members as long as two-thirds of the members agreed. This procedure became the rule. The normal method was to circulate a petition without holding a meeting. In the deed of the Association, there was a provision for an annual meeting on the second Wednesday of January (Clauses 21 and 23) but the questions brought up at the general meeting could also have been decided by signing a petition as aforesaid. Therefore, anyone who wanted to propose an amendment normally prepared a petition and tried to obtain the necessary number of signatures. If he was successful, the Board of Directors was bound by the amendment which did not have to be approved by the general meeting. (In 1953, pilot Rousseau failed with his petition to have the special service pilot system abolished.) Clause 30 concerning membership in the Guild was withdrawn in 1958 and reinstated in 1959 by petition. Some members who were dissatisfied with the Guild initiated the amendment which was signed by three-fourths of the pilots but the decision was reversed by a similar procedure the following year after Bill S-3 was submitted because the pilots felt that it was necessary to unite and, at that time, only the Guild could give them that type of united assistance.

This custom of circulating petitions was adopted for two reasons: the Association deed was a civil contract and the nature of the pilotage service made it impossible to hold a general meeting during the navigation season. Pilot Rousseau, however, believed that it was not a very good practice. It has since been abolished.

Before the new Pilots' Corporation was formed, the meeting of the Pension Fund Corporation was held first and its Directors elected; then followed the meeting of the Association where, on a simple motion, the

newly elected Directors of the Corporation became also the Directors of the Association. Both organizations were composed of exactly the same members. Today the procedure is the same, with the exception that the election takes place, not at the meeting of the Pension Fund Corporation, but at the meeting of the Corporation of the Lower St. Lawrence Pilots which does not include all the pilots. Despite this, the elected Corporation Directors automatically become Directors of the Association on a simple motion at the meeting of the Association that follows. So far the elections have been unanimous.

As shown by the minutes of the Association at meetings held in 1961, 1962 and 1963, i.e., after the formation of the new Corporation (Ex. 687); there was little discussion, if any. Most of the resolutions voted on were merely to confirm what had been done and approved at the Corporation meetings.

The Directors of the Association have never been remunerated. When the Association began they were reimbursed a certain amount for their travelling expenses if they went to Ottawa or Montreal on Association business; a 1958 amendment to the deed ruled that the travelling expenses for each Director in such circumstances were not to exceed \$30 per day, plus transportation costs. A further amendment dated May 9, 1960, authorized travelling expenses and removed the ceiling.

The existence of the Association was officially recognized by the Pilotage Authority in subsec. 11(5) of the 1957 General By-law which, prior to its amendment in 1961, stipulated that three of the five members of the Board of Examiners were to be members of the Board of "The Association of the Licensed Pilots of Quebec and Below" to be selected by the Association.

Despite the stipulation in the District By-law which made it mandatory for the Authority to pay each pilot the dues that he has earned (less the Pension Fund contribution), the Pilotage Authority has always paid these sums to the Association and not to the pilots individually. Up to 1960, the pool was administered by the Association but since 1960 it has been operated by the Corporation and the dues received from the Pilotage Authority are deposited by the Association to the account of the Corporation.

Pilot Rousseau took an active part in the pilots' organizations. In 1953, he was elected the Director of the Association who represented the tour de rôle pilots but was not re-elected at the next election. From then until 1959, except when attending general meetings, he did not participate in the affairs of the pilots until the submission of Bill S-3 convinced him of the necessity of grouping the pilots together, and to that end he took the lead in bringing the Quebec pilots back into the Guild. Many problems confronted the pilots in 1959: the increase in traffic when the St. Lawrence Seaway opened; the proposal to transfer the pilot station, which would mean a

little less travelling for the pilots and shorter pilotage assignments; the special pilot system; and the growth of winter navigation. He felt that the pilots could not carry on as they had so far, that solutions had to be found to these problems but that there was little chance of success with the existing Board of Directors. There was a movement among the pilots to have a new slate of Directors elected and, in 1960, pilot Rousseau was approached by some of them to let his name stand for election.

The election procedure at that time was very simple: the names of all those who wished to become candidates were posted on the blackboard by the Secretary. There might be as many as 10 or 15 names and the voting was done by secret ballot. Pilot Rousseau put up his name as requested but when the date for the general meeting came he was at Sydney, Nova Scotia, with another pilot waiting for a vessel destined for Quebec which could not be boarded at Father Point because the pilot station was closed during the winter season. The ship had been delayed with the result that he could not expect to be back in time to attend the meeting. He was urged by some pilots in Quebec to return immediately. When the other pilot agreed to navigate the vessel alone pilot Rousseau flew back to Quebec, arrived in time for the meeting and was elected Director with a complete new Board. At the first meeting of the Board he was elected President of the Association.

That was the year (1960) the Corporation was created and pilot Rousseau was elected its first President.

The Corporation was intended to replace the Association which, in the opinion of the Board of Directors of the Association, was in the interest of all the pilots. Therefore, the application forms for membership in the Corporation contained a clause whereby the applicant consented to the dissolution of the Association and the transfer of its assets to the Corporation. In addition, the applicant was requested to sign an amendment to the Association deed which provided that all the by-laws and resolutions of the Corporation and amendments thereof and all the actions and deeds of the Corporation, including elections and appointments, automatically became those of the Association, unless there was an expressed stipulation to the contrary (Ex. 672).

This second document was a precautionary measure to provide unity and uniformity in the administration and procedure of both organizations if it was felt advisable not to dissolve the Association. The consent of two thirds of the members was easily obtained but a certain number of pilots refused to join the Corporation: as of April 25, 1960, 53 had signed and by September 27, 1963, 26 others had signed, leaving only 6 dissidents.

Since the 53 signatures represented more than the required two-thirds majority, the amendment was passed automatically without the necessity of holding an Association meeting.

The charter of the Corporation was granted on May 9, 1960, and when the Board of Directors of the Association met in a special meeting May 17, 1960, the Association had ceased to function for all practical purposes. Its Minute Book was closed and for the minutes of future meetings of the Board of Directors reference was made to the Minute Book of the Corporation as of the date of incorporation.

The aim of incorporation was to have the Corporation replace the Association for all purposes, *inter alia*, pooling the pilots' earnings, but, because some pilots did not join (and are still not members), it was decided to adopt the alternative plan and retain the Association so that all pilots would be treated alike. However, it is still intended to dissolve the Association immediately unanimity is achieved. In a circular letter in 1962 (Ex. 683) the Corporation's members were informed that the number of members had increased from 65 to 71, out of a possible total of 77, and the President reminded them that it would be desirable to have all pilots members of the Corporation before the Association deed expired in 1980.

There was also the question of the right to dissolve the Association without the unanimous consent of its members which was a point of contention on account of the text of Clause 28 and Clause 29 of the Association deed. The former stipulates that with the consent of two thirds of the members in good standing any part of the partnership deed may be modified or revoked while the latter states that the partnership agreement would take effect (that was in 1924) only if signed by all of the licensed pilots but once so signed, the partnership would exist and continue to exist irrespective of the number of its members in good standing. It is suggested that the contradiction is only apparent in that total enrollment was prerequisite to the creation of the partnership but once in existence it would not be automatically dissolved if any future pilot refused to join. On the other hand, a two-thirds majority can modify it. The Board of Directors obtained a legal opinion on the matter from their counsel which was to the effect that with the consent of two thirds of the members the Association could be dissolved. This was not done, however. Pilot Rousseau stated that the main reason was that dissolution would have deprived the dissident pilots of the various benefits they derived from the Association, such as pecuniary assistance in case of illness or suspension and the advantages of the pool. He denied that the reason was to ensure that the earnings of the dissidents went into the pool, thus making them contribute indirectly toward the expenses of the Corporation, which were automatically those of the Association in accordance with the amendment to the deed.

There is always the possibility that a new pilot may refuse to join both the Association and the Corporation or may cease to be a member (re his situation with regard to remuneration and indemnity benefit, vide pp. 481-482).

The Shipping Federation suggested that the Association is maintained to enable the Corporation to obtain control of the earnings of the six pilots who did not join the Corporation and whose earnings would have averaged \$90,000 a year during the three years 1961 to 1963. The Federation pointed out that if the dissident pilots had decided to work during the strike their earnings would have been deposited in the pool because they were members of the Association. The existence of the Association also allows the Corporation to cash the cheques issued by the Authority to the order of the Association, instead of to each individual pilot, because the Association deed is considered by the Pilotage Authority a power of attorney on behalf of all the pilots. This situation would no longer exist if the Association were dissolved.

The Association continues to exist but it has no activities of its own except *pro forma* ones. The Secretary continues to keep the general minutes of the meetings of the Association separate from those of the Corporation but there is no separate financial statement. The Association has annual meetings only and there are no meetings of the Board of Directors of the Association as such.

The annual meeting of the Association is distinct from the annual meeting of the Corporation which it follows. There is an agenda that is sent to all members. The meeting is formally opened but there has been no formal election to date because a member has always moved that the Board of Directors of the Corporation become the Board of Directors of the Association, and as there has never been a counter-proposal the motion has always been carried unanimously. If additional nominations were made, elections would be held as set out in the amended Association deed (Exs. 592 and 1461 (1)).

Although the financial statements are those of the Corporation, they could be studied at the Association meetings if a member so requested. On one occasion, a dissident pilot was refused the right to participate in the deliberations of the Corporation meetings. However, he would have had an opportunity at the Association meeting that followed, but by that time he had left. The situation is that the dissident members do not attend even the Association meetings. Therefore, since those in attendance are all members of the Corporation, they discuss and decide the same questions as those on the agenda for the Corporation meetings, and the Association meeting becomes *pro forma* in the absence of the dissident members. For all practical purposes it would be a futile move on the part of a dissident to reopen a question already decided by a vote at the Corporation meeting. Furthermore, an impossible situation would result if by chance the result of the ensuing vote at the Association meeting were different.

(c) *Corporation of the Lower St. Lawrence Pilots*

(i) *Creation of the Corporation*

At the 1960 general meetings of the "L'Association des Pilotes licenciés pour le Havre de Québec et en aval", the President, pilot Roland Barras, stated that a complete revision of the by-laws of the Association was necessary and the meeting concurred. In the ensuing election pilot Rousseau became the new President of the Association together with a complete new Board of Directors.

At its first meeting, the Board set out to implement the decisions taken at the general meeting and formed a committee chosen from all the pilots to study the proposed revision of the by-laws. In view of his experience in administration, and, since he was acquainted with the question and had advocated the revision, Past President Roland Barras was asked to sit on this committee but he declined. In addition, a letter was sent to all the pilots on January 25, 1960, asking for their suggestions.

The Committee sat many times. A first draft was prepared and submitted to the Association's legal adviser who, after studying the documents and considering the situation of the pilots, expressed the opinion that in their best interest it was advisable that they should be regrouped into a professional corporation of the kind that existed under the 1860 Act. In his opinion (dated March 18, 1960) the legal adviser stated that the Association's device had now served its purpose, but in view of the complexity of the present times the corporation system was indicated. For details of the advantages he listed, vide Part I, p. 86.

The legal adviser suggested incorporation under a Federal Act rather than a Provincial Act because pilotage is a federal matter. He pointed out that the ideal solution would be a special Act of Parliament like the 1860 Act but he added that the climate in Ottawa was not propitious at that time. He recommended incorporation under Part II of the Companies Act, since they formed a non-commercial, non-profit organization and the members continued to lease their services as pilots (Ex. 676). He also included a draft of incorporation documents and of by-laws for the suggested corporation that he had developed from the draft which the committee had sent him.

Copies of this opinion, incorporation documents and proposed by-laws, were sent to each pilot and the proposals were discussed at a study meeting held in March attended by the legal adviser. Because of their large numbers the pilots were divided into two groups; the first group met March 22, the second March 23. The bulletin calling this meeting drew the pilots' attention to the fact that the proposed draft contained many radical changes and they were asked to wait for the explanations that would be given them at the meeting before showing their approval or disapproval.

Two previous drafts had been prepared by the committee and had been studied and modified by the Board of Directors and the legal adviser so that it was the third draft that was submitted to the study meeting of the members. Each group studied the choice of incorporation or association and the proposed charter and by-laws item by item. The pilots who failed to attend either of these two meetings were provided with a copy of the third draft. The reaction of the pilots was favourable and some were ready to register immediately but they were requested to wait for the general meeting which was held March 29. Again the new regulations were studied in detail and it was only then that the pilots were told they could sign their applications for membership whenever they wished. The general meeting was not convened to obtain their signatures. Application forms were given to the pilots and they were told that incorporation would be sought when completed application forms had been received from two thirds of the District pilots.

As seen earlier, a second document was also distributed for signature. It provided for an amendment to the Association deed in case the Association was not dissolved.

During all the study meetings that preceded incorporation there was no discussion about the pilots transferring their earnings to the Corporation or the necessity of obtaining powers of attorney. Pilot Bédard, who presided at the committee study meetings, was unaware that a similar problem had arisen in another District and that each pilot had had to furnish a power of attorney so that his earnings could be paid to the newly formed Corporation by the Pilotage Authority.

There was no particular reason why the Quebec pilots were the last group to be incorporated. In their professional organization the Association was working well. When the By-law was amended it was realized that it would be advantageous to reorganize. The pilots, however, were not easily convinced and pilot Bédard spent a great deal of time explaining the advantages of the corporation system to his fellow pilots. At that general meeting 53 pilots signed the two documents. No pressure was exerted to obtain the support of the others and the only form of campaigning was the distribution of bulletins which explained the situation and urged the pilots who had not signed to join the Corporation. Pilot Barras, one of the six who did not join, agreed that he was not pressed, that he simply received the Corporation's bulletins and that the pilots were left free to sign if and when they wished. The Board of Directors of the Association waited until the signatures of two thirds of the pilots had been secured before they applied for a charter.

Pilot Maurice Koenig was one of the 53 who signed on March 29, 1960, after attending the various meetings, receiving explanations from the

legal adviser and participating in the discussions. However, he charges in his brief (Ex. 571) that "several Pilots, now wishing to withdraw their applications, were emphatically denied that privilege", but he produced no proof to support this assertion and the evidence is to the contrary.

Pilot Koenig stated that shortly after signing he changed his mind and requested the President to return his application form. This was refused. Pilot Rousseau, the President, denied the charge and stated that a few days after the meeting pilot Koenig had told him that some members were not kind to him and were criticizing him for joining and that he had gone to see the Secretary to withdraw his application form, but had since decided not to do so. Pilot Rousseau denied that pilot Koenig ever asked him to return his application. No written request to withdraw an application was ever received from anyone and this was the only occasion that a retraction was suggested verbally.

Pilot Rousseau stated that one reason why some pilots delayed their signature or even refused to join was not because they were opposed to the Corporation but because they resented the abolition of the special pilot system and the special privileges they had enjoyed. They were bitter against the majority who had voted to cancel the system. He based his opinion on the fact that the six pilots who were still dissident attended all the study meetings and from their attitude there was no reason to believe that they would ever oppose the change. Moreover, two of them were among those who, at the first meeting, wanted to sign the application for membership. The news of the abolition of the special pilot system took them by surprise at the beginning of the navigation season when some were already at Father Point waiting for their ships. As described earlier, the official word came from the Pilotage Authority in a telegram from Mr. Cumyn, dated March 30, 1960 (Ex. 688). The question had been under discussion for quite some time but some special pilots never thought that these discussions would bear fruit because of the strong opposition by the shipowners by whom they were employed as special pilots.

All the pilots licensed since 1960 have joined both the Corporation and the Association. As soon as apprentices pass their final examination they are invited by the President of the Board of Examiners who tells them the result. Successful candidates are then invited to the Corporation office where congratulations are offered in the presence of the Secretary, one of the members of the Committee of Admission and Promotion and others. Then the President of the Corporation welcomes them and explains briefly the various organizations in the Quebec Pilotage District telling them that *ipso facto* they are members of the Pension Fund Corporation, but to become members of the Association and the new Corporation they would have to sign the deed of the Association and apply for membership in the Corpora-

tion. They are also told that the Authority for which they will work is the Minister of Transport, but the attention of the candidates is not particularly drawn to the fact that once they have joined they can not resign from either the Association or the Corporation since it is assumed that this is well known.

It was pointed out that when the newly licensed pilots join they have had every opportunity to understand the whole situation because they have travelled for years with different pilots, have attended lectures during the winter and have had many chances to discuss organizational problems. Furthermore, before joining they can ask for all the information they want. However, pilot Robert Gilot stated that during the trips he had with pilots during his apprenticeship they seldom spoke about the various pilots' organizations, either Corporation, Association, Federation or Guild, and that, as a matter of fact, all he knew about them was that the pilots operated a pool system from which expenses were deducted.

Pilot Rousseau added that the apprentices are requested to sign as soon as they have successfully passed their examination, without waiting until their licence is issued. For instance, pilot Oscar Bouchard was licensed as a pilot on June 3, 1960, and he is shown as having signed the Association deed and joined the Corporation on April 22, 1960. In that case, pilot Rousseau was on the Board of Examiners and knew that the President of the Board had told Bouchard that he had passed the examination and that his licence would be issued by the Authority in due course. Therefore, in the opinion of pilot Rousseau, there was no reason for delay in joining the Association and the Corporation and he did not believe that actual possession of a licence was necessary under these circumstances since it often took the Authority a long time to issue licences.

The charter was granted May 9, 1960, incorporating the pilot petitioners under the name of Corporation of the Lower-St. Lawrence Pilots,—Corporation des Pilotes du Bas-Saint-Laurent—under Part II of Chapter 53 of the Revised Statutes of Canada 1952, known as the Companies Act. For the Corporation's aims as described in the charter, vide Part I, pp. 87-89.

The Corporation is a non-profit organization whose charter states that "the operation of the Corporation shall be effected without pecuniary gain for its members and that any profit or other benefit deriving from the Corporation shall be used to promote its objects".

The aims and powers of this Corporation are those of a truly professional organization and correspond to those of the first Corporation. The main difference (except for the question of control over the pilots' earnings) is that all the pilots were automatically and compulsorily members of the 1860 Corporation and governed by its decisions as long as they retained their licences, while membership in the 1960 Corporation is voluntary, its mem-

bers can be expelled and the decisions and actions of the Corporation can not affect non-members against their will. To do so would require a special Act of Parliament.

The by-laws provide for three categories of members: active, apprentice and honorary. In 1963, there were members of the first category only—71 active pilots. The Corporation has not yet appointed any honorary member and none of the pilot apprentices has asked to join.

The active members are (i) persons named in the Letters Patent of incorporation, (ii) all licensed pilots who are members of the Association des Pilotes licenciés pour le Havre de Québec et en aval and who applied in writing not later than 60 days after the date of incorporation, (iii) all other licensed pilots provided they apply in writing and are accepted by the Board of Directors of the Corporation.

The loss of his licence automatically deprives a pilot of his membership, but the restoration of his licence does not automatically reinstate him as a member since the approval of the Corporation Board is a prerequisite.

The by-laws provide for the suspension or the exclusion of a member from the Corporation as a disciplinary measure, but this section was inoperative at the time of the Commission's hearings in 1963 because the disciplinary apparatus provided by the by-laws had not been implemented. Sec. 104 requires the members convened at a general meeting to pass a special resolution but this had not been done.

The fact that a pilot is not a member of the Corporation does not affect his right to exercise his profession because, whether he elected or not to join the Corporation or was refused or expelled by it, he holds his licence from the Pilotage Authority and not from the Pilots' Corporation.

At the time of the Commission's hearings no request for membership had ever been refused and the only licensed pilots who were not members, i.e., the six dissidents, had voluntarily elected not to join.

The by-laws provide that once a pilot has been admitted as a member of the Corporation he can not resign his membership as long as he remains an active pilot. It was submitted by the Pilots' Corporation that this provision is not contrary to normal usage because the regulations of the Association contained a provision which was for all practical purposes similar and, in addition, the by-laws were approved by the Secretary of State (vide Part I, pp. 89-90). The pilots could not have been taken by surprise since they all knew about that particular clause when they signed the membership form. Pilot Rousseau believes that such a clause is necessary to maintain good administration in the organization, otherwise it would not have the desired stability. If a pilot ceases to be a member because his licence is cancelled, he has no choice when his licence is restored but returns to membership by resolution of the Board of Directors if they so decide (General By-law No. 1,

subsec. 7(b)). Re the legality of alleged compulsory membership, vide: Part I, pp. 89 and 90; and Gen. Rec. 25 for the Commission's comments and recommendation.

The Corporation is administered by a Council of seven: the President, the Vice-president, the Past President and four Directors. The President is a member of the Board for a period of two years, i.e., one year as President and one year as immediate Past President; the Vice-president holds office for one year only while the four Directors are elected for two years, two being elected every year; the President is limited to three consecutive terms in that office.

As seen earlier, the Board of Directors of the Corporation is also (a) the Board of Directors of the Association, (b) with the exception of one member the Board of Directors of the Pension Fund Corporation which is limited to six by the 1860 Act, and (c) the Pilots' Committee which according to subsec. 5(2) of the Pilotage District General By-law is composed of six members. When the charter was granted effective May 9, 1960, the Board of Directors of the Association acted as the temporary Board of Directors of the Corporation until the first general meeting was held on the second Wednesday of January 1961.

(ii) *Meetings*

The date of the annual general meeting is fixed by the Corporation by-laws as the second Wednesday in January. In addition, special meetings may be called at any time at the request of the Board of Directors or at the request of at least two thirds of the active members. Except in case of emergency, a minimum of eight days' notice must be given each member.

The quorum is 40% of the members (sec. 53). No meeting has ever been adjourned for lack of a quorum and there has always been a large attendance, e.g., sec. 304 of the Pilots' Brief and Ex. 1466(u):

January, 1961, 51 out of 65 members, i.e., 78.5%;
 January, 1962, 52 out of 71 members, i.e., 73.2%;
 January, 1963, 71 out of 77 members, i.e., 92.2%;
 January, 1964, 71 out of 77 members, i.e., 92.2%;
 January, 1965, 76 out of 82 members, i.e., 92.7%;
 January, 1966, 80 out of 86 members, i.e., 93 %.

The 40% quorum consists of members actually in attendance and proxies are not counted. Proxies are accepted for elections to accommodate the pilots who are on duty but all other matters are decided by a majority vote of the members present (sec. 57).

(iii) *Elections*

Elections are governed strictly by the procedure laid down in the by-laws. The first step is to appoint a nominating committee consisting of the Past President and four members chosen by the Board from those who

are not Directors. It must be constituted at the latest on November 15 each year. Candidates are proposed in writing on a form made available to all members by the Secretary. The nomination forms, each signed by two members and by the candidate to indicate his acceptance, must be received by the Committee by December 15 (Ex. 682). Then a list of candidates is drawn up and mailed to all members.

For the January 1963, election the Committee was formed November 14, 1962. The selected members were notified, as were all the pilot members, by a notice mailed November 16, 1962 (Ex. 682) together with a nomination form. All the offices to be filled in the 1963 election were listed: President, Vice-president, two Directors and two members of the Admission and Promotion Committee. When the Nominating Committee met December 23, 1962, they had received one nomination for the Presidency, one for the Vice-presidency and two only for the two members of the Admission and Promotion Committee, but there were four candidates for the two posts of Director. Hence, an election had to be called.

Normally, there are separate votes for President, Vice-president and two Directors. The election is presided over by a Chairman elected by the meeting and the names of the candidates are printed on the ballots (Ex. 714). Photostat copies of the six nomination forms are filed as Ex. 719.

Pilot Rousseau, who was elected President of the Association in 1960, became temporary President of the Corporation after incorporation and was re-elected at the next three annual meetings. In accordance with the terms of the by-laws, 1963 was his last consecutive year in office as President.

(iv) *Items for the agenda*

Every year prior to the annual general meeting it is the practice to bring to the attention of the members secs. 56 and 100 of General By-law No. 1 which set the final date for proposing any item for the agenda, either as a motion or an amendment to the by-law. These sections require that the text of the proposal be filed at Corporation headquarters at least fifteen days prior to the meeting in the case of a resolution and thirty days in the case of an amendment to the by-law.

In practice, however, when all the items on the agenda have been dealt with at the meeting anyone is allowed to bring up new business but the policy has been that no fundamental decisions are taken except with the unanimous consent of all those present and even then the Board of Directors is not bound if, after study, it is not deemed advisable to implement the meeting's decision.

Only once was a pilot refused the right to speak at a meeting of the Corporation and this was because he was not a member. At the opening of the general meeting of the Corporation in 1961 the President noted the attendance of a non-member and after welcoming him, invited him to sign the membership form, pointing out that he would adjourn the meeting in

order to enable the Board of Directors to sit for the purpose of admitting him as a member. The non-member declined the invitation. With the consent of the majority of those present, the non-member was allowed to attend the meeting but without the right to participate in the discussion. At one stage when he wanted to ask a question, he was not allowed to do so but was reminded, however, that immediately following the Corporation meeting there would be an Association meeting where, as a member of the Association, he would have the minutes of the General Meeting of March 29, 1961 (Ex. 681).

In addition to the regular annual meetings, which were held in January 1962, and following years, there were two Special General Meetings held April 4 and April 6, 1962. The latter, which lasted more than one day, was in connection with the 1962 strike which will be studied later.

The Board of Directors meets whenever required but at least once every four months. These meetings are not held in camera and, in accordance with sec. 15, any member may attend but can not participate in the deliberations. In fact, many members do take advantage of this privilege. The by-laws, however, do not provide a procedure for notifying the members of the date and time of Board meetings.

(v) *By-law amendment, cancellation or addition*

Since incorporation is under Part II of the Federal Companies Act, any amendments or additions to the existing by-laws take effect only from the date of their approval by the Secretary of State.

Changes in the by-laws can be initiated either by the Board of Directors or by one member or by a group of members:

- (A) The Board of Directors by a majority vote may pass any by-law or any amendment to a by-law which is and remains valid and effective until a special meeting held for the purpose of approving it or until the next annual general meeting, failing which the new by-law or amendment becomes void. This special power was given to the Board of Directors only after much discussion and for a reason that is peculiar to pilotage, i.e., it was deemed inadvisable to convene a general meeting during the navigation season for the purpose of amending a by-law because to hold a true general meeting would mean, in effect, a stoppage of work. This power was used once in 1961 when it was necessary to amend By-law No. 2 to provide for the payment of the \$25 premium to Class A pilots following the amendment of the District By-law. Otherwise this premium would have become part of the pool.
- (B) Any member may propose a new by-law or an amendment at any regular general meeting provided the text of the proposal is filed with the Corporation thirty days prior to the meeting.

- (c) Two thirds of the members can have a by-law or an amendment passed by having a special meeting convened at which a majority decision is obtained.
- (d) At the annual general meeting, without pre-notice, a by-law may be passed or amended by a majority decision, but the Board of Directors is only indirectly bound by such a decision and is entitled to modify it as stated above. It was pointed out that since a quorum is only 40% of the members, which in 1963 was 21 members, this procedure enabled 21 pilots to amend the by-laws of the Corporation, and *ipso facto* of the Association, without the dissident pilots being consulted.

(vi) *Remuneration of Directors*

Although the practice of granting free turns did not commence until 1960 when the new Pilots' Corporation was set up, the principle was not new. Under the 1860 Corporation system the pilots entrusted the management, both of their Corporation and of the pilotage service, to their Directors who were excused from performing actual pilotage duties during their term of office. The pilots who were chosen to be Masters of the pilot schooners which the Corporation owned were similarly treated. Since both the Directors and the schooner Masters served the common interest of the pilots as a group, they shared in the pool as active pilots, despite the fact that they performed no pilotage. The Pilotage Act, and later the Canada Shipping Act, made it obligatory for one of the Directors of the Quebec Pilots' Corporation to be on duty and present in person at one of the pilot stations to oversee despatching and to keep a journal of events for the benefit of the Pilotage Authority (vide, *inter alia*, sec. 513, 1906 C.S.A.). The law even authorized the Board of Directors to pay out of pilotage revenues each of its Directors and each of the Masters of the schooners "an additional remuneration that was not exceeding in any one year \$100 over and above his share in the net income of the said Corporation" (vide secs. 511 and 512, 1906 C.S.A.).

When the pilots united in a civil partnership in 1920, no provision was made to reimburse the Directors for the time they spent for the benefit of the group or to pay them any salary.

Under the "Association des Pilotes licenciés pour le Havre de Québec et en aval" the functions of the Directors were much less involved and demanding, since all administration was done by the Pilotage Authority and the Directors were left to supervise the affairs of the Association and the pooling of the earnings on a voluntary basis.

In 1957 or 1958, the question of the Directors' remuneration was raised when a pilot suggested granting them turns instead of money. His suggestion was not approved at the time but when the Corporation was formed it was adopted.

When the Corporation was formed; the activities of the Quebec pilots' organizations increased considerably and the pilots decided to compensate their Directors and those pilots who did special work during the normal navigation season by granting them free turns at the rate of half a turn for one day of work. However, they refused to give any of them, even the President, any remuneration in cash (vide pp. 481 and ff.).

Some pilots have objected to this procedure because a turn for a pilot is worth more than its monetary value in that it represents the work done as a pilot and the risk involved, such as losing one's licence, a responsibility a Director does not share when he gets a free turn.

In addition to the free turns granted, actual expenses incurred on behalf of the Corporation are reimbursed. An itemized claim has to be furnished on a form provided for this purpose (Ex. 678).

It was moved at the general meeting on January 10, 1962, that the Directors be given remuneration for work done during the winter months, i.e., \$500 for the President and \$200 for the other members of the Board. When the proposal came before the meeting the President left the room during the discussion, a secret ballot was taken and the proposal was rejected by a vote of 40 against 9 (Ex. 679).

(vii) *Consultative procedure*

Because it is not practicable to hold special meetings of the Corporation during the navigation season the Board has adopted a consultative procedure which involves sending a letter to each pilot, whether or not he is a member. An example is a letter dated June 5, 1963 (Ex. 638) containing the draft recommendations which the Corporation intended to submit to this Commission. Each pilot was requested to study the proposals and forward his comments to the Corporation within a given time. No answer would mean agreement. The Board received six letters which either disagreed with the recommendations or stated that they did not go far enough.

(viii) *Affiliation*

Sec. 85 provides for affiliation with the Federation of the St. Lawrence River Pilots and with the Canadian Merchant Service Guild and for payment of the necessary dues. It was pointed out that the Corporation continued the policy of the Association which existed prior to the Corporation. However, since the Corporation is not fully representative of the Quebec pilots, it is not a group member of the Federation but the Association, which was a founding member, remains the group member for the Quebec District Pilots.

(ix) *Corporation committees*

The Corporation structure, as provided by By-law No. 1, contains an innovation: the creation of committees to assist the Board of Directors, either standing committees or *ad hoc* committees. The President of the

Corporation is *ex officio* a member of every committee but in practice he does not attend all their meetings. They report to the Board of Directors. The standing committees are:

- The Internal Management Committee
- The Admission and Promotion Committee
- Disciplinary Committee
- Appeals Committee.

The Internal Management Committee, which plays the rôle of Manager, is composed of four members of the Board of Directors: the President, the Vice-president and two Directors. It must meet once a month. In practice, there were more meetings of the Board of Directors than of the Management Committee because all the Directors were available.

The Admission and Promotion Committee is also composed of four members, two of whom are elected at the annual general meeting and two are appointed by the Board of Directors. Two appointments were left to the general meeting so as to give the members the opportunity to appoint some members of this important committee. Its responsibilities, functions and activities were studied earlier.

Sec. 84 of By-law No. 1 lists the obligations of members: to abide by the regulations of the Corporation as well as the regulations and other rules concerning pilotage and to refrain from any action or conduct which might affect the efficiency and good reputation of the pilotage service, but this section is not operative since there is no power to enforce it because the Disciplinary Committee and the Appeals Committee have not been activated for lack of the requisite special resolution approved by a general meeting.

Pilot Rousseau was of the opinion that it would be in the best interest of the pilotage service if the Disciplinary Committee became operative. However, he thought that the members of this committee should come from outside the Pilots' Corporation, a solution which is not permissible under the present by-laws of the Corporation.

From time to time, other committees are formed for specific purposes, e.g., during the winter of 1960 up to 45 pilots worked on various committees, and at one time up to 25 pilots worked during the winter months on the Statistics Committee convened to study the statistics used by the Department of Transport.

(x) *Finance*

Section 88 of Corporation By-law No. 1 provides for annual and special dues, but this method of financing has not been adopted. Instead, the practice followed by the Association when it was active has been continued, i.e., the Corporation uses pool money to meet its expenses and treats the pool as if it were its own fund, even though it includes the earnings of non-members.

This procedure is purported to be authorized by sec. 7 of Corporation By-law No. 2 dealing with the administration and operation of the pool, which provides that administrative expenses and all other disbursements in the interest of the Corporation, or the general interest of the members, shall be paid out of the common fund before it is distributed. This by-law is ultra vires since only a specific Act of Parliament (as was the case for the 1860 Pilots' Corporation) can give the Corporation full control of its members' professional earnings (with even greater emphasis on the need for legislation to control the earnings of non-members).

This method of financing may be adopted if the unanimous consent of the pilots is obtained, since each individual pilot has the right to dispose of his personal earnings as he sees fit. The Corporation's complete control of the pilots' earnings and of the operation of the pool is purported to be derived from the provision covering the pooling agreement (Association). By a general provision added by a majority decision in 1960, the by-laws enacted by the Corporation were purported to become *ipso facto* those of the Association and, hence, part of the pooling deed. Such blanket authority without the unanimous consent of all parties concerned with the pooling deed is void since it changes the nature of the contract and, therefore, is in reality a new agreement which can bind only those who have specifically given their consent to it (vide Part I, pp. 90 and ff.).

This situation has arisen mainly as a result of confusing two legal entities which are different in nature and purpose. On one hand, the Association is merely a partnership for the purpose of pooling the pilots' earnings (hence, the assets of the partnership) while, on the other, the Corporation is a non-profit, professional organization which nevertheless may pool the pilots' earnings but only by virtue of a trust contract with all the pilots concerned. The Corporation has no proprietary rights over the pilots' earnings. Failure to realize this distinction has not only caused an illegal situation but has also resulted in a false picture of the Corporation's administrative expenses in that the annual financial statement of the Corporation follows the same format as used by the Association and no separate accounting is given of the expenses of the Corporation as such and the cost to the Corporation of administering the trust. The Corporation's financial statement treats the pilots' earnings—members and non-members—as if they belonged to the Corporation, and under Corporation *expenditures* lists indiscriminately Corporation administrative expenses and those group expenditures and reimbursements to individuals that pertain exclusively to the operation of the pool.

This confusion is the main cause of the criticism of some pilots that the Corporation is very much more expensive to operate than the Association used to be. However, when the Corporation's administrative expenses (excluding free turns) are separated from pool group expenditures and studied item by item, surprisingly enough it becomes apparent that very few

Study of Quebec Pilotage District

of them would not have been incurred if the Corporation had not existed and if the pilots had continued to operate under the Association.

In order to study the situation in the right perspective, the Commission has regrouped the expenditures shown in the financial statements of both the Association and the Corporation, to the extent this was possible from the details available. Miscellaneous items with no detailed explanation since 1963 have been entered *en bloc* as administrative expenses although many are group expenses such as charities, floral tributes and masses.

The following table shows for the years 1955-1968 inclusive the result of segregating Association and Corporation expenditures in this fashion. In addition, in order to convey the real picture of the cost of administering the Corporation, the monetary value of the free turns given to the Corporation Directors and to other pilots who did some work for the benefit of the pilots as a group has been added to the administrative expenses. Except for the monetary value of the free turns and for the small undistributed balance at the end of each year, the amount appearing in the first column of the table shows the total of all the pool money spent before distribution to the pilots.

POOL EXPENDITURES AND ADMINISTRATIVE COSTS
PRIOR TO DISTRIBUTION TO PILOTS

Year	Total expenditures prior to distribution	Expenditures other than administrative costs*	Administrative Costs		
			Expenditures	Monetary value of free turns	Total
	\$	\$	\$	\$	\$
<i>Association</i>					
1955.....	10,273.11	2,974.00	7,299.11	—	7,299.11
1956.....	13,653.46	3,566.24	10,087.22	—	10,087.22
1957.....	14,391.36	4,091.43	10,299.93	—	10,299.93
1958.....	14,854.54	3,470.00	11,384.54	—	11,384.54
1959.....	18,854.39	6,366.24	12,488.15	—	12,488.15
<i>Corporation</i>					
1960.....	38,845.76	11,086.00	27,759.76	9,870.11	37,629.87
1961.....	33,820.40	14,666.90	19,153.50	6,760.75	25,914.25
1962.....	43,892.80	24,415.80	19,477.00	8,198.75	27,675.75
1963.....	46,084.56	27,425.00	18,659.56	12,739.50	31,399.06
1964.....	41,586.55	21,367.17	20,219.38	11,315.20	31,534.58
1965.....	63,087.84	33,085.67	30,002.17	8,587.28	38,589.45
1966.....	74,191.40	44,453.86	29,737.54	10,838.75	40,576.29
1967.....	95,712.20	63,665.45	32,046.75	11,119.25	43,166.00
1968.....	114,337.72	85,243.73	29,093.99	15,421.38	44,515.37

* Exclusively comprised of group expenses except for one small item: reimbursement of expenses to pilots—which occurred only in the years 1956, 1957 and 1959, and amounted to \$15.24, \$37.43 and \$19.90 respectively.

SOURCES: Ex. 597, and Tables pp: 285 and 483.

The following table gives the breakdown for five selected years of expenditures thus segregated: 1955 and 1959 for the Association, and 1960, 1964 and 1968 for the Corporation.

Items of Expense	Association		Corporation		
	1955	1959	1960	1964	1968
<i>Administrative Costs</i>					
Staff salaries.....	\$ 3,600.00	\$ 5,334.08	\$ 7,156.12	\$ 9,012.91	\$ 13,266.39
Stamps.....	50.76	127.08	249.00	247.85	372.28
Rent.....	840.00	840.00	840.00	1,584.34	1,624.50
Telephone and telegraph	180.22	355.94	990.74	363.58	486.82
Books, stationery and printing.....	294.57	558.30	981.37	2,160.52	2,098.24
Annual meeting.....	290.64	284.83	298.53	333.72	501.31
Directors—travel.....	1,144.55	2,742.31	2,918.52	719.76	3,732.11
Representation and Directors—meetings.....	36.44	331.25	1,379.54	2,063.60	1,638.75
Legal and others.....	—	625.00	11,837.22	999.23	2,961.03
Guild meeting at Quebec	—	325.07	—	—	—
Depreciation—office furniture.....	—	—	—	424.79	538.14
Audit.....	250.00	250.00	300.00	300.00	650.00
Royal Commission on Pilotage.....	—	—	—	1,371.87	—
Miscellaneous.....	611.93	714.29	808.72	637.21	1,224.42
Total administrative costs.....	7,299.11	12,488.15	27,759.76	20,219.38	29,093.99
<i>Other Disbursements out of the Pool</i>					
Reimbursement to pilots—winter expenses.....	—	19.90	—	—	—
Contribution to Pension Fund (Trust Company fees).....	—	—	—	787.50	—
<i>Group Expenses</i>					
Guild contributions.....	2,748.00	5,000.34	3,580.00	8,523.00	10,300.00
St. Lawrence Pilots' Federation dues.....	—	1,125.00	7,120.00	11,991.67	15,268.75
Chamber of Commerce..	76.00	71.00	86.00	65.00	65.00
Gifts to retiring pilots....	150.00	150.00	300.00	—	300.00
Group insurances.....	—	—	—	—	59,309.98
Total Expenses.....	\$10,273.11	\$18,854.39	\$38,845.76	\$41,586.55	\$114,337.72

SOURCES: Exs. 597 and 1538(v).

Trust Company fees for safeguarding Pension Corporation bonds and for services rendered in the administration of the Pension Fund that have been paid out of the pool 1961-1966 (p. 502) have not been included in Corporation administrative expenses. These payments were not additional expenses of the Corporation, but a further contribution by the pilots from their earnings to their Pension Fund.

Although these three organizations are administered by the same staff, because there is no satisfactory way of segregating those administrative costs such as rent, telephone, salaries and electricity which pertain to the administration of the Pension Corporation, and because the incidence of these must be small, they are disregarded, as are the flat amounts which were paid in compensation by the Pension Fund Corporation up to 1960 inclusive and which were resumed in 1968 (p. 502). The Association causes very little expense since it really became dormant when the administration of the pool was taken over by the Corporation when it was created in 1960. Disbursements on its behalf would be associated with convening and holding its annual meeting and this is only a *pro forma* procedure.

Aggregate administrative costs properly speaking over the 14-year period have shown a moderate increase considered in relation to the general increase in all parts of the economy, the greater activities of the Corporation, which were warranted and even imposed by circumstances, increased administration due to these additional activities and the larger number of pilots. In contrast, group expenditures incurred on behalf of the pilots individually have increased tremendously, e.g., the aggregate dues payable to the Guild have risen from \$2,748 to \$10,300 and when the members of the Association joined the Pilots' Federation in 1959 they incurred a liability which in 1968 amounted to \$15,268.75 paid out of the pool. The introduction of group insurances in 1965 accounted for most of the increase in the total expenditures from the pool amounting in 1968 to \$59,309.98 out of a grand total of \$114,337.72.

A review of the various operating costs from year to year shows that the increase in administrative expenses from \$12,488.15 in 1959 for the Association to \$29,093.99 for the Corporation in 1968 arose almost entirely from items that would also have been commitments of the Association. The increased administrative work required that the Secretary-Treasurer be given an assistant and it was normal that his own remuneration be increased from time to time. The increase in such items as stamps, rent, telephone and telegraph, books, stationery and printing, and annual meeting expenses was normal. Directors' expenses and representational expenses have varied from year to year according to the nature and the extent of the problems the Board of Directors had to deal with. The aggregate amount of \$5,370.86 in 1968 compares favourably with the total of \$3,073.56 incurred by the Association Directors in 1959. Legal expenses and the fees of other consultants

have varied from year to year according to the nature and number of problems encountered. Except for the cost of incorporation reflected in the 1960 item, the other expenses would have been incurred whether the Directors charged with defending the pilots' rights and promoting their interests were Directors of the Association or of the Corporation.

In 1965, the Corporation was billed for \$1,537.75 to entertain the National Committee of Pilots of the C.M.S.G. convention held at Quebec that January. In 1959, when the convention was also held at Quebec, the Association incurred similar expenses.

Group insurance covers life and medical insurance for the members of the Corporation. For income tax purposes, it was found advantageous to call these premiums a Corporation expense. The right of the Corporation to impose such group plans on its members is being challenged in court by a member (Quebec Superior Court 152.519 Jacques Dubé v La Corporation des Pilotes du Bas St-Laurent and La Confederation Life Compagnie d'Assurance-Vie) (Ex. 1538(x)).

The Corporation has no assets of its own except office equipment purchased from the common fund, i.e., all pilotage dues including the earnings of non-members. In 1958, when the Association was still functioning, these assets were valued at \$2,549.96; a 10 per cent depreciation was charged for the first time in 1964. In 1968, these assets were valued at \$5,381.39. This creates an ownership problem which would not have occurred if the purchase price had been paid out of Corporation funds derived from membership dues.

A condition of Association affiliation with the Federation is the payment of all Federation assessments which are levied without discrimination and pro-rated according to the Federation by-laws on a per capita basis among all active pilots in the Federation. Both Guild and Federation dues are paid for the six dissident members because they are all members of the Association, which is a group member of the Federation.

The Guild dues were \$48 per pilot in 1955, and \$75 per pilot in 1962; they increased to \$118 per pilot in 1968. The Federation dues vary from year to year, e.g., in 1962, there was a special assessment of \$125 per member in addition to the normal \$100 fee, making the total regular contribution to the Federation \$7,700 plus the special contribution of \$9,625. In 1968, the Federation fee was \$175 per pilot with no special assessment making an aggregate contribution to the Federation of \$15,268.75 (Ex. 1538(w)).

The Corporation reserves only a small amount to cover operating expenses during the winter months. At the end of 1968, this temporary reserve amounted to \$14,067.12.

A planned budget is not feasible because the aims and nature of the Corporation cause it to incur many extraordinary and unforeseen expenses,

e.g., it would have been impossible to anticipate the expenses involved in opposing Bill S-3. The Board has entire discretion and can authorize any expenditure without being obliged to seek the approval of a general meeting. The procedure is to have all items of expenditure approved by the Board of Directors prior to payment. However, normal recurring expenses are paid on receipt of invoices without waiting for the approval of the Board of Directors. Substantial items are not pro-rated over a period of months but are paid as soon as the invoice has been approved by the Directors.

Cheques are co-signed by the Secretary-Treasurer and one of the Directors.

According to the By-law, the fiscal year corresponds to the calendar year, but a resolution was adopted to end it December 15 in order to allow the Treasurer and auditors time to prepare audited financial reports for the general meeting held on the second Wednesday of each January.

The Secretary-Treasurer is not an elected officer, being neither a member of the Corporation nor a pilot but an employee of the Corporation. In his capacity as Treasurer he is bonded, as required by the by-law, for \$10,000 in the form of an insurance policy. As Secretary he keeps the Minutes of the meetings and is in charge of administration. He also doubles as Secretary-Treasurer of both the Association and the Pension Fund Corporation.

(xi) *Audits*

The Corporation employs the same firm of Auditors as the Association did, Samson, Bélair, Côté, Lacroix et Associés, who have audited the books of the Association and the Corporation for over 20 years.

They have never found any incident of misappropriation or fraud, the books have always been kept satisfactorily and they have never had to report any financial irregularity. They balance the earnings of the Corporation against the documents sent at the end of each year to the Department of Transport as confirmation. The bank account and the portfolio of securities in the Trust Fund are similarly verified.

Expenses are verified item by item because these transactions are not numerous; the minutes of the meetings are checked to make sure that the expenses were approved. The auditors reported that both the minute books and the bookkeeping records are well kept. They corroborated that there are no reserve or accumulated funds that could be used as a strike fund.

When the auditors verify pilotage earnings, they obtain from the Department of Transport information about the revenues derived from pilotage, movages, winter navigation, fines and other sources.

The audit is completed in two stages. Because the Corporation asks for the financial report at the beginning of January, the main part of the audit is done during November or December and the remainder is completed after December 15 when the books are closed.

During the audit, spot checks are made to ensure that the distribution was properly made and not to dummies or fictitious persons. At the request of the Corporation the details of the actual distribution of pilotage money are included as *Annex B* of the Corporation's annual financial report, to take advantage of the auditors' printing facilities and to furnish all the information in one report, but this is not part of the auditors' responsibility, e.g., they do not verify the number of turns allocated to each pilot. Their duty is to verify whether all the earnings are shown on the financial report, whether the allocations are all recorded and whether only active pilots participate. To that end they keep an up-to-date list of the active pilots and verify from the cheque returns whether funds were correctly distributed.

Each distribution is authorized by a resolution of the Board of Directors in a given amount to be divided among the pilots in accordance with the number of turns they have completed.

Annex C to the Corporation's annual financial statement is also not a responsibility of the auditors. It shows the details of all distributions (e.g., during 1962, there were 16 temporary distributions and one final distribution) and also lists other items of expense which the auditors verify. All expenses are supported by vouchers. This table analyzes expenses and is available at the general meeting as requested by the pilots.

In *Annex D* under the heading *General Information* the auditors also verify all those items which are reported by the Department of Transport and agree with the entries in the Corporation's books. While the auditors have no responsibility for the authenticity of the pilots' seniority list, they do verify the list with the up-to-date list they maintain themselves as stated in this Appendix.

There is a separate report from the Corporation of Pilots for the Harbour of Quebec and below (Trust Fund) but there is no longer any financial report by the Association.

Since the final distribution is based on money earned up to the date of the report but not yet collected, and since a reserve must be kept to meet the Corporation's expenses during the winter months, the final distribution is shown on the report as accounts payable to the pilots. In 1962, for instance, this amounted to \$750 per pilot.

COMMENTS

There is a basic error in the way the financial reports (Ex. 597) are presented in that the pilots' earnings (even those who are not members of the Corporation) are shown as assets and revenues of the Corporation and the operation of the pool as part of the Corporation's own financial operations.

In order to regularize the financial operations of the Corporation it would be necessary to implement the Commission's General Recommendation No. 25 and the procedure suggested therein (Part I, pp. 549 and ff.).

Until this is done, it is considered that the financial operations of the Corporation should be segregated from those of the pool. The first step in that direction would be to provide the Corporation with funds of its own through the imposition of Corporation dues. The financial report should also reflect the true legal situation and deal separately with the Corporation and the trust fund it administers.

(xii) *Bulletins and reports*

All pilots in the District are regularly informed of the activities of the Corporation by periodic bulletins averaging 17 per year (Ex. 688). In addition, at the annual general meeting, the President makes a detailed report which sums up the activities of the Corporation and other events during the year (Ex. 683). The only documents not sent to non-members of the Corporation are those pertaining to the Corporation exclusively, e.g., Corporation meetings and elections. However, non-members receive similar documents regarding Association meetings and since the financial statements are the same for both organizations they are sent to all pilots.

The bulletins cover every conceivable topic, e.g., the bulletin dated April 24, 1961, informed the members about the admission of new members, the retirement of pilot Lachance, group insurance, the activities of various committees, the draft replies to the briefs of the Shipping Federation and the Dominion Marine Association, the new despatching rules. A list of the official mileage of normal trips throughout the District was also given, e.g., Quebec to Les Escoumins, 123 miles, Quebec to Port Alfred, 162 miles. The outstanding accounts receivable for the years 1959 and 1960 were listed and the pilots were requested to inform the Corporation if they happened to see any of the ships involved so that recovery proceedings could be taken. Another bulletin dated September 5, 1961, served as a covering letter for the transmission of printed copies of the new by-laws for the Pension Fund Corporation, the Pilots' Corporation and the Federation. It drew the attention of the pilots to the Notice to Mariners concerning the use of accommodation ladders, as well as the fog horn at Les Escoumins, automobile insurance, a proposal from the Guild, the depth at the Irving wharf at Sillery and dredging at buoy 109. A bulletin dated March 9, 1962, included the members of the various committees of the Corporation, the member-delegates to the Federation and a report of the Guild meeting held in Montreal February 21 and 24.

The bulletin dated February 25, 1963, informed the pilots about the activities of this Commission and with reference to the Federation's brief reminded the pilots of a Federation bulletin and a questionnaire sent to the pilots dealing with legislation, administration, nature of pilotage, status of pilots, function of pilots, maritime safety, professional security of pilots, tariff, remuneration of pilots, existing conditions of pilotage in each District, organization of various pilot groups, apprenticeship and recruiting, plus other questions pertinent to the Quebec District.

Whenever briefs are received or prepared, a copy is sent to each member. Following this practice the pamphlet issued by the Shipping Federation and the submission of the Dominion Marine Association to the Minister dated April 14, 1961, regarding exemptions, were sent to the pilots, as was the brief to this Commission prepared by the dissident member, pilot Koenig.

In his annual address to the Corporation, the President reviews all the activities and gives necessary explanations (Ex. 683). For instance, in 1960, he told the pilots that a great deal had been accomplished through the efforts of the officers of the Corporation who worked hard without remuneration. He pointed out that the turns that were granted in lieu of remuneration covered but a small part of the actual work performed. He explained the extraordinary expenses that had to be incurred to defend the interests of the pilots: e.g., in the spring, they had to prepare a submission to the Department to present their demands and later on, in order to answer the pamphlet published by the Shipping Federation, it was necessary to make representations to members of Parliament and Ministers and to mount a press campaign. He pointed out that all difficulties were not over because the Dominion Marine Association had presented a brief to the Minister to obtain further exemptions and the Shipping Federation had filed a brief with the Department complaining about the pilots; therefore, additional extraordinary expenses were to be expected next year.

(xiii) *Dissidence among pilots*

The Quebec District pilots are not unanimous on the subject of the type of organization they should have. Some pilots have refused to belong to the Corporation; in 1963 there were six—all licensed prior to 1960. Moreover, a feeling of dissatisfaction was apparent: one pilot, a member of the Corporation, pilot Maurice Koenig, presented a brief to the Commission (Ex. 571) requesting to be heard to voice his grievances; and furthermore, after the Quebec hearings, a petition in writing dated March 12, 1964, was presented to the Commission by 21 pilots but five later withdrew (Ex. 1322).

Of the six pilots who refused to join the Corporation, none asked to be heard or volunteered to give evidence. In order to understand the reasons for their disagreement, the Commission subpoenaed one of them—pilot Roland Barras, President of the 1959 Board of Directors, who was defeated together with all the other Directors at the 1960 election by the new group that was later instrumental in bringing about basic changes in the pilotage organization.

Pilot Barras stated that he prefers the Association to the Corporation for two reasons:

- (A) He feels that he is more protected personally by the Association than by the Corporation. For instance, he expressed the opinion that in the case of a strike by the Corporation, if the shipowners decided to sue the Corporation, it would be the members who would

have to pay eventually while the Association could not be sued as such and a member of the Association can not be affected by such legal proceedings unless he is sued personally.

- (B) He is further of the opinion that the operation of the Association is much less expensive. In particular, no free turns were ever given to compensate the Directors of the Association who attended meetings and the Directors were merely allowed to catch up their lost turns. The value of the free turns granted to the Directors of the Corporation is substantial and is not shown on the financial statements of the Corporation.

Not having joined the Corporation, he can not understand why his earnings are paid by the Authority to the Corporation to which he does not belong and which, against his will, forces him to share its expenses. He points out that the Pilotage Authority has always remitted to the Association and not to the Corporation but the financial statement which accompanies his cheque is no longer from the Association, instead it is a balance sheet from the Corporation. He has noticed that administrative expenses have increased considerably since incorporation and that on the balance sheet the expenses are divided among all the pilots, no distinction being made for the six pilots who are not members of the Corporation.

He feels that this is illegal and he reserves his right to claim everything that was retained from his earnings in this way by the Corporation. He has never demanded a complete accounting because in order to enforce such a demand he would have to sue the Corporation and in order to defend itself the Corporation would incur legal fees that he would indirectly have to pay because these fees would then become a Corporation expense (as an example of this, vide p. 480).

He complains of discrimination against the six dissidents in that since the formation of the Corporation none of them has sat on the Board of Examiners because, as a rule, the pilot members of the Board of Examiners are Directors and those who are not members of the Corporation can not now become Directors.

Pilot Maurice Koenig voiced his vigorous disapproval of the present pilotage administration and the Corporation of which he is a member. First he filed a formal brief (Ex. 571) which he supported by his own testimony before the Commission. Secondly, on September 21, 1964, he filed written pleadings (Ex.1352).

The topics of his brief were the following:

- (A) The Department of Transport favoured moving the pilot station to the north shore and there was no advantage in such a transfer (this question will be studied later, vide pp. 403 and ff.).

- (B) He expresses the opinion that the passive attitude of most of the pilots was responsible for the deterioration and gradual loss of prestige of the Quebec Pilotage District.
- (C) He charges the present Corporation seems to have become a form of dictatorship.
- (D) He asks for the abolition of the Pension Fund.
- (E) He complains that statistics may be erroneously interpreted at times.

These charges together with the evidence he brought in support are studied under the topic concerned except item (B). He recognized that in any Pilotage District all the pilots do not hold the same opinion, but believed that normally discussions took place openly while in his opinion there was always great secrecy in the Quebec District. He charged that in Quebec instead of two different groups there are three groups, i.e., those in favour of the present administration, i.e., the Corporation, the second group who are against the Corporation, and the third group who are indifferent, who "sit on the fence and will do anything, whichever way the wind blows". Because of their passive attitude this third group is responsible for this unsatisfactory state of affairs.

Pilot Koenig stated that during his career as a pilot he was a Director of the Association only once, around 1955. He explained that he sent a separate brief directly to the Commission because he felt that on account of the severe criticism that he was voicing against the Corporation, his brief was not likely to be sent to the Commission by the Corporation. He stated that there was no secrecy on his part about it. He agreed that, despite the fact most of the pilots knew that he was filing a brief, no one tried to dissuade him, no threats were made and he was left absolutely free. However, he had to prepare himself for a "rough time" in the witness box and this, in his view, was a form of intimidation. At the last general meeting of the Corporation, the Corporation's counsel informed the pilots that any one could file a brief with the Royal Commission but he warned them that anyone doing so must be extremely careful since the proceedings would be conducted more or less as in a Court of Law, i.e., whoever produced a brief would be subject to examination and cross-examination. Pilot Koenig did not think that this warning was intended for him because, at the time, the Corporation counsel did not know he was preparing a brief but he interpreted this remark as attempted intimidation. Because of the circumstances, he thought most Quebec pilots were afraid to speak out for several reasons and he believed that very little was needed to prevent the filing of separate briefs.

He charged that a series of lies and falsehoods led to the formation of the Federation of Pilots and of the Corporation. It all started with Bill S-3 when the pilots were made to believe that if the bill passed the Department would be empowered to exempt all foreign vessels. The pilots felt their

livelihood was threatened and were easily convinced that a Federation was a necessity. He acknowledged, however, that he attended the meeting when the decision was taken that the Association would become part of the Federation but he did not recall his attitude to the question at that time.

He claimed that another misrepresentation was that the reasons given officially for the transfer of the pilot station were not the real reasons; in fact, in his opinion, it was personal interests that prevailed.

Another falsehood, he felt, was the argument that the pilots would be safer with a corporation than with an association. This, in his views, was wrong because the Association as such could not be prosecuted as a body.

When cross-examined he admitted that the foregoing allegations were the only falsehoods that he could establish in support of this allegation in his brief. He added that there was also the question of the bonus for the special pilots but this came later and had nothing to do with incorporation.

In his brief, he further charged that the Corporation seemed to have become a form of dictatorship, not compatible with a democratic way of life, and in support, he gave the following facts and reasons:

- (A) On one occasion during a general meeting when he asked that a secret vote be taken on a question, his motion was voted down by a show of hands. The Corporation counsel had suggested that his motion for a secret ballot should be decided by a show of hands and this was done.³ In the opinion of the witness, this immediately meant that a secret ballot would not take place because for various personal reasons a number of pilots were afraid to express their opinion publicly. To illustrate, he recalled one instance in the distant past when, in retaliation against a pilot who was about to retire, the Board of Directors lowered the rate of pension benefits.
- (B) General meetings have taken decisions to allow half a turn per meeting to Directors.
- (C) Since the formation of the Corporation the composition of the Board of Directors has remained almost unchanged, which in his opinion is not democratic. The cause of this state of affairs was said to be the election procedure set out in the By-law. In his brief, he added that the older pilots who have experience are deliberately denied administrative posts by the young pilots who are now the majority.
- (D) Questions and discussions are not welcome. Discussion, he stated, was limited to a small number of pilots and he had a clear impres-

³ With reference to the counsel's advice, sec. 58 of the Corporation's By-law No. 1, dealing with voting procedure states: "Should a vote be requested, it shall be taken by a show of hands, or by a standing vote, unless the majority of the members request a secret ballot. In the latter case, the voting should be held in the manner prescribed by the Chairman. A request for balloting may be withdrawn at any time before the voting is held."

sion that those who asked for further information were not welcome. To illustrate, he mentioned the 1963 general meeting when he brought up the question of the abolition of the dormitories at the Quebec pilot station. He asked whether attempts had been made to stop their removal and the only answer he obtained from the President was that some protest had been made after they were closed. He felt that this line of questioning was not welcome and he did not pursue it.

- (E) When the strike was called by the Corporation in 1962, he received threats of violence. About 24 or 48 hours prior to the settlement of the strike he received a call from a pilot who told him that he had overheard that he had offered his services for pilotage. This the witness denied. The man in question made it clear that he would see to it that the witness would be prevented from embarking. The man had identified himself, but pilot Koenig would not disclose his name beyond saying that he was not a Director. He received other telephone calls at the time but these were not accompanied by any threats.
- (F) The Board of Directors has full control over expenses. This is excessive power, bearing in mind that all these expenses are not paid out of the Corporation fund but out of the pilots' own earnings. He claimed that the expenses should be controlled by the members themselves, i.e., by a $\frac{2}{3}$ vote at general meetings. He felt that the only money that should be deducted from his earnings should be his pension fund contribution and any other expenditures approved as indicated above by the members. He admitted that even in the Association this was a contentious question because in the Association By-laws the Board of Directors was authorized to make expenditures for "sane administration" which was a very ambiguous term. When the Association was in control, this was a great subject of discussion at every general meeting, despite the fact that the items of expenditure were small, while now under the Corporation thousands and thousands of dollars are mentioned freely and no one seems to have any objection. In his brief, and he repeated it in his testimony, he put it this way:

"As matters now stand, a Pilot has to be a member of the Federation of Pilots, whether he likes to or not. He must be a member of the Canadian Merchant Service Guild, whether he likes to or not. He must share in financial ventures of the Corporation, whether he is a member or not... Whenever there is a Convention, all Pilots have to pay for banquet and bebies, whether they attend or not..."

He acknowledged that this situation existed at the time of the Association but he stated that he was always against it. He did not like anyone touching his earnings without his authorization. He

acknowledged having signed an application form to join the Corporation but felt this did not give the Corporation a power of attorney over his earnings.

(xiv) *Petition by 21 pilots*

Twenty-one pilots of the Quebec District, including pilot Roland Barras, pilot Maurice Koenig and pilot Lucien Bédard, addressed a petition dated March 12, 1964 (Ex. 1322) to this Commission. After stating their opinion that the present pool system was anti-democratic, illegal, contrary to law and degrading, they requested that the newly formed Corporation be prevented from usurping the rights of the Association, that the pooling system be abolished, that the expenses of the Association be met by a reasonable fixed contribution, that the pilots be granted the right to provide financial assistance in *bona fide* cases of illness and suspension, that the pension fund be properly supervised by the Pilotage Authority, that the pension be gradually increased and that their system be democratized since it was in danger of deteriorating into an intolerable dictatorship. They suggested that the Pilotage Authority be composed of a three-member local Commission.

During the month of April 1964, five of the signatories filed five identical documents to the effect that they were withdrawing their participation in the petition.

(d) *The Federation of the St. Lawrence River Pilots (vide Part I, pp. 94 and 95)*

Up to 1958, the pilots' organizations in the various Districts of the St. Lawrence River operated quite independently of each other and there was little if any liaison between them. It is true that while settling their problems they had to deal with the same parties in that all these Districts had the same Pilotage Authority and the same shipping interests, i.e., the Shipping Federation and the Dominion Marine Association, but their problems were mostly of a very local character. At that time, the differences between their Districts were so marked that they had little in common. This situation became quite different when, with the opening of the Seaway, the St. Lawrence River and the Lakes became one long waterlane for lake and deepsea ships. The various Pilotage Districts lost their individuality to some extent and pilotage could no longer be considered a service between the boundaries of one District but rather a continuous service throughout the waterway, and the Districts became merely divisions for administrative purposes. More than ever before, policy, planning and organization had to be developed for the whole system.

The Quebec District pilots were tardy in realizing the coming changes and in 1957 they severed their only link with the pilots outside their District, i.e., their individual membership in the Canadian Merchant Service Guild. They had had no problem which necessitated consultation with other groups or concerted action and their only experience with the Guild was the assist-

ance provided to individual members in certain circumstances, e.g., legal assistance. Some members had become dissatisfied with the benefits they derived from this membership and had initiated a movement to withdraw. When a petition to that effect was circulated and signed by the necessary two-thirds majority of the Association members they dropped their membership in the Guild.

During that time the shipping interests and the Department of Transport were busy preparing for the opening of the Seaway and were taking the necessary steps to adjust federal legislation to the new situation. Bill S-3 was one of these measures. It purported to provide more flexibility in the basic organization of pilotage by allowing the Governor in Council power to make whatever changes might become necessary in the District limits of Quebec and Montreal, and in order to give effect to the joint venture between the United States and Canada in the Seaway, it contained provisions which would have done away with the discriminatory system of exemptions provided in the Canada Shipping Act. The Bill contemplated granting exemptions from the compulsory payment of dues on the basis of safety of navigation rather than on nationality throughout the whole St. Lawrence/Great Lakes area.

To the Quebec pilots, as well as to those in the other St. Lawrence Districts, Bill S-3 came as a surprise. There had been very little notice and also they knew very little about it. That part of the Bill affecting the pilots was couched in general terms and the Department of Transport had not thought of informing them of the aims of the Bill nor to what use it was intended to put the new provisions, if it passed. All kinds of rumours circulated among the pilots and they gathered that the Bill was some sort of plot between the shipping interests and the Department of Transport to do away, as far as possible, with the pilotage service. Pilot Bédard stated that the pilots felt panicky when they gathered that the purpose of the Bill was to give the Governor in Council power to grant exemptions at his discretion in all the Districts on the St. Lawrence and that it was intended to exempt American ships as well as other foreign ships.

The introduction of Bill S-3 was the point in time when the attitude of the interests involved changed toward each other; their relations became strained, they became more and more entrenched in their respective positions, suspicion prevailed and from then on the situation developed into a show of strength which culminated in the 1962 strike. Pilot Rousseau stated that through the medium of the Royal Commission hearings the parties involved had an opportunity to express their thoughts and to meet with other groups. In this interchange they found that their fears and differences did not have the significance they first imagined.

The pilots of all the St. Lawrence Districts agreed that there was a common threat and that they should unite for concerted action.

The first result, at the Quebec District level, was to use the Guild to close ranks. Pilot Rousseau, who was not active in the affairs of the pilots at that time, prepared a new petition because he felt that under the threat of Bill S-3 rejoining the Guild was one way of closing up. He and some other members called at the homes of their fellow pilots to convince them to sign the petition. They soon obtained the necessary two-thirds majority and all the members of the Association became Guild members again. Pilot Rousseau added that if it had not been for Bill S-3 he would have done nothing of the sort.

Next came the creation of a joint committee which eventually became the Federation. A campaign was launched against approving the Bill and the legal adviser of the Montreal pilots was instructed to oppose the Bill at the Senate debates in the name of all the pilots. The Guild also sent its own legal counsel for the same purpose. In the meantime, the pilots were requested to contact their Members of Parliament; telegrams were sent and the press was alerted. The opposition was so strong that the proposed Bill was abandoned, although it contained essential legislation.

The pilots remained suspicious for they now realized the changes in the general situation and they also appreciated their common interest and the advantages of grouping together, first, to have stronger representation and second, to share expenses rather than duplicate them when representations had to be made. It was at that time they decided to proceed with the formation of the Federation of the St. Lawrence Pilots.

The first step toward the creation of the Federation was the formation of a joint committee composed of representatives of the three St. Lawrence Districts, i.e., Quebec, Montreal and St. Lawrence-Kingston-Ottawa. As far as the Quebec District was concerned, the decision to participate in the joint committee was taken at the Directors' level and not as a result of a decision of the general meeting of the Association members. On September 2, 1958, the Board of Directors of the Association met principally to study the question of forming a Federation. They had before them a proposal received from the Montreal pilots suggesting the formation of a temporary committee for the main purpose of planning the Federation and, in the meantime, with the aim of defending the common interests of the pilots. According to this proposal, the committee was to be formed of two representatives from each of the pilot Associations concerned. The expenses of the delegates were to be charged to their own Association and the committee was not to make any expenditures without obtaining the consent of all the Associations. The Board of Directors of the Quebec Pilots' Association gave its approval to the proposal, delegated its two representatives and instructed them to obtain an estimate of the costs involved. The delegates were requested to propose that the dues or assessments eventually made by the Federation should be based on the number of active pilots in each Association (Ex. 700).

This provisional joint committee was formed and proceeded to prepare a draft of the nature and powers of the proposed Federation. The Board of Directors of the Quebec Association had this draft distributed to each pilot and asked them to study the document and to forward their comments and recommendations. When these had been studied a second draft was made and again circulated to the pilots to afford them the opportunity to comment further. It is assumed that the same procedure was followed in the other Districts. On April 13, 1959, the Board of Directors of the Association studied the petition signed by 50 pilots of the various Districts regarding the formation of the Federation and arranged to consult the members of their Association. On September 28, 1959, the Board of Directors acknowledged the consent of more than two thirds of the Association members to make the Association a group member of the proposed Federation (Ex. 700). The Quebec District was the last to give its assent as a group. In the meantime, incorporation proceedings were initiated September 8, 1959, and letters patent were issued by the Secretary of State November 5, 1959, under Part II of the Federal Companies Act to create a non-profit organization without pecuniary gain for its members (Ex. 751).

The aims and powers as indicated in the charter are, principally, to unite in one federation the different groups of pilots on the St. Lawrence River and the Great Lakes and to maintain and promote their common professional interests.

The Federation looks after problems of a general nature only and was not intended to replace in any way the local Corporations which keep their own identity. For instance, the Federation is not meant to settle points of contention among group members but merely to promote common interests by concerted action at minimum cost.

For example, when it became concerned with the compulsory payment of dues in the Kingston District, although at that time only that District was in fact involved, the question was of general interest to all the pilots' associations on the St. Lawrence River. They knew that pressure was being exercised by American interests that American pilots be allowed to take assignments the full length of the St. Lawrence River and by asking for the compulsory payment of dues in that area they believed that it was a way of preventing such an eventuality.

It is not one of the Federation's functions to negotiate tariff changes for individual member groups; this is the affair of each local Corporation. When tariff questions were raised in the various briefs presented by the Federation, it was either on account of the principle involved or because these questions of truly local interest were included in a brief that was to be presented on some other matters of prime importance for all Districts. In other words, small items were dealt with at the same time as important issues.

At the winter meetings held at District level, which were attended by representatives of the shipping interests, the Pilotage Authority and the pilots, a Federation representative attended as an observer only and did not take an active part.

Pilot André Bédard, then President of the Federation, added that it is not the policy of the Federation to equalize the income of pilots among the Districts since circumstances vary in each District. The number of ships, the workload, the length of the season and other features have to be taken into consideration. However, it is possible that the level attained by the pilots of one District might be used as an argument by the others to justify a request for a raise but this has nothing to do with the Federation.

The Federation can not interfere in the internal affairs of any member group and, therefore, the Federation will not look into problems that are not common to all pilots unless specifically requested to do so by the member groups concerned. Even then, it could refuse to deal with problems that pertain strictly to one or two groups, e.g., this was the decision taken by the Federation with regard to the St. Lambert lock dispute between the Montreal harbour pilots and the Seaway pilots. The group members retained their full autonomy and attached great importance to this prerogative.

Furthermore, the pilots communicate with the Federation through the Board of Directors of the Corporation. If a pilot writes directly to the Federation, he is reminded of the correct procedure.

From its inception the Federation has represented all the pilots' organizations on the St. Lawrence. "L'Association des Pilotes licenciés pour le Havre de Québec et en aval" was among the founding members and it still represents the Quebec District pilots. When the Corporation was formed it did not replace the Association in this respect and is not a member of the Federation because it does not represent all the pilots in the District (Ex. 1461(f)). When the St. Lawrence-Kingston-Ottawa District was divided its pilots formed two separate corporations, i.e., the St. Lawrence River and Seaway Pilots' Corporation and the Upper St. Lawrence Pilots' Corporation, both of which immediately became group members.⁴

The first general by-law (Ex. 751) was adopted September 8, 1959. It provides for four categories of members: group members, delegate members, active members and honorary members.

The actual members are the pilots' organizations at District level and the Federation is a corporation which provides a focal point for local organizations which are called group members. Individuals, except honorary members, are not admitted as members. Since the group member is only a legal

⁴On June 8, 1966, the Corporation of Professional Great Lakes Pilots was admitted to the Federation as a group-member; this Corporation groups all the Canadian pilots in District No. 2 with the exception of two (Ex. 1476(a)).

entity it must act through representatives. These are called delegate members in the case of the Pilots' Federation and are nominated by the group members concerned in the proportion of one for every ten members. The effective members of the Federation are these delegate members who sit at general meetings, appoint the Board of Directors, ratify or disapprove Board decisions and take decisions binding on the Federation. They do not act as agents of their own Corporation but as independent members of an independent corporate body, the Federation. The only control that their local Corporation has over the delegate members is in relation to their appointment which is for a one-year term. On the other hand, the group members are strictly autonomous and independent of the Federation. They are not bound by the acts of the delegate members nor by any decision of the Federation. This principle is plainly enunciated in the by-laws, sec. 3(e):

"Member-groups retain their absolute right to act separately from the Federation . . . The Federation has no authority to interfere in the internal administration of any member-group."

Therefore, the Federation is not a partnership of local organizations but a separate independent corporate body and none of its components has power or authority over the other. Furthermore, the regular channel of communication between the Federation and the local Corporation is not through the delegate members but through their respective Board of Directors. The delegate members, once appointed, have no direct responsibility to their local organization.

All pilots who are members of a local organization that is a group member of the Federation are what is called active members of the Federation. Their rôle is to choose the delegate members through the system established in their own group. They may also attend the general convention that the Federation usually holds once a year but this general meeting of the active members plays a consultative rôle only.

The honorary members are persons appointed by the Board of Directors of the Federation. The criterion for such an appointment is outstanding service rendered to the Federation or to the pilots in general. These members may attend general meetings and conventions and even participate in the deliberations but they can not vote.

The Board of Directors is composed of a President and two Directors for each member group, both chosen or elected by the delegate members of that group. The Board of Directors, once elected, elects two of its members as President and Vice-president. They may also choose a Secretary, but it is not mandatory that he be chosen from the Directors, nor even from the members of the Federation (by-law, sec. 14). Since the President must be as independent as possible of any local group and in view of the fact that he has no right to vote except in a tie, a 1960 by-law amendment decided that the President, once elected, ceases to be one of the two Directors representing his

member group. To guarantee the member group affected a representation of two Directors, a new Director is appointed by the Board of Directors of the Federation acting on the recommendation of the member group concerned.

In 1965, since there were five member groups, the Board consisted of the President and ten Directors.

When pilot André Bédard became President of the Federation he resigned as Director of the Quebec Pilots' Corporation. There was nothing in the Quebec Corporation by-law to that effect but he felt it advisable to do so.

The Federation's sources of income are dues, both annual and special, assessed by the general meeting of the delegate members to cover expenses. The amount is arrived at by adopting a budget and pro-rating the total among the member groups in proportion to the number of active members of the Federation in each member group.

Since the first general by-law was adopted there have been minor amendments which were first passed by the Board of Administrators, then approved at the next general meeting of the delegate members and finally forwarded to the Secretary of State for approval before becoming effective. In urgent cases, however, approval by the general meeting could be dispensed with and the amendment would become effective when the Secretary of State gave his approval but would lapse if not confirmed at the next general meeting. At the time of the Commission's hearings the Board of Directors had not yet used this special power.

The meetings attended by all the delegate members are the general meetings of the Federation; those attended by the active members are called conventions. The annual general meeting is normally the only general meeting held each year but two special general meetings were held October 10, 1960, and June 4, 1963, both at Three Rivers. The first meeting was called to study the grievances mentioned in the Federation's brief on winter pilotage, to receive reports on negotiations and to consider what decisions should be taken (Ex. 765). The second meeting was called to study the recommendations to be made to the Royal Commission on Pilotage (Ex. 765). There was no special meeting of the Federation in April 1962 to deal with the strike, but the Board of Directors met. The general meetings held at that time were local Corporation meetings.

The main reason why all authority is vested in the general meetings of the member delegates and not in the meetings of the active members is found in the nature of pilotage which makes it impossible for all the members to attend a meeting at the same time during the navigation season without causing a stoppage of work. In addition, there are many problems that need an immediate solution. However, it was felt desirable to bring all the pilots together periodically so they could exchange ideas and experiences and keep posted on the situation in general and the problems of their colleagues. When

provision was made in the By-laws, for these annual conventions, the pilots stressed that the idea was not entertained that they could be used to create a stoppage of work.

At the annual convention the Federation President presents his report of activities during the year and the financial statement is studied as are various questions placed on the agenda for discussion.

Attendance records are available for the years 1961 and 1962 only. In view of the fact that the active members play only a consultative role at these meetings, the Federation did not feel it necessary to keep these records (Ex. 764). In 1961, in order to promote attendance, it was decided to assess all active members a \$25 registration fee whether they attended or not. Attendance records for the years 1961 and 1962, out of a total active membership estimated at 280, are as follows:

Area	1961	1962
Quebec—Les Escoumins.....	53	22
Quebec—Trois-Rivières.....	37	24
Trois-Rivières—Montreal.....	28	44
Montreal Harbour.....	13	15
Montreal—Kingston.....	39	—*
Montreal—Cornwall.....	—	22
Cornwall—Kingston.....	—	21
Total.....	170	148

*District divided in 1962.

At the end of 1966, the total membership was 307: Quebec—85; Montreal (river)—136; Montreal (harbour)—20; Cornwall—37; Kingston—29.

(i) *Finances*

Each year the Board of Directors prepares a budget and gives a copy to each delegate member for consideration at the general meeting. The annual fee that each member group has to pay for its members is determined by the amount of the approved budget.

The basic annual fee is \$100 per pilot. In 1961, the delegate members approved the above-mentioned additional assessment of \$25 to induce the members to attend the annual convention. It was, in fact, a compulsory registration fee for all pilots, whether they attended the convention or not, to cover normal charges such as registration fees, dinners and reception. Pilot Maurice Koenig protested against the compulsory assessment of \$25 for the annual convention although he acknowledged that it was made because too few members attended (p. 295). He himself did not attend the 1963 convention which was held at Ste. Marguerite de l'Estérel. In 1963, when the Directors proposed an additional \$60 to cover extraordinary expenses, the general meeting raised the special assessment to \$75 making a total assessment for that year of \$200 instead of \$185 as originally proposed.

On July 7, 1960, the President of the Federation wrote to the member groups seeking a special contribution for the Federation. He stated that the Federation budget indicated a deficit of \$11,678 and pointed out that special extra, non-recurring expenses had been incurred—creating the Federation, drafting and obtaining the charter, purchasing office equipment, etc.—which amounted to \$5,000 and that the first convention showed a deficit of \$3,000. To cover all these expenditures he asked for an additional contribution of \$45 per pilot. A copy of this letter was sent to all the Quebec District pilots by their Corporation in a bulletin dated July 12, 1960 (Ex. 688).

Very little expense was incurred by the Federation in connection with the 1962 strike. These expenses were borne by the Corporations themselves and, except for a small reimbursement to the Quebec Corporation, the Federation paid only the expenses of its officers, a few publicity costs and the remuneration of its legal adviser.

In case of urgency when the Federation is out of funds there may be a special assessment voted by the Board of Directors. This happened once and the assessment was ratified at the next general meeting.

(ii) *Remuneration of Federation Directors*

Remuneration and other allowances have to be decided by resolution of the Board of Directors and approved by the general meeting. Up to now, the Directors have not been paid by the Federation and any remuneration they receive is from the local organization which they represent. However, they are reimbursed by the Federation for their actual transportation expenses and are paid \$20 *per diem* allowance when attending meetings of the Federation outside their normal residence.

There is a different procedure, however, for the President and the Vice-president (and the Secretary if he is a member) in that they receive a remuneration from the Federation. The reason is that these officers must be unbiassed, and the President especially, who must not represent any member group in particular. Furthermore, if the remuneration of the President is a charge against his own Corporation, it would have to indemnify three persons in view of the fact that when he is elected President he is no longer one of the two representatives of that Corporation. The President's remuneration is thus *ipso facto* pro-rated among all the active members.

The remuneration of these officers takes two forms: straight salary and an indemnity for the value of the pilotage work lost during the time they devote to the affairs of the Federation. Only the President receives an emolument—it is fixed at \$100 a year. Indemnification for loss of time is paid indirectly at the Corporation level by crediting the officer concerned with the turns he would have performed if he had been available for duty, and in this way, his regular remuneration is not affected. The Federation is billed by

the Corporation concerned for the value of these turns and the payment is credited by the Corporation concerned to the common fund as pilotage revenue (p. 483).

The turns are granted by resolution of the Board of Directors and approved by the general meeting along with the financial statement.

From 1960 to 1965 inclusive, the amounts paid by the Federation to the local Corporations on behalf of the President, Vice-president and Secretary were:

Year	President	Vice-president and Secretary
1960.....	\$ 2,160.00	\$ 145.00
1961.....	673.14	260.00
1962.....	2,405.00	546.91
1963.....	10,887.88	288.00
1964.....	7,365.39	109.31
1965.....	4,553.46	145.30

SOURCE: Ex. 759 (Federation financial statements).

The revenues of the Federation are derived mainly from assessments. In addition, there are sundry amounts, e.g., a gift of \$300 in 1960, interest on bank deposits, and a little surplus in the operation of the annual convention from 1961 to 1965 inclusive. The total income for each year was as follows:

Year	Assessment	Others	Total
1960.....	\$ 29,372.50	\$ 329.12	\$ 29,701.62
1961.....	26,600.00	31.60	26,631.60
1962.....	27,100.00	1,320.64	28,420.64
1963.....	67,250.00	824.39	68,074.39
1964.....	40,991.65	527.65	41,519.30
1965.....	32,100.00	820.42	32,920.42

The assessment procedure makes it impossible to make revenues meet expenditures exactly and, therefore, at the end of the fiscal year there is bound to be a surplus or a deficit. For instance, on December 31, 1961, there was a deficit of \$4,947.10 while on December 31, 1964, there was a net surplus of \$8,300.47.

It has also been customary to create a reserve for large planned expenditures, e.g., at the end of 1962 there was a reserve of \$22,909.77 for expenses anticipated in connection with this Commission. In addition, money is set

aside from year to year to organize the next annual convention. This practice started in 1963 when the reserve was \$6,725; at the end of 1964, it was \$6,925.

The financial year corresponds to the calendar year. The financial statement is prepared in much detail and is audited by chartered accountants (Ex.759) who verify receipts and disbursements in detail by checking supporting documents and ensuring that there is appropriate authority for all expenditures. The auditors report that the books are well kept, that the accounting system conforms to the needs of the Federation and that they have found no misuse of funds. The supporting documents for the turns granted the President, Vice-president and Secretary are the invoices from the Corporations concerned and the cheques issued by the Federation.

(e) *Guild Membership*

The Canadian Merchant Service Guild affiliates the various officers of the Canadian Merchant Service on an individual basis, i.e., Masters, mates and engineers, and pilots as well. In some Districts, only a certain number of pilots, if any, are members of the Guild; in other Districts, such as Quebec, membership is compulsory as a result of a decision taken by the pilots' own organization. As seen above, the by-laws of the Quebec Association were amended in 1958 to cancel this compulsory membership and it was left to the individual to decide whether to be a member or not. This was changed again in 1959 when the pilots felt the need to band together and, ever since, the Guild dues have been paid out of the common fund for all the Quebec pilots. It is not, however, a truly compulsory membership in that a pilot could always resign but his dues would continue to be paid. This, however, has not occurred so far.

In addition to the personal benefits that the pilots derive from this membership, the Guild has occasionally acted in their collective interest, e.g., when the Guild made representations against Bill S-3. At the annual meeting held in Montreal March 22, 1961, the Guild opposed the brief that had been presented to the Department of Transport by the Dominion Marine Association and also opposed the plan to have the pilots share in the District administrative expenses when it was proposed to assess the Quebec pilots 4½% and the Saint John, N.B., pilots 25% of the gross revenue. In 1962, during the pilots' strike, the Guild members in Saint John, N.B., and British Columbia informed the Minister of Transport that they were ready to go on strike in support of the St. Lawrence District pilots.

(3) LEAVE OF ABSENCE

In a service where free enterprise prevails there is no question of leave of absence. Each pilot's remuneration consists of the dues his services have earned, competition is the rule, the first pilot to offer his services at the boarding station obtains employment and absence results in no earnings. In

such a system, the Pilotage Authority is only remotely interested in a pilot's availability for duty, has no reason to interfere as long as a sufficient number of pilots is on hand to meet the actual and expected demand and is not concerned with sharing either the workload or pilotage revenues. Because this is the situation contemplated by Part VI of the Canada Shipping Act, there is no reference to leave of absence in the statutory provisions dealing with pilotage nor is absence without leave mentioned as an offence. Normally, the Pilotage Authority would intervene only if there were a shortage of pilots. Under subsec. 329(f)(v) C.S.A. a Pilotage Authority may make it an offence (a statutory offence prior to the 1936 amendment to the Act) for a pilot to refuse to take an assignment when the Authority has intervened in such circumstances.

By contrast, the situation is different where the Pilotage Authority has assumed the direction of the service, thereby abolishing free enterprise and making the pilots its quasi employees. In so doing, the Pilotage Authority has incurred the implied obligation of equal treatment for all pilots, i.e., equitable sharing of workload and earnings. This is normally achieved through despatching according to a tour de rôle and, to correct discrepancies in earnings due to the rate structure, by making each pilot's remuneration an equal share of the common earnings based on availability for duty. Hence, the necessity for regulating entitlement to leave of absence (whether regular leave or sick leave) and providing in which cases it is with pay, i.e., with a right to participate in the shares of the pool. In such a scheme, absence without leave is an offence since it deprives the Authority of the opportunity to decide whether a pilot should have been available; it also automatically affects a pilot's remuneration by making him lose sharing rights in the pool proportionate to his absence.

On account of the illogical and unrealistic attitude taken by the Quebec Pilotage Authority following the 1913 Lindsay Report, the question of availability for duty of the Quebec pilots has continued to be a muddled, complex question causing confusion and misunderstanding between pilots, Pilotage Authorities and ship owners. It has also created a situation that has been much abused by some pilots. The pilots, as a group, have recognized the seriousness of the problem and are now trying to solve it: since 1967, they have indirectly provided for regular leave of absence through the despatching rules but this is only a partial solution. The only adequate solution is to follow the example of most major Districts by arranging for the Authority to operate both despatching and pooling, the latter being based on availability for duty and not work done.

The question of leave of absence is dealt with in the District By-law in sec. 22. No regular leave of absence is provided for. A pilot is automatically on leave when he is prevented from acting as a pilot on account of illness or injury; in this case, his only obligation is to inform the Supervisor of the

cause of his absence and, if the absence exceeds six consecutive days and for lesser absences if so required by the Supervisor, he must furnish the Supervisor with a medical certificate, and if so required by the Supervisor, he must submit to a medical examination by a medical officer appointed by the Authority. A pilot may absent himself from pilotage duties at his discretion provided he has obtained leave to that effect from the Supervisor, the maximum duration being the current season of navigation, a term which is not defined.

These are the sole regulations dealing with leave of absence. No mention is made whether leave is with pay or without pay, since availability for duty is not a factor that enters into the computation of remuneration. In this respect the pilots are considered in the regulations as if they were still private entrepreneurs and the By-law provides that they be paid the dues their services have earned, less compulsory deductions for the Pilot Fund. The absence of pilots, whether on leave or without leave, creates a serious problem, however, on account of the influence on despatching of the application of the equalization of trips rule plus the faulty interpretation given to that term with regard to its application in cases of absence as a result of the lack of definition in the By-law (p. 431).

The factual situation as at the time of the Commission's hearings was as follows. The only concern of the District Supervisor with a pilot's absence was whether it would interfere with the efficiency of the service and the despatching procedure. As long as there were enough pilots to meet the actual and expected demand for pilotage, the Supervisor would approve automatically any request for leave. Because of the method adopted to apply the equalization principle, an absence, even of long duration, does not necessarily mean lower remuneration since the pilot will be able to catch up with his lost turns by taking precedence on the despatching roster over those who were available and have done a larger number of turns. The equalization rule, according to the despatching rules, applies whatever the cause of the absence. Whether the absence was legitimate, authorized or not, makes no difference and, if the pilot has time to catch up with his lost turns before the end of the year, he will receive the same remuneration as those who were always available for duty. Through the despatching rules the Pilotage Authority prevents those pilots who are always available from taking an assignment (hence, from being employed) if a pilot with a lesser number of turns caused by absence is available at the time.

Therefore, it was quite in order for the Supervisor to grant almost standing leave of absence to pilot Blank, provided he was on call when pilots were in great demand. Pilot Blank's health was not good, although, provided his workload was reduced, he was still able to carry on as a pilot. In view of the actuarial deficit in the Pension Fund, the senior pilots had been requested to delay their retirement as long as possible. To this pilot Blank agreed,

provided he was called upon to work only part-time. In his case, this meant a lower income since he did not avail himself of the equalization rule (Exs. 655 and 705). However, other pilots with extensive periods of absence were able to make up their lost turns and receive the maximum share of the pool (pp. 480-481).

On account of one provision in the despatching rules, Directors do not ask for leave of absence to attend their meetings since these functions are considered as being inherent in the organization of pilotage. In order not to impair the despatching routine, the pilots concerned are required to inform the despatcher's office of the date of the meeting so that their name can be taken off the assignment list for that day. A similar procedure is followed when pilots have to attend other official duties, such as occurred when a number of pilots attended the hearings of this Commission in 1963 and 1964.

The system worked well from the despatching point of view, despite its abuse by some pilots, but it created problems in other fields, such as equitable sharing of the workload and the pilots' earnings, and created confusion in statistics, e.g., the effective pilot figure, in negotiations and in relation to the pilots' requests for increases in their number (pp. 227 and ff.).

The attitude taken by the Pilotage Authority in this respect is further illustrated by the following cases (Ex. 644):

- (A) Pilot . . . is shown as having been absent for the years 1960 to 1962 inclusive, for 275, 273 and 275 days respectively out of 275 days of the normal navigation season. In 1961, he did one trip which accounted for the difference of 2 days for that year; otherwise, according to sec. 336 C.S.A. he would have forfeited his licence automatically. Pilot . . . had been seriously injured in a motor vehicle accident in January, 1960. On July 10, 1963, it was reported that his condition had improved and that according to reports received from his physician and from the Medical Officer of the Department of National Health and Welfare he was supposed to be able to resume pilotage in September, 1963 (Ex. 705). Instead, on August 13, 1963, his licence was withdrawn because two full years had elapsed since his last assignment. Pilot . . . received the maximum sick benefit from the pilots' own common fund (Corporation By-law No. 2, subsec. 14(e) and subsec. 12(e), Ex. 672), i.e., full sick benefits for the two years 1960 and 1961 but neither sick benefits nor remuneration of any sort for 1962 and 1963, except a pension from the pilots' Pension Fund to which he was entitled upon his retirement after August 23, 1963 (vide Corporation Financial Reports for the years 1960 to 1964 inclusive (Ex. 597)).
- (B) In contrast there was the case of pilot . . . who is shown as having been absent between 1960 to 1963 inclusive; 43, 100, 116 and 181

days respectively. From August 31, 1963, when he refused to take an assignment at Les Escoumins and later refused to appear before the Supervisor as ordered, he was shown as merely absent until June 9, 1964, when he was discharged on medical grounds. It would appear that the reasons given for this pilot's previous absences were not genuine. He did not receive sick benefits for his frequent periods of absence between 1960 and August 31, 1963, because he never applied for them until his absence on the latter date, knowing very well that the Pilots' Corporation was quite strict in this regard. The Authority made no inquiry into the actions of this pilot and no charge was laid for his refusal to embark when he was regularly despatched nor for disobeying the Supervisor's orders. The Quebec Acting Supervisor expressed the opinion that no action on the part of the Authority was indicated and that it was up to the pilot to make the next move. He observed that while the pilot was absent the Authority was certain not to run into any trouble.

The pilots as a group have realized the necessity for regulating absences. In 1961, the Pilots' Corporation required one of its committees to study the question. Since 1967, the despatching rules have provided for six periods of six-day compulsory leave to be taken by all pilots according to a pre-established list from April to November inclusive. In addition, there is seven weeks' annual leave which must be taken by all pilots during the winter season (p. 432). This, however, solves only part of the problem in that pilots may still indiscriminately obtain other leave of absence in addition to these compulsory leave periods and the faulty practice for equalization of trips continues to apply, even if leave of absence is taken without authorization. Furthermore, such a system of automatic compulsory leave taken at regular intervals is inconsistent with the nature of pilotage, which demands that leave should be taken only during periods of low demand (pp. 431-432).

COMMENTS

The attitude of the Pilotage Authority in Ottawa and its local representative, the District Supervisor, toward pilots' absences shows the extent of its failure to comprehend the special system it has imposed on the Quebec pilots by denying them the advantages of a pool operated by the Authority.

When the Quebec pilots asked for an increase in their number for 1963 (pp. 227-231), the Director of Marine Regulations, in a telegram dated April 17, 1963, replied that their request seemed to be unjustified in view of the pilots' record of absenteeism. Later, after these absences had been explained, the Minister himself, in a letter dated June 10, 1963, refused the request stating that the absences were unjustified.

This incident which shows a serious lack of comprehension by the Pilotage Authority of its rôle, was highly unjust to the pilots. The responsibility for curbing unwarranted absenteeism lay with the Pilotage Authority who alone had effective power to act. It is the local representative of the Pilotage Authority who grants leave of absence and, if he considers a request unjustified or untimely, it is his duty to refuse. If an absence is caused by illness, again only the Pilotage Authority has the power to ascertain whether the case is genuine by making any necessary investigation and by seeking more detailed information than the mere production of a vague certificate signed by the pilot's own physician. In the case of absence without leave, it is the duty and the responsibility of the Pilotage Authority to initiate appropriate disciplinary measures promptly.

If at that time absenteeism was believed by the Authority to be abusive, it was most unjust to cast the blame on the pilots as a group after the situation had been allowed to develop as a result of the Pilotage Authority's own laxity and failure to discharge its responsibilities.

Refusal or unjustified failure by a pilot to take an assignment, absence without leave and malingering, are all breaches of the By-law which the Pilotage Authority is not permitted to overlook. It has no discretion whether or not to prosecute breaches of its By-law whenever there is a *prima facie* case. It is bound by its By-law and has the responsibility of ensuring that it is implemented and obeyed (Part I, p. 351). To prosecute in one case and not in another can only lead to arbitrary practice and the undermining of authority.

For instance, the action taken in the case studied on pp. 309-310 is an example of such an indefensible attitude. Between 1960 and 1964, disciplinary action was taken against him only once when a fine was imposed, despite his numerous absences without leave, his repeated failures to take assignments and his refusal to appear before the Supervisor when so ordered. By not investigating each incident immediately and not instituting the proper disciplinary proceedings the Supervisor showed a disappointing lack of responsibility, and his inertia and passive attitude not only failed to maintain discipline but also invited further difficulties.

(4) CONTENTION ABOUT STATISTICS

The pilots and the Pilotage Authority disagree about the nature of the statistics maintained by the Pilotage Authority and the use made of them, particularly with respect to absences.

As seen above, a pilot has to be available for duty in the Pilotage District of Quebec each of the 275 days between April 1 and December 31 of each year. Every day he is not available is counted as one absence, irrespective of the reason and with no allowance for holidays of any kind.

A record of each pilot's absences is kept in his personal file. No reason for an absence is indicated except that when medical certificates are furnished they are included in the file. These records cover all absences whatever their cause, e.g., they include prolonged absence due to illness, suspension or leave taken by the Directors. Ex. 644 lists the absences of each pilot on strength for the years 1960-1964, inclusive.

It shows *inter alia* that in 1960 and 1961 three pilots were always available and six in 1964. Most pilots are absent for less than 20 days during the navigation season (with the exception of 1962 on account of the strike) and only on rare exceptions exceed 40 days. On the other hand, these few cases are generally substantial because they are caused by severe illness or suspension. The average number of days absence per year-pilot (re meaning of the term, vide p. 117) during the years 1960 to 1964 was 29.1, 28.4, 41.7, 34.8, and 25.8 days respectively.

These statistics are based on what is normally called the navigation season, i.e., the nine-month period extending from April 1 to December 31, a period which is truly representative of the workload of the Quebec pilots and which has always been used for statistical purposes. In the winter months there is comparatively little traffic and there are always more than enough pilots available to take care of it. In 1961, for instance, all the pilots were available for assignment every day during those nine months, including Saturdays, Sundays and legal holidays, except for an average of 2.3 days per month, or in other words, in a 30-day month the average availability for work was 27.7 days. In 1963, the average absence per month was 3.9 days and in 1964, 2.9 days.

Effective pilot statistics compiled on this basis can not be compared with those in other Districts, e.g., British Columbia where a larger number of days absent per pilot are officially and unofficially counted as days of availability for this purpose (Part I, p. 147 and Part II, pp. 77-79).

In determining when a pilot is to be shown as absent in the Quebec Pilotage District, one point of contention concerns those who arrive from duty after midnight and who, in order to have their rest, request not to be placed on the despatching list for that day. Each day's assignment list is drawn up at 9.00 a.m. and, in accordance with the local routine, all pilots who reported back for duty before that time must be listed as either available or absent. In practice, this made little difference in assignments because the minimum rest period is ten hours, although normally more than a day elapses, and when the new list is drawn the following day the pilots concerned will be listed according to the principle of equalization, i.e., in the same order as on the previous day, whether or not they were shown as being absent. There is a slight possibility that pilots might be reassigned the same day, if there was a great demand for pilots and a number were unavailable for duty for any reason, but this may happen only to a pilot who is behind in

his turns and who, as a result of the rule of equalization of turns (p. 431) when the list is made up, is despatched by priority. In that case, he might be recalled the same day. The pilots feel, therefore, that it is not right for statistical purposes to list as absent a pilot who would not have been assigned a ship in any case, merely because he asked to have his name left off the roster.

Another cause of contention is the erroneous interpretation of these statistics. The pilots contend that they are meaningless in view of the principle of equalization of trips, e.g., some pilots with absences totalling between 50 and 85 days a year have been able to perform the same number of trips as those who were not absent one single day. In 1960, pilot Charles-Edouard Langlois was absent 85 days and yet did $106\frac{1}{2}$ turns (104 trips) when $105\frac{1}{2}$ turns yielded maximum remuneration, and in 1961, pilot M. Malouin with 71 days' absence did $104\frac{1}{2}$ turns (101 trips) when $103\frac{1}{2}$ turns were sufficient for maximum pay, etc. (Ex. 1461(o)).

Furthermore, they point out that these statistical averages are meaningless when dealing with absences because the important point is whether the number of pilots who are available is adequate to meet the demand. They claim that average statistics mean nothing: for instance, if the average number of absences per pilot is nine days for the year, it is of very little consequence, but if all the pilots were absent on the same nine days it would mean a stoppage of work.

In addition, they charge that these absence statistics, as computed for the Quebec District, can not be used as a basis for comparison with those of other Districts because they are not computed according to the same principle and the procedure for providing service and the rules for determining the pilots' remuneration are not the same.

The Quebec pilots have consistently made a special point of refusing to accept the statistical figure called *effective pilot*.

They pointed out that working conditions in the Quebec District differ from those in other Districts, e.g., in Quebec the season is calculated on a 9-month basis and no credit is given for services performed during the winter months, while in British Columbia the season is calculated on a 12-month basis, and when the effective pilot statistics are being computed the British Columbia pilots are considered on duty while they are on annual or unofficial leave but in Quebec every day off, whatever the reason, is considered an absence for the purpose of computing the effective pilot statistics.

Furthermore, the effective pilot figures for the Quebec District can not be compared from year to year because the method of calculation has changed from time to time. Prior to 1961, the Quebec District Supervisor had his own system of calculating the statistics, i.e., on the number of assignments performed during a month and not on availability for duty. Absences did not count. The computation was made by considering as one effective pilot every

pilot who did the same number of turns that a pilot who was always available was called upon to do; under the rule of equalization of turns that method made it possible for a pilot to be absent for a few days, still regain his lost turns and be shown at the end of the month as a fully effective pilot. If, however, he did not catch up until the following month, he was shown as a fraction of an effective pilot for the first month and one effective pilot the second month, despite the fact that in the second month he had done more turns than a pilot who had not been absent. No credit was given to offset the debit entry of the previous month, although in the course of the two months concerned he had performed the same number of turns as a pilot who had not been absent.

On August 23, 1961, the Department instructed the District Supervisor to modify the basis of calculation and to compute the effective pilot figure on the same basis as elsewhere, i.e., on availability for work on a day to day basis. The D.O.T. definition was:

"The number of effective pilots is the number of pilots either available daily for assignment to duty or on regular annual leave but does not include any pilot who is not available for assignment to duty because of sickness, special leave or any other reasons."

Under this system the amount of work done by a pilot in a given period of time does not enter into consideration. For instance, in 1960, pilot Charles-Edouard Langlois (p. 313) would have been shown as 0.69 effective pilot, although his share of the workload was the same as any pilot who was always available. Such a situation, which could not occur in the Pilotage District of British Columbia, is rendered possible in the District of Quebec by the application of the equalization of turns rule.

Because of this modification in the computation procedure the effective pilot figure for 1961 is a composite figure, having been computed by the old system up to July 31 and by the new system for the remainder of the year.

The pilots, therefore, strongly protested against using these effective pilot statistics.

For the Commission's comments on statistics, reference is made to Part I, pp. 147-149.

(5) PILOTS' STATUS AND WORKING CONDITIONS

The Quebec pilots' status is in practice that of quasi-employees of their Pilotage Authority in that they may not act as free entrepreneurs and can neither compete against their fellow pilots for clients nor receive and retain the dues their services have earned.

It is true that the pilots' pooling arrangements are the result of a contractual agreement between them and could be dissolved if they so decide, but this is not the criterion. According to the By-law governing the provision of service, a pilot is not at liberty to compete for work nor to decide whether

he should or should not accept work. He must be available for duty at all times, unless he is ill or absent on authorized leave. He can not perform any pilotage function unless it is assigned him by the Pilotage Authority through its local representative, and he may not refuse such an assignment when validly made. His failure to comply with these requirements is a breach of the District By-law which exposes him to prosecution.

The pilots abandoned their free entrepreneur status when they sought incorporation and finally obtained it in 1860, thus becoming quasi-employees of their Corporation until 1915. In 1915, an amendment to the 1860 Act of incorporation vested the powers of the Pilots' Corporation in the Minister (as such) thus making the pilots his quasi-employees.

When the 1934 C.S.A. came into force the pilots' status was again changed because they came under the general provisions of Part VI of the Act which regards pilots as free entrepreneurs. However, as a result of ultra vires By-laws of the Pilotage Authority, the pilots of the Quebec District (as in most other Districts) became, in effect, quasi-employees of the Pilotage Authority which has since managed and directed the service and has effectively prevented the pilots from exercising their profession freely. For further comments vide Part I, pp. 76-80.

When a pilot boards a ship his services are leased by his Pilotage Authority to the Master and his main function is to take charge of her navigation under the authority of the Master (vide Part I, pp. 22 and ff.).

Pilot Dussault stated in his evidence that when a pilot embarks the Master advises him of his destination, the ship's draught, her particulars and any peculiarities. The pilot, in turn, informs the Master of any special matter of current importance, and may hand him written regulations on such matters as pollution or the use of accommodation ladders by ships of light draught or in ballast.

Ships in transit with no communicable disease are granted *pratique* to enable them to proceed to their terminal point for medical inspection thus avoiding delay at Quebec, the main quarantine entry port on the St. Lawrence River.

Pilot Dussault further added that if a vessel is of deep draught, the pilot ascertains from the Master her exact draught in fresh water. Then the pilot, in consultation with the Master, must plan beforehand to make effective use of the tide by adjusting the vessel's speed—or even anchoring—to meet favourable tidal conditions when traversing the dredged sections of the channel.

It is the pilot's duty to ensure that his orders are understood and promptly obeyed and, while the officer of the watch generally checks that such orders are received and acted upon, this does not relieve the pilot of his responsibility.

Since all Quebec pilots are fluent both in French and English, the language barrier seldom presents any difficulty. However, this may occur on rare occasions in vessels manned by a crew of various nationalities. Generally the Master or his officers are able to transmit the pilot's order to the wheelsman or other members of the crew. In such a case a pilot may also use a black-board in the wheel-house in plain view of the wheelsman to indicate the course by numerals. Some vessels, particularly of German and Scandinavian registry, have a special course indicator on which the pilot sets the course so that the wheelsman has it before him at all times.

Most ships are berthed by the pilots but occasionally a Master, usually of a Great Lakes vessel, will perform this manoeuvre himself.

Pilot Dussault emphasized that, when it is said that a pilot takes charge of a vessel, such a statement means only as far as her navigation is concerned and until such time as the vessel is safely secured at her port of destination, unless he has been relieved by another pilot or discharged by the Master. Once a pilot boards a vessel, he never knows exactly how long his turn of duty may last. Pilot Dussault recalled an assignment in 1962 when, due to adverse weather conditions, he was obliged to stay on board a Cairn Line vessel for nearly two days. The ship was brought to anchor off Quebec, but due to the very strong wind the anchor would not hold. Various anchorages in the harbour were tried but with the same result, and they were obliged to proceed down river past Goose Cape where there was more sea-room. There they hove to for the night and returned the following morning. It was his duty to remain with the vessel until he had brought her safely to port.

Whenever there is a strong easterly wind during the navigation season, ships may drag anchor in the Quebec harbour anchorage area. Some companies, especially oil companies, have adopted the rule to engage a pilot for their vessels when anchored in Quebec harbour to stand a security watch at all times. The remuneration for such a service is a detention charge.

In April 1962, the Greek S.S. *Consuelo*, anchored off Sillery Point, dragged her anchor during the night from the Point to the ferry wharf, i.e., more than three miles downstream, where it became entangled in the telephone cables. No pilot was aboard and, in any event, no pilot was available because of the pilots' strike.

(6) PILOTS' LOG-BOOK

Most pilots keep personal records of their trips, noting the ship's name and particulars, and other information such as time of arrival, departure and passing turning buoys, particular land marks and the state of the weather and tide. Some years ago a Quebec pilot, Paul E. Cloutier, published a pocket sized practical pilot's log-book with columned headings. It also contains pertinent information, such as standard courses, distances between points, names,

addresses and telephone numbers of shipping companies and others. (Ex. 668). It is currently used by a number of pilots.

Pilot Dussault stated in his evidence that he does not use a book of this type because he considers it unnecessary to record everything. He feels that keeping such a log-book is a personal matter and that it has no value for statistical purposes since the data received from the Master can not always be verified. However, he does keep a record of unusual events that may be helpful at other times, e.g., a record of a ship's behaviour when under way is always useful for those occasions when he pilots the same ship again, bearing in mind that a ship will not handle exactly the same every time on account of varying factors such as changes of trim, draught and weather.

In pilot Dussault's opinion, there are many small advantages in keeping a log, but none that would make it compulsory. When navigating under adverse and dangerous conditions it is more important for the pilot to concentrate on the navigation of the ship than to make entries in his log-book, e.g., to make an entry at night would necessitate using a light, thus temporarily impairing his vision. However, he agreed that in case of a collision or accident, a well kept log-book would provide valuable information, but added that a pilot's first duty is the safety of the ship, and in a difficult situation he has "no time to stop and write notes in his book".

In Mr. Justice Smith's report on the formal inquiry into the collision between S.S. *Leecliffe Hall* and M.V. *Apollonia* one of the recommendations was that pilots be required to keep such a log-book which would be signed by the pilot when he left the ship and filed forthwith at the pilotage office. This recommendation was not concurred in by the Pilotage Authority (vide p. 373).

COMMENTS

It is not essential for pilots to keep an official log-book and to make it compulsory would be an unnecessary imposition. This has never been a requirement in any Pilotage District in Canada and neither the safety of navigation nor the efficiency of the service has been adversely affected.

One of the main purposes log-books would serve in the Quebec and Montreal Districts is already being fulfilled by the recently instituted traffic information service, officially called *Marine Traffic Control* (p. 180), which requires ships to make VHF reports as they pass designated check points *en route*. These records will provide, if necessary, such pertinent data as weather, times of passing certain points and average speed.

(7) CO-OPERATION WITH VARIOUS AUTHORITIES

Part of the duties of pilots and a condition of their holding a licence is that they co-operate with the authorities concerned in the general safety of navigation and the proper use of waterways. Sec. 17 of the Quebec By-law

makes it obligatory for pilots to report any violation of the law they may observe on the part of other vessels, any defect in the operation or position of an aid to navigation, or any alterations to banks or channels. A pilot is also obliged to warn another vessel standing into danger, i.e., approaching a shoal or navigating in a manner likely to cause an accident.

The help of the pilots is also sought to prevent water pollution by contributing to general surveillance. The Department's officials acknowledged the co-operation they had received from the pilots in this regard.

Pilots, by the very nature of their profession and their constant experience, become established as experts in the navigation of the waters in their District. They are, therefore, the logical advisers to those responsible for the safety of navigation, i.e., the Pilotage Authority, Department of Transport and Port Authorities. They are also in the best position to appreciate faults or difficulties in the organization of their service, as well as other nautical services, such as those providing aids to navigation or dealing with the physical features of their District. The pilots' suggestions and recommendations to the Pilotage Authority and others have resulted in many improvements, e.g., their extensive studies on the recruitment of pilots led to the present rules governing their apprenticeship system.

In their capacity as those who have "the conduct" of vessels, subsec. 17(2) of the District By-law obliges them to comply strictly with all directions given by a *Harbour Master* relating to mooring and unmooring, berthing or moving vessels within the limits of the authority of such Harbour Master, but they remain the sole judges whether a manoeuvre can be performed safely when permission to proceed has been granted. Although failure to proceed at the time indicated may be a cause of delay for harbour traffic, the Harbour Masters always respect the pilots' decisions, for instance, the Quebec Harbour Master was aware that there have been delays in berthing ships in Quebec (pp. 325-326) but he considers it is not within his competence to interfere and he had never had any such instances investigated to determine whether the pilots had made the correct decisions. However, a renewed order from the Harbour Master is required if the pilot fails to proceed as ordered in the first place (pp. 322 and ff.).

In Quebec, as in the Pilotage District of New Westminster (Part II, pp. 281 and ff.), the pilots as a group have studied the limitations and hazards created by the physical features of the District and with their combined experience have sought the best solution. The Pilots' Safety Committee has recorded its recommendations in a set of *safety rules* for the information of the pilots and others concerned. Because some of the rules affected the harbour of Quebec, the proposals were submitted to the Montreal (river) pilots and were later approved with some modifications. These rules are only guide lines and are not binding on any pilot but they express the combined experience of all the pilots. These rules, which were drafted by the

pilots in 1964 in the belief that they would assist in speeding up traffic and despatching and would enhance safety, provide *inter alia*:

- (a) Berthing at the Sillery Irving wharf is restricted to daylight hours and flood tide after a half hour's notice given by R.T. and repeated at regular intervals.
- (b) At sheds 21, 18 and 18-26, there is no berthing during the change of tide, i.e., one hour before and after each high and low water.
- (c) At sheds 25 and 26, berthing is recommended on ebb tide only.
- (d) At sheds 27 north, 27, 28-29, 29R, 29W, 30, 31, 32 and B.P. wharf, it is recommended that berthing be executed on ebb tide.
- (e) At the Anglo Pulp piers, in the St. Charles River Basin, due to lack of water at the approaches, times of arrival and departure are left to the pilot's discretion.
- (f) At the outer Princess Louise Basin and piers Nos. 14, 18, 19, 20, and 20W, entering should be on flood tide as long as shed 21 (Pointe à Carcy) is clear and on ebb tide as long as shed 18 is also clear.
- (g) The Inner Basin should be entered on flood tide as long as shed 21 is clear.
- (h) In Ha Ha Bay Harbour, no departures or arrivals are to be effected from or to Powell and Duncan wharves when ships are secured at Berth No. 2 Duncan Wharf and Berth No. 3 Powell Wharf and when any vessel secured at Berth No. 3 Powell Wharf projects beyond the pier.

In addition, the pilots have their own private unwritten *traffic rules* or gentlemen's agreement. At Red Islet where the currents are very strong, they have agreed that in conditions of poor visibility downbound ships use the channel south of Red Islet leaving the north channel free for upbound ships, thereby reducing the risk of collision. The same applies at Morin Shoal, but whether to use the north or the south channel is normally left to a pilot's own judgment. Usually, the pilot makes his decision without discussing the problem with the Master. The Red Islet procedure has since become a general rule applicable to all ships through publication of Notice to Mariners No. 25 of 1969 (pp. 180 and ff.).

The pilots have recommended that they should have the power to require a vessel travelling light to take on ballast if they consider this necessary for the safety of navigation. This feature will have to be covered in legislation, if and when compulsory pilotage is imposed. If pilotage is not compulsory, the Master continues to bear the primary responsibility for the safety of his ship and, if he refuses to comply with the pilot's request, the pilot should refuse to pilot the ship if she is running into danger (subsec. 329(f)(vi) C.S.A.), but otherwise should pilot to the best of his ability in the circumstances. In order to protect the pilot against possible responsibility,

a procedure should be laid down to have the situation recorded, the simplest being an immediate report to the Pilotage Authority over the Traffic Control VHF network.

They have also recommended that ships be required to provide an accommodation ladder for pilots to board and disembark. This requirement has repeatedly been brought to the attention of shipping through Notices to Mariners (e.g., No. 30 (Annual Edition 1969)) but some ships still do not comply. In rough weather, and especially when a ship is light, it is often dangerous to climb a swaying Jacob's ladder. A pilot should never be required to embark or disembark at the risk of death or injury. On the other hand, legislation should not be limited to an accommodation ladder since some modern vessels carry other safer equipment for this purpose, e.g., elevators. The question is already covered in that part of sec. 349 C.S.A. which is still applicable. Subsec 2 makes it an offence for the Master of a ship to fail to "facilitate the coming on board of the pilot", and subsec. 350(1) provides a penalty. Therefore, it is considered that vessels which have failed to comply with the requirement, thereby putting the pilot at risk, should be prosecuted. In the new pilotage legislation that part of subsec. 349(2) should be retained but expressed more explicitly.

The pilots have also asked to be provided with cabin accommodation on board to rest when a vessel has to anchor. To enforce the requirement, they suggest that an indemnity be charged if a cabin is not made available.

This appears a reasonable request if a vessel is expected to remain at anchor over an extended period. This situation is apt to occur frequently with the increase in winter navigation. The pilots should be afforded the opportunity to rest when their services are temporarily not required during extended assignments because the safety of navigation is affected.

These rights and powers of the Pilotage Authority over despatching, of the Harbour Authorities over traffic control, and of the pilots in cases where the safety of the ship is involved, are bound to conflict at times. However, there is no provision in the Quebec District By-law empowering the Pilotage Authority to settle disputes over pilotage matters and the only possible course of action for the aggrieved parties is to lay a charge before the appropriate courts or to take action for the recovery of damages, if any, before the civil courts. Four such instances were brought to the attention of the Commission:

- (a) The *Canuk Trader* whose owner asked, as an exception, to be provided with a pilot of his choice; his request was refused;
- (b) cases where certain pilots refused to berth vessels under certain conditions in Quebec harbour and other pilots carried out the assignment;
- (c) the pilots' revolt against the Pilotage Authority, i.e., the threatened strike in 1960;
- (d) the 1962 strike.

(8) CANUK TRADER CASE

In 1961, the Canadian Import Company contacted the Pilotage Authority about the possibility of sending S.S. *Canuk Trader* to Chicoutimi — draught 13 to 14 feet, length 440 feet and breadth 57 feet—for a 3,000-ton cargo of scrap metal. On September 22, 1961, the Pilotage Authority sought the opinion of the pilots who advised against the trip on account of the limited width of the winding St. Fulgence Channel. They stated that it was unsafe to navigate the channel with ships longer than 350 feet because the channel would be completely blocked in the event of grounding. Pilot Rousseau, the pilots' President, met the agent concerned and explained the situation to him. The shipping agent insisted because the scrap iron was already at the pier awaiting loading. Pilot Rousseau informed him that the trip could be done in good weather but it would still be risky. However, the decision was up to the shipowner and the pilots agreed to pilot the vessel provided they were relieved of all responsibility.

On October 3, 1961, the Regional Superintendent formally informed the shipping company by letter that the pilots had advised against taking the ship to Chicoutimi, but that, if the Master decided to undertake the voyage despite this advice, the pilot who would be assigned would give him all possible advice and assistance but the venture would be the entire responsibility of the Master.

Similar situations occur in other Pilotage Districts when pilots are requested to conduct movements and manoeuvres they consider particularly hazardous. The Pilotage Authority's attitude is to respect the pilots' opinion and not intervene. The agreed procedure is for the pilot concerned to inform the Master and explain the circumstances to him; if the Master insists on proceeding, the pilot must not refuse his services but do all in his power to make the operation a success.

On October 5, 1961, the Corporation of Pilots issued a bulletin to all its members stating the facts and the procedure that had been agreed upon (Ex. 688). This was not a directive from the Corporation but a suggestion to its members. They were reminded that subsec. 20(f) of the General By-law provides that a pilot has no right to refuse to pilot a vessel except on grounds of her safety. The following procedure was suggested: when the assigned pilot embarks he should inform the Master of the potential danger; if the Master insists on proceeding, the pilot should tell him he is prepared to give him all necessary advice to the best of his knowledge and ability, provided the Master signs a waiver of responsibility; if the Master refuses to sign the waiver, the pilot should request to be relieved and upon disembarking from the ship he should make a report to the local Supervisor. However, it was pointed out that it was not in the best interests of the pilot to refuse to embark. If there were a refusal on the part of the pilot, he should be replaced immediately by the next one on the roster.

The reason for the waiver was not really to obtain a document releasing the pilot of his responsibility but merely to avoid situations with which pilots had been confronted before and to enable them to prove that they had so advised the Master, if he later denied he had been warned. Therefore, the term "waiver" may not be absolutely correct, but it is used in this sense in the shipping world, e.g., it is reported that signing similar waivers is mandatory in the Suez Canal. The Pilotage Authority did not suggest a warning in writing and was not aware that this was being suggested, but the local Supervisor and the Regional Superintendent had been informed of the contents of the bulletin (Ex. 688, October 5, 1961) and they concurred.

When the *Canuk Trader* arrived, a pilot went aboard and helped the Master to the best of his ability. The vessel proceeded to Chicoutimi and, with the assistance of two tugs, negotiated St. Fulgence Channel. They waited for ideal weather conditions and passed the curves at the height of the flood tide (Exs. 602 and 603).

That was the only occasion when the Corporation of Pilots had to provide such advice to the pilots. It was not the first case of a large ship proceeding to Chicoutimi but on the previous occasion it was a tanker belonging to the Imperial Oil Company. Both company and Master knew about the risk beforehand and had accepted it.

(9) BERTHING PROBLEMS IN QUEBEC HARBOUR

Berthing in certain areas of Quebec harbour presents difficulties which are serious enough at times to render the manoeuvre temporarily impossible, or at least too dangerous to be attempted.

Since each pilot makes his own decision according to his ability, it is possible that one who is more expert will agree to berth a ship while another will decline to do so. It has always been the policy of the Pilotage Authority to respect the pilots' right to their own judgment. It is recognized that pilots differ in skill and capabilities and the Authority does not attempt to tell them how to perform their assignments. While it is possible that one pilot will take more risks than another, there are some pilots who will berth only under ideal conditions and will always automatically refuse to berth on a flood tide, irrespective of the type of ship or other factors, e.g., whether berth 25 or 26 has been allocated, or whether the wind is westerly and counteracts the tide to render the manoeuvre less dangerous. The contrary is also true: there are some pilots who will readily handle any berthing except under the most adverse circumstances.

The shipowners do not understand why the Quebec pilots and some Montreal (river) pilots seem to have no difficulty in berthing during any state of either flood or ebb tide, but some Montreal (river) pilots regularly refuse to berth vessels although ships so refused are berthed without delay by a Quebec pilot who replaces the Montreal (river) pilot for that very purpose.

Pilot R. Barras stated that conditions for berthing vary with weather conditions, the state of the tide and the type of ship. As far as he is concerned (and he considers himself among the lucky ones), in his long career he never met conditions that were so adverse as to prevent him from manoeuvring in the harbour of Quebec. Once, around 1958-59, he relieved a Montreal pilot to berth a ship.

Ex-pilot Langlois recalled one instance around 1957-58 when a ship arrived at Quebec at night destined to Pier No. 26. The tide was ebbing and the Montreal pilot decided to wait for flood tide before berthing. Since pilot Langlois was one of their special pilots, the Company called him. He berthed the ship without difficulty even without the aid of tugs. This was the only time in his long career that he had to relieve a Montreal pilot for this purpose. He added that he went to the estuary of the St. Charles River regularly on all states of the tide but there are some special cases where berthing is impossible, e.g., in a strong east wind berthing in the St. Charles River is bound to be difficult and it is quite possible that there would be some damage even if tugs were used. These extreme conditions might occur frequently enough, especially in the fall, but apart from these special circumstances he felt he could handle any type of ship safely.

Pilot Gauthier, a Montreal (river) pilot, stated that on a flood tide he never berthed ships at sheds 25 and 26 because the wharves are so situated that the tide forces a ship against them and the tugs available in Quebec are not powerful enough to counteract the tidal set. He never berthed a ship of any size there on a flood tide. He always berths there starboard side to, i.e., with the bow against the ebb current, but he did not know the practice of his fellow pilots. Pilot Gauthier added that he never entered the St. Charles Basin in a large ship, i.e., 10,000 tons and over, on a flood tide because, in his opinion, the adverse currents make it dangerous to pass the breakwater, but he had berthed smaller ships there under these circumstances. He was aware that larger ships were berthed under these conditions but it was not his practice to do so. He pointed out that when the tide is flooding the tidal currents cut across the entrance to the Basin at a speed of about five knots and set a vessel toward the breakwater on which sheds 26, 25 and 27 are erected. Ships berthing at these sheds are almost always assisted by tugs, but these would be of little help against a current running broadside against a ship drawing 27 or 28 feet.

Mr. J. H. Colquhoun, Chairman of the Steamship Committee in Quebec City, which represents many companies such as C.P.R., Cunard, Ramsey Greig and Canadian Import, has encountered this situation and complained about it. It is his experience that the pilots berth ships downbound from Montreal starboard side to on an ebb tide but, if they arrive on a flood tide, they are most likely to anchor and wait for the ebb tide. To his knowledge the Quebec pilots adopt the same attitude about berthing at piers 25 and 26

and wait for a suitable tide to berth starboard side to. He stated that this has become more common since the abolition of the special pilot system in 1960. His company's special pilots berthed on either tide at these particular wharves, e.g., on one occasion one of their largest ships, *M. V. Ivernia*, was berthed at pier No. 26 port side to by one of their special pilots.

He admitted, however, that the physical situation at these wharves has changed since that time and, therefore, the manoeuvre is more difficult now. Piers 18 and 26 are now one continuous wharf. Prior to 1960, pier 18 jutted over piers 26 and 25 into the River. This extension has now been continued to include pier 26 and it is expected that eventually it will also take in pier 25, thus making the three piers a continuous seawall. Before pier 26 was changed, the pilots used to berth port side to as well, although this was difficult. Now it is almost impossible, but they hope that a straight wharf will enable them to do so.

The pilots now assigned to Cunard passenger ships are Class A pilots, some of whom were formerly special pilots. Even these pilots, although they do not refuse to berth port side to, would advise a Master that starboard side to is preferable. Mr. Colquhoun had no knowledge of a Cunard Master refusing to take a pilot's advice. When he pointed out to the pilots that until quite recently ships berthed port side to at sheds 25 and 26, they replied that it was a very dangerous practice.

He added that the agents are quite concerned about the matter because this change means an extra delay of approximately seven hours waiting for the right tide, if a ship arrives just at the beginning of the flood, and with modern vessels such delays are expensive. However, his company had never by-passed Quebec harbour for this particular reason.

Occasionally there is a similar difficulty with a Montreal pilot berthing inside the St. Charles River Basin but this is overcome by sending a Quebec District pilot to take the assignment.

Mr. William E. Brodie, Quebec Manager of Ramsey Greig Company, Steamship Agents, corroborated the previous witness, and confirmed he had met with the same difficulties with regard to sheds 26 and 25 after changes in the construction of the wharf. He was not greatly concerned about delay, however, because before scheduling work, i.e., calling stevedores, etc., he considered the tide factor. He also agreed about berthing in the St. Charles River estuary: some Montreal (river) pilots decline to berth if they are obliged to pass the breakwater against a flood tide and his remedy in such a case is to employ a Quebec pilot who berths the ship without delay. While there is no loss of time, it means an extra charge of \$30, i.e., a moorage fee plus one pilot boat fee of \$10 per pilot (now \$40 since the 50 per cent increase in moorage charges in 1965). His company never experienced similar delays or similar situations with regard to the St. Charles River estuary when they had their special pilots who all berthed at any state of the tide.

They try to plan the departure of their vessels downbound from Montreal so as to arrive at Quebec at the right stage of the tide, even in the middle of the night, which means that ships sometimes have had to sail earlier than usual.

Montreal (river) pilots at times refused to go to other berths as well. When Mr. Hamel, the former Supervisor, made inquiries he was informed by the pilots concerned that they were inexperienced in berthing ships at places like the Champlain or Lorne Dry Docks at the Lauzon Shipyard. Since they did not know how to proceed, they did not feel competent.

Delays in berthing may also be caused by other factors such as lack of radio communication with the ship. This situation should have been corrected by now with the new improvement of the radio network, the *Traffic Control System* and the portable radio sets carried by pilots when vessels do not have the necessary equipment. Mr. Colquhoun referred to one instance in 1963 which is revealing in that it explains the procedure followed in the District. In the spring of 1963, M. V. *Letitia* was expected at shed 25 and stevedores had been ordered on the basis of an E.T.A. The ship was delayed and a later E.T.A. reported she was anchoring on the pilot's advice because he had been unable to obtain information by radiotelephone as to the exact situation in the harbour. Mr. Colquhoun then tried to communicate with the ship to have her berth immediately on arrival but he was unable to establish communication, although he used the Marconi system all night. For reasons unknown, his calls did not get through although later inquiries indicated that the ship's set was in good working order. Lacking instructions, the Master anchored with a resultant loss of time and the cost of the stevedores' gang which was particularly expensive because it was a Sunday (for the stevedores alone some \$800). The ship lost 24 hours, which would amount to about \$2,000 and, if loss of earnings were included, the total would be much greater.

He pointed out that one of their problems is how to plan unloading. In the collective agreement covering the working conditions of longshoremen the minimum notice for hiring a gang is two hours during the day and by 3.00 p.m. for work after midnight. Requests for Sunday must be made Saturday before 7.00 p.m. (*Letitia* was a Sunday hiring).

The former Supervisor, Captain Allard, stated that during his ten years of office at Quebec he found the Montreal (river) pilots refused to berth in the St. Charles River and at sheds 25 and 26 on a flood tide. He once took the matter up with the Pilots' Committee of the Mid St. Lawrence Corporation (Montreal (river) pilots) pointing out that the Quebec pilots berthed their ships at any berth and at almost any time of day or night. The Montreal pilots, however, were of the opinion that these manoeuvres were too dangerous and that no chances should be taken. Apart from discussing the matter with the Montreal Pilots' Committee, he made no report to his superiors but was certain that they were aware of the situation. He added that the National

Harbours Board, for whom he was the Harbour Master at Quebec when the Commission held its hearings there, was also aware of the situation and was not satisfied because it entailed delays in the occupancy of their berths. However, they accepted the situation as one of the peculiarities of the harbour of Quebec and preferred to "live with it" and to have ships delayed rather than have their wharves damaged.

He pointed out that all pilots agreed, however, that under extremely adverse conditions, such as a strong flood tide and a strong northeast wind, berthing should be delayed. There are also other factors, e.g., type of ship, type of engine and draught, that must be taken into consideration.

During the last ten years, the Pilotage Authority's attention has been drawn to the fact that some pilots licensed for the Three Rivers-Quebec section have refused to berth their vessels in the St. Charles River estuary on flood tide. The question was investigated at the time but was not pursued further and the Pilotage Authority took no action: "We have never tried to tell a pilot what he can do and what he can't do at any particular state of the tide". It was stated they might try to persuade a pilot to take a different view but the final decision was always left to him.

A few of the Quebec District pilots volunteer each year to carry out berthing or moorage assignments in the harbour of Quebec in addition to their normal pilotage duties (p. 437). When a Montreal pilot refuses to berth a ship a Quebec District pilot is usually asked to do so as soon as possible but the problem is to know in advance what is required so that the necessary arrangements can be made. The agents complained not so much because they had to have a relief pilot but because often they were not informed in advance whether the Montreal pilot would berth the vessel or not. The Quebec despatchers need advance information to ensure the availability of a berthing pilot and to arrange for him to meet the ship on arrival to prevent undue delay.

Mr. Brodie stated that when information is received that a pilot will not berth his ship in Quebec or intends to wait for a flood tide they immediately ask for a local pilot. They do not want to get into an argument—they simply want to have their ship alongside.

But even with advance notice, berthing pilots are not always available. This happened to Mr. Brodie in the case of M.V. *Caren Q* which arrived at Quebec June 27, 1963, from Montreal. She was due about 8.00 a.m. for shed 29 in the St. Charles Basin. Since the ship was expected at the beginning of flood tide and he did not know whether the Montreal (river) pilot would bring the ship in or not, he called the pilotage office and left the despatcher the usual open order for a berthing pilot. Later, however, the despatcher reported that none was available. The ship had to anchor and another pilot was ordered for 12.30 p.m., shortly after the change of the tide, and the ship was berthed at 1.00 p.m. In this case, there was no expense in connection

with hiring stevedores because he had time to cancel them. He did not ascertain why the Montreal pilot refused to berth the ship, but the fact that the vessel was turbine driven may have been a deciding factor.

When a berthing pilot is assigned, there was a movage charge of \$20 (now \$30 since the 50 per cent surcharge imposed on movages in 1965) payable to the Quebec Pilotage Authority and one or two pilot boat charges depending whether the pilot being relieved stays on board.

When a berthing pilot is used in the case of a down-bound vessel, both District Supervisors send their own separate bills, the Montreal Supervisor for pilotage downbound and the Quebec Supervisor for berthing, i.e., a movage charge. All such bills have been paid by the company concerned but at times there have been complaints. The shipping interests complain that this movage charge amounts, in effect, to a surcharge and, in view of the fact that the Montreal pilot did not bring the ship to her destination, that he should not be entitled to the dues that are payable for the fulfilment of his assignment and, hence, the movage charge should be deducted from the dues payable to the Montreal pilot. When the Supervisor receives any complaints of this nature he transmits them to the Regional Superintendent.

However, the former Supervisor, Mr. Maheux, stated that infrequently agents did not pay these charges when the pilot refused on grounds other than adverse conditions. He expressed the opinion that, in such cases, the agents were justified in refusing to pay.

To sum up from the shipowner's point of view: the situation is contradictory since the full charge must be paid for the river pilot because he says it is unsafe to berth the ship, and yet berthing fees are charged by the Quebec pilot because he feels it is safe and does it. It is argued that as far as the Montreal pilot was concerned, he was entitled to full dues in any case because he was discharged by the Master, the owner or the agent and, furthermore, had been relieved by another pilot.

This is a long-standing difficulty between the two groups of pilots.

The shipowners complain simply to support the principle involved because the charges are far less than the financial loss they would otherwise incur and, since they do not wish to be deprived of the services of the Quebec District berthing pilots, the bills are finally paid.

At the time of the Commission's hearings the Quebec pilots complained that the berthing charges (movage rate) were quite inadequate because they have to pay transportation from home to the pilot boat and, after the service has been performed, from the pier concerned back home plus the 10 per cent contribution to the Pension Fund. They feel there is not much left to repay them for the time involved and the service rendered. Since that time there has been a 50% increase in the movage charges (P.C. 1965-1172 dated June 23, 1965 and P.C. 1966-779 dated April 29, 1966, Ex. 429).

(a) *Quebec Harbour Pilotage Statistics*

To establish the importance of Quebec berthing problems in relation to the pilotage service as a whole it is essential to know the incidence of contentious cases. Unfortunately, the pilots who raised the question did not produce any statistics to support their recommendation. The impression gained from all the evidence on the subject, however, is to the effect that exceptional circumstances were presented as if they were the current situation or, in other words, that the problem was exaggerated.

Previously, the pilots made a similar proposal which, significantly, they later modified into a request for a berthing fee when, after analysing their statistics, they found it would not have been financially advantageous to have a separate group of berthing pilots. The shipping interests indicated that the need for berthing pilots arose only occasionally and they argued that the compulsory employment of a berthing pilot would merely mean that their costs would increase considerably in the long run if their vessels were to continue to stop at Quebec. They warned that this could prove to be detrimental to Quebec.

No pertinent information can be deduced from the pilotage statistics since no distinction is made between vessels which berthed at Quebec and those which were merely in transit, nor from the harbour and D.B.S. statistics showing the number of arrivals, even when vessels are segregated between ocean-going and others, since, although it may be assumed that all ocean-going vessels took pilots, the contrary would not be true because a great number are small vessels which are exempt while the compulsory payment of dues applies to the larger ones. Furthermore, there is a considerable discrepancy between the two sets of figures. For the year 1964, the number of arrivals is quoted as follows:

<i>D.B.S. Statistics</i> (Exs. 15 and 1483 respectively):	
Foreign-going shipping vessels.....	850
Coastwise shipping vessels.....	1,378
All vessels.....	<u>2,228</u>
Vessels of 250 NRT and over.....	<u>1,847</u>
<i>N.H.B. Statistics</i> (Ex. 479):	
Ocean-going vessels.....	993
Coastal vessels.....	2,476
Total arrivals in Quebec harbour.....	<u>3,469</u>
<i>Arrivals with Pilots</i> (Ex. 1466(p)):	
According to source forms.....	1,068

However, D.B.S. statistics (vide Table, pp. 150-151) show that since 1959 the marked trend year after year has been to fewer vessels of larger size. For instance, in the nine-year period up to 1967, the number of arrivals of vessels of 250 NRT and over in Quebec decreased by 25.9 per cent, but the average NRT increased by 36.8 per cent. It is quite possible that this trend to larger vessels may soon cause a change of pattern in navigation on the St. Lawrence River where more and more ocean-going ships will have to make Quebec their inland terminal because their deep draught will prevent them from proceeding farther upriver. While this will obviously have a substantial effect on the aggregate total number of ships that stop at Quebec, it will not necessarily mean a greater number since, as has been found elsewhere (e.g., the entry into service of the bulk carriers *Cape Breton Miner* and *Ontario Power*, Part III, p. 279), a large ship usually replaces a number of smaller ones, and thus brings about a smaller number of arrivals. The governing factors are too hypothetical to be taken into consideration at the present time.

The rest of the evidence is rather vague, although it indicates that the problem is far from crucial.

The former Supervisor of Pilots, Mr. Hamel, stated that during his time in office a pilot very seldom asked to be replaced for a berthing assignment in Quebec, e.g., in 1960, in the year prior to his retirement, this might have occurred 10 or 15 times.

The boatman, Mr. André Vézina, stated that every week his pilot launch is used to relieve a pilot in the harbour for the purpose of berthing a ship on account of the state of the tide, mostly for vessels arriving from upriver.

In order to appraise the situation, the Commission made an analysis (Ex. 1466(p)) of the 1964 Source Forms involving either berthing, anchoring or moving in the harbour of Quebec performed by either Quebec or Montreal District pilots. This analysis and its findings are still valid since the situation has not changed appreciably, except that, according to D.B.S. statistics, the number of arrivals of vessels of 250 NRT and over has decreased since then by 12.8%. The following table extracted from the exhibit indicates the number of arrivals involving pilots with a breakdown by harbour areas. It shows whether the river pilot was from Quebec or Montreal, whether the trip was completed without interruption as far as berthing is concerned, i.e., that the vessel was berthed by its river pilot upon arrival in the harbour, or whether the process was interrupted and the ship was berthed by him after a period at anchor or in the stream stemming the current, or whether a berthing pilot was employed.

ARRIVALS AT QUEBEC HARBOUR IN 1964

Location*	Quebec Pilots				Montreal Pilots				Grand Total	
	Uninterrupted	Interrupted			Uninterrupted	Interrupted				Totals
		Anchor	Stream	2nd Pilot		Anchor	Stream	2nd Pilot		
<i>East End</i>										
Princess Louise Basin:										
Inner basin—										
Berths 1 to 7 inclusive.....	6	2	1	15	2	0	0	0	2	
Outer basin—										
Berths 14, 18 and 19.....	2	1	1	3	8	3	1	4	16	
Berth 20 (grain reception).....	1	0	0	2	6	0	0	8	14	
									32	
Pointe à Carcy:										
Berths 8, 22 and 21.....	4	0	1	2	17	1	0	0	18	
Breakwater:										
Berth 18 (grain reception).....	1	0	0	0	21	0	0	3	24	
Berths 18/26 and 26.....	11	0	0	4	25	7	1	19	52	
Berth 25.....	6	1	0	5	28	9	0	18	55	
									131	
St. Charles Estuary:										
Berth 27.....	19	3	3	4	37	12	0	4	53	
Berth 28.....	14	3	0	4	18	3	0	9	30	
Berths 28/29 and 29 (grain shipping).....	17	4	0	9	57	13	2	15	87	
Berths 30, 31 and 32 (Canadian Import).....	3	1	3	4	18	1	2	4	25	
Anglo Pulp wharf.....	0	0	0	2	10	0	0	1	11	

Berth 50.....	7	1	0	0	0	8	15	0	0	1	16
Berth not stated.....	0	0	0	0	0	0	2	0	0	0	2
						101					224
<i>West End</i>											
Wolfe's Cove—											
Sections 1 to 8 inclusive.....	140	19	3	11	116	173	116	7	2	12	137
Oil berths.....	1	1	0	2	1	4	1	0	0	0	1
Irving Oil berth (Sillery wharf).....	0	1	0	5	7	6	7	1	0	1	9
						183					147
<i>Central Section</i>											
Queen's wharf.....	0	0	0	0	9	0	9	0	0	0	9
C.S.L. wharf.....	1	0	0	0	0	1	0	0	0	0	0
						1					9
<i>South Side</i>											
Lauzon wharves and dry docks..	27	1	1	1	37	30	37	0	0	4	41
Lévis wharves.....	5	0	0	2	1	7	1	1	0	0	2
						37					43
						26					47
Not identified on "Source Forms".....	23	3	0	0	42	477	42	4	1	0	47
	288	41	13	75	548	417	477	62	9	103	651
		342									1,068

* Berths identified merely as a section were entered as one of the sections of the Wolfe's Cove Terminal; if the reference was merely a number, it was taken as referring to a berth number, e.g., Section 8 was placed in Wolfe's Cove and #8 as Berth 8 (Pointe à Carcy).

SOURCE: Ex. 1466(p).

Analysis shows that in 1964 there were 1,068 arrivals (not counting ships in transit) in the harbour of Quebec which were serviced by the pilots of both Districts. Of these, 71.5% were berthed upon arrival without any reported delay. In the remaining cases, 11.8% of the vessels were berthed by their river pilot, with or without going to anchorage but after some delay. In 16.7% of the cases, berthings were not performed by the ship's river pilot but by a second pilot from the Quebec group. As will be seen later, this percentage is almost the same for both groups of pilots but, surprisingly enough, the record of the Montreal pilots is slightly better, despite the fact most of the berthings they performed were in the more difficult areas of the harbour.

The analysis also reveals that most of the delays were caused by circumstances beyond the pilots' control, such as unavailability of berths or tugs, which could not have been remedied or overcome by a specialized group of harbour pilots.

When a delay is expected or unavoidable, the Master has to decide what action he will take. If the delay will be brief, the best solution may be simply to reduce speed *en route* or to occupy the time stemming the current in the harbour, but if a longer delay is expected the Master has no choice except to anchor either outside the harbour limits, e.g., to the east off St. Jean, Ile d'Orléans, or at La Martinière anchorage, or to the west off St. Augustin or Pointe Platon (in which case the pilot must be detained) or in the harbour anchorage (in which case the Master may either detain or discharge the pilot). When the delay will be long or is of uncertain duration, the pilot is usually discharged. In this event, a berthing pilot must be used when the berth which has been allocated becomes available or when the circumstances which previously prevented berthing change. The pilot might also be discharged if it is considered that a rested and more experienced Quebec pilot could berth the ship without delay in the existing circumstances, e.g., on a flood tide with or without a northeasterly wind, particularly if the berth is in the St. Charles River estuary or at the breakwater. The maximum delay that would otherwise be incurred in such cases would be the interval until the tide changed.

Even in ideal weather conditions, there are occasions when a prudent pilot will delay berthing. At times, a few minutes may mean the difference between a difficult, hazardous manoeuvre and a speedy, safe one, e.g., at wharves exposed to strong tidal currents, by waiting for slack water at the change of the tide. Such a delay, even of half an hour or more, is amply justified.

The analysis shows that 40 Quebec District pilots were used at one time or another in 1964 in Quebec harbour as relief berthing pilots or to perform berthings or movages.

(b) *Analysis of Quebec Pilots' Performance*

In 75 cases out of 417 arrivals (18%), the vessel was not berthed by the river pilot. With one exception, it was not stated why the river pilot did not berth his vessel but an analysis of the records shows clearly that in almost all cases there were circumstances beyond the pilot's control. In fact, vessels were berthed by berthing pilots only three times on arrival and on three other occasions within one hour after arrival. In 27 cases, it is obvious that the change of pilots was warranted by circumstances not involving the pilot, since the vessels remained at a Quebec anchorage considerably longer than the time required for the tide to change. Of these, 12 waited between 10 and 20 hours and 14 for over 20 hours, including 3 who remained over two days. These 27 cases do not include three ships bound for the inner basin who waited at anchor less than 15 hours because the basin is tidal and the gate can not be opened except at the height of flood tide.

Therefore, with the exception of perhaps 6 cases, a berthing pilot was not employed for the purpose of reducing delays. In these cases the Master doubtless found it advisable to discharge the river pilot rather than detain him during the long and unavoidable waiting period when he found that the vessel could not be berthed upon arrival for reasons beyond the pilot's control, such as unavailability of berths or inaccessibility of the inner basin. (as happened 15 times).

In 342 cases (82%), the ship was berthed at Quebec by her Quebec river pilot at the end of the trip, and in only 54 cases (12.9%), some delay was incurred. In a great number of these 54 cases, the reasons for the delay were given — mostly they were due to circumstances beyond the pilots' control.

The analysis by harbour zones of these 54 cases and of the 75 cases where there was a change of pilots reveals the following:

- (i) **Princess Louise Basin.** As seen earlier, entrance to the inner basin is perforce limited to the height of the flood tide and there are bound to be long delays unless vessels arrive at precisely the right time. The entrance to the outer basin can not be negotiated except at very slow speed, first, because the gate is narrow and, second, because the basin is small and a vessel must have very little way on and still remain under control. Because the entrance faces the river and is directly affected by the current, the basin can be entered at such slow speed only during slack water. A tidal flow of only a few knots, either ebbing or flooding, makes the operation risky and usually impossible. These circumstances are such that the availability of a group of berthing pilots would not improve the situation in that locality. It would always be necessary to wait for the right time of the tide and long delays would continue to be encountered as far as the inner basin is concerned. This is no doubt the reason why

most of the ships bound for the Princess Louise Basin were taken in by a second pilot after a prolonged waiting period at anchor. In 1964, only 8% of the ships that berthed there had a Quebec pilot on board.

- (ii) The Quebec pilots handled very little traffic at the breakwater berths (18, 18/26, 26 and 25): they had only 28 arrivals, i.e., less than 7% of their traffic, which was in sharp contrast with the experience of the Montreal pilots. In 18 cases, the ships were berthed upon arrival. The river pilot waited only once at anchor and this was for the ebb tide to proceed to berth No. 25. In 9 cases, there was a change of pilots but, as seen earlier, the reasons were not given. However, it is obvious that in some cases there were other reasons than the tide, e.g., one ship waited at anchor for more than 10 hours and another for more than a day.
- (iii) There is very little traffic in the Pointe à Carcy area. In 1964, the Quebec pilots brought only 7 ships there in all (less than 2% of their traffic). This area, therefore, is negligible in appraising the present problem.
- (iv) The St. Charles River estuary and the Wolfe's Cove Terminals are the areas where most of the ships with Quebec pilots aboard are accommodated. In 1964, 24.4% went to the St. Charles River berths and 42.5% to the Wolfe's Cove Terminals. As seen earlier, the main difficulty with the St. Charles River is entering against the cross current created by the flood tide in the vicinity of the breakwater. The problem is intensified when there is a northeasterly wind which would also hamper berthing at the west side wharves. However, in 60 of the 101 arrivals there in 1964, conditions were either satisfactory or were successfully overcome by the pilots because these vessels were berthed upon arrival with no delay. In 12 cases, the river pilot was delayed before he was able to berth his ship. In 6 of these 12 cases, the reason for the delay was given: once for the tide, three times because tugs were not available, once for lack of a berth and once to wait for orders. In the 23 cases where there was a change of pilot, the reasons are not given but it is obvious that in some cases it was not on account of the tide. Two vessels waited more than 2 days and 1 for more than 1 day. In one case, a vessel arrived during ebb tide but did not proceed to her berth and, in another case, the vessel waited 4 hours after the beginning of the ebb before moving in to berth. If the exact causes had been recorded on these occasions, it is to be expected that similar reasons to those previously given would have been revealed. Therefore, in only a few instances would the availability of a specialized group of berthing pilots have improved the situation

somewhat since most of the delays were beyond the pilot's control no matter how skilled and rested he was.

- (v) Out of 177 vessels upbound that berthed at Wolfe's Cove Terminals, with or without a change of pilot, 36 (20%) were delayed for one reason or another. In 17 cases, the reasons were given: in 9, the berth was not available; in 2, they waited for the tide in order to berth the vessel starboard side to at the Master's request (presumably on account of the way the cargo was stowed or was to be stowed); other reasons were being ahead of E.T.A., awaiting agents' orders, engine trouble, waiting for tugs; the tide was given as the sole reason in only 2 cases. In some instances where no reason was given, it was obviously not the tide, e.g., one ship waited at anchor nearly 12 hours. In 13 cases, the delays were such that the Master discharged the river pilot and later employed another pilot for berthing. It is worth noting that this area does not pose difficult berthing problems at any stage of the tide or of the day, but, nevertheless, there was still a high percentage of delays.
- (vi) As seen earlier, conditions are extremely adverse at the Irving Oil Wharf and it is worth noting that all 6 vessels brought there by Quebec pilots were not berthed upon arrival. In 5 cases, the delays were so long that the river pilot was discharged and the ship berthed by a fresh pilot when favourable conditions prevailed. The pilots have testified that to do otherwise would endanger the ship. Therefore, it is doubtful that regular berthing pilots would act otherwise. In any event, the traffic there is negligible.
- (vii) Vessels brought to the Lauzon berths and dry docks are generally under, or for, repair and may not be as manoeuvrable as others. They must wait for the right state of the tide to enter the dry docks. Delays caused by such conditions are beyond the pilots' control.

(c) *Analysis of Montreal Pilots' Performance*

The Commission was led to believe that the main problems in Quebec was caused by the Montreal pilots who repeatedly delayed ships upon arrival while waiting for favourable tidal conditions before berthing, and that the remedy adopted was for the agents to employ a Quebec pilot to berth immediately upon a vessel's arrival rather than let her anchor and wait for the tide to change. However, analysis of the 1964 Source Forms shows a completely different picture and corrects the impression given by the evidence, namely:

- (i) Most ships allocated to the most difficult berths are handled by the Montreal pilots: in 1964, they brought 131 vessels to the breakwater berths (the Quebec pilots 28) and 224 in the St. Charles

estuary (the Quebec pilots 101). The Montreal pilots accounted for 73.3% of the traffic there and the Quebec pilots 26.7%.

- (ii) Despite this, the Montreal pilots have the better record for berthing on arrival both in the St. Charles estuary and at the breakwater: they berthed 65.1% of their vessels on arrival while the Quebec pilots did so 60.5% of the time.
- (iii) The Quebec pilots were relieved on arrival for berthing purposes in 75 instances and the Montreal pilots in 103 instances. If any meaning is to be attached to these statistics, the Montreal pilots' record is better when compared with the total number of berthings effected since the Quebec pilots were relieved in 18% of the cases while the Montreal pilots only 15.8% of the time.
- (iv) The berthing pilot appears to have been a relief pilot very rarely. Berthing was affected without delay in only 8 of the 103 cases in (iii) above and in 3 others the vessel was berthed within an hour after arrival. In the other 92 cases, berthing seems to have been delayed for reasons beyond the pilots' control (whether a Montreal or Quebec District pilot) and in the circumstances the Master chose to discharge rather than detain the pilot.

The reasons for the changeover are mentioned in only 4 cases: radar trouble, waiting for tugs, accumulation of ice which prevented berthing and waiting for low water to dock safely in the Lorne Dry Dock. An analysis of the records, however, indicates that in 34 cases it could not have been the tide because the vessels waited at anchor more than 10 hours. A breakdown of the delays in those 103 cases where, for one reason or another, the Master decided to discharge the Montreal pilot and eventually had to use a fresh pilot for berthing (which then amounted to a moveage that had to be performed by a Quebec pilot) shows:

Berthed upon arrival.....	8
Berthed within less than an hour after arrival.....	3
Berthed within one or two hours after arrival.....	3
Berthed between two and three hours after arrival.....	12
Berthed between three and four hours after arrival.....	7
Berthed between four and five hours after arrival.....	9
Berthed between five and six hours after arrival.....	11
Berthed between six and seven hours after arrival.....	5
Berthed between seven and eight hours after arrival.....	5
Berthed between eight and nine hours after arrival.....	3
Berthed between nine and ten hours after arrival.....	4
Berthed between ten and twenty hours after arrival.....	15
Berthed between twenty hours and two days after arrival.....	10
Berthed between two days and three days after arrival.....	5
Berthed between three and four days after arrival.....	1
Berthed between four days and more after arrival.....	2

In only 71 out of 548 cases, the Montreal pilot either anchored before berthing or spent some time in the stream. In many of these cases the reasons were stated:

- (i) In 19 cases, to await favourable tide conditions, 4 times for breakwater berths and 12 times for St. Charles estuary berths. The longest delay was 4 hours 25 minutes; the average delay was 2 hours.
- (ii) In 15 cases, berths were not available.
- (iii) In 7 cases, tugs were not readily available. Except in one unusual case, these delays were less than 1 hour on the average.
- (iv) In 4 cases, ice conditions prevented berthing and the vessel had to wait until tugs cleared the icefloes.
- (v) There were also other reasons, e.g., in two cases, the Master required the vessel to be berthed starboard side to and they had to wait for the ebb tide. In another instance, the delay was due to engine trouble; in another, the vessel was ahead of the scheduled time of arrival; in one case, it was fog; on another occasion, adverse weather conditions prevented the ship from entering the outer basin.

For the remaining cases, the reasons were not advanced but one may surmise that they were a combination of those that have been reported.

It appears from this analysis that the creation of a compulsory berthing service would not have materially changed the situation and that very little time would have been saved but that a substantial increase in pilotage fees would have been incurred by the shipowners because additional fees for movages and pilot boat service would have been incurred in 890 cases, mostly when a change of pilot was neither necessary nor useful.

If a group of berthing pilots had been created to handle all berthing in Quebec harbour and all movages, the following services would have been performed by this group in 1964 (Ex. 1466(p)).

Berthing of upbound vessels	417
Berthing of downbound vessels	651
Movages from wharf to wharf	123
Movages from wharf to anchorage	22
Movages from anchorage to wharf	80
Movages from anchorage to anchorage	16
Total	1309

At an average of \$20 per movage, the berthing pilots would have earned a total of \$26,180 in 1964 (the addition of the 50% surcharge that was granted in 1965 would have raised the amount to \$39,270). These are gross

figures from which must be subtracted the 10% pension deduction, the pilots' contributions to the expenses of their various organizations and also their transportation expenses, which are quite high in the case of harbour pilots on account of the frequency of their assignments. Assuming that the number of berthing pilots needed to meet requirements without delaying vessels would be four, the gross revenue needed in 1964 to make this group's income equal to that of the river pilots would have been \$71,000 with the result that it would have been necessary to raise the average charge for service to \$55 not including any charge for the use of the pilot launch.

The 1964 Source Forms listed 34 cases of a charge for a movage in the harbour of Quebec that was performed by a Montreal pilot. Although there is nothing at present either in the Act or in the By-law to the effect that all movages in the harbour of Quebec are to be performed by Quebec District pilots, this is the rule that is followed. These 34 cases are not exceptions but cases over which no one had any control. When these assignments were begun they were trip assignments but due to adverse or unavoidable circumstances the trip could not be continued. The details accompanying each entry give the necessary explanation. For example, most are instances where the pilots had embarked for an upbound trip but before leaving the harbour were prevented from continuing for reasons such as engine trouble or too much ice during a winter trip and were obliged to return to a Quebec berth. In these cases, only a movage was charged by the Montreal Pilotage Authority, according to its tariff, rather than a partial pilotage trip. These are unforeseeable cases that could not have been attended to by Quebec pilots.

The analysis made by the Commission of the shipping casualties, accidents and incidents which happened in the course of berthing or unberthing, or at a harbour anchorage reveals the disturbing fact that they are almost double those which occurred in the ordinary course of navigating (vide p. 339 and Appendix A). However, they are not frequent nor overly serious in the aggregate. It might have been revealing to ascertain the causes of each occurrence to determine whether they were due to lack of skill and knowledge, or to taking risks that could easily have been avoided by waiting for a change of tide. The available information indicates what many other factors contributed, such as an error by the tug Master or engine failure. Once these cases are eliminated, the number of accidents involving a pilot's responsibility is not large enough to be considered indicative of a prevailing situation that the creation of a specialized group of berthing pilots would correct.

During the nine years 1956 to 1964 inclusive the Quebec pilots were involved in 88 shipping casualties, accidents or incidents in the course of navigating vessels, and in 148 while berthing or at anchor in the various harbours and ports throughout the District. These were generally of a relatively minor character. Of the 148, only two could be classified as major

casualties (1 major stranding and 1 heavy damage to a ship exceeding \$50,000 when the ship struck a pier). However, 121 were minor casualties, i.e., 4 minor strandings, minor damage to the ship in 71 cases of striking a wharf, 24 cases of striking another vessel or vessels while berthing, 4 cases of striking another vessel at anchor and 18 other circumstances.

In 1963, of 34 reported shipping casualties, accidents and incidents, 26 happened while berthing, unberthing and anchoring and, of those, 12 striking a wharf, 3 striking another vessel while berthing and 3 striking another vessel at anchor. The 1964 record was much better. While there were 834 berthings, anchorages and movages in Quebec harbour by Quebec pilots, there were only 8 cases (12 in the whole District) while berthing, unberthing and at anchor. 6 cases involved striking wharves, 5 of which resulted in minor damage to the ships concerned.

As for the Montreal pilots during those 9 years, out of a total of 772 casualties, accidents and incidents, 502 happened while berthing and anchoring, 4 of which were in Quebec. That year the Montreal pilots did 685 berthings, anchorages and movages in the harbour of Quebec.

The damage suffered by ships was generally of a minor nature, although occasionally it was quite heavy. As seen under *Shipping Casualties* below, damage to harbour installations was very minor in the aggregate.

The following is a detailed analysis of shipping casualties, accidents and incidents while berthing, unberthing or anchoring in the harbour of Quebec during 1964, involving the pilots of both Quebec and Montreal Districts:

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

—nil

II. MINOR CASUALTIES (without loss of life):

(a) *Minor strandings*

nil

(b) *Minor damage to ship*

(i) Striking pier:

1. April 14 (Montreal Pilot)—*Willowbranch*, Wolfe's Cove, damage not stated; cause: Master's error.
2. April 29 (Quebec Pilot)—*Nipigon Bay*, Princess Louise Basin Section 18, damage to rudder; cause: underwater obstruction.
3. May 2 (Quebec Pilot)—*Palamedes*, Wharf 26, damage to one plate; cause: *pilot error*, manoeuvring.
4. July 3 (Quebec Pilot)—*Wabana*, Inner Basin Berth 1-2, damage to two shellplates; cause: tug, manoeuvring.
5. August 3 (Quebec Pilot)—*Baskerville*, Sheds 25-26, damage to two plates, one bulkhead; cause: tug error, manoeuvring.
6. August 19 (Quebec Pilot)—*Rapallo*, Shed 27, damage to bulwarks; cause: no fenders, manoeuvring.

(ii) Striking vessel berthing or unberthing:

1. July 2 (Montreal Pilot)—*Imperial Halifax* touched *Saguenay* drydocking, damage not mentioned; cause: *pilot error*, manoeuvring.

Study of Quebec Pilotage District

(iii) Striking vessel anchoring:

— nil

(iv) Others:

1. July 12 (Montreal Pilot)—*Sea Transport*, lost anchor; cause: cable parted.
2. November 3 (Montreal Pilot)—*Clement* struck Princess Louise Basin bridge, damage not stated; cause: mechanical failure, wrong engine movement.

III. ACCIDENTS (without damage to ships):

(a) *Damage to pier*

1. July 16 (Montreal Pilot)—*Elmbranch*, damage to beams of shed; cause: *pilot error*, manoeuvring.

(b) *Damage to buoys*

— nil

(c) *Others*

— nil

IV. INCIDENTS (without any damage whatsoever):

(a) *Striking pier*

1. August 21 (Quebec Pilot)—*Tanais*, Lauzon drydock, damage not stated; cause: no tugs available, manoeuvring, stern pushed on corner entering.
2. December 21 (Quebec Pilot)—*Hornero*, Shed 18-26 to 25, damage not stated; cause: ice conditions.

(b) *Striking vessel at pier*

1. May 4 (Quebec Pilot)—*Mormacisle* struck *La Hacienda*, Shed 25, damage not stated; cause: wind and tug, manoeuvring.

(c) *Striking vessel at anchorage*

— nil

(d) *Striking buoys*

— nil

(e) *Others*

1. April 14 (Quebec Pilot)—*Phillip R. Clarke*. Quebec anchorage, wire around anchor, heaved cable; cause: anchoring in fog.

(d) *Recommendation Received*

Partly to solve this problem and also to improve the Quebec pilots' working conditions, the Federation of Pilots, speaking for the Quebec pilots only, recommended the creation of a group of berthing pilots to relieve the river pilots of the task of berthing upbound vessels. The recommendation does not cover the case of vessels leaving Quebec downbound because the river pilot should then be rested and prepared for his assignment (p. 88).

This recommendation deals only with the small part of the problem because, from the evidence, it appears that the Quebec District pilots nearly always berth their ships on arrival unless the manoeuvre is impracticable. Nor does the recommendation, although it comes from the Pilots' Federation, cover the case of Montreal pilots who come to Quebec from Trois-Rivières. Pilot Rousseau explained that since the trip from Trois-Rivières is shorter and radio communications are better (and greatly improved since then) the Montreal (river) pilots have not the same need for relief.

There was no rebuttal from the Montreal pilots nor did they make a similar recommendation, no doubt being satisfied with the existing situation. The Pilotage Authority has reported, however, that when the operating procedures of the Montreal pilots were investigated they used the same argument as the Quebec pilots, i.e., a pilot who has just completed a long and tiring trip does not feel sufficiently rested to perform the difficult manoeuvre of berthing vessels under adverse conditions.

The proposal is not new. For instance, it was one of the questions discussed at the January 3, 1961, winter meeting of representatives of the shipping interests, the pilots and the Pilotage Authority. The minutes of the meeting state (Appendix 61, Shipping Federation Brief, Ex. 726):

"5. The pilots recommended that a system of docking pilots be established for all vessels docking and undocking alongside in the Harbour of Quebec. They asserted that by assigning one or more of their pilots to this duty and these men becoming familiar with their work less use would be made of the tugs so that an overall saving would be effected, notwithstanding the imposition of a new docking charge for this separate service."

A committee composed of pilot Rousseau, Captain Gendron and representatives from the Department of Transport and shipping was created to study the question.

A few days later, in his annual address to the pilots at the annual meeting in January 1961 (Ex. 683), the President of the Pilots' Corporation reported that they had raised the question with the Pilotage Authority, had suggested the creation of a study committee, and that the Pilotage Authority had agreed. In his next annual report, he stated that after the question had been thoroughly studied by the committee it appeared that the proposal would not be financially advantageous at that time since the system would require at least two or three pilots, but the dues they would earn from movages and berthing would provide them with an income below the average of the other pilots.

The question was raised again, but in a different way, a few weeks later at the next winter meeting which was held at Montreal February 26-27, 1962, when it was one of the points in the memorandum distributed in advance to prepare for the meeting. All the pilots were now requesting was the establishment of a berthing and unberthing charge in Quebec harbour instead of a berthing pilot system. The Quebec pilots were willing to berth at the end of the trip provided there was extra pay. No agreement was reached on this proposal nor on any of the points concerning tariff and pilots' remuneration.

On March 6, 1962, the Federation of Pilots intervened and wrote to the Minister and the Deputy Minister requesting that decisions be taken on all the questions in abeyance, including this point.

On March 14, Mr. Cumyn, Director, Marine Regulations, replied to the Federation (Ex. 761). With regard to this question he stated that the new charge requested was not justified because it would entail an actual increase in the rates, which was not warranted in view of the pilots' 1961 earnings of well over \$14,500.⁵

The question was not abandoned by the pilots and was one of the points discussed during the 1962 winter meetings and negotiations. However, when the Quebec pilots decided to go on strike because negotiations about all their recommendations and requests had reached a stalemate with the Authority, they decided not to press the less important requests (such as this) in the hope they could avoid the strike by limiting their demands to the most important issues. Later they decided to incorporate the original proposal in their brief to the Commission.

The reasons the pilots advanced in support are: to improve their working conditions, to provide better pilotage service and to increase efficiency and safety.

If a river pilot arrives at Quebec from Les Escoumins, he has piloted a distance of 123 miles and from the Saguenay River, some 160 miles. In addition to the length of the trip, there may have been bad weather and night piloting so that the pilot is tired just at the moment when he has to perform a delicate berthing manoeuvre requiring thorough up-to-the-minute knowledge of the wharves, tides and winds, since his procedure will be influenced by all these factors. It was pointed out that a pilot would not hesitate to berth if he had a good fast trip (by daylight for instance) and was not tired but, on the other hand, if after a long night trip and an early morning arrival he found difficult harbour conditions he might well decline to berth and recommend anchoring. The pilot would then rest while awaiting more favourable conditions. This would cause a delay of six to eight hours.

A pilot who specialized in berthing would give better service, thus saving the shipping interests both time and money, especially the extra costs caused by unexpected delays. The pilots noted that a pilot who berthed three or four ships a day would certainly be more expert than one who did only about one a week and, hence, there would be a saving in time and also, presumably, a saving in the cost of tugs because a rested specialist could perform with more confidence and less chance of an accident. Because of his extensive experience an expert berthing pilot would need tug assistance less often.

They advanced other arguments that have less value since the establishment of the Marine Traffic Control System (p. 180). Tugs were ordered by the pilot on board while still far away from Quebec; not knowing the prevailing weather conditions in the harbour, he was inclined to order

⁵ The 1963 average earnings, after pension deduction, were \$14,241.05 and the average "take-home pay" after meeting the pilots' Corporation expenses was \$14,163.96 (vide table p. 492).

more than might be necessary in order to be on the safe side. Furthermore, the pilot had no way of knowing the existing traffic conditions in the harbour nor the situation at the wharf where he was to berth. If there was enough space to manoeuvre, tugs might not be needed. The pilots said that a berthing pilot acquainted with the local situation would then order only the tugs he actually needed, if any, and could berth without the delays that would be encountered by a pilot who had to meet unexpected conditions at the last minute. In addition, from the safety point of view it would be advantageous to have this difficult manoeuvre carried out by a rested pilot.

The pilots added that such a system has proved its effectiveness in other important ports in the world; they referred to their experience during their visit to harbours such as Southampton, Rotterdam, Antwerp, Hamburg, Stockholm, New York, and the inner basins of London and Liverpool. In all these ports the river pilot is relieved by a berthing pilot when the ship reaches the harbour limits.

The upbound Quebec river pilot would have to be relieved somewhere down river and his workload would be less to that extent, but the pilots do not agree that the charge for river pilotage should be reduced by the amount of the berthing charge. The latter, however, would have to be substantial enough to provide the berthing pilot with adequate remuneration. They mentioned that in New York berthing pilot dues are included in the tug fees and, in fact, the berthing pilot is the tug Master.

It was recommended that the changeover of pilots should be effected in the Lauzon bend some distance upstream from the shipyards, in the vicinity of buoy 138B. The berthing pilot could board the ship from a tug, if a tug was being used; otherwise, a pilot vessel would be needed, with still another increase in the cost.

Mr. Maheux stated that during his term of office as Supervisor it was understood that a berthing pilot should be ordered if a pilot had had a tiring trip upbound from Les Escoumins but this happened so rarely that it was not worth mentioning. In these cases, vessels were either bound for the inner basin or for those berths where they had to wait for the right state of the tide. This would mean anchoring unless speed was decreased so as to arrive at the right time and thus avoid the necessity of anchoring and paying a moorage charge. He discussed the question with the various parties concerned and it was agreed that after fifteen hours of pilotage duties a pilot might ask to be replaced for berthing.

Pilot Koenig did not think the creation of a special group of berthing pilots at Quebec was an absolute necessity but he added that if the shipping interests were willing to pay the cost he would have little objection.

Pilot Gauthier, a Montreal (river) pilot, did not favour berthing pilots at Quebec since he believed the procedure followed at the time was adequate

and he saw no reason to change. He never had any trouble with a Master when he advised him to wait for the tide before berthing at Quebec and during the 28 years he was a pilot he never had any complaints from agents in this regard. He pointed out that in Quebec all wharves face the river or the basin while Montreal has finger piers. In addition, Quebec is subjected to tidal currents whereas Montreal has downstream currents only. Before the Montreal District was divided at Three Rivers, he piloted all the way up from Quebec to Montreal and berthed on arrival.

The shipping interests raised no objection to the system provided it meant no additional expense. They pointed out that at the time of the Commission's hearing the steamship business in Quebec was more or less depressed, e.g., the Cunard Line did not call at Quebec for various cargoes because of higher costs, and they believed that any increase in the cost of pilotage would mean additional hardship for the harbour of Quebec.

It was pointed out that the saving the pilots claimed the shipping interests would make if berthing pilots were used would not be true for every berthing but only in those cases where the river pilot would not have berthed the ship. Otherwise, it would cost the shipowners an additional berthing charge, not counting the pilot boat charge. Mr. Brodie pointed out that their company has about six or seven ships per week calling at Quebec, i.e., about 300 trips per year. Establishing berthing pilots for Quebec harbour at \$20 each (\$30 since 1965) would mean an additional \$6,000 (\$9,000 in 1965) per year (not counting the additional pilot vessel charges) for his company, and although there might be some savings in certain cases, he pointed out that these could not be considered the basis for a general rule.

Mr. Colquhoun did not favour the proposal because, if the pilots were able to berth ships in previous years, he could not understand why they were unable to provide the same service with modern aids to navigation, faster ships and better facilities.

From the Steamship Committee point of view the special pilot system was better than the present system and, in their opinion, this was primarily due to the fact that the special pilots became familiar with the ships of the company for which they worked.

Captain Norman E. Rees-Potter, Canada Marine Superintendent for Cunard Steamship Company, stated that his company would favour berthing pilots for Quebec harbour, both for vessels upbound and downbound on two conditions, i.e., there would not be any additional charge to shipowners and the service to ships would improve. In his opinion, the most important question was to avoid delays; in other words, the ability of a pilot to berth vessels on arrival at any state of tide and by day or by night under normal weather conditions without any costly delay at anchor waiting for favourable conditions. The berthing pilots, therefore, should be specially trained for that type of work and any ordinary tour de rôle pilot should not be given the

assignment just because it was his turn. He had no objection, however, to the specialized group being chosen from the tour de rôle pilots who would be available to perform river assignments when they were not employed berthing.

As for costs, Captain Rees-Potter was of the opinion that the pilotage charges, including river pilotage and berthing if a second pilot was employed, should cost the vessel no more, but the dues should be divided equitably between the two pilots. He would not object to paying the extra pilot boat charge because it is minimal.

He considered that berthing pilots should berth vessels at Quebec, both those upbound as well as those from Montreal, because the prime purpose is to avoid costly delays. From the safety angle, he was of the opinion it was reasonable to relieve Quebec river pilots after a trip from Les Escoumins that lasted longer than 7 to 10 hours, but for pilots downbound from Three Rivers it was not a question of safety (except in exceptional cases) and the proposal should apply to them only for the practical reason that these are the pilots who most often delay ships destined for Quebec.

(10) REVOLTS AGAINST PILOTAGE AUTHORITY

From 1960 to 1963 inclusive, relations between the pilots and the Pilotage Authority deteriorated to the point that in the fall of 1960 a strike was avoided by a last minute compromise, but in April 1962 the pilots went on strike for nine days.

These were not the first instances. Once, there was a strike by the special pilots against their employers' proposal to lower their unofficial bonus from \$12 to \$9. Instead of providing special service the pilots handled all vessels according to the roster. The strike was of short duration because the shipowners abandoned their proposal (p. 252). There was also a strike about 1930 over the refusal of the shipowners to employ a second pilot unofficially during the winter season and to remunerate him privately. This strike, which came at the end of the season, lasted two days and ended when the shipowners agreed to resume employing the second pilot and paying the unofficial remuneration (p. 439).

(11) THREATENED STRIKE IN 1960

The year 1960 was a year of many difficulties for the Quebec pilots. It was marked, first, by the election by the pilots of a new group of Directors who were determined to abolish the special pilot system and improve the pilots' working conditions; second, when the Seaway opened and the Quebec pilots realized that they were no longer as independent as before and as

detached from the problems of the other St. Lawrence Districts, they began to appreciate that many problems relating to the organization of pilotage were common to all Districts.

The change in the Board of Directors was the result of a kind of a revolt by the tour de rôle pilots against the special pilots who had been in power up to that time. The new group was elected after a thorough campaign (none of the former Directors was re-elected) (pp. 272 and ff.) and immediately began working eagerly to bring about the reforms they had been advocating. In some cases, they found the Pilotage Authority in agreement but not the shipping interests; on other points they met considerable opposition from both groups. The D.O.T.-inspired move of the pilot station from Father Point to Les Escoumins, which had been opposed by the former Board of Directors, met with the approval of the new Board and, therefore, was implemented without delay, as was the abolition of the special service pilot system which the tour de rôle pilots had requested for years (p. 251). However, there was disagreement about compensation for the loss of the unofficial remuneration paid the special pilots.

The climate was even more strained (a) when the Dominion Marine Association tried to obtain exemptions for Upper Lake vessels throughout the St. Lawrence, (b) by the unresolved question regarding the right of American pilots to pilot in Canadian waters after the Seaway opened, (c) when on March 22, 1960, the Shipping Federation of Canada Inc. asked the Minister to appoint a commission of inquiry to examine and revise the conditions of employment and remuneration of pilots on the Lower St. Lawrence and Seaway and (d) by a pamphlet published in May 1960 by the Shipping Federation (Shipping Federation Brief, Ex. 726, App. 49) followed by a press campaign against which the pilots felt obliged to defend themselves.

Furthermore, at that time, when a request by the pilots for an increase in strength from 75 to 77 was under study, the Pilotage Authority suggested a new system of freezing their strength at 75 and adjusting the workload by exemptions (pp. 228-230). The pilots did not agree with this proposal. The shipping interests were also exerting further pressure to be allowed to participate in the examination of pilots and the question of legalizing the practices which had developed with regard to winter assignments remained to be solved.

The pilots in other Districts were also experiencing difficulties of their own and the Federation of the St. Lawrence Pilots co-ordinated the efforts of the various groups in order to render them more effective.

As far as the Quebec pilots were concerned, however, the main point of contention was the failure on the part of the Authority to make good the promise to compensate them for the estimated \$65,000 loss incurred by the abolition of the special pilot system. When this practice was done away with in the Montreal District the previous season, the approximate amount paid by

shipowners in unofficial bonuses to the special pilots was replaced by appropriate tariff adjustments. It was taken for granted by the representative of the Pilotage Authority who dealt with the Quebec Pilots' Committee that the Quebec District would receive the same treatment. The Authority did, in fact, tell the pilots they would not lose any money as a result of the change and that there would be a tariff adjustment to compensate for their loss.

The \$65,000 compensation was first offered to the pilots by the Deputy Minister himself in a letter dated January 25, 1960 (Ex. 688). The letter first dealt with the proposed move of the pilotage station and the Deputy Minister added the following remarks on the special pilot system:

"At the same time, I would appreciate hearing the views of your Committee on the desirability or otherwise of continuing the present practice of permitting a line of regular traders to be served only by pilots of their choice. The practice of assigning so-called special pilots to certain ships was found undesirable in the Montreal District and, for this reason, was abolished in favour of a grading system with the piloting of larger vessels being restricted to pilots of the highest grade. At the same time, the tariff of dues in the By-laws was adjusted so as to compensate for the loss of income privately received by the special pilots.

This new system has worked well and the Pilotage Authority looks with favour upon its extension to your District."

With this promise the Board of Directors had little trouble obtaining the consent of most of the pilots and on February 12 the pilots' legal adviser conveyed to the Deputy Minister the agreement of the Pilots' Committee to replace the special pilot system by a grade system, pointing out that in the previous few weeks the representatives of the Department and of the Pilots' Association had worked out the details and that it looked as if an agreement had been reached on most aspects of the proposed grading system. He added:

"This agreement of the pilots' Committee to the proposed grading system is subject to the implementation of the suggestion made by the Department Officials that the tariff of dues in the bylaws would be adjusted so as to compensate for the loss of income privately received by special pilots." (Ex. 688, Annex to Bulletin, April 30, 1960).

The Department went so far as to send Captain D. R. Jones to meet the pilots in order to work out the necessary tariff arrangements. At this meeting which took place February 19, they came to an agreement except for a sum of approximately \$3,000 and on February 22, 1960, the pilots wrote to Captain Jones to confirm their conclusions.

To the pilots' surprise, they received a letter from the Deputy Minister, dated March 25, informing them that the Authority had no intention of granting the promised \$65,000 compensation because (a) the earnings of the individual pilots in the Quebec District in 1959 had increased substantially and it was believed this increase would be maintained in 1960, (b) at the same time the workload would be decreased by the shorter pilotage trip resulting from the relocation of the pilotage station, (c) it was believed that the earnings of the Quebec District pilots were substantially higher than those of the other St. Lawrence Districts and the contemplated increase would

further widen this considerable gap. All that the Authority would grant was a special bonus for the Grade A pilots that would yield an approximate annual revenue of \$15,000.

Despite the fact that this decision was a complete departure from the previous attitude and from the mutual agreement that had been reached with the pilots, the Pilotage Authority gave this unilateral decision immediate effect without respecting the agreed condition. On March 30, 1960, a telegram was received from the Director of Marine Regulations, Mr. Cumyn, informing the pilots that the Pilotage Authority had decided to abolish the special pilot system and to establish immediately the Grade pilot system with a surcharge of \$25 for Grade A ships, i.e., over 10,000 NRT.

On April 4, the Pilots' Committee, accompanied by their legal adviser, proceeded to Ottawa and met with the Minister of Transport, the Deputy Minister, Mr. Cumyn and Captain Slocombe to protest and to endeavour to have the Pilotage Authority implement its promises.

On April 6, the pilots wrote to the Minister pointing out:

- (a) if the requested increase in tariff was not granted there would be an average loss of \$1,000 per pilot, and in some cases, a loss of \$2,500;
- (b) about half the pilots would be affected, since they were special pilots;
- (c) they had co-operated with the Authority in abolishing the old system but they deplored the fact that it was being done at their expense and contrary to what was promised.

On April 12, the Minister wrote back referring to the meeting he had with them on April 4. Re indemnity, he pointed out that the creation of Class A ships would mean that companies with ships falling into this category, which did not pay any bonuses because they did not employ special pilots in the past, would be obliged to pay the extra charge under this classification. He added that the discrepancy between their earnings and those of the pilots in the Montreal and Kingston Districts did not warrant the requested increase and he argued that what had been done in Montreal was not really a precedent because at that time a tariff increase was justified in Montreal but not in Quebec.

The actual situation, however, was somewhat different to that described by the Minister. What the pilots sought was not an increase but a tariff adjustment to make official the revenues that the special pilots had received unofficially. As the Pilotage Authority was well aware, very few shipping companies would be adversely affected by the Grade A classification because, as Mr. Cumyn had pointed out at the Advisory Committee meeting on October 21, 1959, a very large group of ships enjoyed the privilege of having special pilots. Under the new system the companies would have only their

larger ships subjected to the Grade A surcharge while under the previous system all their ships, regardless of size, were handled by their special pilots and the special bonuses were paid in each case. In fact, the new charges would actually save the shipowners approximately \$50,000 a year.

All the pilots were kept informed of the progress of the matter by bulletins which their Corporation issued. The bulletin dated April 26, 1960, informed the pilots that the Minister had rejected their demand, that he had ignored his Deputy Minister's promise and that the result was an average loss of \$1,000 per pilot. The pilots were informed that their Board of Directors considered this decision unacceptable, that they intended to continue negotiations and that, if necessary, a general meeting of all the Corporation members would be convened.

The change of attitude of the Pilotage Authority had occurred when the concurrence of the Shipping Federation was sought. It objected most strongly to any increase, arguing that the loss for special pilots would be compensated as follows:

- (a) partly by the surcharge on Class A ships;
- (b) by the increase in tonnage ceiling in the calculation of dues;
- (c) by the expected increase in the tonnage of vessels;
- (d) by the reduction in workload as a result of moving the pilotage station.

It is to be noted, however, that the increase in tonnage ceiling from 7,500 to 15,000 tons was not agreed to before October 13, 1960, and after much negotiation it became effective only from January 1, 1961.

It was at this moment that the Shipping Federation's pamphlet was published. It was the first statement of this kind that the Shipping Federation had ever published on the subject of pilots on the St. Lawrence (Ex. 726, Vol. II, Appendix 49). This document (whose wide distribution included shipmasters, Members of Parliament and newspapers) endeavoured to prove that the pilots received more than adequate remuneration for the work they did. Severe criticism was also levelled at the Pilotage Authority for failing to act as such and it was claimed that the actual authority was in the hands of the pilots themselves. The Quebec pilots felt that the purpose of the pamphlet was to arouse public opinion against them and decided to take counter-action. The Board of Directors sent a copy of the pamphlet to all the pilots and through the Federation concerted its efforts with those of the pilots in the other Districts.

On June 2, 1960, the necessary amendments to the By-law were approved by the Governor in Council to abolish the special pilot system, to replace it by the Grade system and to establish a \$25 surcharge for Class A ships.

Negotiations held after that date were carried on by the Pilots' Federation. On June 7, 1960, the Pilots' Federation presented a brief to the Minister (Ex. 754) covering five problems, three of which concerned the Quebec District:

- (a) foreign pilots working in Canadian waters;
- (b) representation of shipping interests on the Board of Examiners;
- (c) the failure of the Authority to adjust the financial loss incurred by the change from the special pilot system to the new system of grading in the Quebec District;
- (d) insufficient pilotage dues in Montreal harbour;
- (e) inefficiency of the Authority, i.e., delays in collecting dues and delays in settling problems.

The first question related to pilotage by American pilots between Montreal and St. Regis and did not concern the Quebec pilots directly.

Although the question of the representation of the shipping interests on the Board of Examiners of pilots was common to all three Districts, the second problem particularly concerned the Quebec District at that time because the pilots were working out a new set of regulations for the recruiting and training of apprentices. In fact, as seen before, (pp. 248 and ff.) the system was extensively changed by an amendment which came into force March 23, 1961. In their brief the pilots opposed a shipping representative on the Board of Examiners for the following reasons:

- (a) there had never been any such representation in the past, the system had worked well and the pilots had shown a high level of professional responsibility;
- (b) the examination is very specialized and technical; its principal aim is to test local knowledge, a subject which only the pilots themselves are competent to discuss;
- (c) under the proposed new system the Board of Examiners have to examine the candidates and the apprentices on five occasions at different stages of their training and shipowners would not be capable of passing judgment on the quality of their professional training and technical competence;
- (d) the shipping interests are not represented on the Board of Examiners appointed by D.O.T. to examine Masters and other marine officers;
- (e) the mere fact that the shipping interests pay for the pilot's services does not give them any more right to control than they have when they pay for the services of other professional men;
- (f) the interests of the public are protected by the presence of D.O.T. representatives on the Board.

As for the third question, the brief summed up the situation already described above and the fourth question concerned Montreal alone.

With regard to delays in collecting pilotage dues (problem (e)) the pilots pointed out that at the end of April 1960 arrears amounted to more than \$30,000. These arrears were detrimental to the pilots because they were deprived of their earnings for a long period of time and, what was worse, delay made collection very doubtful, e.g., one shipping company which was allowed to accumulate arrears up to \$11,500 subsequently went bankrupt. They charged that the Department must be held responsible for this loss for not having observed the requirements of the Canada Shipping Act in good time.

Since the Authority appeared to be doing little to solve the problems outlined in the brief and in view of the publicity given by the Shipping Federation to their pamphlet, which the pilots felt was based on erroneous statistics, the Pilots' Federation, in addition to using the press to inform the public, decided to enlist the aid of various Members of Parliament.

In August, the Federation's legal adviser met with Department officials to discuss the problems raised in the brief.

When no progress was made, the President of the Federation wrote a letter of protest, dated September 2, 1960, to the Minister summing up the problems involved and pointing out that all the efforts they had made had been in vain and that, therefore, "in the hope of stimulating action, the Federation of the St. Lawrence River Pilots has met with a number of Members of Parliament and has handed them a brief on the matters mentioned above", a copy of which was annexed. The letter concluded with this threat (Ex. 756):

"Since none of the above requests seems to have received any satisfactory consideration by your Department, the Federation feels that it is its duty to call, in the near future, a general assembly of its members, in order to make to them a full report on the present situation and consider what further steps should be taken in that regard."

On the previous day, September 1, the Federation's legal adviser had gone alone to see Captain Matheson, of the Shipping Federation, and had handed him a copy of the brief which the Pilots' Federation had given to the Members of Parliament (Ex. 754).

On September 9, the Minister replied and reviewed the various problems:

(a) With regard to the representation of shipowners

"... It is our feeling, however, that in view of the heavy financial interest of the shipowners in the safe operation of the pilotage services it is only fair to give them some form of representation on the examining board.

... consideration must also be given to the shipping industry which is responsible for the creation of the pilotage traffic. Provided the pilot members of the examining boards have a majority, it would seem that the interests of the pilots would be adequately protected..."

- (b) Regarding compensation for the Quebec pilots, he repeated what he had said to pilot Rousseau in his letter dated March 25, 1960, that the income in the Quebec District was, at that time, substantially higher than in the other St. Lawrence Districts and that for this reason an amendment to the tariff embodying an increase of \$65,000 would be difficult to justify; that, in fact, since that time the pilots' income in the Quebec District had again risen substantially and, therefore, they should be satisfied with the \$15,000 additional revenue allocated to the Grade A pilots and with the general increase in earnings that they were enjoying.
- (c) With regard to delays in collecting dues, he mentioned that the outstanding amounts were very small taking into consideration the total gross earnings of the District. He pointed out, however, that far more pressure was being exerted and this was expected to remedy the situation.
- (d) The problem of a special tariff for winter navigation had not been neglected.

In addition, the letter dealt with illegal piloting by American pilots in the Cornwall District and the question of rates for Montreal harbour.

In a reply dated September 14, 1960, the President of the Federation protested again and disagreed with the decisions taken. He concluded:

"For all these reasons, the Federation wished to express its regrets that you have not found appropriate to remedy what we consider just and reasonable grievances.

Consequently, I must advise you that a general assembly of our members will be called at an early date, for the purpose of deciding whatever steps are required in the circumstances."

On October 4, the Minister wrote to the President of the Federation, acknowledging his previous letter "concerning the questions apparently at issue between the St. Lawrence pilots and the pilotage authority". He informed him that statistics were then available for the 1960 season up to the end of August, which would give a firm basis on which to base expectations for the full season, and he stated that he had asked his officials to convene a meeting of those concerned within the next few days at which any misunderstandings would be clarified (Ex. 756).

At the meeting held in Montreal, October 8, the Department's representatives were Mr. Alan Cumyn, Captain Jones and Captain Gendron. The President of the Pilots' Federation stated that no concrete result was achieved; the situation was more confused after than before; American pilots were regularly proceeding as far as Montreal and it was learned that they intended to seek permission to pilot down to Father Point; Bill C-80 was coming up before the House of Commons and a similar Bill was being presented to the American Congress; representatives of American unions

were exercising pressure on the Government to have pilotage left free on the St. Lawrence for American pilots. At that meeting the pilots gathered the impression that the Department was accepting the situation.

During some of the negotiations prior to this meeting a measure of agreement was reached about winter pilotage. On October 8, Mr. Cumyn sent a telegram to the President of the Federation which stated that this agreement would be seriously influenced by any action on the part of the pilots to delay or stop ships (Ex. 756).

The Federation then convened a special meeting of the delegate members at Three Rivers on October 10. The situation was reviewed, it was decided to convene a general meeting of all pilots of the St. Lawrence River for Saurday, October 15, at Three Rivers and a telegram was sent to the Minister to inform him of this decision.

At that time, a new Minister of Transport, Mr. Léon Balcer, was appointed and the new Minister requested the pilots to meet him. The meeting was held in the Minister's office in Ottawa, October 12, between 4:30 and 7:00 p.m. The Minister's reaction was favourable and the main difficulty he wished to solve was American pilots operating illegally on the St. Lawrence. A further meeting was held the following day, agreement was reached and the document which confirmed the Department's concurrence was signed by the Minister (Ex. 756). Apart from the question of American pilots, it was agreed that the District By-laws would be amended to provide for the compulsory use of two pilots between December 1 and April 8, with the second pilot being paid full rate up to a limit of \$100. With regard to compensation in Quebec, it was agreed that the By-law would be revised to provide an increase in the maximum tonnage charge from 7,500 tons to 15,000 tons effective January 1, 1961. It was further agreed that shipping representatives would not be included in the Board of Examiners. Charges in the harbour of Montreal were to be studied further. This agreement was later confirmed by a letter from the Minister, dated October 18, 1960 (Ex. 756). On October 13, the Department issued a press release outlining that a settlement had been reached.

All these negotiations were carried out directly with the Minister and the shipping interests did not participate.

The pilots feel that this was a compromise because they did not obtain all they asked for but they concede that it was a satisfactory solution in view of the gravity of the situation and agree the strike was thereby avoided.

As far as Quebec was concerned, there was little progress toward settling the winter pilotage question except that the unofficial practice which had existed for years was made legal. The Board of Examiners retained the *status quo*. However, on the main issue, complete compensation for the \$65,000 loss was not granted as had been promised. The Quebec pilots compromised

on this point in order to make their contribution toward a settlement of the strike. They agreed that if the ceiling on the maximum tonnage charge was increased to 15,000 tons they would drop their demand for full compensation.

In his address to the general meeting on January 10, 1962 (Ex. 683) the Corporation President stated that the additional earnings obtained in 1961 by the various tariff modifications of 1960 had, in fact, amounted to approximately the \$65,000 indemnity they were seeking. He gave the following figures:

Winter tariff	\$29,274.94
Class A ships	13,660.00
Increase in the maximum tonnage charge	
7,500 to 15,000 tons	21,069.75
<hr/>	
Total	\$64,004.70

The last item is not segregated in the Pilotage Authority's financial statement, Exhibit 534, but the other two are approximately correct and it is quite possible that the difference was due to the fact that different financial years were used to compile the financial statements. Winter tariff, however, had nothing to do with the \$64,000 compensation because prior to 1960 the pilots were, in fact, receiving winter tariff although it was unofficial. The statement showed, however, that in 1961 the two new items, Class A overcharge and tonnage increase, brought, in round figures, \$45,000 in new revenue.

Thus the strike was averted. It appears, however, that the pilots' rank and file were not all in favour of the strike. On October 13, eighteen pilots sent a telegram to the President of the Pilots' Federation (Ex. 593) urging the postponement of the strike for three reasons:

- (a) failure on the part of the Corporation to consult every member;
- (b) the mere statement of a Departmental officer about proposed exemptions for Canadian and American lakers did not seem serious enough to warrant a strike;
- (c) the new Minister of Transport had not yet had time to familiarize himself with the problem and take a position.

Pilot Barras, one of the pilots who signed the telegram, stated that the decision to go on strike was taken by the delegate members at the Federation level and that the individual pilots had not been summoned for a vote on whether to strike or not.

Pilot Jean-Louis Latulippe was also against the strike. He was a member of both the Association and the Corporation and at no time were they consulted about the advisability of going on strike. As far as he understood, the proposed stoppage of work was to claim \$65,000 and he was against resorting to measures of that nature for such a purpose. One Director visited

him at his residence and tried to convince him but to no avail. He was one of those who signed the telegram and he stated that they could have obtained more signatures but they were unable to contact all the pilots for lack of time.

After the Director visited him he wrote the Corporation a letter dated October 4, 1960, about the proposed strike, and explained his reasons for not sharing their opinion (Ex. 641). He had noticed in bulletin No. 6 that the situation was deteriorating and that the strike was developing. He thought this action was inopportune because it indicated a lack of maturity and was impulsive. He suggested writing to the pilots to ask their opinion and predicted their answer would be "no".

He was not threatened and although some fellow pilots intimated that "tough men could be used to subdue the scabs" he did not take them seriously. However, he was aware that when tempers are on edge disagreeable things may happen unexpectedly.

What he feared most was that the Department would eventually punish those who refused to go on strike. He had gathered the impression that the Department was not displeased about what was happening and that, therefore, it would not support those who were against the strike if they were prepared to work. He felt this way because through the strike the Department could do indirectly what it intended to accomplish by Bill S-3. In other words, he was afraid that the shipping interests and the Department of Transport were plotting against the pilots to eliminate the obligation to pay pilotage dues on the St. Lawrence.

Captain Slocombe stated in reply that this was not the case and that the Departmental officials were not looking for trouble.

Pilot Latulippe added that the strike was averted but that the confusion at the department of Transport level was increasing all the time. He himself had been a Director for two years, during which time he had to deal with the Department's representatives, and he had not been favourable impressed.

COMMENTS

The sequence of events in 1960 is a typical example of the failure of the Pilotage Authority to act as such, of administration by compromise, and of the detrimental consequences of such surrender of responsibility.

In this case, the Pilotage Authority had originally taken a stand which it considered just and reasonable (as in fact it was) but later reversed and subsequently modified its decision, yielding first to the opposition of the shipping interests and then to the threat of a strike by the frustrated pilots.

The real reason for the reversal of the initial decision was that the Pilotage Authority came to share the shipping interests' opinion that the official and unofficial earnings of the Quebec pilots made their aggregate individual remuneration unreasonably high in comparison with other Districts.

By refusing to implement its promise to reimburse the Quebec pilots for the loss of their unofficial special pilot earnings the Authority achieved indirectly a substantial reduction in their remuneration.

In 1960, the pilots had shown the utmost co-operation with the Pilotage Authority and it was then able to accomplish many of the reforms which had been vainly attempted during the previous pilots' organization.

However, with broken promises of this sort, especially when they are made by the Pilotage Authority (subsec. 2(69) C.S.A.), decisions that are only tentative and never final and a tendency to yield to pressure, it is not surprising that the pilots felt aggrieved and lost confidence in their Pilotage Authority. It is considered that such a situation would be effectively corrected if the regulation-making method proposed in the Commission's General Recommendation No. 19 is implemented.

(12) THE 1962 STRIKE

Although the 1962 strike affected the pilots in all the St. Lawrence Districts, it was, in fact, carried out by the Montreal and Quebec pilots only, and principally those in the Quebec District because it was the beginning of the navigation season when the Seaway was not yet open. Most of the ships on the St. Lawrence at that time were upbound and very few had reached the Montreal District.

As far as the Quebec pilots were concerned, the point at issue was the implementation by the Pilotage Authority of a new policy under which the pilots would share, to a certain extent, in the operating expenses of the District.

Prior to 1905, the District was self-supporting and all operating expenses were paid by the Pilots' Corporation which administered the District under the supervision of the Pilotage Authority. This explains why sec. 328 of the present Canada Shipping Act and corresponding sections in previous Acts exclude the Pilotage District of Quebec when the powers of the Pilotage Authority to pay operating expenses out of pilotage funds are defined (pp. 29 and ff.).

In 1905, the Minister of Marine became Pilotage Authority replacing the public Corporations that had exercised these powers for 100 years. The Minister decided to move the boarding station from Bic to Father Point, to take over from the pilots the pilot boat service and to replace by steam boats the pilots' own schooners that they had used up to that time, all at the expense of the Department of Marine. These steps were agreed to in writing in March 1906 (pp. 49 and ff.). Later on, the 1915 Act and other legislation deprived the Pilots' Corporation of all their remaining administrative powers and these were eventually assumed by the Minister with the Department of Marine paying the expenses. In 1934, the pilots objected to the withdrawal of

the exception contained in the section of the 1934 C.S.A. which corresponds to the present sec. 328 and, so far, this exception has been retained. In other words, at no time since 1805 did the Pilotage Authority for the District of Quebec have the power, with or without the approval of the Governor in Council, to pay the operating expenses of the District, or any part thereof, out of pilotage dues. When these expenses were incurred by the pilots, the pilots paid them; when they were incurred by the Minister as such or as Pilotage Authority after 1905 and 1936, they were paid out of public funds by the Department of Marine and its successors, the Department of Marine and Fisheries and the Department of Transport.

Contrary to the procedure followed later in the other Districts, the expenditure of public funds for the District of Quebec was never covered by Order in Council and since 1905 authorization has always been by an annual parliamentary appropriation (p. 16).

The pilots' earnings were very low during the depression, during the 1939-45 war and the post war years, but later their income mounted steadily because their workload increased as traffic grew and larger ships meant higher dues because of the way pilotage voyage charges were computed. For some years prior to 1962, both the shipping interests and the Department of Transport felt that the pilots' income was too high and out of proportion to the value of the services rendered. The shipping interests' resistance to requests for increases in dues stiffened and various proposals were made to limit the pilots' income, e.g., making them Civil Servants, fixing a ceiling on their income or using the target income as a basis for negotiating tariff. At the beginning of 1962, relations were so tense that they had almost reached a deadlock in their negotiations and the shipowners refused to discuss tariff items with the pilots.

At that critical moment the Treasury Board while examining the Department of Transport expenditures observed that in many Districts where the pilots' earnings were very high, Quebec included, the Government should cease to subsidize pilotage. In other words, the Treasury Board request that these Districts be made self-supporting again, wherever possible, meant that District and service operational expenses would be paid out of pilotage dues.

The series of events that was to culminate in a strike began with the receipt of a letter written by the Deputy Minister to the Pilots' Corporation on September 15, 1961 (Ex. 697) conveying the Treasury Board suggestion that the pilots should contribute toward administrative expenses when their earnings were high enough. The Deputy Minister informed the Corporation that this item would be on the agenda for the regular winter meetings.

On September 26, 1961, the Quebec Corporation acknowledged receipt of the Deputy Minister's letter and asked for more details.

On October 13, 1961, the Superintendent of Pilotage, Captain D. R. Jones, wrote back informing them that all details were not available but that the Department expected to be in a position to discuss the question at the winter meetings.

In view of the importance of the question the Quebec Corporation informed the Pilots' Federation of the problem and of the situation by furnishing a copy of the previous correspondence.

On February 20, 1962, the Minister of Transport, the Hon. Léon Balcer, informed the pilots in a long letter that his Department was considering how to implement the Treasury Board recommendation during the 1962 season, and suggested that the contribution of the Quebec pilots towards operating expenses should be 4½% of their earnings. He pointed out that in 1961 the income of a Quebec pilot was \$14,762 which would not stand comparison with the income in other Districts nor with other comparable services in the Quebec region. He pointed out that by paying the operating expenses of the District the Department was in fact granting an indirect subsidy to the pilots and that this contribution from public funds amounted to \$125,000 yearly.⁶ The Minister said this situation would cause criticism if it became public knowledge. A contribution by the pilots of 4½% of their revenue would cover half the operating costs. He added, however, that this was not a final decision and that he wanted the pilots to study the problem and give him their suggestions. While he did not want to take any arbitrary decision a problem existed and a solution had to be found. He also wrote at some length about the new policy of establishing a target income rather than negotiating on various items of the tariff and indicated that Departmental officers would discuss the matter with the pilots in the near future (Ex. 697).

While the decision of the Pilotage Authority that the Quebec pilots would participate in the payment of operating expenses was final, the amount of the contribution remained to be determined. The 4½% which the Minister mentioned was not definite but was merely a suggestion that had to be settled by negotiation between the Shipping Federation and the pilots. This figure had been arrived at by calculating the amount by which the individual pilot's income exceeded \$14,000 which at that time was considered a reasonable income for the Quebec pilots in view of their workload. The calculation was not accurate because, in fact, the surplus of \$762 per pilot amounted to 5.16%. The actual amount of what constituted a reasonable income was to be the main object of negotiations and it was realized that quite possibly the shipowners would consider \$14,000 too high and the pilots would think it too low.

⁶ In fact, pilot boat operations in the Quebec District showed a deficit of \$148,000 in 1961 and other administrative costs amounted to \$122,000, making a total operating expense of \$270,000 which was paid for out of public funds. The situation was much improved in later years when the pilot vessels *Citadelle* and *Abraham Martin*—both expensive to operate—were replaced by *Pilot Boats Nos. 9 and 10*, (p. 419; Part I, pp. 633 and 634 and 668-9).

The Minister's letter was received by the President of the Quebec Corporation while he was attending the annual meeting of the Canadian Merchant Service Guild being held in Montreal. He communicated the contents to the assembly. The pilots heard that similar proposals had been made to the Montreal District and the Saint John District and that for the latter the proposed deduction was 25%. The pilots, therefore, were quite disturbed and, since the deduction was a major problem which concerned the pilots of all Districts, the other subjects under discussion became minor.

At the Guild meeting it was decided to send to Ottawa a delegation made up of representatives of all the Pilotage Districts in Canada under the joint patronage of the Guild and the Pilots' Federation.

At the Federation Board meeting on February 24 it was decided that the complete Board would accompany their legal adviser to Ottawa to join the Canadian Merchant Service Guild in a protest against the proposal. From that time on negotiations were carried out by the Pilots' Federation and the problems of the Quebec District became only a few among many.

The joint delegation met with the Minister of Transport on February 27. He promised to study the matter further before implementing the proposal and it was agreed that both the Guild and the Pilots' Federation would submit a written memorandum on the subject (Ex. 698).

Winter meetings were held in Montreal February 26 and 27. Each Corporation sent representatives as did the shipowners. Officials of the Department of Transport and one observer from the Pilots' Federation were also present. The meeting became deadlocked when the pilots refused to discuss target income and the shipowners refused to discuss tariff items with the pilots.

On March 6, the legal adviser of the Pilots' Federation wrote to the Minister deploring the fact that at the meetings the representative of the Department of Transport joined with the shipping interests in adopting a negative and arbitrary attitude toward all their main proposals, even to the extent of refusing to consider them until the pilots agreed to accept a system of fixed salaries. He termed their attitude blackmail and deplored the pre-meeting agreements reached between the Pilotage Authority and the shipping interests before the pilots had a chance to speak. He requested that instructions be given to the officials of the Department of Transport to study the pilots' proposals on their merits and asked for new discussions carried out objectively and in good faith.

On March 7, 1962, the Federation of Pilots wrote through its legal adviser to the Minister informing him that they supported the representations made by the Guild against the proposal. It was pointed out that to implement the suggestion would create more problems than it would settle and that the basic principle was wrong because the subsidy favoured the shipowners rather than the pilots. They questioned the validity of the Department of Transport's

quoted figures on pilots' income and added that as far as the shipping interests were concerned, the cost of pilotage had decreased; they reminded the Minister about their status as "free contractors" and pointed out that implementing the proposal would lower professional standards and diminish the quality of service.

There were no further developments until the annual convention of the Federation which took place March 14, 15 and 16 when the events of the winter were discussed. On March 14, a reply to the Federation's letter of March 6 was received from the Director of Marine Regulations. In his letter Mr. Cumyn dealt with all the proposals the pilots submitted in their brief at the winter meetings but on the whole the Department had not changed its attitude. On March 15, at the Federation's meeting of delegate members a resolution was passed authorizing their Board of Directors to take the necessary steps to persuade the Authority to change its views.

The situation was reviewed April 3 at a Federation Board of Directors meeting. The Corporation of the Mid-St. Lawrence Pilots informed the Federation then of their intention to stop working and the representatives of other Corporations who were on the Board of Directors stated they had similar plans. The pilots felt the situation was getting out of hand because they had made their proposals many months before, nothing had been settled and the only replies they had received were to the effect that their proposals were still being studied although they were then on the eve of the opening of navigation. The Federation agreed to support the Corporations if they decided to go on strike.

The President of the Quebec Corporation immediately called a special meeting (to be held at the Château Laurier hotel in Quebec) by a telegram addressed to all members:

"Every pilot not on duty convened by urgency to Special General Meeting Corporation and Association to consider stoppage of work under direction of Federation Stop meeting Chateau Laurier, Wednesday, 4th April 9:30 (signed) Board of Administration—Gaston Rousseau President."

Fifty-five pilots attended. The situation was reviewed and, in an effort to prevent a strike, the meeting voted in favour of abandoning their other requests provided the compulsory contribution to District expenses was abandoned by the Pilotage Authority. It was also unanimously agreed that failing this concession the pilots would not embark after midnight Friday, April 6. An additional nine members who were on station at the time of the meeting were in agreement as well. It was further resolved to support the Federation and the other group-members in their demands. All votes which were taken by a show of hands were unanimous and there were no abstentions. Neither pilot Barras nor pilot Koenig attended the meeting.

Further negotiations were carried out at the Federation level and, since no agreement was reached, a stoppage of work occurred April 6. This took the official form of holding two special general meetings.

This first meeting which was held at the office of the Corporation and of the Association at 71 St. Pierre St., Quebec, was convened by night letters dated April 4, 1962, addressed to all pilots (Ex. 717):

“Results negotiations unsatisfactory Stop No pilot to board vessels after 0001 April 6 Stop Special General Meeting 2:30 April 6 Corporation Office for report on negotiations. (Signed) Board of Administration Gaston Rousseau, President”.

Forty-nine pilots, including pilot Maurice Koenig, attended. The meeting was given an up-to-date report about negotiations, it was resolved to continue their support for the Federation and the meeting adjourned until April 9 at 2:30 p.m.

When they reconvened April 9, 46 pilots attended. After the acting President stated that negotiations had not yet provided a settlement it was resolved unanimously that the Quebec Pilots' Corporation should maintain their support for the Federation and the meeting was adjourned until the following day at 2:30 p.m.

On April 10, 40 pilots attended. The meeting was informed about the state of negotiations. The same proposal of support was voted and the meeting was adjourned until April 12 at 2:30. They were informed that the President had reported by telephone that negotiations were progressing, that the Minister had found their requests acceptable, that pressure would be exerted on Members of Parliament and that the National Committee of the Guild was ready to join the Federation within 24 hours. The usual motion of support was voted and also a week's leave for the Corporation's President to be taken after conclusion of the negotiations; the meeting was adjourned until April 13 at 2:30.

On April 13, 44 pilots attended. The meeting was informed that the negotiation committee was to meet the Minister of Transport that same day and that the Saint John, N.B., and British Columbia pilots would stop working at midnight if no settlement was reached. Talks had been held with some Members of Parliament and a personal message had been sent by the President of the C.L.C. to the Minister of Transport to the effect that the members of his labour union supported the pilots in their negotiations. It was decided that some publicity should be arranged and the usual resolution of support was voted. The meeting then adjourned until the following day at 2:30.

On April 14, the meeting did not take place because the Federation's negotiation committee had succeeded in reaching an agreement with the Minister of Transport by which the pilots would board vessels at 6:00 a.m. that day. This they did.

Included in the strike settlement was an item regarding the Quebec District specifically to the effect that the Treasury Board proposal for the payment of part of the operational costs out of pilotage revenue was abandoned and the requested tariff changes would take effect as of April 15, 1962.

When it was decided to end the strike, the pilots were not informed by telegram but by telephone.

The main issue for the District of Quebec had been the proposed 4½% deduction that the Authority wanted to apply against the cost of the pilotage service, and until the final settlement of April 15 they did not consider the question settled at all as had been indicated by the Minister in his telegram, dated April 6, addressed to the Federation's legal adviser. Until then the Minister's proposal had been that no arbitrary decision would be taken and that the matter would have to be studied later (Ex. 715). Therefore, the pilots did not interpret this telegram as meaning that the proposal had been dropped. What they wanted from the Minister was confirmation that the deduction would not be imposed, i.e., a decision, and not a general statement, was what they considered important.

Although the various meetings that were held between April 4 and April 13 were joint meetings of the Corporation and the Association, the pilots who were not members of the Corporation did not attend but sent an observer to the first meeting.

Pilot Barras did not attend any of the general meetings because he was not in favour of this strike just as he had been against the proposed strike in 1960. He and other pilots of like mind discussed their position with their colleagues but no one offered to assist them, not even officers of the Department of Transport. They were not given any guarantee that they could travel freely and, since they felt that the Department did not want the strike to be interfered with, they did not think that they were in any position to oppose it.

Nor was pilot Maurice Koenig in favour of the strike. He stated that the Quebec pilots personally had nothing vital at stake but were mainly supporting their fellow pilots in Kingston and that was the reason why all the Quebec pilots were not prepared to strike. He was of the opinion that, if only the Quebec pilots had noted some friendly feeling in the Department of Transport, the strike would not have happened but the Department's attitude was simply negative while on the other hand the pilots had an "esprit de corps". In the circumstances he felt that it would be foolish for a few persons to take risks and he himself succeeded in dissuading two or three fellow pilots from working despite the strike. In his opinion, the Quebec pilots gained nothing from that strike.

Pilot Latulippe was in favour of the strike to settle once and for all the confusion that existed at the Department of Transport level. His experience had been that whenever there was a problem to be settled there would first be long delays and later the Department would not face the responsibility of making a decision and its officers took evasive action. He cited, for instance, his experience in 1958 and 1959 when he repeatedly asked for

apprentices and pilots, and always received the same answers to the effect that the matter was under consideration, was being studied, etc. He always met purely negative bureaucracy. In his opinion, the strike was the sole means left to remedy that situation.

As far as the local representative of the Authority, the Supervisor, was concerned, he was not informed either by the pilots or by his headquarters that there would be a stoppage of work. The Quebec pilots did not inform anyone and this was done by the Federation in a telegram to the Minister dated the afternoon of April 4.

However, the Supervisor heard about it unofficially and soon found out that there were no pilots available. He did not order any pilot to take an assignment and no charges for disobeying orders were laid against any pilot. The Supervisor took a passive attitude and when requests were made for pilots during the strike the Quebec office replied that no pilot was available at the station, that they believed there was a temporary stoppage of work by the pilots and that as soon as pilots were available they would be supplied. Some vessels, e.g., S.S. *Batory*, applied to have their request placed on record and to register the failure of the Authority to furnish a pilot so as to avoid liability for the compulsory payment of dues when they proceeded without a pilot.

The Supervisor's office sent no message to ships warning them that there were no pilots available nor advising them not to proceed without pilots. Two such telegrams were sent April 6 and April 8 (Ex. 769), but were despatched by the Quebec Pilots' Corporation in the name of the Federation. The first telegram was addressed to eight ships and the second to twenty-five, five of whom had been sent the first message. The local Supervisor was unaware that these telegrams had been sent.

Captain Slocombe stated that the money obtained from the 4½% deduction would not have been applied exclusively to the operational costs of the District of Quebec but towards the general administration of pilotage all over Canada. At the time the Minister wrote his letter in the fall of 1961, the pilot boat operations at Les Escoumins had showed a profit from the dues which the Pilotage Authority, at the request of the Department of Transport, had been charging ships for the use of pilot boats. When these dues were collected, they were remitted to the Department and placed in a general account and the surplus from one District was used to pay for the deficit in others, since this service was provided by the Department of Transport and not by the Pilotage Authority of each District.

The pilots denied that they ever had a strike fund, in fact they have no standing reserve of any kind. (p. 485).

For the effect of the strike on shipping, see the analysis pp. 207-208.

COMMENTS

The strike was the predictable result of the atmosphere of tension, mistrust, misunderstanding and disagreement that had been developing for a number of years. The point had been reached where negotiations were no longer possible, and the pilots came to the conclusion that strike action was their only course to force an issue short of complete surrender to the *dicta* of the Shipping Federation and the Pilotage Authority.

The strike was scheduled to begin when it could do the least harm but its effects would spread if it were not settled quickly (the Seaway was still closed and little traffic could be expected on the St. Lawrence, especially above Quebec).

The only area where lack of pilots could cause substantial difficulty and inconvenience was the Quebec District and, when the events leading to the strike are studied, the most surprising conclusion is that the participation of the Quebec pilots resulted from an illegal and arbitrary decision on the part of the Pilotage Authority and could easily have been avoided.

The pilots of the Montreal, Cornwall and Kingston Districts were on strike against the Shipping Federation on account of its uncompromising stand on tariff amendments: the Shipping Federation refused to meet the pilots and negotiate with them unless they first agreed to accept its target income proposal. This the pilots declined to do.

By contrast, the Quebec pilots were on strike against their Pilotage Authority. The only issue for them was whether the Authority would abandon its arbitrary, illegal decision to enforce the Treasury Board recommendation in their District.

In a final attempt to avert the strike the Quebec pilots unanimously voted at a general meeting to abandon temporarily their other requests and to single out the expense-sharing proposal as the sole point of contention.

For the Quebec pilots, this question was not new but merely another episode in a long controversy.

The Pilotage Authority's decision was illegal for two reasons. First, the Act specifically provides by way of an exception contained in sec. 328 C.S.A. that the Quebec pilots may not be required to pay any District operating expenses (Part I, p. 111). Secondly, under the statutory legislation contained in Part VI C.S.A. it is not permissible to force the pilots of one District to contribute toward the payment of the operating deficits of other Districts, since each District is a separate, autonomous, self-accounting organization (Part I, C.5).

Furthermore, this was a most delicate issue in the District of Quebec where the pilots considered the indirect Crown subsidy consisting of the

payment of District operating expenses an acquired right resulting from the obligations the Minister had undertaken in their favour in March 1906 (vide p. 52).

As far as the District of Quebec was concerned, the Treasury Board recommendation could not be implemented without first amending the C.S.A., which was not contemplated at that time. Even the Quebec pilots could have been persuaded to give their consent in this sensitive matter provided the Pilotage Authority had not tried to force the issue in the tense atmosphere which then prevailed. The proposal was reasonable. In fact, it was later adopted with some modifications as to procedure as one of the recommendations made on their behalf to this Commission by the Pilots' Federation (p. 85). It is also one of the general recommendations of this Commission (vide Gen. Recs. 20 and 21, Part I, pp. 521 and ff.).

(13) SHIPPING CASUALTIES

PREAMBLE

No sea route or shipping lane anywhere in the world is entirely free from casualties, the St. Lawrence River included.

The President of the Canadian Board of Marine Underwriters stated at a convention held in Rome, Italy, in 1964 (Ex.1466(r)):

"The waters of North-West Europe constitute the most dangerous area in the world... The next most dangerous area is the North-East section of North America which includes the St. Lawrence River below Montreal."

Accidents occur for a number of reasons, some totally unpredictable and unavoidable but others wholly or partially attributable to negligence or a correctable factor. The cause of any casualty as well as contributory factors, however small, must be determined so that remedial action can be taken.

During recent years there has been a series of spectacular accidents on the St. Lawrence, especially in the Quebec Pilotage District, but these are by no means the first of their kind.

When the early days of pilotage under the free enterprise system are studied, many accidents are seen to have occurred. Trinity House records for the period 1805-1846 show that pilots were found to blame in 193 cases of grounding and collision; it is, therefore, reasonable to assume that the total number of casualties was much greater (p. 33).

One possible reason for the radical change in the composition of the Pilotage Authority in 1905 (when the public corporation system was abolished and the Minister of Marine became responsible) was a series of shipping casualties for which public opinion blamed the pilots. When the Minister took over, one of his duties was to have all the pilots re-examined to ascertain their qualifications, including their knowledge of the charts of the

River and compass directions from Father Point to Quebec. Subsequent events seem to indicate that the pilots' qualifications were satisfactory and left little room for improvement because no licence was cancelled as a result of the re-examination and the requirements were not amended (p. 51).

In November, 1905, the Quebec *Chronicle-Telegraph* stated (Ex. 633):

"Pilotage on the St. Lawrence does not stand out as an exact science just now. Immense damage has been done to Canadian Shipping interests by the recent mishaps. The matter has become a scandal and an injury to the country. The recent instances bespeak over much familiarity with the shore and too little with the channel. The pilots are trying the overland route, and the Government is convinced that better pilots must be had."

The basic reason why the Government set up the Lindsay Commission in 1913 was a series of shipping casualties that culminated in 1912 in the stranding of three vessels, the *Bellona*, the *Gladstone* and the *Royal George*, the double stranding of the *Beothic* and the stranding of the *Manchester Importer* (p. 53).

There have been marine casualties in the Quebec Pilotage District every year and in other Districts as well. Some accidents are more spectacular than others and cause greater public reaction, but even a minor mishap has its importance.

Since safety of navigation is a matter of public interest, the Canada Shipping Act, as amended in 1969, authorizes the Governor in Council to make regulations respecting the reporting of shipping casualties by ships of any nationality when the casualty occurs in Canadian waters and by Canadian ships in any waters. Before, the provision was applicable only to Canadian and British vessels (sec. 553 C.S.A.). In addition, District By-laws make it an obligation for pilots whose ships are involved in a shipping casualty or an incident affecting the safety of navigation to file a separate report with their Pilotage Authority without delay. All these casualties are recorded and to varying extent are the subject of investigation by the Department of Transport. For the purpose of this Report, only those casualties and incidents in which a pilot was involved are considered.

Because of the statutory definition of the term "shipping casualty" (sec. 551 C.S.A.), minor occurrences are reported as shipping casualties and an indiscriminate use of such reports for statistical purposes conveys a false and exaggerated picture of the situation. For instance, in 1962, a number of ships without suffering any damage touched in the middle of the North Channel at Cap Gribane on a 25-foot patch which had built up through silting, whose existence was unknown even to the Ship Channel Branch of the Department of Transport. These repeated reports brought the desired result: the obstruction was removed. This is a commendable practice which should be encouraged. One obvious first step in that direction would be not to count them as shipping casualties.

All occurrences in the course of navigation, even *incidents* which happen when a ship is under way, are serious since safety of navigation is affected. The fact that a collision was avoided or that little or no damage resulted from a grounding is of little importance in itself. The circumstances of every such happening must be carefully ascertained and analyzed to establish the causes so that the appropriate remedial action may be taken. This is less important in casualties and accidents resulting from errors in shiphandling while berthing or unberthing since safety of navigation is affected to a much lesser degree. However, they indicate a want of skill on the part of the pilots which affect the efficiency of the service and should be corrected.

Appendix A is a table of the casualties, accidents and incidents reported as shipping casualties as the term is defined by sec. 551 C.S.A. for the period 1958-1967. It also contains a detailed analysis of the cases, their nature and causes, which occurred in 1963 and 1968. Reference is made to Part II, pp. 88-90, for the definition of the method of classification of so-called shipping casualties used in this Report.

The small number of casualties compared with the total number of assignments performed by pilots can not be taken as proof of their good record, efficiency and competency, since it appears that most of the casualties could easily have been prevented.

An analysis of the cause of these accidents or shipping casualties for which the pilot bore some blame must, for all practical purposes, be limited here to major disasters and other serious cases. This analysis together with a review of the disciplinary records has revealed a most distressing situation and, on the part of a few pilots, lack of professional responsibility and reliability against which the Pilotage Authority was powerless, or failed, to take effective action.

For the extent of the investigatory and remedial powers of the Pilotage Authority and of the Minister of Transport, reference is made to Part I, C. 9. This Commission's recommendations are Gen. Recs. 26 and 37.

(A) *Formal Inquiries*

Five of the major disasters between 1955 and 1967 were the subject of Courts of Formal Investigation (Part I, p. 409).⁷ An analysis of these findings is quite revealing and shows a continuing state of affairs that must be corrected in the interest of safety.

(a) S.S. *John E.F. Misener*, grounding, November 6, 1959 (Ex. 1354)

On November 6, 1959, this vessel, upbound from Father Point to Quebec, went aground at Lark Reef on the east side of the entrance to the Saguenay River. Because of fog, visibility was poor and at times nil. The pilot

⁷ For the summing up of the Formal Inquiry held on the grounding Nov. 13, 1968, of M.V. *Clara Clausen*, vide pp. 414 and ff.

intended to pass south of Red Islet but unknown to him the vessel went to the north and, believing that he was south of Red Islet, he set course accordingly, headed straight for the reef and grounded. The Court found that the primary cause of the accident was the pilot's failure when he set the original course to pass south of Red Islet to take adequate measures to counteract the northeasterly tidal set in that area at that stage of the tide. The result was that the ship was off course to the north but, on account of the poor visibility and other contributing errors, this passed unnoticed. The Court found that the pilot failed to make any use of shipborne navigational aids such as radio direction finder and echo sounder to ascertain his position and made improper and inefficient use of radar. Radar was used very sparingly and no effort was made to identify targets properly. The pilot was also at fault because when a buoy was sighted so close to the ship that they nearly collided with it, no effort was made to identify it, the pilot assuming that it was one of the buoys located south of Red Islet. The pilot was also to blame because he failed to reduce speed during these adverse circumstances but continued full ahead at about 12 knots.

The Hon. Mr. Justice A. I. Smith, who presided over the Court, had this to say about the use of aids to navigation:

"One of the most significant features of this casualty is that, although the vessel was fully equipped with navigational aids, no use was made of them save for radar and there was a failure to make proper and efficient use of it."

(b) Collision between S.S. *Tritonica* and S.S. *Roonagh Head*, July 20, 1963
(Ex. 1353) (vide Advisory Committee)

On July 20, 1963, these two vessels collided in the channel a few miles west of Coudres Island with the loss of the *Tritonica* and 33 of her crew. The *Tritonica* was upbound and the *Roonagh Head* downbound. The collision occurred in the south part of the North Channel which is rather wide there (vide p. 127). The vessels were navigating through extensive fog patches and visibility was about one mile at the time. Both vessels were navigating at full speed ahead until they sighted each other visually. On board the *Tritonica* radar was apparently not in use, but on board the *Roonagh Head* it was in operation and correct information was received. However, the observations were not plotted so that the speed and direction of the oncoming vessels were not ascertained exactly. At the time of the collision, the *Tritonica* was crossing the bow of the *Roonagh Head* and was struck on her port side.

The Court found that the cause of the accident was "failure on the part of both vessels to comply with the international Regulations for the Prevention of Collision at Sea and of those in charge of the ships respectively, to exercise the care and take the precautions required in the circumstances as a matter of ordinary prudence and good seamanship."

The Court blamed the *Tritonica*:

- (i) for excessive speed under the circumstances (violation of Rule 16), i.e., a speed of 15 knots over the ground which was maintained until the *Roonagh Head* was sighted visually at three ship's lengths;
- (ii) for failure to maintain a proper lookout, both radar and bridge, since the *Roonagh Head* was sighted visually only at the very last minute; either radar was defective or there was failure to make proper use of it;
- (iii) for failure to keep to the proper side of the channel which, in that area, is considered to be a narrow channel (violation of Rule 25) (in fact, at the time of the accident she was south of mid-channel); this Rule was imperative under the circumstances due to the speed of the ship and the limited visibility;
- (iv) for failure to sound fog signals in contravention of Rule 15, par. 2(e);
- (v) for taking the wrong decision when attempting to avoid the collision by going to port rather than going hard-a-starboard immediately upon sighting the *Roonagh Head*.

As for the *Roonagh Head*, the Court recorded these faults:

- (i) excessive speed under the circumstances; full speed ahead was maintained up to four minutes before the collision, despite the poor visibility and the knowledge that another vessel was closing;
- (ii) failure on the part of the pilot to recognize the risk of collision and consequently his failure to take adequate corrective measures; the danger of collision was realized only after the *Tritonica* was visually sighted; the fact that the bearing of the approaching vessel, when seen on the radar, did not change appreciably should have indicated to the pilot that a risk of collision existed and a reasonably competent and alert seaman would then have put the engines full speed astern and the wheel hard-a-starboard; instead, the pilot reduced to half speed with a slight alteration to starboard;
- (iii) failure to stop engines and navigate with caution when the ship's fog signal was answered by the *Tritonica* at a distance of about two miles;
- (iv) failure to sound fog signals regularly, as required by Rule 15.

The pilot of the *Tritonica* was lost with the ship. Although the *Roonagh Head's* pilot and officers of both vessels were held to blame for the accident, the Court did not deal with their licences or certificates, which was interpreted as an implicit finding that the fault of those over whom the Court had jurisdiction was not such as to warrant such action (Ex. 1466(e)). Hence, no further action, penal or otherwise, was taken against those involved.

The Hon. Mr. Justice A. I. Smith, who presided over the Court, suggested that corrective measures be taken with regard to the lack of adequate life-saving devices, since the evidence showed that life-boats were not available due to the list the ship developed. He recommended that the carrying of life-rafts be made compulsory. He also noted that many complaints were made about the absence of effective radio communications with the Quebec station and, finally, he suggested that steps be taken to oblige ships such as the *Tritonica* sailing upriver from Seven Islands fully loaded to close their hatches because, in this case, the open hatches accelerated the sinking and may have contributed to the large loss of life.

These three recommendations were studied by the Department of Transport and were implemented in part (Ex. 1466(e)):

- (i) The Life Saving Equipment Regulations were amended to require a bulk carrier of over 300 feet to carry inflatable life-rafts in addition to other life-saving equipment (P.C. 1964-1490 dated September 23, 1964).
- (ii) The radio communication problem has been resolved (p. 180).
- (iii) "Since there is virtually no risk of these large vessels shipping seas in the River St. Lawrence, the only purpose of undertaking the extensive labour of closing and opening the hatches would be to help to slow down a sinking in case of collision. It was considered that legislation on this point would not be appropriate, but the proposed traffic control should reduce risk of collision."

With regard to the use of radar aboard the *Roonagh Head* the Court said (answer to question 4d, Ex. 1353):

"Radar was in continuous operation. Echo of *Tritonica* first observed by Pilot _____ at a distance of about 7½ miles fine on port bow. At about 0142 hours, echo of *Tritonica* observed about 3½ miles fine on port bow. Course of the *Roonagh Head* 029. At about 0148 hours echo of *Tritonica* observed 2 miles fine on port bow. Echo is not plotted at any time. When the *Roonagh Head* noticed that echoes remained fine on port bow, even with small alterations to starboard they should have realized that the vessels were on collision course;"

- (c) Collision between S.S. *Leecliffe Hall* and M.V. *Apollonia*, the loss of the *Apollonia* and loss of life, September 5, 1964 (Ex. 1457)

On January 27, 1965, the Hon. Mr. Justice A. I. Smith, who presided over the Court of Formal Investigation, rendered judgment in this disaster. When the downbound *Apollonia* was in Coudres Passage, visibility began to diminish and the pilot contended that he ordered manoeuvring speed but the Court found that there was no evidence to show that there had been any reduction in speed prior to the visual sighting of the other vessel. The radar set, which was on the 3-mile range, was not constantly attended; at one point a target was observed at a distance of about three miles ahead and so far south that it was considered to be a downbound vessel; the radar was left unattended for 2½ or 3 miles until the upbound *Leecliffe Hall* was observed

just prior to the collision. On altering course, 4 or 5 minutes prior to the collision, the *Apollonia* sounded a fog signal for the first time. At that time, visibility was limited to one to two miles. Just before the collision occurred the Chief Officer reported "a big ship ahead" and the *Leecliffe Hall* was sighted visually on the starboard bow showing her port side at a distance of from $\frac{1}{4}$ to $\frac{1}{2}$ mile; the order "hard-a-starboard, full astern" was given immediately and three blasts were sounded just before the ships collided.

The *Leecliffe Hall* sighted the *Apollonia* for the first time on radar fine on the port bow at a distance of 3.9 to 4 miles. Course was altered 8° to starboard and after the alteration the angle of the target kept opening up to 15° . The engines of the *Leecliffe Hall* were still full ahead although visibility was nil. Until the *Leecliffe Hall* sighted the *Apollonia* visually, the vessels were, in fact, converging at a combined speed of at least 20 knots. When the *Leecliffe Hall* was first visually sighted, she was approximately 2,000 feet away approaching from port at an angle of 35° and not at all where she was expected. The order "full astern, hard-a-starboard" was given but the collision occurred almost immediately.

The Court found the causes of the casualty as follows:

"The collision was occasioned by the failure of those in charge of the two vessels respectively, to comply with requirements of Rule 16a (excessive speed under the circumstances) of the International Rules for the Prevention of Collisions at Sea and their failure to maintain a proper look-out and make intelligent and correct use of the available navigational aids, particularly radar and radio telephone; and in the case of the *Apollonia* the failure to sound fog signals in accordance with Rule 15.

The primary cause of the collision was the fact that, although those in charge of the navigation of the two vessels respectively were apparently relying exclusively on radar, they failed to make intelligent or proper use of this aid to navigation while neglecting to take the precautions dictated by the circumstances and required by the ordinary standards of good seamanship.

... Both vessels were proceeding at speeds which in the circumstances were excessive.

The Pilot, Master and Officer of the Watch on the *Leecliffe Hall* testified that they each took frequent radar observations. There is however, no evidence that a continuous radar watch was kept on either ship or that any steps were taken to relate one observation to another. It appears to have been assumed by the *Leecliffe Hall* that, since the bearing of the *Apollonia* was changing (opening), the ships were not on convergent courses but would pass safely port to port... this was an assumption which was unjustified... there was failure on the part of those in charge of the *Leecliffe Hall* to correctly determine their ship's position in the channel or appreciate that the vessels were on converging courses.

Those in charge of the *Apollonia* were certainly at fault in proceeding at full speed with radar on the three-mile range, at a time when visibility was limited to two and one-half to three miles... no proper radar watch was being kept, since when the *Leecliffe Hall* was first sighted she was only about one-quarter of a mile distant."

The Court also found that the collision did not occur in a "narrow channel" and, therefore, Rule 25 did not apply. The channel is about four miles in width (p. 132) in that area and navigation does not necessarily, nor always, proceed in the direction of the channel, but frequently moves from north to south and vice versa, to and from the open water which lies immediately southeast of Ile aux Coudres, either for the purpose of making use of the Traverse south of the island or of anchoring in the area immediately to the southeast. Therefore, it was an error if it was thought that the *Leecliffe Hall* had to keep to the starboard side of the channel.

The Judge came to the conclusion that "the *Leecliffe Hall* was considerably further to the south than those in charge of her appreciated", and, at the time of the collision, was turning somewhat to starboard, thus presenting her port side to the *Apollonia*.

The Court further remarked:

"Within the space of little more than one year there have been two major marine casualties in the immediate vicinity of Ile aux Coudres. Reference has been made to the long and sometimes unblemished records of pilots who navigate these waters. There is however, more than the possibility that these casualties are in part due to a certain casualness bred of long experience and that, as in the present case, there has been a disregard of the rules and failure to make efficient or intelligent (and in some cases any) use of the navigational aids with which these vessels are equipped. This Commission would be remiss if it failed to emphasize the seriousness of this neglect and failure to observe the rules and the dictates of ordinary good seamanship by imposing penalties commensurate with such neglect and failure.

Such penalties are not imposed primarily as punishment but rather in order that their imposition may serve as a warning and a deterrent to others who may find themselves in similar circumstances."

The Court also made the following recommendations:

- (i) that a second traffic lane be opened in the North Channel through the Middle Traverse to provide one-way traffic lanes in order to prevent ships meeting in the dangerous vicinity of Coudres Island;
- (ii) that licensed pilots be required to undergo a course of training to give them a working knowledge of the proper function and use of radar as an aid to navigation; it is "apparent that reliance on radar (without such knowledge) has taken the place of prudence, alertness, compliance with the rules of the road and good seamanship";
- (iii) that a radar reflector be located on Pointe-à-la-Baleine because it would afford considerable assistance to upbound shipping, particularly in bad weather;
- (iv) that pilots be required to keep a log of each trip, indicating the times and "distances off" salient points passed *en route*, the log to be filed at the pilotage office as soon as possible after arrival;
- (v) that bulk carriers be required by regulation to close watertight bulkheads, at least in rough weather.

The recommendations were studied and implemented in part. On May 13, 1966, the Department of Transport reported (Ex. 1457) on each item respectively:

- (i) "The matter of possible one-way traffic lanes around Coudres Island is under intensive study by the appropriate branch of the Department at this time" (pp. 159-160).
- (ii) "Pilots have been urged to take advantage of existing courses in radar....." (p. 251).
- (iii) "The matter of the placing of a radar reflector at Pointe-à-la-Baleine was considered by the Aids to Navigation Division but the overload program of work did not permit them to carry out the installation. Further, the District Marine Agent at Quebec discussed the matter with local pilots who did not give him the impression that there was any great need for such an installation".
- (iv) Re keeping a log for each trip, it was noted that, while this is a Canadian Pacific Steamship requirement, the pilots do not keep logs and a log has never been filed with the District Supervisor. The Pilotage Authority is of the opinion that the only result of such a requirement would be "a pile of useless paper in the pilotage office". It was stated, however, that most pilots keep private logs of their trips (pp. 316 and ff.).
- (v) The recommendation to close watertight bulkheads in bulk carriers was implemented by an amendment to the Hull Construction Regulations (P.C. 1966-361, Feb. 24, 1966).

(d) M.V. *Lawrencecliffe Hall*, and S.S. *Sunek*, collision, November 16, 1965 (Ex. 1461(y))

M.V. *Lawrencecliffe Hall*, a new ore carrier, fully equipped with the latest shipborne aids to navigation, was upbound in the North Traverse and S.S. *Sunek*, also equipped with radar and other modern aids to navigation, was downbound when they collided in the western sector of the North Traverse southwest of Pointe Dauphine (visibility was limited by fog and snow). After the collision, the Master of *Lawrencecliffe Hall* beached his ship to avoid sinking in the channel and risking loss of life.

The pilot of *Lawrencecliffe Hall* stated that he first sighted the *Sunek* on his radar screen at a distance of approximately four miles. Since there were three targets abreast he incorrectly formed the opinion that the two targets on the south were buoys 118½B and 119B and that the target on the extreme north was a ship either aground or stationary. He was mistaken since the southernmost object was not a buoy but the *Sunek*, because this ship did not pass north of buoy 118½B but at a certain distance south of buoy 119B, i.e., outside the dredged channel.

The Hon. Mr. Justice F. Chevalier, who presided over the Court of Formal Investigation, rendered his judgment March 19, 1966.

The Court noted that the *Lawrencecliffe Hall* pilot made three mistakes which led to the collision: first, he mistook his own position when passing buoy 116B; second, he misplaced the *Sunek* while she was abreast of buoys 118½B and 119B; and third, he miscalculated the course he followed between buoy 116B and the site of the collision. The result was that, instead of following a line parallel to the general direction of the channel, the vessel went progressively towards the centre and at the point of impact was somewhat south of it.

Lawrencecliffe Hall did not reduce her full sea speed of about fifteen knots until the *Sunek* was sighted visually, and *Sunek* was also at full manoeuvring speed of nine to ten knots. *Lawrencecliffe Hall* was sighted visually for the first time at 1100 feet, i.e., two ship lengths from *Sunek*, and *Sunek* was sighted visually at 1½ miles. From the evidence recorded, the Court came to the conclusion that the visibility was extremely poor at the time of the collision and in the minutes which preceded it.

Sunek followed the normal course until she neared buoy 119B, at which point the pilot miscalculated her position and proceeded south of the buoy and out of the dredged channel. When he realized his mistake he ordered quite a sharp alteration to port planning to assume his proper course, but after some time concluded he was well to the north of the centre line and altered course to starboard. At that crucial moment, he sighted the *Lawrencecliffe Hall* and gave various orders to avoid her but, because of the respective positions of the two vessels and the speed at which they were travelling, a collision was inevitable.

The Court concluded:

- (i) that both ships were on their wrong side of the channel when the collision occurred;
- (ii) that "both ships were driven at excessive speed, considering the visibility and the weather conditions";
- (iii) that the *Sunek* followed an erratic and dangerous course, first, by leaving the channel, "then, trying to re-enter into it too fast and at an angle which would normally, because of her length, make her reach for the Northern limit of the channel, and force her to try, at the same speed, another sharp turn to the right, when poor visibility precluded such a speed and such a manoeuvre";
- (iv) that the *Sunek* "also contributed to the unavailability of the collision by not reducing immediately her speed when it was found that no sounding devices were in operating condition";
- (v) that the *Lawrencecliffe Hall* "was directed in a course which was irregular, and in the false assumption that the *Sunek* was outside of the channel and North of the Northern buoy."

The *Lawrencecliffe Hall's* pilot was found at fault for violating Rule 16, i.e., excessive speed when poor visibility existed, Rule 25 for not keeping to the starboard side of the channel and Rule 22 for crossing ahead of another vessel. His licence was suspended for six months. However, the Court's decision as to the contributory negligence of the *Lawrencecliffe Hall* was reversed in appeal, her Master and pilot were exonerated of all blame and the suspension of their certificate and licence was cancelled. In a decision dated August 31, 1966, based on the appraisal of the facts, the Exchequer Court in appeal found that the casualty was due solely to the erratic and illegal manoeuvring of S.S. *Sunek* (Ex. 1492).

The Court found that the *Sunek's* pilot was gravely at fault. He was considered to blame for excessive speed in the prevailing visibility, a situation which was aggravated by the fact that the *Sunek's* sounding devices were inoperative. The evidence showed that as a result of the erratic course of his vessel he could not be sure in the circumstances exactly where the approaching ship was located. Although the *Lawrencecliffe Hall* was sounding her fog whistle, he did not reduce speed and "went on, on a most unusual course". He contravened Rule 25 by not keeping to his side of the fairway. "He showed a strong disregard, or at least a wilful carelessness in his general behaviour for the usual pilotage rules, by not checking, before he boarded the *Sunek*, what was the traffic that he had to meet with, by not checking the weather he was to encounter and by having a general attitude of disinterest from his duties." The Court awarded him a nine-month suspension.

The Court further recommended:

"1—That regulations be enacted in order that any ship of a certain tonnage which sails in Canadian pilotage waters be equipped with a VHF radiotelephone and that security calls be given as to her position, destination, direction and speed at certain points of the route, said points to be detailed in the regulations.

2—That in the case of large ships (the tonnage of which is to be determined) which sail in narrow channels, a speed limit be made mandatory, when they meet or pass one another."

The Department of Transport, in a letter dated April 29, 1966 (Ex. 1466(f)), reported that these recommendations were being implemented:

"As you may have seen in the press the department has embarked on a very extensive study of safety conditions on the St. Lawrence River. As a development of this study Captain George G. Leask, has been appointed head of a new marine traffic control operation for the St. Lawrence River..." (vide pp. 180 and ff.).

"As an interim measure steps are being taken to provide any ships, that do not already have VHF radio-telephone equipment, with a small "walkie-talkie" set at Les Escoumins. A set of instructions for pilots with regard to the use on a "ship to ship" basis of the VHF radiotelephone is being drafted.

With regard to speed limits we are not going any further at the moment than warning ships about excessive speed... It is felt that when the traffic control operation becomes a reality the speed factor will be taken care of." (vide p. 180).

(e) S.S. *Exiria*, grounding, June 23, 1967 (Ex. 1538(a))

On June 23, 1967, S.S. *Exiria* upbound to Montreal embarked a pilot off Les Escoumins; 50 minutes later, she grounded in the vicinity of Red Islet Bank. As a result of the grounding the vessel sustained damages amounting to between \$250,000 and \$300,000. The same pilot who was on board S.S. *Sunek* at the time of her collision with the M. V. *Lawrencecliffe Hall* was involved.

The ship's position was not fixed at the point where the pilot took over off Les Escoumins. In order to please the Master, who wanted to reach Montreal as soon as possible, the pilot proceeded at full speed despite the fog that prevailed. Shortly before the grounding, the *Exiria* was warned by radio-telephone by a pilot on board another vessel *en route* to Port Alfred that the ship was heading directly towards a point situated in the vicinity of buoy 35B and was in grave danger of grounding. The *Exiria*'s pilot answered that her course would be altered in a northerly direction. A few minutes later, the ship went aground. Because of damage to the engine room, the engines were stopped and the vessel drifted for approximately 15 minutes before she was anchored.

The Court found that the causes of the grounding were:

- (i) The course steered was wrong because of an incorrect assumption of the departure point. The bearing taken of Cap Bon Désir (about 1.3 miles west of the boarding area) was only approximate and no other position was fixed from Cap Bon Désir to Red Islet. "Consequently, the crew navigating in dense fog and almost total blindness, could not realize that they were heading for the reefs."
- (ii) Another contributory factor was failure to use navigational instruments, either at all or properly, i.e., direction finder, compass and, to a lesser extent, fathometer.
- (iii) Finally, although radar was used, "the targets shown on it were not adequately studied and were mistakenly identified, with the result that, all along the way, the pilot and the Master never suspected for a moment that their course was wrong and that their direction was leading the vessel out of the channel and to the shallow waters."

The Court found both the Master and the pilot to blame. As for the pilot, the Court held:

"His general conduct may be qualified by saying that he navigated the vessel with noted carelessness, with an attitude of disinterest and in routine like manner.

His conduct is the more to blame that the conditions prevailing at the time were unusual and required from a pilot all his attention, skill, and knowledge of the area. Those conditions were such that they should have invited him to make use of all the technical equipment at his disposal.

... the course, which was steered, was the "causa causans" of the accident. It was his primary obligation to see that the proper direction be given and that it be followed. This he did not do.

He was also remiss in his duty by:

- 1) Ordering or accepting full speed ahead, in fog, which constitutes a violation of *Article 16*, Paragraph (a) of the Regulations for Preventing Collisions at sea;
- 2) Failing to establish the vessel's position when he took over its conduct at Les Escoumins;
- 3) Taking only an approximate bearing at Cap Bon Désir;
- 4) Failing to make proper use of the navigational aids, such as radar, compass, direction finder, echo finder, radiotelephone and fog horn."

When it came to deciding upon the sentence to be imposed on the pilot, the Court noted that the grounding took place six months and four days after his licence was reinstated following a nine-month suspension resulting from the collision of S.S. *Sunek* and M.V. *Lawrencecliffe Hall*, and that the report of the investigation into that casualty contained "elements of evidence which, as far as his behaviour is concerned, establish a certain number of acts, faults, negligence and careless attitudes similar to those reproached in the present case." The Court concluded that the first accident and the suspension of his licence had not impressed upon the pilot the necessity of amending his ways of piloting. On the other hand, there was nothing in the record to indicate that he was not a good pilot or that he had not adequately fulfilled the requirements of his duties since his appointment in 1950.

In addition, the Court gained the impression from his appearance and behaviour before the Court that

"... he seems to suffer from a certain number of complexes which rendered him hesitant, unable to concentrate, incapable of taking decisions and confused in his mind.

Unfortunately, we have no way of finding what is the cause of that unbalance; whether his instability is due to a physical illness or to a deterioration of the mind; what are his personal habits and problems; if his present state of mind and condition is of a temporary nature or will tend to be chronic and permanent."

The Court found that "in his present state of mind and probably his actual physical condition, he is not fit to exercise his functions and he constitutes a grave hazard to the safety of the vessels and to the lives entrusted to his care".

The Court's decision was:

"first, to suspend Pilot Blank's certificate for a period of one year, to be computed from the date of this report; second, to order that after the expiration of this period, that is after the 1st of March 1969, he will not be entitled nor authorized to pilot any ship in Canada, unless and until he has undergone and

passed with success a complete examination or examinations by medical officers appointed by the Pilotage Authority for the District of Quebec, such examination or examinations having regard to his physical and mental ability.

If, after the completion of the examination or examinations above-mentioned, it is the opinion of the Authority, based upon such evidence as said Authority may deem sufficient, that he has become incapacitated by mental or bodily infirmity or by habits detrimental to his usefulness as a pilot, such Authority is hereby conferred the right and discretion to retire him permanently or, as the case may be, to grant him sick leave; the whole, according to the provisions of Articles 22 and 23 of the Quebec Pilotage District General By-law."

The pilot was not reinstated at the expiration of the suspension period. The Pilotage Authority followed the directives of the Court and arranged for the pilot to undergo a physical and psychiatric examination. He was found unfit to resume piloting and his retirement was authorized by the Pilotage Authority.

In this case, the Court found, on the evidence adduced, that it was incapable of rendering a final decision. A conditional award is legally questionable and, according to the legislation as it now stands, a Pilotage Authority is not bound by directives given it by a Court of Formal Investigation. The Court arrived at the right finding in deciding that the evidence established that the pilot was a safety risk and that he should not be allowed to pilot until the reason he was unfit to pilot was established. The dilemma in which the Court was placed resulted mainly from the mistaken concept that a Court of Formal Investigation constitutes a penal trial. Before the proceedings of the Court of Formal Investigation, a *prima facie* case of incompetence or unfitness was established and that the pilot was a safety risk. Hence, the pilot had the burden of the proof to rebut the presumption and to prove his competence and fitness. If he failed to do so, his licence should have been permanently withdrawn. In this regard, vide Part I, pp. 409 and ff. and Gen. Recs. 36 and 37.

COMMENTS

Analysis of these five major disasters indicates that they all could have been easily avoided if the basic rules of good seamanship and normal prudence had been observed, and the proper use made of shipborne aids to navigation, particularly radar. In all cases, there was an original pilot's error with far reaching consequences resulting in grounding or collision (in one case with serious loss of life). In the meantime, the pilot had many opportunities to discover his initial error, but failed to take advantage of them. The different situations were aggravated by excessive speed in circumstances which made the vessels uncontrollable within the narrow limits of the prevailing visibility. Too much reliance was placed on radar readings and the pilots failed to make correct and intelligent use of the information they provided—due to their lack of knowledge and training in their use. All the accidents occurred when visibility was reduced—even as low as nil—but the vessels

proceeded at high speed as in normal visibility. All the pilots concerned were of long experience, but they appeared to pilot with the familiarity that breeds contempt for the basic imperative rules of safety and prudence and with no apparent consideration for their heavy responsibilities. It is to be noted that since the amendment to sec. 647 C.S.A. in June 1961 (9-10 Eliz. II c. 32) no doubt remains as to a pilot's responsibility to ensure that a ship shall observe the Collision Regulations (P.C. 1953-1287).

However, the pilots are not the only ones to blame because the rules governing speed in low visibility and sounding fog signals also apply to the Master and the officer of the watch. They should have realized that these rules were not being followed and they should also have assisted by checking the ship's position by all the means available to them, such as identifying buoys sighted and using echo sounder, radio and direction finder.

The Department of Transport took steps to warn all shipping (see Notice to Mariners No. 234 dated April 15, 1966) of the danger arising from undue speed in the ship channel, that shipmasters and pilots were urged to note that speed was a contributing factor in several serious collisions on the River the previous year, and that the results of Formal Inquiries showed that some ships are proceeding at far more than a moderate rate in poor visibility in dredged channels where they may be harder to handle. The Notice ended with a warning to Masters and pilots to take particular notice of these judgments which indicate that the rules of good seamanship are being ignored (Ex. 1466(g)).

Referring to the proper use of radar, the recommendations of the "Safety of Life at Sea" Conference, entitled "Information concerning the use of Radar in avoiding collisions at Sea" have been published every year since 1960 for information in Notices to Mariners.

(B) *Preliminary Inquiries*

Between 1955 and 1967, Preliminary Inquiries (Part I, p. 404) were held into thirteen casualties involving Quebec pilots which were not later investigated by a Court of Formal Investigation or a Court of Inquiry under sec. 579 C.S.A. The causes were reported as follows:

- (a) Collision between S.S. *Scythia* and M.V. *Sunland* at Bic Island in April, 1955; contributory negligence of a minor nature on the part of both ships.
- (b) Stranding of S.S. *Middlesex Trader* at Brûlé Bank on July 16, 1955; lack of understanding between pilot and wheelsman and pilot's failure to check if orders were understood and carried out.
- (c) Grounding of S.S. *Supertrader* on White Island Reef, July 24, 1955; pilot's imprudence and error of judgment.

- (d) Grounding of S.S. *Manchester Merchant* on Red Islet, August 18, 1955; Master's error with the pilot also to blame for handing over the ship to the Master in view of the dangerous locality.
- (e) Stranding of M.V. *Sungran* in the Saguenay River, September 15, 1955; pilot's failure to check if orders were understood and implemented by wheelsman.
- (f) Collision between M.V. *Salacia* and S.S. *Sept-Isles*, June 28, 1956; imprudence and lack of caution on the part of both Masters and both pilots.
- (g) M.V. *Lunan* striking Cap des Roches in the Saguenay River November 13, 1958; pilot's failure to ascertain his position.
- (h) Collision between S.S. *Argyll* and M.V. *Sunima* in Quebec harbour, May 27, 1959; both pilots not paying attention to course steered; (vide Part I, p. 351).
- (i) Grounding of M.V. *Marquette* on Cap St. Joseph June 28, 1959; pilot's errors: wrong course in poor visibility, no checking if orders followed, no use made of radar, no verification by bridge officer.
- (j) Collision between S.S. *Roonagh Head* and M.V. *Rutenjell* off Sault au Cochon April 14, 1960; fault of one pilot only for excessive speed and lack of good seamanship.
- (k) Triple collision between M.V. *Avery C. Adams*, S.S. *Instein* and S.S. *Roonagh Head* in Quebec harbour anchorage April 15, 1960; pilot moving ship although operating under very difficult circumstances.
- (l) Collision between C.C.G.S. *Cartier* and M.T. *Seven Skies*, four miles west of Morin Shoal July 18, 1963 (Ex. 1466 (k)) (vide p. 393).
- (m) Triple collision between M.V. *Calgadoc*, M.V. *Canadoc* and M.V. *Bariloche* in the Lauzon Bend July 19, 1963 (Ex. 1466 (1)) (vide p. 134).

(c) *Inquiries under Sec. 579 C.S.A.*

Inquiries into pilots' conduct were also held regarding other casualties which occurred during the same period. The findings were:

- (a) Grounding of S.S. *Oak Hill* off Lauzon on August 25, 1962; physical impairment of pilot which remained undiscovered (p. 389).
- (b) Grounding of M.V. *Continental Pioneer* in Anse-à-la-Barque September 5, 1962; same pilot's physical impairment (p. 389).
- (c) Grounding of M.V. *Irvingstream* in Quebec harbour November 25, 1962; lack of care and diligence on the part of the pilot (Ex. 1467) (p. 396).

COMMENTS

These Preliminary Inquiries and Courts of Inquiry reveal that when the pilot's conduct was reported the cause of the accident, or at least a contributing factor, the various errors were:

- (a) unsuspected physical or mental impairment of the pilot;
- (b) orders not being correctly carried out by the wheelsman with neither the pilot nor the bridge officer verifying;
- (c) plain negligence; in one collision both pilots failed to pay proper attention while their ships were negotiating the Lauzon Bend;
- (d) taking for granted that the ship's position was correct in poor visibility rather than verifying by all available means, failing to sound fog signals and excessive speed under the circumstances.

Except for the two cases attributed to physical unfitness, all the other casualties would have been avoided if the pilots had not been so sure of themselves and had been more alert and conscious of their responsibilities. Double-checking by the various means available to them would have shown in time that their ship was in the wrong position. In addition to some lack of understanding and knowledge in certain fields, these cases indicate a definite lack of personal discipline on the part of a few pilots.

Great progress has been made in recent years in the field of assistance to navigation on the St. Lawrence River and vessels are now equipped with the most modern and highly reliable instruments. However, these aids, instruments and assistance services can be of value only if intelligent use is made of them. The first requirement is that pilots become fully conversant with their use and acquire the habit of taking full advantage of them. While the primary responsibility for meeting this requirement rests with the pilots, it is also the duty of the Pilotage Authority to assist them by making the appropriate courses available and exercising the necessary surveillance and reappraisal to ensure that the requirement is complied with (vide Part I, C. 9 and Gen. Recs. 26-37).

(d) *Discipline*

In contrast with the situation in other Districts, the disciplinary and reappraisal powers of the Pilotage Authority under Part VI C.S.A. and of the Minister under Part X C.S.A. have been a most controversial question during recent years in the Quebec District. As in other Districts, the Pilotage Authority has acted as a penal tribunal to dispose of both disciplinary and reappraisal cases, but in this District these proceedings, and even the powers of the Pilotage Authority to act as such, have been repeatedly challenged, generally with success. The result has been that, except in routine minor cases and some others where the pilots accepted the decision, the Pilotage Authority has become powerless to enforce discipline in the most serious cases and to prevent a pilot from piloting when he appears to be, or is, a safety risk. All the various attempts to devise a solution have failed, except when the case

could be dealt with by a Court of Formal Investigation and was serious enough to warrant resorting to this involved and exceptional procedure.

The extensive evidence adduced on the subject and the records of the cases concerned have constituted the bulk of the material on which the Commission's study contained in Part I, C. 9, is based. This evidence and the most typical cases are summed up in the pages following.

For the Commission's remarks, comments and recommendations on enforcement of discipline, appraisal and reappraisal of pilots' qualifications and Pilotage Authorities' powers of investigation, reference is made to Part I, C.9, including, *inter alia*, the footnote on p. 428 re the general passive attitude adopted by the Pilotage Authority, and General Recommendations 26-37 (Part I, pp. 556 and ff.).

To these remarks it is pertinent to add the comments made by Mr. Justice Casey of the Quebec Court of Appeal in the case of *Meunier v. the Queen* ((1966) BR 94) which he made regarding the application of criminal justice but which apply equally to the discipline of pilots when administered by Government entities whose powers and jurisdiction are governed, defined and limited by legislation:

"... in criminal proceedings not only must justice be done, it must be done according to law. This means that in criminal courts, at least up to the point of sentencing, the notions of fair trial and legal justice dominate. It is by insisting on the administration of justice strictly in accordance with the law that one achieves stability and equality of treatment."

Each year the Quebec Pilotage Authority, either directly or through its representative, the Regional Superintendent or the District Supervisor, has been acting as a penal tribunal on pilots' disciplinary matters and as such, according to the powers purportedly derived from its General By-law, has been awarding fines and suspensions or cancelling licences. For instance, in 1964, four suspensions were imposed and five fines, ranging from \$15 to \$40; in 1965, one pilot was suspended for ten weeks and fines were awarded.

In addition, other punishments unauthorized either in the Act or in the By-law are being imposed. These are mainly reprimands but, in addition, there is the severe indirect punishment arising from the special system of despatching in use in Quebec which consists of taking a pilot's name off the assignment list and depriving him, when reinstated, of the right to the equalization of turns rule (Part I, pp. 400-2). This penalty is imposed without any form of trial. The ensuing loss in earning rights always amounts to several hundred dollars.

With regard to the summary disposal of minor offences by the local representatives of the Pilotage Authority, the former Supervisors commented as follows.

Mr. Hamel stated that when he was Superintendent he always had the co-operation of the Pilots' Committee and, although there were times when he was obliged to take disciplinary action, cases were not very frequent,

mostly being late for duty and one exceptional instance of drunkenness when he had to impose a suspension. This was the only time he even had to go on board a ship to make an inquiry. Once he imposed a punishment for impoliteness to a clerk.

When he took over his office in 1936, he often acted unofficially upon information received, but this caused him some difficulty and he said that he soon learned not to take any action unless the complaint or information was given in writing. He found that information generally came from his employees and that a pilot would very seldom report another pilot, especially for drunkenness on duty. When he received a written complaint his practice was to send for the pilot and question him. If the pilot did not admit his guilt, he was generally unable to proceed because he had no evidence against him, but when he had proof he awarded the maximum fine he could impose, which was \$40. However, in all cases the pilot could ask for an official inquiry.

After the 1955 By-law amendment for cases of use of alcohol while on duty or about to proceed on duty, the procedure was different since he no longer had the right to deal with these cases himself and all he could do was take the pilot concerned off the tour de rôle, make an investigation and report to Ottawa Headquarters where disciplinary action was taken (Part I, pp. 349 and 372). In other cases, however, the Supervisor retained his disciplinary powers.

Captain H. Allard stated that as Superintendent he also was obliged to exercise disciplinary powers. The procedure he followed in minor cases was very simple: upon receipt of a complaint he made an inquiry prior to seeing the pilot; then he called the pilot to his office and informed him of the complaint; if the pilot did not have a good explanation, a fine was imposed or, at times, he was only reprimanded. During his term of office he had to impose fines mostly for pilots missing their turns.

Cases of drunkenness were beyond his powers of discipline. Before investigating such cases he requested a written complaint, upon receipt of which he immediately took the pilot off the tour de rôle after informing him of the complaint. He then proceeded to hold his informal local inquiry which the pilot was not allowed to attend. In one case, however, the legal adviser of a pilot was permitted to attend as an observer. When the complaint originated from the Master of a vessel, he proceeded on board and obtained the facts in the form of affidavits that he drafted himself after having heard the statements of the witnesses. Being a Justice of the Peace, he attested the affidavits himself.

Mr. Maheux stated that since he became acting Superintendent in May 1963 he also had been confronted with disciplinary cases. In one case, a pilot who had lost his turn on two occasions refused to see him although he had required him to do so; another case concerned a pilot who was absent

without leave. He referred both cases to the Regional Superintendent because he believed that as Acting Superintendent he possessed no disciplinary powers.

Taking a pilot off the assignment list (with its serious pecuniary consequences) is used as an indirect method both of compelling him to appear before the Supervisor and of imposing a punishment. However, Mr. Maheux added that this is not automatic. When a pilot is requested to report to the Supervisor to explain a delay or an absence, he is not taken off the list unless he fails to report within a reasonable time. There is nothing, either in the By-law or in the despatching rules, to authorize this procedure.

Captain Allard stated that on one occasion in 1962 a pilot who had been absent without justification when his turn came up was taken off the assignment list on June 13. When he returned on July 11, he was five or six turns behind his fellow pilots. He was reinstated on the assignment list but was shown for despatching purposes with the average number of turns (i.e., credited with lost turns). The net result was that by unilateral decision of the Supervisor and without trial he was prevented from making up his lost turns. This constituted a very heavy indirect fine of between \$500 and \$600. This procedure is also not authorized (Ex. 1464(a)). No charge was laid for his absence without leave or for his failure to appear when ordered.

A letter dated February 8, 1966, from Captain F. S. Slocombe enclosed a copy of a memorandum dated February 3, 1966, from Captain LaHaye which refers to this incident as follows "the person had vanished completely for a lengthy period and the allocation of the missed turns constituted a disciplinary measure which may be considered quite exceptional (Authority Secs. 15(1) (7), 20(e), 21(2) of the By-laws of the District)." Captain LaHaye added that a pilot does not automatically lose his privilege of making up the turns he has missed through being absent without the Supervisor's permission and without a reasonable excuse. In such a case, the pilot is taken off the tour de rôle and not put back until he has appeared before the Supervisor. Normally, a fine will be imposed or a reprimand handed out and the pilot's name will be placed at the bottom of the list with the number of turns he had at the time he went absent without leave thereby allowing him the opportunity to catch up the missed turns Ex. 1464(a).

He added that, in the case of a pilot under preventive suspension for alleged use of alcohol while on duty or about to go on duty, if the investigation revealed the charge was unfounded, the pilot would have the benefit of equalization; if the charge was founded, he would not be given the benefit of equalization of turns and this period of absence from the tour de rôle would become in practice all or part of the ensuing punishment (Ex. 1464(a)). This also is not provided for in the Act or in the By-law or in the despatching rules; secs. 19 and 20 of the District By-law do not state that a pilot found guilty of such offences is to be deprived of the right of equalization of turns for the period of his preventive suspension.

Furthermore, a pilot whose licence is suspended for disciplinary reasons automatically loses the benefit of equalization of turns. The average number of turns obtained by the remaining group is allocated to him when his suspension ends and it is, therefore, impossible for him to make up the turns lost during this period. This also is not provided for but is an implied consequence of the suspension, which means in effect that during the suspension period the man was not a pilot.

In case of a minor breach of regulations the pilot is not always requested to appear before the District Supervisor. At times, the statements of the witnesses and the pilot concerned are obtained by mail and the findings and the sentence are handed out in the same way. For instance, on December 21, 1964, the District Supervisor wrote to one pilot telling him, in substance, that it had been brought to his attention that on December 18, after having piloted a vessel east of Les Escoumins, he had piloted the same vessel back to Quebec without authorization, and in contravention of the By-law and of the practice followed in the District. The pilot was requested to furnish his explanation. In a letter dated December 23, the pilot explained that the vessel to which he had been assigned with another pilot (it was a winter assignment) was a tug assisting another vessel through the ice and that the exact final destination was not known. The trip turned out to be much longer than expected on account of the ice and they had to go as far as Father Point. The Master of the tug asked the two pilots to make the return trip with him because he had no mate. The Les Escoumins station was so informed and no objection was raised. In a letter to the pilot dated January 4, the Regional Superintendent rendered his decision to the effect that the pilot had violated subsec. 15(1) of the By-law but that, in view of the fact that the despatcher at Les Escoumins had not reminded him that the regulations required him to be relieved, only a small fine of \$10 was being awarded (Ex. 1464(c)).

Examples of Disciplinary Cases

The following are cases of investigation and attempts to take disciplinary measures which were dealt with at length in the evidence. They illustrate the inability of the Pilotage Authority to deal with serious disciplinary cases under the procedure being followed (Part I, pp. 414-428; for other instances, vide pp. 218 and ff.):

- (a) The M.V. *Arrow* incident
(Part I, pp. 413-422 and 427)

On August 3, 1962, the Master of M.V. *Arrow*, a Greek vessel, wrote to the Quebec Pilotage Office complaining that on August 2, 1962, the pilot who boarded his vessel at Les Escoumins was under the influence of liquor. He stated that at first he had attributed the pilot's dizziness to being wakened up early but he soon realized that it was caused by drunkenness. He then

dismissed the pilot and reported the matter to Quebec by radiotelephone. He was obliged to proceed to Quebec without a pilot and refused to pay the dues. On August 3, he made a written complaint in which he stated that he intended to make a claim in damage for inconvenience and delay.

When the District Supervisor, Captain Allard, received the letter, he sent for the pilot, told him about the complaint and asked him whether he had anything to say in explanation. There was no previous complaint of drunkenness in the file of the pilot concerned. The pilot was taken off the roster, allegedly as required under the By-law. Captain Allard proceeded the same week to Les Escoumins to conduct a personal inquiry. There he questioned the clerk in charge at the time of the alleged incident and also the Master of the pilot boat. In Quebec he interviewed the boatmen. His inquiries led to the conclusion that the pilot was normal both when he embarked and disembarked. He learned that at Les Escoumins the pilot had proceeded directly to the pilot boat without calling at the office but there is no rule obliging a pilot to visit the pilot station which, at that time, was a long way from the pilot boat wharf. However, the boatmen, who are D.O.T. employees, are authorized to prevent a pilot from boarding if they believe that he is not in a fit condition.

The District Supervisor made his negative report to the Pilotage Authority as required by subsec. 19(4) of the By-law.

Despite this report, the Ottawa Headquarters decided that the case should be tried by a Court of Inquiry convened under sec. 579 C.S.A.

Captain Gendron was appointed by the Deputy Minister of Transport to hold the inquiry, assisted by Mr. C.K. Kennedy, legal adviser of the Department. The Court sat on August 31, 1962. A statement of the case was furnished to the pilot prior to the inquiry which read as follows:

"It is alleged that on August 2, 1962, while on the vessel M.V. *Arrow*, Mr. (pilot's name), being on duty as a pilot, was found to be under the influence of alcohol when on duty, contrary to the provisions of subsections (1) and (2) of section 19 of the Quebec Pilotage District General By-law."

The inquiry was held and the report is dated May 4, 1963 (Ex. 1312). Evidence was taken under oath, the pilot attended with his counsel and was given permission to cross-examine and bring witnesses.

The testimony of the Master was corroborated by his Second Officer, the steward and the other members of the crew. However, the inquiry had been limited to the personnel of the vessel. The Master reported, *inter alia*, that the pilot had told him that he had been at a party the night before. Other members of the crew added that upon arrival at Quebec the pilot had to be helped down to the pilot boat. The Investigating Officer did not pursue the inquiry further; the Quebec boatmen were not interviewed, nor was any witness called to establish the behaviour of the pilot at Les Escoumins prior to boarding the vessel.

The pilot was allowed to present a defence by affidavits, a very prejudicial procedure in that the Department of Transport counsel and even the Court were thereby deprived of the possibility of cross-examining the defence witnesses. The pilot presented an affidavit from his personal physician stating that on July 11, 1962, he had prescribed twelve "292" tablets to be taken at the maximum rate of 3 or 4 every 24 hours and that these tablets contained codeine which could have had the awkward effect of causing the symptoms of acute alcoholism. The pilot's own version was also contained in an affidavit in which he stated that the day before he had felt some pain, had taken a number of these tablets and, since he did not feel better during the trip, he continued to take pills, 7 or 8 in all.

The Court of Inquiry's conclusion was as follows:

"In view of the strong evidence of the ship's complement brought about by questioning verbally, and the defence's affidavits which are not corroborated by any of the witnesses on board (nobody having seen the pilot take any pills during the period he was on board and especially during the period he was lying down in the chartroom under the care of a man on watch) and the pilot's admission to the Master that he had been to a party the evening of August 1, 1962, we must conclude that he was in fact under the influence of alcoholic beverages and that he acted contrary to subsections (1) and (2) of section 19 of the Quebec Pilotage District General By-law.

We therefore recommend that Pilot—————'s licence be suspended for a period of one year."

The final decision pursuant to subsec. 579(5) C.S.A. rested with the Minister. The Investigating Officer had given permission to the pilot's counsel to file his submission of arguments in writing. This was done on January 18, 1963, and in these pleadings two arguments were raised:

(i) Lack of jurisdiction:

—the appointment was made by the Deputy Minister instead of the Minister;

—the subject matter of the inquiry, i.e., an alleged breach of the Pilotage District By-law was not within the jurisdiction *ratione materiae* of the Court set up under sec. 579 C.S.A.;

—sec. 579 C.S.A. does not apply to pilots.

(ii) That the evidence was illegal, not preponderant, conflicting and contradicted by the evidence presented on behalf of the pilot.

On March 19, 1963, the legal advice of the Department of Justice was sought as to the legality of the proceedings. On July 19, 1963, the Deputy Attorney General of Canada gave the opinion that if the Minister took action on the inquiry made, three possible questions relating to the jurisdiction and conduct of the inquiry could be raised:

"(a) whether the Minister can cause an inquiry to be held under section 579 C.S.A. in the case of a pilot at all;

Study of Quebec Pilotage District

- (b) there is no evidence that the Minister of Transport personally had reasons to believe that the pilot, from incompetency or misconduct, was unfit to discharge his duties, the decision (to convene a Court of Inquiry) having been made by the Deputy Minister of Transport, and
- (c) whether, in any event, having regard to paragraph (a) of subsection 5, section 579, a charge based on a violation of subsections (1) and (2) of section 19 of the Quebec Pilotage District General By-law is the sufficient charge to an inquiry under section 579 C.S.A.

With regard to (a), I am not satisfied that subsection (2) of section 568 renders a pilot subject to an inquiry under section 579. I think that, having regard to other sections of Part VIII which specifically make pilots subject to the jurisdiction of other inquiries and the specific provisions of the By-law, it is only arguable that a pilot was subject to the jurisdiction of an inquiry under section 579.

With regard to the authority of the Deputy Minister to cause an inquiry to be held under section 579, I think that there is considerable doubt whether the Deputy Minister has this power unless it can be shown that the Minister had reason to believe that the pilot was, from misconduct, unfit to discharge his duties."

In conclusion, he said that he could not recommend that the Minister act on the basis of this inquiry and suggested that the matter be kept in abeyance until the decision of a *certiorari* pending before the Exchequer Court in the case of the grounding of the vessel *Timna* involving a Montreal pilot was handed down.

A decision was never rendered by the Exchequer Court on the *certiorari*; a discontinuance was filed September 4, 1963 (Exchequer Court file A1426).

On August 2, the Department of Transport wrote to the Department of Justice suggesting that the defence counsel for the pilot give an affidavit declaring that the pilot had been under the influence of a narcotic drug, in which event the case could be pursued without further inquiry. On August 8, the Department of Justice agreed provided the evidence obtained during the hearing was not introduced again, but only the pilot's affidavit to establish a breach of the By-law. In other words, this meant that the pilot's affidavit would amount to a plea of guilty and that the evidence obtained under sec. 579 C.S.A. was not admissible at such a disciplinary trial. The legal adviser of the Department of Transport felt that this restricted the case to a very narrow issue and since sec. 688 C.S.A. provides the limitation of six months on summary proceedings, which might be applicable to a case of this nature, it was decided not to pursue the matter further.

This case, however, was doomed from the beginning because sec. 579 does not give the Minister power to enforce discipline on a pilot or to prosecute him for a violation of the By-law. The statement of the case did not describe a case within the court's jurisdiction. Such a court being a court of exception, its jurisdiction is limited to the question of competency and that type of misconduct which is defined in sec. 579 and can not be extended beyond terms of this section (Part I, p. 422).

(b) S.S. *Oak Hill* and
M.V. *Continental Pioneer* cases

On August 25, 1962, at 22:25 a pilot boarded the downbound *Oak Hill* at Quebec. A few minutes later, at 23:10, the vessel grounded off Lauzon near Buoy 87½ on the south shore of the River. A few days later, on September 5, 1962, the same pilot boarded the *Continental Pioneer* at Les Escoumins at 21:15, and 25 minutes later the vessel was stranded in clear weather at Anse à la Barque about 15 miles upstream from Les Escoumins.

Prior to the *Oak Hill* accident, this pilot gave the District Supervisor three medical certificates, one from a neurologist who was also a psychiatrist in a hospital where both psychological conditions and alcoholism are treated. Also prior to these accidents, the Pilotage Authority in Ottawa knew of the difficulties the local authorities had experienced with this pilot and was aware of the medical documents.

This pilot's record (Ex. 711) lists a series of events in the weeks preceding the two casualties. The entries in 1962 are:

- June 19—Fined \$40 for failing to answer when called.
- July 3—Reported sick and missed his turn.
- July 12—Placed in turn after medical examination by National Health and Welfare.
- July 18—Fined \$20 for failing to arrive in time, vessel having to wait for him at Quebec.
- July 21—Missed his turn, removed from the list.
- July 27—Placed in turn with the average, lost six trips.
- Aug. 1—Fined \$20 for being late boarding a vessel.
- Aug. 3—Reported sick.
- Aug. 25—Placed on tour de rôle list, having produced a medical certificate that he was under treatment.
- Aug. 25—Grounding of S.S. *Oak Hill*.
- Aug. 29—Placed back on tour de rôle list.
- Sept. 5—Grounding of M.V. *Continental Pioneer*.
- Nov. 15—Suspended for an indefinite period re groundings of S.S. *Oak Hill* and M.V. *Continental Pioneer*.

With respect to disciplinary action for the various absences between June and August 1962, the District Supervisor reported that, except for the fine imposed on June 13, no fine was imposed for the subsequent absences without leave prior to July 11 because the pilot had been taken off the list and not allowed to make up his lost turns, i.e., five to six turns which indirectly amounted to the considerable indirect fine of \$500 to \$600.

After a series of absences, allegedly for illness, the pilot was requested by a Departmental official to submit to a medical examination to establish whether these absences were legitimate. The examination was performed July 11, 1962. The report was that there was nothing wrong with him physically but his trouble was psychological—a temporary mental stress which made him very nervous and prevented him sleeping—and that the condition did not render him unfit for pilotage duty. This last conclusion was beyond the competency of the medical officer, unless he was exceptionally conversant with the nature and conditions of pilotage and the stress, hardship and responsibilities it involves. Only experts in pilotage matters can determine an individual's fitness to perform pilotage duties after they are made aware by medical evidence of the nature and extent of the physical or mental impairment.

Despite this report, the District Supervisor considered that the pilot needed a good rest and suggested he take a few days' additional holiday. The pilot complied and later brought back a certificate dated August 21, 1962, in which the doctor in charge of a clinic where the pilot had retired merely stated that the pilot had been under his care at the clinic from July 11 to August 21. Under the circumstances, the District Supervisor reinstated him on the list because, according to the By-law, he had no alternative since the medical certificate of July 11 declared the man fit to work and this was not a case of drunkenness. He was put on the list the morning of August 25 and the *Oak Hill* accident occurred during his first assignment that evening.

When the District Supervisor saw the pilot the morning of the accident he seemed perfectly fit, his morale was good and he was enthusiastic about going back to pilotage.

Captain Slocombe of the Department of Transport stated that prior to the *Oak Hill* incident there was not sufficient evidence in the pilot's file to warrant a cancellation of licence. The pilot had been licensed August 18, 1959, and prior to the accident he had piloted a great number of ships successfully for more than three years. He had had no previous accident.

According to the procedure following an accident the pilot was taken off the tour de rôle to facilitate the inquiry and to allow him to complete his casualty report (as to power to impose a preventive suspension, vide Part I, pp. 343 and ff.).

The District Supervisor carried out his own fact-finding inquiry immediately. The Supervisor boarded the vessel about two hours after the accident. He wanted to see the Master in order to find out whether he needed any assistance and to inform him that the Department of Transport was looking after the matter. He also wished to verify the pilot's nervous condition. When he met the Master, however, he did not inquire about the pilot's behaviour just before the accident because all on board were excited and no information was volunteered. He informed the Master that he would return the next

morning. He disembarked with the pilot whose behaviour he found normal in the circumstances and, although he did make a special effort to smell his breath, he did not notice anything particular. The morning after, he went aboard and the Master informed him that neither he nor any one of his officers would make any statement prior to the arrival of their legal adviser.

Between the two casualties, i.e., on August 28, the pilot underwent a second medical examination. This was also conducted by a physician from the Department of Health and Welfare and the conclusion was that there was nothing wrong with him physically.

Following this new medical report, the pilot was returned to the tour de rôle August 29. Captain Allard said that this decision was approved by his superior officers. His recommendation was that a preliminary inquiry be held but that, in the meantime, the pilot be placed back on the list. In any event, it never occurred to him at that time that the pilot might be physically unfit.

Steps were taken under sec. 579 C.S.A. to hold an inquiry into the conduct of the pilot but before it was convened the pilot was involved in a second casualty, the grounding of the *Continental Pioneer* on September 5, as stated earlier. The District Supervisor was immediately informed and he proceeded without delay to hold his personal inquiry. He was on board the vessel a few hours after the stranding. He obtained affidavits from the Master and officers who informed him that the pilot had gone fast asleep at his post and that it had been impossible to awaken him for many hours. He did not notice that the pilot smelled of garlic and at that time he did not know that this might have had any significance.

The Supervisor again took the pilot off the assignment list. The Authority concurred because it was felt this second occasion justified removing his name from the list, whatever the consequence might be.

On September 6, 1962, the Court of Inquiry into the conduct of the pilot in the case of the *Oak Hill* stranding was ordered by the Acting Deputy Minister of Transport pursuant to sec. 579 C.S.A. In the statement of the case, mention was made that there was reason to believe that the pilot "is from misconduct unfit to discharge his duties."

The Court sat at Quebec on September 13, 1962. The pilot and his counsel attended the inquiry but he made no defence at that time, reserving his right to submit a written argument at a later date. In the report the evidence is summed up as follows:

"Mr. _____ boarded the *Oak Hill* off the pilotage station in Quebec Harbour at 22:25 hours on August 25, 1962. The ship proceeded down the river, the weather being fine and clear with a slight breeze. It was dark at the time. The Master stayed with the pilot for five minutes or so and then retired to his room. Shortly thereafter, while he was in his room, the master heard a grinding noise, and, knowing that the ship had grounded, went immediately to the bridge and put the engine full astern. This was 22:39, 14 minutes after the pilot boarded. The pilot was telling the officer of the watch that he thought the anchors had

Study of Quebec Pilotage District

been carried away. The master sent the third officer forward and the anchors were secured in the hawse pipes. It appears that the ship was steered to pass south of Buoy 87½B, i.e., on the wrong side of the buoy, and grounded on the 25-foot shoal close southwestward of the buoy. The master stated that after the accident the pilot was definitely overexcited and was talking all the time. There was nothing in the evidence to suggest that the pilot's faculties were impaired by alcohol, the master pointed out that he would not have left him on the bridge if he had appeared at all strange."

On September 17, 1962, the Deputy Minister of Transport convened a second Court of Inquiry under sec. 579 C.S.A. with the same appointees as members of the Court and legal counsel. The statement of the case mentioned that the Minister had reason to believe that the pilot was unfit to discharge his duties when on pilotage duty on board S.S. *Continental Pioneer*.

The inquiry took place at Quebec on September 24, and was concluded the same day. The pilot did not attend because he was then hospitalized, but he was represented by his legal counsel who could give no information about the nature of his client's illness nor about the probable duration of his hospitalization.

The investigation revealed that the pilot boarded the ship off Les Escoumins at 21:14. The weather was clear, the pilot took charge and ordered full ahead. The Master stayed in the wheelhouse for about five minutes but the Second Officer, who was the Officer of the Watch, remained with the pilot. About ten minutes later, the pilot gave a series of starboard course alterations heading the ship towards the shore. The Second Officer stopped the helmsman from altering further and informed the Master, but before the Master could take any action the ship ran aground. After the accident the pilot went to the chart room, where he fell asleep in a sitting position; they were unable to waken him.

The Investigating Officer gave his conclusions about these two inquiries at the same time:

"In neither of these inquiries was there any evidence of drunkenness. Mr. _____'s behaviour immediately on boarding these two ships appears to have been normal to the extent that it arose no suspicion on the part of the ship's personnel who received him and stayed with him for a reasonable length of time. However, on both occasions, shortly after taking over the conduct of the ship he became quite irrational, suddenly and without warning and I can find no explanation for his action. He seems to have been quite out of touch with reality."

The legal counsel for the pilot had agreed to a suspension for an indefinite period of time and the Investigating Officer so recommended, adding "the licence to be restored by the Pilotage Authority only after the Authority is satisfied that Mr. _____ is physically and mentally capable of carrying out the duties of a pilot." He further recommended that, when the pilot requested reinstatement, the Pilotage Authority should be prepared to hear his request and to order such examination of him as might be found necessary in the circumstances. This report was signed October 10, 1962.

On October 31, 1962, the Minister of Transport issued, pursuant to sec. 579 C.S.A., an order suspending the pilot's licence indefinitely and stated: "I find that Pilot [redacted] was on both occasions unfit to discharge his duties by reason of some unexplained physical or mental impairment." (re powers of the Minister under sec. 579 C.S.A., vide Part I, pp. 412 and ff.).

This was the first time an indefinite suspension was awarded. However, at a later date, the pilot's licence was cancelled.

Captain Slocombe added that between the two accidents the pilot was allowed to pilot because there was no evidence of misconduct, but simply the fact there had been an accident. The second accident occurred when the Department was in the process of convening an inquiry to give the pilot "his day in court" to answer the question whether he was fit to pilot.

The witness added "if there were a different relationship between the Pilotage Authority and the pilots, which we sincerely hope will come out of this Royal Commission, it would have been possible to take the man off the list on the slightest suspicion, or as I believe they do in the railroads, they take the man off duty as soon as he has had a casualty, no matter what happens."

"Perhaps we take a defeatist attitude in this matter of taking action with regard to pilots, but we have had so much difficulty in defending any action we took in the matter of a penalty, or in this case preventing a man from working a ship since the Bill of Rights. . ."

For the Commission's attitude towards these questions of powers of the Pilotage Authority to impose a preventive suspension and to make the necessary investigation, vide Part I, Gen. Recs. 28 and 29.

On September 17, 1964, the counsel for the Department of Transport stated before this Commission that a civil action for \$550,000 for repairs to the vessel and, among other things, her loss of earning power, had been launched by the shipowners against the Crown and involving the assignment of the pilot to the *Continental Pioneer*. As of April 1969 the case was still pending (United Steamship Corporation of Panama City v the Crown, Exchequer Court A2309, Petition of Right filed on September 3, 1964, Ex. 1466(q)).

(c) Collision between M.V. *Cartier*
and M.T. *Seven Skies* (Ex. 1466(k))

About 10:00 P.M., Thursday, July 18, 1963, the Department of Mines and Technical Surveys Hydrographic Survey Vessel *Cartier* collided with the Swedish Motor Tanker *Seven Skies* near Murray Bay. Damage was light, no person was injured and both vessels proceeded under their own power. The *Seven Skies* had a pilot on board but not the *Cartier*.

When *Seven Skies*, downbound for Les Escoumins, was some four miles above Morin Shoals the weather became hazy, visibility decreased and radar

was turned on. Fog set in but speed was not reduced although the pilot advised "stand by engines". A blurred target was sighted on radar one mile ahead to starboard, engines were put at slow speed and the regulation fog signals were made. When a small white light was observed on the starboard bow, the officers on the bridge of the *Seven Skies* thought they were overtaking a small boat, the pilot ordered two short blasts and altered to port. Since the bearing of the light changed very little, he ordered "hard-a-port". A few minutes later the pilot noticed the approaching vessel's red light and to avoid colliding with her amidships he did not order "full astern" but waited until the other vessel was abeam before ordering "hard to starboard" to stop the ship's stern from swinging. The result was that the small vessel hit their starboard quarter a glancing blow with her stem. The casualty was investigated at Quebec, July 24, 1963, by a Court of Preliminary Inquiry convened by the Minister of Transport under sec. 555 C.S.A. and presided over by Captain M.D. Atkins.

The Preliminary Inquiry report was studied by the Departmental Revision Committee (Part I, pp. 426-428) and on September 17, 1963, its secretary submitted the Committee's report to the Assistant Deputy Minister, Marine. The pertinent sections of this report read as follows:

"As is now our practice, a committee of members of the Nautical & Pilotage Division reviewed Captain Atkins' report and in conclusion the committee accepted his findings that while the *Cartier* is not entirely free of some measure of blame for the collision, by far the larger portion of this blame must rest with the *Seven Skies* under the conduct of (pilot's name).

... By the pilot's own evidence, his handling of the situation was extremely poor and it is noted that

- (1) he failed to commence sounding fog signals at the onset of fog and did not do so until shortly before the accident;
- (2) he failed to reduce speed notwithstanding the radar detection of a vessel close ahead and when he finally did so it was too late;
- (3) his action in altering course so as to cross the track of the oncoming *Cartier* was wrong as judged not only by the subsequent collision, but from a reasonable assessment of the facts as they presented themselves to (pilot's name) at the time.

A further matter of serious concern was his failure to submit a report of this collision as soon as he disembarked from the vessel at Les Escoumins. He admits that he made no effort to do so and, in fact, his written report was not made until his return to Quebec and he had been confronted by the Investigating Officer. His explanation that as no major accident was involved the submission of a report could await his return to Quebec cannot be accepted as grounds for ignoring Section 17, subsection (3) of the Quebec Pilotage District General By-law, which requires that a report be made immediately after the accident to the Superintendent by whatever means are available and as soon as possible thereafter the pilot shall attend before the Superintendent and make a written report on the form provided for the purpose.

We consider that his negligence and his disregard of the requirement to report the accident merits a suspension of his licence for two months and recommend that this penalty be invoked by the Pilotage Authority.

A review of (pilot's name)'s record as a pilot, since receiving his licence in 1956 leads one to doubt that he should be entrusted with the conduct of a vessel other than possibly a ship of the smallest size. We, therefore, recommend that upon the completion of his period of suspension of license he be reclassified as a Grade C1 pilot, valid for vessels of not more than 2,000 tons."

The Department of Transport officers concerned held further discussions about the status of the pilot, his responsibility for applying the rules for the prevention of collision at sea, and the degree of punishment commensurate with the pilot's failure. Finally, on September 25, 1963, the Deputy Minister, without the pilot concerned being given a trial of any sort (the Preliminary Inquiry report not being a trial, Part I, pp. 404 and ff.), implemented the Revision Committee's recommendations, except that the suspension was reduced from two months to one.

On October 7, 1963, it was realized that according to the By-law the Pilotage Authority did not have the power to reclassify a pilot from Grade B to Grade C1 and new instructions had to be sought from the Deputy Minister. On October 17, 1963, he agreed that the punishment should be reduced to one month's suspension. Because there was no Supervisor in office for the District of Quebec at that time, the Regional Superintendent was instructed to impose the suspension, which he did on October 20, 1963.

The same day the pilot's legal counsel sent a telegram to the Superintendent of Pilotage in Ottawa protesting that his client had not been given the opportunity either to retain counsel in the investigation, or to submit written arguments before the suspension was ordered.

The question was discussed with the Law Branch of the Department and it was felt that the requirements of sec. 21 of the Quebec By-law in this regard might not have been complied with fully, but the fact that the case had been handled by the Regional Superintendent in the absence of a Supervisor would make no difference and that the requirements of the By-law in this regard had been complied with. After an exchange of telegrams between the Pilotage Authority and the pilot's counsel, it was agreed to afford the pilot an opportunity to submit his written remarks on the evidence gathered at the Preliminary Inquiry, a copy of which was furnished to the pilot's counsel November 6.

On November 15, 1963, the pilot's counsel wired the Deputy Minister declaring his intention to appeal by way of writ of *certiorari*. On November 18, the Department of Transport sought the legal advice of the Department of Justice. The pertinent part of the reply received on November 20, 1963, reads as follows:

"In view of the fact that there is no indication in your departmental files that the pilot had any opportunity to present his defence, either orally to the Supervisor or in writing to the Pilotage Authority, prior to the decision of the Pilotage Authority, to suspend the pilot for one month, it is very doubtful whether this order has any validity whatsoever.

I understand from Mr. Macgillivray that you are advising the solicitor for the pilot, that the decision to suspend the pilot is being deferred, pending further investigation."

In fact, on November 20, 1963, a telegram was sent to the pilot's counsel informing him that the suspension had been lifted to provide an opportunity for him to present a written argument.

On November 27, the petition for a writ of *certiorari* was served upon the Minister of Transport and the case was again referred to the Deputy Minister of Justice who, on December 11, 1963, advised, in substance, that the suspension awarded was of doubtful validity because it appeared that the pilot had not been afforded an opportunity to present his defence, and it was suggested that the case be settled by compromise, if at all possible.

However, no settlement was arrived at for quite some time. In the meantime, a Montreal pilot sought the issuance of another writ of *certiorari* to have a disciplinary sentence against him quashed. On August 13, 1964, the Department of Justice again urged the Department of Transport to accept the compromise rather than go to court. The proposed compromise was that the two pilots would desist from their *certiorari* proceedings upon withdrawal of the complaints if there was assurance from the Pilotage Authority that no further proceedings would ensue out of the same facts and that the suspensions imposed would be cancelled. A settlement was arrived at and the court and disciplinary proceedings were dropped. In the end, because of faulty disciplinary procedure the Pilotage Authority was incapable of enforcing discipline.

(d) *M.V. Irvingstream* case

This is the first time the device of a Court of Inquiry under sec. 579 was used (i) to enforce discipline, (ii) as a penal tribunal for the trial of a By-law offence, and (iii) where no distinction was made between the Pilotage Authority and the Minister of Transport.

In the terms of reference of the Court, the statement of the case was drafted as follows:

"It is alleged that on Sunday, November 25th, 1962, Mr. _____ on duty as pilot on the *M.V. Irvingstream*, in Quebec Harbour, failed to exercise due care and diligence for the safe conduct of the vessel under his charge, in that he failed so to pilot this said vessel so as to avoid her grounding, contrary to the provision of Section 18 of the By-law of the Pilotage Authority of Quebec."

The Court found that the cause of the casualty was lack of care and diligence on the part of the pilot while manœuvring the ship and the Inquiry Officer recommended:

- (i) that the pilot's licence be suspended for a period of 6 months;
- (ii) that he be issued a temporary licence valid for vessels not exceeding 2,000 tons net during the period his present licence is suspended;

- (iii) that he be re-examined by the Board of Examiners of the District in seamanship and local knowledge of the District because of his apparent incompetence in both subjects.

These recommendations were in part implemented by the Pilotage Authority: the pilot was suspended for a period of one month and was demoted to Grade B, not to be reinstated to Grade A before he had spent four months as Grade B and passed a new examination for competency.

(e) Case of pilot No. 70

(Part I, pp. 334 and 429)

The case of Quebec Pilot No. 70 (Ex. 711) is an illustration of the passive attitude of the Quebec Pilotage Authority toward instances of intoxication and habitual drinking, despite the excessive severity of the regulations it has made. The pilot's record shows the following (Part I, pp. 428-430):

1938, July 23—S.S. *Nordlys* grounding through error in judgment; severely reprimanded.

1939, September 29—grounding S.S. *Saganaga* on Beauport bank.

1948, May 23—missed his turn without any reason and was fined \$40.

1950, August 19—grounding S.S. *Harworth* in Saguenay River.

1951, April and July—fined \$20 for failing to report to the pilotage office after having been refused by the Master of the tug *Foundation Josephine*.

1952, July 26—grounding S.S. *Flynderborg* in the vicinity of Red Islet; no action was taken against the pilot on account of discrepancies in testimonies.

1952, October 10—missed turn at Father Point and the officer-in-charge reported that there was a very strong smell of alcohol and that the pilot was not fit to pilot a ship; suspended up to October 31 and warned that a repetition would result in the cancellation of his licence.

1955, July 22—report received by radio from S.S. *Gloriana* advising that a pilot had come on board drunk and had left the bridge. The pilot was suspended from duty and ordered to appear before a physician which he failed to do. No action was taken to force him to comply with the order and the suspension remained in effect until April 9 the following year after he finally complied, was medically examined and found fit for duty.

1956, April 18—he was allegedly found in a drunken condition on board the tug S.S. *Foundation Josephine*.

1956, April 22—refused on board S.S. *Sea Transporter* because he appeared to be under the influence of intoxicating liquor. This last instance was apparently a clear case of drunkenness and it was recommended that his licence be cancelled. Instead, despite the mandatory requirements of sec. 49 of the Quebec By-law that the licence in such a case be cancelled, he was given "a severe warning". By order of the Pilotage Authority he was reinstated on the assignment list on June 13 after having been off the list since April 23.

1956, July 3—called for duty but reported sick and, therefore, again taken off the assignment list. On July 4, since he was still absent, he was ordered to pass a medical examination before a physician of the Department but he failed to comply and, instead, on July 28, he filed a medical certificate supplied by his own doctor. On October 26, not having returned to duty he was again ordered to pass a medical examination and again he failed to comply. No disciplinary action was taken for his absences without leave or his failure to comply with orders.

Study of Quebec Pilotage District

1957, January 30—ordered to report for duty at the opening of navigation and was warned that at the first recurrence of being in trouble through drinking or temperamental instability, his licence would be cancelled.

1957, April 15—involved in the grounding of S.S. *Lubrolake* near Pointe Agonie with resulting damage to the ship of about \$95,000. On July 12, it was found that the pilot had shown questionable skill on that occasion and he was informed that his record was being duly noted.

1957, June 27—missed his turn for no good reason and was fined \$40.

1959, May 8—prevented by the despatching clerk from boarding a ship, reported under the influence of liquor and suspended from the assignment list pursuant to sec. 49 of the Quebec By-law. The charge of drunkenness while about to proceed on duty was investigated informally by the Quebec Advisory Committee (p. 217) and the pilot attended the proceedings. The Committee's finding was that the complaint was justified and, in view of the pilot's damaging conduct sheet, it recommended, with one dissenting vote, that his licence be cancelled, first, in view of the terms of the By-law and second, on the ground of unsuitability.

On the basis of this report and in view of the pilot's past record, the Pilotage Authority withdrew his licence. However, the pilot, through a legal adviser, registered a strong plea with the Pilotage Authority which resulted in the case being heard *de novo* by a Court of Inquiry convened by the Minister of Transport under sec. 579 C.S.A. The inquiry was held almost a year after the committee's report, i.e., April 22, 1960 (Ex. 1317). The finding was that the charge had not been proven. The Court came to this different conclusion apparently because the witnesses had changed their testimony (vide Part I, p. 334). This was one of the cases which brought about the demise of the Quebec Advisory Committee. On May 9, 1960, his licence was reinstated and he was classified as a Class B pilot.

November 30, 1961—fined \$40 for leaving Les Escoumins pilotage station without permission after his turn.

August 31, 1963—the final incident occurred at Les Escoumins when, after changing his turn twice, he refused to board a ship without giving any reason. He was then taken off the assignment list and ordered to report at the Quebec station to the District Supervisor, which he failed to do. However, no charge was laid on either ground. Nineteen days later, he reported by telephone that he was ill. Later, he forwarded, not to the District Supervisor but to the Pilots' Corporation, a medical certificate signed by his own physician. He was then informed that he would not be reinstated on the tour de rôle until he had undergone a new medical examination conducted by an officer of the Department of National Health and Welfare. Eventually, he appeared for the examination and on May 26, 1964, the psychiatric examination found "there is no hope that continuation of treatment, or even another order of therapy will ever permit _____ to go back to regular work. It is very clear now that he hates pilotage, one may declare him at this time as definitely incapacitated."

In accordance with this report, the pilot was compulsorily retired on medical grounds as of June 9, 1964, under subsec. 23(4) of the Quebec District General By-law (Ex. 1461(e)).

The Pilotage Authority contends that up to that time there were insufficient grounds to warrant withdrawing his licence.

(f) Case of ex-pilot J. Patrice Drapeau
(Ex. 1311 and Part I, pp. 369 and 429)

In 1955, the Quebec Pilotage Authority cancelled the licence of pilot J. Patrice Drapeau as a disciplinary measure following an alleged recurrence of a drunkenness offence. On December 5, 1962, ex-pilot Drapeau wrote this Commission seeking a redress of wrong. This was the last of his many attempts to have his licence reinstated. Although it is not within the jurisdiction of this Commission to grant such redress, it is worth examining the case because it is a typical example of the way cases of impairment due to detrimental habits have been dealt with.

In his petition for redress, ex-pilot Drapeau stated that except for a three-year period during the war when he served in the merchant navy he was a licensed pilot for the District of Quebec from March 1929, until June 1955, when his licence was cancelled. He claimed that it was erroneously held that his failure to report to duty had been due to drunkenness. He claimed that he succeeded in having his case reviewed through the efforts of a Member of Parliament. He was told later that the inquiry had been held and that his dismissal had been found warranted. He charged that the inquiry was conducted in secrecy, that the provisions of sec. 49 of the then existing Quebec By-law were not followed, in that he was not notified of the date and place of the inquiry, or of the charge laid against him, and was never given an opportunity to engage counsel and defend himself properly. An added consequence of his dismissal was that he was refused his pension by the administrators of the Pension Fund, the 1860 Quebec Pilots' Corporation, before he reached the age of 65 because in the pension regulations the cause of his dismissal is a bar to an immediate pension (p. 500). He has drawn his pension benefits since 1967.

His pilot's record shows that since 1937 he was repeatedly fined and suspended and that his licence was even cancelled on August 11, 1941, because he would have missed his turn on account of impairment due to alcohol. He was reinstated on April 28, 1945, following a recommendation by the Pilots' Committee on the condition that he behave properly. One year later, he again missed a turn; in 1949, he was reprimanded for having taken intoxicating liquor; on May 15, 1952, he again could not take his turn on account of indulgence in alcohol. Once more the Pilots' Committee recommended leniency and he was given a further chance but was warned that this was the last time. However, he was later fined twice for refusing or missing his turn without a valid reason. On June 2, 1955, he again lost his turn, allegedly on account of drunkenness, and this time his licence was definitely cancelled. It appears that no charge was laid, there was no formal trial, not even a Court of Inquiry as provided under sec. 49 of the then By-law. The Pilotage Authority simply had made use of its alleged power to withdraw a licence on whatever evidence it deemed sufficient.

Answering a query from this Commission on July 28, 1965, the Pilotage Authority stated that in fact no Court of Inquiry was held under sec. 49 of the former By-law, that action was taken on the basis of reports from the local Superintendent after pilot Drapeau had been given the opportunity to present his own version of the latest incidence, which was not deemed satisfactory. Sec. 51 of the former By-law provided that the licence of any pilot found to have consumed intoxicating liquor when on duty or about to go on duty had to be withdrawn. The Pilotage Authority was convinced that on this latest occasion pilot Drapeau, after due warning in 1952, had again contravened the By-law provisions.

Since then, ex-pilot Drapeau has used every available means, except legal proceedings, to have his licence reinstated, but to no avail.

COMMENTS

It is possible that, if he had taken legal proceedings when his licence was last cancelled, he would have been successful on technical grounds and that the Pilotage Authority would have been then obliged to resort to the correct procedure, i.e., give him a trial. However, it must be emphasized that this Commission is in no position even to suggest what might have been the outcome of such a trial because it does not possess the full facts of the 1955 case which was beyond its mandate.

Nevertheless, the situation revealed by this pilot's record and the handling of the 1955 alleged offence are indictments against the pilotage administration. They show a passive attitude on the part of the Pilotage Authority and leniency where there should be none because safety is at stake. If this pilot was addicted to alcohol (as his previous record would indicate), he should have been considered a safety risk as early as 1940. A habitual drinker is a safety risk which allows no margin for compassionate grounds. His licence should not have been reinstated in 1945, unless it had been clearly established either that the use of alcohol did not impair his efficiency or, if it had done so in the past, that he had overcome his detrimental habit.

GENERAL REMARKS

The foregoing study of shipping casualties and disciplinary cases shows a most deplorable situation which adversely reflects on all the pilots of the District (despite the fact that only a few of their number are to blame) and which is allowed to continue, despite the efforts of the pilots as a group. The fundamental weakness lies in the Pilotage Authority's lack of adequate powers to take effective action because it is hampered by obsolete statutory legislation.

The Quebec pilots as a whole are a fine body of seamen, proud of their profession and most efficient in their duties. They are well aware that their reputation has suffered from the serious omissions and wrongdoings of a few

of their number, and, confronted with the general passive attitude of the Pilotage Authority and its inability to handle the situation, they have done their utmost to raise their standard of competency and *expertise*. They are to be complimented on their initiatives which have resulted in the adoption by the Pilotage Authority of long overdue reforms.

By definition, a pilot is a fully qualified mariner capable of handling and navigating any vessel that enters, or may enter, his District. He is an expert in local waters and is trustworthy beyond question. The pilot must live up to these standards and, therefore, must accept the duties, responsibilities and consequences inherent in his status. Then and then only, can he expect and demand to be treated accordingly. In the anonymity of a controlled and fully directed pilotage service, the failings of a few pilots adversely affect the efficiency and reliability of the service and mar the reputation of the whole group.

The Quebec District pilots are painfully aware of this fact. They have reacted to the limit of their capability but two serious deficiencies prevent a successful organization: the Pilotage Authority lacks appropriate powers to administer and direct pilotage; and the Authority has become passive, partly because of its remoteness and policy of centralization, and partly as a result of the adverse decisions it received in the courts when it tried to live up to its responsibilities and found it lacked the legal means to do so. This has led to a policy of non-involvement at all levels which has prevented the Pilotage Authority and its officers from making the most of the limited powers it legally had. However, it should be noted that the use by the Pilotage Authority of these limited powers, accompanied by positive action and firm control, would have been sufficient to effect the timely retirement of the few who had long been safety risks and who eventually became responsible for the most serious casualties.

The state of affairs disclosed by this study of the shipping casualties and disciplinary cases in the Quebec District (and in other Districts as well) shows the necessity for reform in depth leading to increased powers for the Pilotage Authority over the professional competency and physical and moral fitness of pilots.

It is considered that Pilotage Authorities would have the necessary powers if the Commission's General Recommendations, especially Nos. 26-37, are implemented.

5. PILOTAGE OPERATIONS

(1) PILOT STATIONS AND PILOT BOARDING STATIONS

Since the Quebec Pilotage District is the first of a series of contiguous Pilotage Districts along the St. Lawrence-Great Lakes water route, *pilot boarding stations* had to be established at both ends of the District on the

River St. Lawrence: Les Escoumins in the east and Quebec in the west. In addition, pilots may board vessels upon request at any point within the District and, at times, under special circumstances even outside the District. Similarly, they disembark when their vessel reaches its destination anywhere inside the District or, if bound to a destination outside the District, when they reach the boarding station at the limit of the District and, under special circumstances, outside the District.

The two *pilot stations* are also situated at Les Escoumins and Quebec. Although Port Alfred on the Saguenay River is often referred to as a pilot station, e.g., in the Despatching Rules, it is not one in fact because there is no accommodation for pilots, no office for the Pilotage Authority and despatching is effected from the Quebec station to which the pilots must report either by telephone or telegram when they arrive at Port Alfred (Ex. 1461(k)). All other points where pilots board or disembark are served from either Les Escoumins or Quebec (for further details, vide pp. 433 and ff.). In view of the fact that the harbour of Quebec is situated in the Districts of both Quebec and Montreal, one being the continuation of the other, the Quebec pilot station and its boarding facilities are used to accommodate the pilots of both Districts.

As seen previously (p. 26), there was a time when, in addition to Quebec, two boarding stations were provided downstream, one at Coudres Island and the seaward station at Bic Island. The intermediate station on Coudres Island was in operation only briefly. At that time, the pilots had to remain throughout the navigation season at Bic Island when they were not on assignment, and were not allowed to stay in Quebec more than a certain number of days, except at the request of the Master of a ship. When they were off duty they had to return to the seaward station and cruise constantly in the boarding area to offer their services. This procedure was changed after 1860 when the Corporation of Pilots took over the administration of the Bic station, provided pilot schooners and organized despatching. During that period the pilots generally lived on board the four pilot schooners. In 1905, when the Minister of Marine became Pilotage Authority, the pilot station was moved eastward to Father Point, still on the south side of the River because there was more sea room for steamers to manoeuvre. Since this area was too exposed for the pilot schooners, they were replaced by pilot steamboats provided for the Pilotage Authority by the Department of Marine without charge to the pilots, who then, however, found themselves obliged to dispose of their four schooners. The seaward station remained at Father Point until 1960 when it was transferred to its present location at Les Escoumins on the north shore, some 37 miles upstream. Because despatching can now be planned ahead through the E.T.A. requirement made possible by radio communications, the pilots do not have to remain at any pilot station when off duty, provided they are always available for assignment at reasonable notice.

(a) *Les Escoumins Pilot Station*

Moving the station from Father Point to Les Escoumins was the result of long discussions and negotiations between all the parties concerned dating from about 1955. It was done despite the objections of a minority of the pilots but remained a point of contention for a long time. Indeed, pilot Koenig is still neither convinced nor satisfied. In his brief (Ex. 571) two of the five topics he deals with concern this matter; he still argues that "the transfer to the north shore presents no advantages whatever", that the south shore harbour of St-Simon should have been chosen and that the Department of Transport's motives were not in the best interests of the service. He claims that Les Escoumins was selected to benefit the Department in that some of the financial obligations the Department had incurred on behalf of the pilots were thereby obviated.

The transfer of the station to the north shore was bound to happen once the decision to favour the north channel was taken in 1934. Previously, the south channel was the main one and a south shore location for the boarding station was normal but after 1934 this was no longer so because it meant that vessels had to detour to the south shore boarding station at Father Point where the River is over 20 miles wide. At that time, the main objection to establishing a station on the north shore was that it had to be located outside the restricted waters off the estuary of the Saguenay River where land communications were almost non-existent. However, the construction of good roads and the provision of bus service removed the principal argument in favour of a south shore station.

The question of moving the station was raised by the pilots themselves and those in favour circulated petitions and made representations to the Authority in Ottawa. The Department of Transport wrote to all the pilots asking their opinion of the proposed change. The Department was criticized for not dealing with the Pilots' Committee but individual pilots sent in their comments. It was not clear whether the majority wanted a change but the Pilots' Committee at the time succeeded in convincing a large number and the Department was informed that the majority concurred. However, in view of the strong opposition of one group, the move was delayed considerably.

On February 12, 1958, 26 pilots, including pilot Koenig, wrote to the Minister of Transport protesting against establishing a pilot station on the north shore at Cap Bon Désir which, they said, had been requested by the Directors of the Association who, in their opinion, did not represent the views of all the pilots. They acknowledged the feasibility of moving the pilotage station upriver but insisted that it should remain on the south shore. They agreed that the lower part of the River presented no special hazards to navigation and that moving the boarding station nearer Quebec would improve their working conditions and shorten their trips. However, they voiced their objections against a north shore station and pointed out that

excellent sites existed on the south shore, e.g., Trois-Pistoles, situated 40 miles west of Father Point, which was easily accessible by train, bus and automobile, and where there was good hotel accommodation as well. On the other hand, Cap Bon Désir (6 miles east of Les Escoumains Bay) was not accessible by train, was difficult to reach by bus or car and provided no accommodation. As far as safety of navigation was concerned, they noted the inconvenience created by frequent fog, strong currents and neighbouring shoals (Ex. 598).

However, in a letter dated March 16, 1958, pilot Koenig wrote to the Secretary of the Pilots' Association informing him that he had changed his mind. He explained that when he signed the joint letter he had not been in possession of all the pertinent information and he charged that some of the pilots who had signed had done so for personal reasons rather than in the common interest of the pilots (Ex. 599). In his testimony, he added that he had been the victim of false pretenses, that communications on the north shore were fairly good, that his signature was sought by letter when he was in Montreal engaged in his other occupation as Director of the Marine School, that he had been led to believe that the south shore site would be St-Simon and not Trois-Pistoles, and that when he found that the document the others had signed favoured Trois-Pistoles he withdrew his opposition to Cap Bon Désir which was a better site than Trois-Pistoles if St-Simon had no chance. At the time of his testimony pilot Koenig certainly did not remember the facts in detail at that later date. In the preamble of the petition Trois-Pistoles was the recommended site, pilot Koenig's signature appears on the petition itself (and not on a separate document) and a post-scriptum added to the petition itself and bearing only pilot Koenig's signature reads:

"Failing Trois-Pistoles, the government wharf at St-Simon would make a satisfactory Pilotage station. St-Simon would also prove to be less onerous to the taxpayers." (sgd. M. Koenig) (Ex. 595).

When the Seaway opened in 1959 the pilots' workload increased considerably. That same year three pilots died and six or seven others were said to have been seriously ill (p. 453). Pilot Rousseau was of the opinion that these illnesses were due to overwork. Their general performance when faced with this increased workload was very good and they were congratulated by the Deputy Minister of Transport. However, knowing that traffic would not decrease and, on the other hand, feeling certain that the Pilotage Authority would not favour an increase in strength, the only way they could improve their working conditions was to decide on a new location for the pilot station.

The question was raised at the general meeting of the Association held January 13, 1960. After the advantages and the disadvantages of the various sites had been discussed, a secret vote was taken and the result was 34 in favour of a north shore location, 28 in favour of a south shore location and 1 for Father Point (Ex. 600).

In view of the majority decision, the Board of Directors communicated with the Pilotage Authority seeking co-operation. On January 25, 1960, the Deputy Minister in a letter to the Pilots' Committee stated that he had written a circular letter to each pilot and that he had received a number of replies, the majority of which indicated a preference for a site on the north shore in the vicinity of Les Escoumins. He asked the Pilots' Committee to express their opinion as the representatives of the pilots as a group (Ex. 688).

Later, the Pilots' Committee met with the Minister of Transport, the Hon. George Hees, and after much discussion it was decided to give everyone an opportunity to state his views by forming a committee to study the question thoroughly.

In a bulletin addressed to all the pilots, dated March 30, 1960, the President of the Pilots' Association brought them up to date on the situation. Annexed to the bulletin was a copy of a letter received from the Minister, dated March 24, 1960, in which the Minister acknowledged having received telegrams from pilots in favour of moving the station, and stated that in view of the expressed decision of the majority of the pilots "the Department will carry out its normal obligations under the Canada Shipping Act and the by-laws in regard to pilots" by providing the necessary services, including a pilot vessel to allow the pilots to operate from Les Escoumins. This, however, was to be a temporary move only pending the selection of a final site for which he proposed the formation of a committee composed of representatives of the Department of Transport, the Department of Public Works, and the pilots, with the Director of Marine Regulations as chairman. With reference to the Father Point pilot station, he added that, if a sufficient number of dissident pilots wished to remain there, the station would be maintained for despatching during 1960. In the bulletin the President of the Pilots' Association pointed out that moving the station to Les Escoumins meant a decrease of 40 miles per trip with a resultant improvement in their working conditions. He hoped that those who still were not in favour would rally to the majority choice (Ex. 688).

The committee was formed with three representatives from the Department of Public Works, two from the Department of Transport and two pilots chosen from the Board of Directors. The committee visited various sites including Les Escoumins and Trois-Pistoles, and unanimously chose Anse aux Basques near Les Escoumins. A report to that effect dated June 2, 1960 (Ex. 689) was made to the Department of Transport.

On May 31, 1960, a visit was paid to the possible sites: Anse aux Basques, Black Cove, Les Escoumins Bay, Les Escoumins wharf all situated on the north shore, and Trois-Pistoles on the south shore. Black Cove was eliminated for lack of shelter, shallow water and excessive construction costs. Les Escoumins wharf was also discarded for lack of shelter, difficult construc-

tion, excessive costs and silting. Les Escoumains Bay was rejected because the cost of capital and maintenance dredging for an approach channel would be excessive, also lack of shelter and the fact that the bay froze over during the winter. Trois-Pistoles was unsatisfactory because a long wharf would be required and maintenance costs would be excessive on account of exposure to ice and sea. Fog and ice conditions there were as bad as at Father Point and the 30-foot contour line of shallow water, beyond which most ships would have to remain while embarking a pilot, was situated three miles off shore so that the pilot vessel would have to go out at least three miles to embark and disembark the pilots. On the other hand, Anse aux Basques was chosen for its good shelter, the width of the cove and its deep water and because it was an ideal site for the construction of an office with a clear view in all directions.

By then only a few pilots were still against the move and apparently most of these had some personal interest in staying on the south shore. They protested by letter and tried to have Trois-Pistoles selected. One of the reasons advanced in favour of the south shore was the good train service available.

Acting on the report, the Department transferred the station to Les Escoumins wharf for a trial period and, on August 16, 1960, the Minister of Transport wrote to the President of the Pilots' Corporation pointing out that the experiment had proved successful and that Les Escoumins was a better site than Father Point as far as fog was concerned. He added that he agreed with the result of the survey carried out by the committee, that he had approved the choice of Anse aux Basques (now referred to as Les Escoumins) and that consequently he had asked the Department of Public Works to proceed with the necessary work with the least possible delay.

The news of the change was received favourably by most of the pilots but one pilot who lived at Father Point resigned.

According to the Department of Transport, the factors that militated in favour of the move were the following:

- (i) A north shore location made navigation safer in that it did away with the necessity of criss-crossing the main stream of traffic to reach Father Point and to return to the North Channel. Trade was increasing between points on the north shore and ships engaged in this trade, such as large iron ore carriers, had to cross to the south shore to embark and disembark their pilots. Since the South Channel had been abandoned in favour of the North Channel, Les Escoumins was on the normal direct route followed by ocean-going vessels.
- (ii) Locating the pilot station at Les Escoumins shortened each pilotage trip by some 37 miles and thus helped improve the pilots' workload and their working conditions.

- (iii) The incidence of fog and ice was not as great on the north shore. The Father Point station had to be closed during the winter and the pilots were obliged to board upbound vessels in various ports outside, the District (for a similar occurrence vide p. 441). Even during the fall, so much ice sometimes accumulated that the pilot vessel was held up off Father Point and icebreakers had to be used instead at White Island or Red Islet. Les Escoumins has proved to be much more satisfactory in that respect and, in fact, the station has remained open the year round ever since the move in 1960.
- (iv) Weather and sea conditions in the vicinity of the new station were so much better that smaller pilot boats could be used, thus effecting a substantial saving (pp. 421 and ff. and Part I, pp. 683 and 684). While bad weather does occur at Les Escoumins, it is neither as frequent nor as severe as off Father Point.

Pilot Koenig, who first signed a petition in favour of Trois-Pistoles, then rallied to the group favouring a northern site only to disassociate himself again some time later in favour of St.-Simon on the south shore, expressed the opinion that Les Escoumins is dangerous and confusing in that ships in the vicinity of the boarding station meet on either side of the channel. According to the rules for narrow channels⁸ they *ought to* meet port to port, but at the pilot station they do not necessarily have to comply with the rules although this is their usual practice. They do not know until the last minute what the oncoming ship will do and, in his opinion, this might prove dangerous especially if there are more than two ships involved and the weather is hazy. He conceded that since the station has been moved there have been no accidents due to this cause but he maintained there have been a few very near misses.

In his annual report to the pilots in January 1961 (Ex. 683) their President mentioned that the experience of one year at Les Escoumins had demonstrated that the move had brought about a noticeable improvement in the pilots' working conditions even though the station was not yet completed; the pilotage distance had been shortened considerably, resulting in fewer working hours per trip, the weather was so much better at the new location that the Authority had decided to keep the station open throughout the winter; the transfer of pilots from one station to the other had been reduced from 1525 to 1227, i.e., a decrease of 298 with no night travel; land communications were being improved by the addition of one bus service per day; construction of the pilotage station at Anse aux Basques was about to start.

⁸It is considered that the channel off Les Escoumins can not be termed a "narrow channel" (Rule 25 of the International Regulations for the Prevention of Collisions at Sea) any more than the area east of Coudres Island which was found not to be to a "narrow channel" by the judgment in the case of the collision between SS *Leecliffe Hall* and M.V. *Apollonia* (p. 371).

Despite the assurance given to the pilots by the Minister in 1960 about the construction of the wharf and the pilot station at Anse aux Basques, the new station did not come into operation until October 23, 1964. The main delay was caused by the Federal Government's austerity programme.

The pilots repeatedly protested against this state of affairs. On October 4, 1961, the Deputy Minister replied to a letter dated September 26, 1961, pointing out that works of this importance take time to prepare, that even the wharf was not expected to be completed before October 1962, and that a temporary wharf at Anse aux Basques would be provided immediately (Ex. 692). In his annual report to the pilots in January 1962 (Ex. 683), their President said that work had begun, that the wharf was to be completed by September, but that the office building had not yet been started. He stated that the Department had first ruled there would not be any sleeping accommodation at the pilot station and that free transportation service would be provided from hotels but later decided that sleeping accommodation consisting of at least five rooms would be provided at the site. However, the Department reversed its decision and when the building was completed in 1964 neither sleeping accommodation nor free transportation was provided.

The original estimates for the construction of the Anse aux Basques installation (Les Escoumins pilot station) was \$401,157; the total cost including incidentals amounted to \$597,186.27 (Ex. 1461(u)).

Building	\$ 37,899.12
Land	850.00
Wharf	401,156.75
Ladders on wharf	6,500.00
Transmission lines	2,000.00
Road lighting	9,600.00
Waterworks	59,634.00
Inspection fees (paid to D.P.W.)	16,177.12
Access road to wharf	40,547.20
Consultants' fees	14,853.38
Miscellaneous	7,968.70
Total	\$597,186.27

The pilot station is a two-storey building with a work-shop and store-room for the pilot boats on the first floor and on the second the despatching room, equipped with radiotelephones and teletypes, the office of the officer-in-charge and the pilots' waiting room. The building is situated two hundred feet above water level and provides a clear view over the boarding area.

The Department of Transport made arrangements with a bus company to transport the pilots between Quebec and Les Escoumins, twice daily, and provided taxis in case of emergency, at a cost of \$5.50 per trip per person. On the other hand, the Pilots' Corporation made arrangement with the taxi

owners at Les Escoumins to provide transportation between the village and the wharf at 50¢ per trip for one passenger and 25¢ extra fare for each additional passenger. In 1963, the rates for hotel accommodation were:

Room	\$ 2.00
Breakfast25
Lunch	1.50
Dinner	1.50
Total per day	\$ 5.25

When the Anse aux Basques site became operational, the Pilots' Corporation studied the question of building a pilots' lodging or shelter nearby. Architects were consulted and three different plans were drawn up but when the pilots were consulted they could not agree and the project was abandoned. Construction costs would have been substantial and some pilots preferred to continue using hotels.

However, some pilots did not wait for the Corporation to act. Under an independent partnership agreement they bought a number of trailers about 50 feet in length at a cost of \$7,000 to \$9,000 per unit, each of which accommodates three or four persons comfortably.

Furthermore, a motel was built near the pilot station. Most pilots stay there and avoid the necessity of travelling by taxi from Les Escoumins. The taxi service still leaves a lot to be desired especially at night (Ex. 1454).

At Les Escoumins pilot station the personnel establishment is that of a sub-pilot station. The staff (not counting the pilot vessel crew) is composed of one officer-in-charge (referred to as Supervisor of Pilots) and four clerks. Until recently, the clerks were employed on a part-time basis, i.e., for the whole summer and during the winter one at a time for one week in turn. Now, like the Supervisor, the clerks are being employed on a full time basis (Ex. 1461(w)).

Until recently, the station was operated on a 24-hour basis from April 1 to December 31 but during the winter months it was manned from 9:00 a.m. to 5:00 p.m. only, Monday to Friday inclusive, unless vessels required pilot service at night or during weekends, in which case the station remained open to serve them. During the winter season of 1964-65, 55 vessels out of a total of 85 were handled during the off-duty period (Ex. 1454). The station is now operated on a continuous basis the year round (Ex. 1538(h)).

As seen earlier, the description of the eastern limit of the District does not coincide with its actual location and legally the District still extends to Father Point, despite the fact that no pilotage is performed east of Les Escoumins. Sec. 5 of Schedule A to the General By-law still provides for a \$20 pilot boat charge when a pilot vessel is used off Father Point, as well as "at any pilot station that may from time to time be established in substitution for Father Point" (P.C. 1959-1605).

One recommendation to improve the efficiency of operations at Les Escoumins was to establish pilotage grounds. The pilots recommended a restricted embarkation zone outside Anse aux Basques, which would be off-limits to ships not taking pilots (especially small coasting vessels that constantly use that area to the danger of larger vessels) and which would be used exclusively to embark and disembark pilots (Pilots' Brief, par. 618). They suggested these pilotage grounds should be an area with a radius of a mile and a half using the wharf at the pilot station as centre and the limits shown on C.H.S. charts.

This recommendation has since been partly implemented. C.H.S. charts 1204 and 1211 now show immediately off Les Escoumins pilot station an area delineated by pecked lines marked "Pilot Boarding area" extending some 2½ miles by 4½ miles. This offshore amendment to the charts was brought to the attention of shipping through Notice to Mariners 772 of 1966. It was hoped that this would suffice to persuade vessels not taking pilots to pass outside the zone so delineated without having to make it a restricted zone (Ex.1538(i)).

(b) *Quebec City Pilot Station*

Although the harbour of Quebec is the joint territory of the two adjacent Districts of Quebec and Montreal, the pilotage operations performed there by the pilots of each District are of a different nature. The harbour belongs primarily to the Quebec Pilotage District but is used by the Montreal pilots to disembark from ships in transit or calling at Quebec downbound and to board ships proceeding upstream to Montreal. Originally, when there was a separate Pilotage Authority for each of the two Pilotage Districts, a separate pilot station was maintained in Quebec by each Authority. When the Minister became the Pilotage Authority for both Districts in 1905 and his Department assumed the full cost of the pilot stations, there was no reason why only one pilot station would not suffice to administer and accommodate the pilots of both Districts. However, it took many years before they were integrated both for accommodation and administration under the Quebec District Supervisor. His responsibilities as far as the Montreal pilots are concerned are to despatch them and provide them with facilities while they wait for assignments.

During recent years a point of contention was the abolition of the dormitories at the pilot station which provided separate quarters for the Montreal and Quebec pilots.

These dormitories had been available for a great number of years, probably ever since the pilots directed the pilotage service through their Corporation. Retired Supervisor Hamel recalled that in 1916 these sleeping quarters consisted of some 18 beds for the pilots of each District and that they were in regular use until he left the service in 1961. Even the pilots who

lived in Quebec took advantage of the dormitories when they had to embark at night. The despatcher would awaken them when their ships were approaching. Those who disembarked during the night often preferred to spend the rest of the night at the station and go home in the morning but those who were in Quebec for more than one night but did not live there usually went to a hotel. He, himself, thought the dormitories were very useful. When, for instance, a pilot had to wait on account of fog or other reasons he had a place to sleep and was rested when he took his assignment. He remarked that it is impossible to relax in a hotel when one is liable to be called at any moment. The dormitories were also used extensively by apprentices.

For many years, the Department tried to abolish them but the pilots succeeded in keeping them. In 1959, Captain Jones of the Department of Transport visited Quebec and mentioned the Department's intention to abolish the dormitories because they were no longer necessary. No other reason was given for this decision. Pilot Barras, then President of the Association, sought the support of the Shipping Federation and succeeded in having the dormitories retained. He mentioned that they were a great convenience for those who, like himself, lived in suburbs such as Lauzon across the River from Quebec. When he had to board a ship at night he used to report to the station and could rest. This was particularly important if the ship was delayed. Now he is called at least 10½ hours in advance and has to make himself available without knowing whether the ship will keep its E.T.A. or not. Once in 1962, he was called to pilot a ship expected to sail about midnight but after he went on board her departure was cancelled and he returned to the pilot station. Since his assignment had been cancelled, he dropped down to be second on turn in accordance with the despatching rules, but because no vessel was expected before morning he returned home—a trip of about an hour. When he arrived home he learned that the pilotage office had requested him to return immediately to take a ship, only to learn when he reached the office that he was being sent by bus to Port Alfred. He had spent the night travelling back and forth but if the dormitories had still existed he could have rested instead. He admitted that this was an unusual case but pointed out that the pilots are often called in the middle of the night and that ships are delayed for many reasons.

However, here again, there was no unanimity among the pilots and the Department of Transport had long since decided to close the dormitories. Similar facilities were discontinued in Montreal in 1956 and since then the pilots have tended to make less use of those in Quebec, although the apprentices have occasionally used them. The Department took the matter up with the Pilots' Committees of both Montreal and Quebec Districts because these facilities were being used by pilots of both Districts and both Committees agreed that it would be preferable for pilots and apprentices to make private

arrangements for accommodation. The dormitories were discontinued in the Quebec pilotage building on August 4, 1962, as part of the austerity programme with a consequent saving in the operational costs of the pilot station.

The Department of Transport was aware that a few pilots objected to closing the dormitories but neither the Department nor the Pilotage Authority received any formal complaint. Pilot Koenig complained that when he learnt about the matter it was already an accomplished fact. He argued that there was very little saving for the Department, that the pilots would have been quite willing to defray the small expense involved out of their own pockets if they had been informed in time. He raised the question at the next general meeting of the Corporation but there was little action that could be taken by then.

When this occurred, Captain Gendron, the Regional Superintendent, was in favour of closing the dormitories for he had lived in them when he was an apprentice pilot and he had seen them afterwards. They were not clean and furthermore, in his opinion, it was not proper to have sleeping quarters in pilotage offices.

COMMENTS

To move the seaward boarding station from Father Point to Les Escoumins was the only reasonable action as soon as reliable transportation became available on the north shore. The advantages were so great from many points of view—saving the pilots' time and improving their working conditions, enhancing the safety of navigation, reducing delays to ships and coordinating pilot station operations—that the Pilotage Authority would have been derelict in the performance of its duties if it had not moved the station even in the face of the pilots' opposition. One reason for the existence of a Pilotage Authority is the necessity to make decisions of this nature. It was wise, however, to proceed cautiously and obtain the pilots' support in order to avoid unnecessary recrimination. The delineation of an extensive boarding area was a further improvement.

The establishment of pilot stations is a matter of internal organization. The requirement is to ensure the availability of pilots when and where required at reasonable cost and with a minimum of inconvenience to all concerned (vide Part II, pp. 91 and ff.). The establishment of a pilot station at both ends of the District on the St. Lawrence River, with Les Escoumins subordinate to the main station in Quebec, is a realistic organization which fulfills the requirements of the service and also benefits the pilots who all reside in Quebec City and its immediate vicinity. This is also true for most of the Quebec-Trois-Rivières group of Montreal pilots.

However, a similar sub-station was not established at the end of the District on the Saguenay River in the Port Alfred/Chicoutimi area, and rightly so. The comparatively small demand for pilotage service in that area does not warrant the considerable expense of a pilot station.

It is considered that a joint pilot station for the Quebec and Montreal pilots in the vicinity of the common boarding area is a necessary feature because they serve contiguous Districts, but the powers, duties and responsibilities of the officer-in-charge in relation to the pilots of both Districts should be defined by legislation (vide Gen. Rec. 9, Part I, pp. 480 and ff.).

The question of dormitories at pilot stations should be determined in the light of local circumstances. The main criterion, i.e., availability in the vicinity of the station of adequate sleeping and boarding accommodation at reasonable rates, is met at both pilot stations. There is no longer any justification for maintaining sleeping quarters at the Quebec station because the pilots can easily make themselves available from their residence, even at short notice. Since the Traffic Control System was inaugurated, times of requirement can be ascertained with greater accuracy. Nor is there any need for sleeping quarters at Les Escoumins since the required accommodation can be obtained at reasonable rates at nearby hotels and motels.

(2) INFORMATION REQUIRED BY PILOTS BEFORE EMBARKING

When boarding a ship and prior to taking charge of her navigation, a pilot should be fully acquainted with all the necessary factors that may affect her safe conduct:

- (a) the traffic and weather situation generally over the whole route, and in detail in the vicinity of the boarding station and within the first sector through which he is going to travel;
- (b) the ship's characteristics, peculiarities and conditions that would affect her handling, and the nature and effectiveness of her aids to navigation;
- (c) the ship's exact position when the pilot takes over.

There is no problem when time is not a pressing factor, e.g., in all cases when a pilot boards a ship at anchor or at a berth. He can learn basic details from the various sources of information at the pilot station and after embarking and before getting under weigh he can obtain at leisure the additional information required from the Master and the Control Centre. The ship's position presents no problem because it is within his personal knowledge.

The situation is quite different, however, when the pilot boards a ship under weigh either in the stream off the pilot station at Quebec or Three Rivers, or at sea off Les Escoumins pilot station.

Under existing arrangements, some information of the first type is available to pilots. As seen earlier (p. 182), they may obtain a general idea of the traffic by consulting the Traffic Control System's list of upbound and downbound vessels on the notice board at each pilot station. A general report on the weather situation in the various sectors can be obtained from a telephone recording revised every hour by the Montreal headquarters of the Traffic

Control System. More accurate information about the situation—especially in the immediate vicinity—can not be obtained until he has embarked and contacted the Control Centre by VHF.

Information about the ship's characteristics, peculiarities and condition which affect her navigation can only be obtained on board from the Master, or from the pilot being relieved if there is a changeover.

Accurate knowledge of the ship's position when the pilot takes over is an essential safety requirement. This is particularly true when boarding off Les Escoumins because a wrong, uncorrected course may mean disaster in the extremely varying current conditions off the entrance to the Saguenay River and in the neighbourhood of Red Islet. The most common cause for giving a wrong course in that area is an incorrect estimate by the pilot of his point of departure off Les Escoumins—this may be substantial in view of the width of the river. In poor visibility, the only immediate and accurate means a pilot has to fix the ship's position is radar and in case of radar failure the situation becomes serious.

There have been a number of casualties due to a wrong assumption by the pilot of the ship's position at that point, generally due to the pilot's own negligence. A pertinent example is the grounding of S.S. *Exiria*. For details, vide pp. 376 and ff.

The grounding of M.V. *Clara Clausen* in the vicinity of Les Escoumins on November 13, 1968, which resulted in her total loss, was indirectly caused by the fact that when the pilot boarded the ship he did not know, and could not ascertain, her position.

This most improbable casualty was due to a rare coincidence of circumstances. Although substantial blame could not be attached to anyone in particular, the accident was caused by the concurrence of the following factors:

- lack of advance information on the part of the pilot as to the condition of the ship and her aids to navigation;
- the pilot's inability to ascertain the ship's position;
- poor bridge procedure and discipline on the part of the pilot and the officers of the ship, compounded by language difficulties among the crew.

On November 13, 1968, M.V. *Clara Clausen* arrived light off Les Escoumins bound for Montreal. She was held off for several hours due to extremely bad weather which had caused suspension of the pilot vessel service. When the pilot finally boarded the vessel at 1750, conditions were still poor with a high wind and a blinding snow storm reducing visibility to less than a mile. As soon as he embarked the pilot took the urgent action then indicated, i.e., he gave a temporary course of 215 degrees with an engine order of full speed ahead, to bring the ship quickly away from the shore and

to obtain the necessary speed to maintain steerageway for a light ship in a high wind. He then proceeded to ascertain the ship's position by radar—the sole means available in poor visibility—only to learn that the set was out of order. Needing this vital information, he tried to obtain it from the pilot vessel through VHF radio. While doing so, he paid no attention to what was happening on the bridge until he suddenly sighted land ahead. Despite last minute manoeuvres he was unable to avoid the grounding which occurred one mile and a half upstream from the pilot station six minutes after he had boarded. What had happened when the pilot was not paying proper attention was that a sharp alteration of course to starboard had been applied by the wheelsman who, on account of language difficulties, misinterpreted an untimely reproach by the Second Officer on the subject of the pilot ladder which he mistook for a fresh helm order to starboard from the pilot and applied immediately, heading the ship straight to shore at full speed ahead. The Second Officer did not check the course of the ship since the Master was in charge. The pilot's orders had been transmitted to the wheelsman by the Master who, thereafter, momentarily left the bridge to give orders to the engine room, with the result that for a few minutes there was no one on the bridge paying attention to the way the pilot's orders were being carried out by the wheelsman.

The Court of Formal Inquiry (Ex.1538(m)) made the following recommendations:

“The Court believes that it would be of importance and certainly useful that pilots required to navigate ships up river between Les Escoumins and Quebec or Montreal, be made aware in advance of the particulars of the vessel which is entrusted to their care. It seems that, in the present state of affairs, informations are forwarded to Beaumont Station and are then relayed to the pilotage station of Les Escoumins, but that no definite system exists to make them known to pilots.

The Court recommends that regulations be enacted:

- 1) To request every ship's Master to give, before arrival at Les Escoumins, all necessary information concerning his vessel, in particular, her length, her present maximum draft, her speed and her navigational equipment;
- 2) To see that all those details are sent directly to the pilotage station;
- 3) To make them available, in a written form, to the pilot concerned.”

COMMENTS

In this day and age of electronic communications it is incredible that the procedure for providing a pilot with the vital information he needs for conducting a ship to which he is assigned has not changed since the era of sailing ships.

Since pilotage in confined waters is based on visual observation of buoys, lights, landmarks and land features, vessels were formerly not navigated during poor visibility: until recently they anchored until there was at least minimum visibility and then proceeded at low speed and very cautiously.

Radar and radio beacons (and the DECCA System where it exists) have given navigators means of seeing electronically when visual observation is impossible. Hence, it is now the practice for modern ships to be navigated in confined waters, often at full speed, when visual observation is impaired or even nil. However, an essential prerequisite is that vessels must be fitted with the necessary equipment in efficient order.

When a pilot boards a ship in transit in adverse weather conditions, he is placed in the dangerous and unwarranted position of being obliged to navigate although her essential aids to navigation may be defective or inoperative without his knowledge and, at the same time, he is unaware of the exact state of traffic ahead. Some speed must be maintained to provide steerageway and, if speed drops in confined quarters close to shore, such as off the Quebec pilot station or in the Les Escoumins boarding area (especially when the situation is compounded by high winds with a light ship), it is imperative for the pilot to increase speed as soon as he embarks and keep off the shore. This action must be taken before he has time to ascertain from the Master the details he should know about the ship and her equipment and before he has time to contact the Control Centre to obtain up-to-the-minute weather and traffic information in the immediate vicinity.

In this day and age of progress and electronic achievements it is incredible that pilots still embark while under way without having full details about the ship, traffic and weather when all this information can so easily be obtained beforehand. This is a further example of the pilotage organization falling behind the times. The case of the *Clara Clausen* shows a disturbing lack of appreciation on the part of the Pilotage Authority and its staff of the Pilotage Authority's role and responsibility. Although the Les Escoumins despatching staff were aware that the ship's radar was not working, the information which was vital in the prevailing circumstances was not conveyed to the pilot.

It is considered that steps should be taken to give pilots the means to obtain before boarding all the information they need with regard to ships, traffic and weather conditions. It should be made a mandatory routine for pilots to call at the pilot station before proceeding to an assignment to a ship under weigh and for them to obtain there all necessary information to enable them to take charge immediately upon boarding. At the pilot station, the Supervisor should give the pilots in writing any information he and his staff may have gathered about ships to which they are assigned. They should also keep for the pilots' information an up-to-date record of safety warnings and Notices to Shipping still in effect which concern the District and an up-to-the-minute record of traffic and weather. The pilots should have at their disposal means to communicate direct from the pilot station to the Control Centre in order to obtain additional or more precise information.

Each pilot should also be required to contact by VHF radiotelephone the ship to which he is assigned at least half an hour in advance to obtain from the Master all necessary information, such as load condition, any defect in aids to navigation, engine and steering system, so that he is fully aware of the situation before boarding and can plan in advance the course of action to take. Thus he will be able to give his full attention to navigating the ship and be in a position to take the correct action when adverse conditions prevail.

Shore-to-ship communications between the pilot and the Master should be carried out through the VHF network. In order not to burden the sector frequency unnecessarily, a procedure similar to that adopted for ship-to-ship communications should be followed and a special frequency assigned. The pilot should obtain from the Control Centre through the sector frequency permission to contact the ship on the special frequency and the ship should return to the sector listening frequency as soon as communications with the pilot are complete (vide p. 190).

Since a ship's position off Les Escoumins is of prime importance, it is considered that an additional means of ascertaining it should be provided, e.g., establishing the necessary number of radio beacons in the vicinity. Even though a ship's radar may be in good working order, misinterpretation of the information provided is a common occurrence.

Human error is the main factor in shipping casualties. Whenever possible, reliable means should be provided to enable pilots to double check vital information, thereby reducing the chances of error.

The circumstances surrounding the grounding of *M.V. Clara Clausen* also show the necessity for strict bridge procedure and bridge discipline. It is not sufficient for a pilot to give the right orders, he must give them in simple, standard terms, clearly and loudly, he should personally make sure they have been understood by the bridge officer and the helmsman and are properly executed.

The Commission's Nautical Adviser, the late Captain J. S. Scott, was very disturbed over the lack of proper bridge procedure and discipline on the part of some pilots during survey trips he made in various Pilotage Districts for the Commission. The consequences of these weaknesses are compounded when, as it is often the case, there is also a language problem, generally with the helmsman. He commented as follows (Ex. 1538(s)):

"In the marine world, for centuries past, orders have been given loudly and clearly and repeated verbatim immediately by the recipient, in an equally clear manner.

It is a few years since I took any active part or interest in the routine of a ship's bridge aboard a vessel under way, and I must confess to being quite taken aback by the sloppy, inattentive way that orders are given (and repeated) in many instances, and also by some pilots.

I can not but wonder how many accidents have had their origin in the vague mumblings which seem to be part of today's informal standards on a ship's bridge."

(3) PILOT VESSEL SERVICE

In the Québec District, pilot vessels are required on a continuous basis at the two boarding stations only. At Les Escoumins the service is provided by the Department of Transport and at Quebec by an independent private contractor. Elsewhere in the District, a pilot boat is needed only occasionally, e.g., if a vessel has to anchor in such places as Ha Ha Bay, Chicoutimi or off Rimouski. In these cases, the agent normally makes arrangements for the pilot to embark or disembark.

Neither the Les Escoumins pilot vessels owned by the Department of Transport nor the privately owned Québec pilot vessels are approved or licensed by the Quebec Pilotage Authority as required by sec. 364 C.S.A. (Part I, pp. 276 and ff.).

Prior to 1860, it was the responsibility of each individual pilot to provide his own vessel at the seaward boarding station and, because seaworthy vessels were expensive, pilots often ventured out in unsuitable craft and endangered their lives.

It is a matter of record that a great number were drowned. When the pilots were incorporated in 1860, one of the aims was to provide suitable pilot vessels for the pilots as a group. In 1905, when the Minister became the Pilotage Authority and the pilot station was moved from Bic to the unsheltered waters off Father Point, the Department of Marine took over the responsibility of providing the pilots with suitable pilot vessels at the Department's expense and this has been the situation at the seaward station ever since. Since pilots have always been required to offer their services and make themselves available, there were no pilot boat charges to ships either when the pilots provided their own pilot vessels or later when the Federal Government became responsible for this service in 1905. When the pilot station was moved that same year the Minister also undertook to relieve the pilots of any expense connected with pilot vessels.

It was not until 1959 (Ex. 1461(h)) that the normal dues were increased by a fee for pilot vessel service at the seaward station. The 1959 amendment to the By-law (P.C. 1959-1605, dated December 18, 1959) imposed on shipping a \$20 additional charge that was to be considered, for collection purposes only, as pilotage dues (By-law, sec. 9, and Schedule A, sec. 5). In fact this charge forms part of pilotage dues (Part I, pp. 182-184).

The first pilot vessel furnished by the Canadian Government was S.S. *Eureka*, which served until replaced in 1923 by C.G.S. *Jalobert*, which was in turn replaced in 1936 by C.G.S. *Citadelle*.

From 1960 to 1968, the situation regarding pilot vessels at the seaward station was as follows (Pilotage Authority's Annual Reports, Ex. 534):

- (a) In 1960, two pilot tenders were on station during the navigation season: C.G.S. *Citadelle*, Master and a crew of 27; C.G.S. *Abraham Martin*, Master and a crew of 6. *Citadelle* remained on

- station all winter, while *Abraham Martin* returned to Québec for winter quarters December 2.
- (b) During the 1961 season, *Citadelle* and *Abraham Martin* were available throughout the season. On October 18, a new pilot vessel was added, C.G.S. *Canada Pilot Boat 9*, to replace C.G.S. *Citadelle* which returned to Quebec for the winter and to be turned over to Crown Assets Corporation.
- (c) During the 1962 season, C.G.S. *Abraham Martin* returned to station in April and remained until August 4 when she was transferred to the Quebec Marine Agency with her complete crew, and replaced by *Canada Pilot Boat 10* which had started operations May 20. *Canada Pilot Boat 9* stayed on station throughout the winter. After August 4, only *Canada Pilot Boats 9* and *10* remained. Each had a crew of three—Master, engineer and deckhand. Six crews were provided, working alternately according to schedule.
- (d) In 1963, *Canada Pilot Boat 9* remained on station throughout the navigation season and during the following winter. *Canada Pilot Boat 10* was laid up in Quebec from December 18, 1962, to April 10, 1963, but was available throughout the rest of the navigation season. The number of crews was reduced from 6 to 5 on April 1.
- (e) In 1964, the boarding station was again serviced by *Canada Pilot Boats 9* and *10*. *No. 10* remained on station throughout 1964 while *No. 9* wintered at Quebec and returned to station April 28. *Canada Pilot Boat 10* left the station December 12 to winter at Quebec.
- (f) From 1965 to 1968, the pattern was the same. Service was provided by the same two vessels, one of which remained on duty during the winter. It takes a total personnel of 13 to operate the pilot vessels; four launchmen, four engineers and five deckhands. Prior to 1965, there were five in each category, making a total of 15.

Prior to 1960, pilot vessel service was provided free of charge. During the period 1960-1968 inclusive, the revenue derived from pilot vessels was as follows (Ex. 534):

Year	No. of times pilot vessel service used	Total pilot vessel charges collected
1960.....	6,599	\$ 131,980.00
1961.....	6,738	134,760.00
1962.....	6,795	135,900.00
1963.....	6,798	135,960.00
1964.....	7,696	153,920.00
1965.....	8,073	161,460.00
1966.....	8,255	165,100.00
1967.....	7,940	158,800.00
1968.....	7,424	151,980.00

Study of Quebec Pilotage District

When boarding can not be effected at Les Escoumins due to stress of weather, Tadoussac is used. There are, however, cases of extremely adverse conditions that prevent boarding. From 1952 to 1964 inclusive, the number of pilots that could not be embarked or disembarked for these reasons were as follows:

(a) *At Father Point:*

1952 — 1
1953 to 1956 incl. — Nil
1957 — 5
1958 — 8
1959 — 4

(b) *At Les Escoumins:*

1960 — 2
1961 — *Citadelle* — 1
1962 — 13 pilots were taken outside the District, 10 because of *Canada Pilot Boat 9* and 3 because of *Citadelle*; in five cases, the pilot vessel was unable to transfer the pilot.
1963 — Nil
1964 — Nil

Later on, Mr. Maheux, who furnished these statistics, mentioned that there was possibly a mistake in that the three cases of the *Citadelle* in 1962 really belonged to 1961 because the *Citadelle* was no longer in service in 1962. In these three cases, failure to disembark the pilot was a question of convenience rather than inability to reach the vessel. It occurred at the end of the season when *Citadelle* was at Tadoussac. Three ships proceeded to Les Escoumins only to find that the pilot vessel was not there. Since they were bound for a Canadian port, they did not wait for the *Citadelle* but proceeded to their port of destination, Sydney, Chandler and Baie Comeau respectively.

The main point of contention in 1962 was the withdrawal of the *Citadelle* which both the pilots and the Shipping Federation opposed. One argument was that ships were less likely to be delayed when the *Citadelle* was in use because the pilots could remain aboard, which was not the case with a smaller pilot vessel. The change was first proposed in 1959 but was not implemented at that time on account of opposition from all quarters. However, it was effected after the pilot station was moved.

When the *Citadelle* was in service at Father Point the pilots could sleep aboard when they were due to embark at night and, furthermore, they were seldom prevented from embarking on account of bad weather, but after she was withdrawn the much smaller *Canada Pilot Boats 9* and *10* which replaced her could accommodate only a few pilots and were less able to face

rough weather. Pilot Barras recalled that in the fall of 1961 the two pilot vessels were unable to sail for two days because of bad weather, and finally they had to call on the *Abraham Martin*, which was then employed at Tadoussac on the construction of the Prince Shoal tower, to take pilots to vessels which had been waiting for up to 36 hours. *Citadelle* had sleeping quarters and could accommodate about 15 pilots and apprentices; meals were served on board without charge, a service that the Department had bound itself to provide when the station was moved from Bic to Father Point in 1905.

Experience showed that any inconvenience which resulted from the replacement of the pilot vessels was balanced by the advantages obtained.

Although it was an accepted practice for a number of pilots to be on board a pilot vessel, the pilots were well aware of the disasters at Saint John and Halifax when pilot vessels were sunk after a collision and many pilots lost their lives.

The distance between the pilot station and the boarding area is much less at Les Escoumins than at Father Point. An occasional ship does not approach closer than four miles while others come very near the shore but normally they embark the pilot about one mile or one mile and a half off shore. If a ship stops for a pilot four miles out, she is not asked to come any closer and the pilot vessel then has to go out that distance to embark the pilot.

Citadelle and *Abraham Martin* were replaced by the steelhulled *Canada Pilot Boats 9 and 10*. These vessels were not built especially for Les Escoumins but were intended as prototypes for seaward boarding areas such as those at Halifax and Saint John as well as Les Escoumins. Saint John experimented with this type of vessel but because of the special local conditions of strong, high tides, wind and weather a larger vessel was needed there and the Saint John pilots were eventually provided with the type of vessel they had always used. (Part III, p. 78). However, no objection to the new type's suitability was raised in Halifax and Sydney.

The reasons why *Citadelle* was replaced by a smaller vessel were her high cost and the fact that a vessel of her size was not necessary for the new boarding area. In the year 1960-61, *Citadelle* cost \$57,000 in fuel alone while the total expenses of one of the new pilot vessels (i.e., *No. 10*, the more expensive of the two) during the year 1963-64 amounted to \$50,000. The total cost of *Citadelle* in 1960-61 was \$228,000 while, in 1963-64, *No. 9* cost only \$48,000 despite increased operating costs between 1960-61 and 1963-64.

In 1960-61, the total cost for operating the two pilot vessels, *Citadelle* and *Abraham Martin*, amounted to \$256,000 while in 1963-64 the two new pilot vessels cost, in round figures, \$100,000, i.e., a saving that year of \$156,000 in spite of increased prices.

A second point of contention was the operating efficiency of the new type of pilot vessel. On March 10, 1959, the Supervisor of Pilots sent the Pilots' Association plans for a pilot vessel that the Department proposed to build as a replacement for *Abraham Martin*: a 67-foot boat which had been agreed upon at a meeting in Ottawa with Mr. A. Cumyn on February 11, 1959.

On March 11, 1959, the Supervisor of the Quebec District wrote to the Superintendent of Pilotage in Ottawa, returning the plans and stating they had the approval of the Board of Directors of the Quebec Pilots' Association. *Canada Pilot Boat 9* started operations at Les Escoumins October 18, 1961, and was followed May 20, 1962, by *Canada Pilot Boat 10*.

Pilot Rousseau stated that in 1962 the pilots were requested to send the Department their opinion of the performance of the new pilot vessels, that they told the Department they would need some time to study them and work with them and that during the next winter they would send the desired report. He stated that during the winter of 1963 the pilots reported to the Department, as requested, on the behaviour of the vessels in rough seas, commented on their size and other features and suggested that it would be an improvement if they were replaced by larger vessels. He added that to their surprise they were curtly told by the Department that handling pilot vessels was not their business.

However, the correspondence on the subject (Ex. 1320) shows the situation in a somewhat different light.

The pilots' letter dated January 31, 1963, does not indicate they were forwarding a report as the Department had requested but, on the contrary, conveyed the protests which the pilots made at the Annual General Meeting. They complained:

- (a) "These launches with square sterns are difficult to operate" in a stern sea.
- (b) They are "difficult, in view of their low draught, to operate when drawing alongside vessels".
- (c) Being equipped with only one generator "when there is the least trouble all the electrical equipment and the lighting cease to function" as happened several times during the previous season.
- (d) In case of a serious accident they would be difficult to keep afloat "if there were not sufficient pumps because they do not have double bottoms".

In conclusion, they recommended that one of these vessels be replaced by a larger one to ensure adequate service during bad wather, and also proposed that the plans of any new launch should first be submitted to them for suggestions.

The pilots' protest was transmitted to Ottawa by the Supervisor and on February 12, 1963, Captain Jones, Superintendent of Pilotage, wrote to the local Supervisor pointing out that the pilots' criticism did not agree with the observations received from their Supervisors in other ports where this type of vessel was being used. He added that the question of an additional generator would be studied but that it was out of the question to replace one of these vessels.

On February 25, 1963, the local Supervisor replied to the pilots conveying the gist of Captain Jones' remarks and expressing the Pilotage Authority's surprise that the pilots complained about the operational inefficiency of these vessels because it was not their concern.

Pilot Rousseau stated that upon receipt of this letter he was astounded and telephoned Headquarters in Ottawa. He was told there had been an error and received an apology. It is to be noted, however, that this incident had arisen because in their letter of January 31, 1963, the pilots failed to meet the Department's request and phrased their letter as a protest rather than a report.

The Department admitted that better vessels could possibly be built for service at Les Escoumins but reported on November 26, 1965 (Ex. 1461 (m)) "these two boats are doing the job very well" and there is no intention of replacing them. It was pointed out that during the preceding 15 months of operation pilot vessel service had been suspended for a total period of only seven hours. Additional generators had been installed and the system of cooling the main engines in both vessels was replaced by a system to ensure they would operate in ice without the risk of their intake or discharge pipes freezing, "as sometimes did happen in the past".

Notices to Mariners (No. 140 of 1960 (Ex. 670) and No. 30 of 1969 (Ex. 1472)) require vessels to facilitate the boarding of pilots at Les Escoumins by providing both an accommodation ladder and a Jacob's ladder, weather permitting, rigged so that the Jacob's ladder allows the pilot to reach the accommodation ladder. In some cases pilots refused to board when the ladders were not arranged as described in the Notice but there are very few cases of non-compliance now. This arrangement is necessary on account of the seas at Les Escoumins but at Quebec and Three Rivers only the accommodation ladder is required. (For operational cost of pilot vessels, see Part I, pp. 683 and 684.)

(a) *Quebec Station Pilot Vessel Service*

Pilot vessel service for vessels in transit or at anchor was arranged by the Shipping Federation and at the time of the Commission's hearings was being provided at the Quebec boarding station during the normal navigation season by two independent private contractors operating under the names of "Eugène and André Jeffrey Reg'd." and "Sam Vézina Reg'd."

This situation changed in 1966 when the firm Sam Vézina Reg'd. purchased the Jeffrey business. Since May 27, 1966, pilot vessel service at Quebec had been provided by Sam Vézina Reg'd. only (Ex. 1466(w)).

The recommendations of the Lindsay Commission (pp. 54 and ff.) and the Audette Committee (1949) that a government-operated pilot vessel service be provided at Quebec was not implemented. The By-law ignores the Quebec pilot vessel service and does not make the pilot vessel charge at Quebec a pilotage due as was done in the 1959 amendment to the By-law for pilot vessel charges at the seaward station.

During extremely bad weather and when ice occurs at the beginning or end of the winter season, tugs are used instead of the pilot vessels but during the winter season proper tugs are not available and ships have to berth in order to transfer pilots. This is a dangerous manoeuvre when the weather is very adverse (vide Federation of the St. Lawrence River Pilots' Brief to the Pilotage Authority, 1965, and Ex. 1461(m)).

As a result of the pilots' representations the Shipping Federation concluded arrangements with the tug owners, Davie Shipbuilding Limited of Lauzon, to supply pilot vessel service at Quebec throughout the winter season and it was reported that this arrangement was working well (Ex. 1461(q)).

The pilots themselves are not involved in the hiring of pilot vessels or tugs to replace them. The necessary arrangements are made between the shipowners or their agents and the pilot vessel owners.

When pilots are being transferred vessels slow down to minimum speed. Special care has to be taken off Quebec when there is a combination of a strong northeasterly wind and a full flood tide (which occurs from time to time every year) because ships are apt to be blown toward the north shore. There have been cases when a ship found herself dangerously close to the north side of the harbour when the transfer was completed.

The Jeffrey pilot vessel service had been in operation since about 1928. They had two wooden boats, both decked, the larger one certified by the Department of Transport to carry 18 passengers plus 2 crew members within the harbour limits.

They never had any complaints from the pilots about their service and their only accident was the occasion when a pilot broke his leg aboard one of their boats.

The crew of the larger vessel consisted of the Master, engineer and deckhand. Mr. Eugène Jeffrey and his brother, who both held a temporary Master's certificate and an engineer's certificate, operated the service with the help of an employee who worked as a deckhand.

The floating platform was provided and maintained free of charge by the Department of Transport. The firm paid the Government \$25 for what they called "Navigation rights".

In addition to pilot vessel service, they furnished other boat services by carrying passengers to and from ships, acting as line boats for ships berthing and unberthing and providing linesmen. The tariffs for all those services were contained in a table approved by the Provincial Transport Board after being previously approved by the Shipping Federation of Canada.

For linesmen they employed longshoremen. At one time they provided this full service themselves but it was discontinued because the longshoremen claimed that it was their job. In the case of liners they took the lines ashore and the longshoremen secured them, but with other ships they simply saw that the longshoremen were available because these ships heaved their lines directly on the wharf.

Included in their insurance coverage was a civil liability policy providing compensation to a \$25,000 maximum per person, killed or injured, and to \$100,000 per accident, and to a \$2,000 maximum for property damages.

The other pilot vessel owner was Mrs. Madeleine Nadeau, widow of André Vézina, operating under the registered trade name of "Sam Vézina Reg'd." registered on August 21, 1952. The previous registration was dated June 27, 1945, by her late husband, André Vézina.

She had two vessels:

The *Pierre Vézina* 30×9 feet, partly decked, built in 1955 and operating under Department of Transport permit No. 320, dated July 27, 1955.

The *Sam Vézina* 30×10 feet, built in 1960, operating under Department of Transport permit No. 13D1676, dated April 27, 1960.

Like her competitor she had free use of a floating pontoon and a space on the wharf where she had a small office. She also assisted vessels by conveying passengers, carrying lines and providing linesmen.

She had 10 employees, six operating the vessels and four looking after the office work; two of the boatmen had temporary Master's certificates limited to Quebec Harbour for vessels up to 40 tons.

In order to provide service, the Vézina firm kept its office open around the clock throughout the navigation season. They ascertained the ETA of vessels by checking every four hours with the pilots' office and they also had a Televox system between the pilots' office and their own, the distance between the two being about 125 feet. The Vézina firm reported that there had never been an occasion when they were unable to give service. Only one vessel was used at a time but in case of urgency the second could be used since the men off duty all lived in the neighbourhood and could easily be called.

Included in their insurance coverage was a civil liability assurance policy limited to \$50,000 per person, with a maximum of \$100,000 per accident, and \$5,000 property damage.

The tariffs were approved by the Quebec Provincial Transport Commission. In 1963, the pilots were charged \$10 for one round trip, i.e., taking the boarding pilot out and returning with the disembarking pilot, but if more than one ship was served during a trip an additional charge was made.

These two operators shared all pilot vessel service in the harbour up to 1966 and, although they were competitors, they had a business agreement which, they said, gave satisfaction.

The Vézina firm, which has been a family enterprise for generations, did about 75% of the work.

Each firm had its own clients but in some cases they shared, e.g., Canadian Pacific Steamships, in which case they took a ship in turn.

It was almost impossible for an incoming ship not to employ one of these firms because all shipping companies have agents in Montreal and/or Quebec and all the agents and shipowners were clients of one or the other. However, in case of doubt they had a gentlemen's agreement whereby the first available boat was used in order not to delay the ship. If it then turned out that the ship was not owned by one of their clients, the other firm was notified and billed the ship as if it had done the work. In 1963, up to the date of the hearings (July 25) Sam Vézina Reg'd. had done 30 trips which were later credited to their competitor compared with 18 similar trips by Eugène and André Jeffrey Reg'd. There was no attempt to equate this traffic at the end of the year.

The Vézina firm complained that at times this agreement was broken by the other firm which sent bills to their clients and that, on occasion, the shipping companies concerned paid the charges direct to their competitor. On the other hand, some companies declined to do so and reported the matter to the Vézina firm. They said this happened three or four times in 1962 and in 1963 and claimed that through this unfair practice they had lost two clients who, however, had since returned. Vézinas charged that their competitor complained because they had more work than he had and that this was his method of obtaining work from their clients. When this happened the Vézina firm billed their competitor for what he had collected improperly and were later reimbursed.

Neither firm had any difficulty collecting its accounts.

COMMENTS

The Commission has no objection to the pilot vessel service at Quebec and elsewhere being provided by private entrepreneurs; in fact, this method should be adopted in all cases except where it ought to be maintained and provided by the Pilotage Authority or another Government entity in the interest of efficiency and economy. But in all cases such a system should be integrated with pilotage operations and should come under the licensing and

surveillance powers of the Pilotage Authority, and the cost of the service to the pilots should be established in District Regulations as a condition of the pilot vessel licence. If a special charge is to be made to ships, it should be included in the pilotage dues (Part I, pp. 276 and ff.).

Furthermore, in the present state of statutory legislation failure by the pilots, or the Pilotage Authority, to provide pilot vessel service at Quebec renders the compulsory payment system (assuming that it is legally applicable in the District) unenforceable. Once a ship has complied with the reasonable ETA statutory requirement (subsec. 345(a) C.S.A.), it is the responsibility of the pilots to offer their services which includes the provision of transportation to the ship.

In cases of ships in transit it is also the pilots' obligation to arrange for transportation at the boarding station from vessels to shore when their services are terminated. Ships are under no obligation to provide it.

(b) *Tugs*

Tugs are readily available during the normal navigation season in Quebec harbour and in Ha Ha Bay. In Chicoutimi harbour and St. Fulgence Channel tugs can be obtained at short notice from Bagotville. Elsewhere in the District they may be obtained if advance arrangements are made.

Service is provided by two companies; in the Chicoutimi-Ha Ha Bay area by Saguenay Shipping and in Quebec harbour by the Davie Shipbuilding Co. Ltd. which also operates the shipyards at Lauzon. The Foundation Company also owns tugs but its operations in the District are limited to towing and salvage and they do not assist ships to berth or unberth.

The Davie Shipbuilding Co. Ltd. owns three tug boats with diesel engines, two of 1,250 h.p. and one of 1,040 h.p. and a fourth with a 700 h.p. steam engine. They are all equipped with radiotelephones in the wheelhouse, H.F. and V.H.F., which have worked satisfactorily for the past six or seven years both for long range communications and also during manoeuvres. The tugs do not carry a "walkie-talkie" in view of the fact that they are already equipped with two radio sets of greater range.

The four tugs are not always in operation, e.g., at the time of the hearings in July 1963, only two were in operation because there was no demand for four tugs at that time.

Normally, the request for tug service is made by the agents but, in view of the fact that it is a pilotage decision to judge the necessity and the extent of tug assistance required at any given moment, the agents must first consult the pilot assigned to a particular ship. At times, however, the request comes from the ship but the tug company does not know whether it emanates from the Master or from the pilot.

The despatching office of the Pilotage Authority has no control over the despatching of tugs or the calling of stevedores and plays no part in these operations. However, under special circumstances the pilot orders tugs and no one has ever made any complaint in this regard. Most ships, especially large ships which call at Quebec, use tugs for berthing as a safety measure.

Tug contracts contain conditions by which the tug company is relieved of all liability whatsoever arising from the use of tugs or for damages resulting from the negligence of tug Masters and crews (Ex. 576).

When tugs are used the pilot remains in charge of manœuvres and the tug Master uses any method by which a tug can assist a vessel that the pilot in charge selects.⁹ At one time in Quebec harbour there was a problem caused by lack of team work between pilots and tug Masters during manœuvres and in December 1962 a meeting was held between representatives of Davie Shipbuilding Co. Ltd. tug division and the pilots to settle the difficulties they had met the previous spring. At the pilots' request it was agreed to try a new procedure, i.e., pushing vessels instead of towing them, and to adopt a new set of signals. After a few months' experience, it was found that the new method worked satisfactorily and was less dangerous because there was no risk of breaking tow lines.

In recent years there have been no serious accidents involving tugs. There were a few incidents such as a ship bumping a wharf or broken lines but it is difficult to establish where the responsibility lay.

Tug rates at Quebec as of 1963 varied from the regular rate of \$185 (\$210 overtime rate) per tug to assist a vessel from the St. Charles River to stream, and to Marine Terminal Wharf, or Sillery Cove to stream and vice versa to \$85 (\$110 overtime rate) for shifting a vessel at a wharf. When a tug was used for pilot vessel service, the charge was \$65 per ship (\$70 overtime rate). On weekdays regular rates were charged from 7:30 a.m. to 5:30 p.m. During the winter months the charges were 25 per cent higher.

⁹This is illustrated by the collision of M.V. *Sunbreeze* with the Saguenay Terminal Wharf Duncan No. 1, on October 29, 1963 (Ex. 1466(m)). The accident happened during unberthing when the ship's bow fell towards the wharf slightly damaging both the ship and the wharf crane. The accident was attributed to faulty procedure by the pilot in the use of tugs. He ordered both tugs to secure to the ship with their towlines on the bow. This method would be feasible for a vessel lying at Duncan No. 2 since she would have to move only a ship's length astern before the forward tug could start pushing on her bow to turn her around, but the Investigating Officer found that from Duncan No. 1 inner berth this procedure was neither practicable nor seamanlike since the tugs would fall alongside the ship as soon as she gathered sternway. This was the second time that season that tugs had been ordered to operate in this manner while at Duncan berth No. 1 and that a similar accident happened. The Investigating Officer's conclusion was that the accident was due to the pilot's negligence. No disciplinary action was taken, however, because the pilot concerned was about to retire. In answer to a query from the Commission the Pilotage Authority added:

"It was not felt that this was a subject on which a general direction could be given to the pilots and none was given. Circumstances vary too much and towing practices differ with different kinds of tugs to such an extent that it would be most unwise to try to institute any set practice."