



PART 11



CANADA

PROPERTY OF
DEPARTMENT OF THE QUEEN
OTTAWA

report of the
royal commission
on PILOTAGE

*Study of Canadian pilotage
Pacific Coast
and Churchill*

report of the royal commission on PILOTAGE

PART II

ADDENDA AND ERRATA

Page

- 151 for p. 126 read p. 96.
200 for pp. 383-384 read p. 301.
296 first paragraph, line 8, insert in brackets after bridge: This statement, which was made by a pilot (transcript, p. 1425), is clearly incorrect unless other factors which the witness did not mention entered into his calculations.
327 for Ex. 1427(a) read Ex. 1427(s).
334 for pp. 115 and 116 read pp. 89 and 90.
334 second last line SS *Hawaiian Craftsman* read SS *Hawaiian Craftsman*
394 for sec. 328 C.S.A. read sec. 338 C.S.A.
410 for p. 3(f) para 7 read p. 3 para 7(f).
415 for Ex. 1457 read Ex. 1451.
419 for 1939 read 1959.



*report of the
royal commission
on PILOTAGE*

PART II

Study of Canadian pilotage

Pacific coast

and Churchill

© Crown Copyrights reserved
Available by mail from the Queen's Printer, Ottawa,
and at the following Canadian Government bookshops:

HALIFAX
1735 Barrington Street

MONTREAL
Æterna-Vie Building, 1182 St. Catherine Street West

OTTAWA
Daly Building, Corner Mackenzie and Rideau

TORONTO
221 Yonge Street

WINNIPEG
Mall Center Building, 499 Portage Avenue

VANCOUVER
657 Granville Street

or through your bookseller

Price: \$5.00 Catalogue No. Z1-1962/2 2

Price subject to change without notice

ROGER DUHAMEL, F.R.S.C.
Queen's Printer and Controller of Stationery
Ottawa, Canada

1968



CANADA

ROYAL COMMISSION ON PILOTAGE

To His Excellency

THE GOVERNOR GENERAL OF CANADA

May It Please Your Excellency

We, the Commissioners appointed pursuant to Order in Council dated 1st November 1962, P.C. 1962-1575, to inquire into and report upon the problems of marine pilotage in Canada and to make recommendations concerning the matters more specifically set forth in the said Order in Council: Beg to submit the following Report.

Jos Bernier

CHAIRMAN

Robert K. Smith

H. J. Zemanick

J. W. Macdonald

SECRETARY

October 1, 1968

ROYAL COMMISSION ON PILOTAGE

COMMISSIONERS

Honourable Mr. Justice YVES BERNIER, Chairman

Robert K. Smith, Q.C., LL.D.

Harold A. Renwick, Esq.

Gilbert W. Nadeau, LL.L.,
*Secretary, Assistant Counsel,
and Director of Research.*

Maurice Jacques, LL.L., C.D.,
Senior Counsel.

Capt. J. A. Heenan, O.B.E., R.D., C.D.,
Technical Research Consultant.

F. C. Morissette, M.A.,
Assistant Secretary.

Capt. J. A. Scott*,
Nautical Adviser.

Cdr. C. H. Little, M.A., C.D.,
Chief Editor.

Capt. Georges Sabouret,
Officier de la Légion d'honneur
Croix de guerre 1939-1945
Technical French Editor.

* Capt. J. A. Scott served as Nautical Adviser to the Commission from March 1, 1963 until his accidental death November 29, 1963.

TABLE OF CONTENTS

SECTION ONE

PILOTAGE DISTRICT OF BRITISH COLUMBIA

CHAPTER A

	PAGE
LEGISLATION.....	5
1. Law and Regulations.....	5
Preamble.....	5
(1) Creation of the District.....	5
(2) Pilotage Authority.....	6
(3) Compulsory Payment of Pilotage Dues.....	6
(4) Orders in Council not Passed under Canada Shipping Act and Affecting the Organization of the Pilotage District.....	6
(5) Pilotage Authority's Enactments Confirmed by Governor in Council.....	7
(a) Delegation of Powers under Subsec. 327(2) C.S.A.....	7
(b) Appointment of a Secretary-Treasurer (sec. 328 C.S.A.).....	7
(c) Authorization for Payment of District Expenses (sec. 328 C.S.A.).....	7
(d) Exemption for Small Ships (subsec. 346(c) C.S.A.) and Withdrawal of Exemptions (sec. 347 C.S.A.).....	7
(6) 1965 General By-law.....	8
2. History of Legislation.....	10
Preamble.....	10
(1) Colony of Vancouver Island.....	10
(2) Colony of British Columbia.....	11
(3) Union of the Two Colonies.....	12
(4) Confederation.....	13
(5) Robb Commission.....	14
(6) Amalgamation of the Pilotage Districts.....	15
(7) Abolition of the District.....	16
(8) Morrison Commission.....	17
(9) Re-establishment of the District.....	20
(10) Slocombe Survey.....	20
(a) Nature of the District.....	20
(b) Conditions of Service.....	21
(c) Pilots' Remuneration.....	21
(d) Pilotage Dues.....	21
(e) Representations by the Pilots.....	22

	PAGE
(f) Pay and Qualifications of Pilots.....	22
(g) United States Pilots.....	22
(h) Financial Appendix.....	22
(11) Audette Committee.....	23
(12) Legislation since the Audette Report.....	24
 CHAPTER B 	
BRIEFS.....	25
(1) The B.C. Coast Pilots' Brief.....	25
Recommendations.....	26
(2) The Vancouver Chamber of Shipping's Brief.....	26
Recommendations.....	27
(3) Crown Zellerbach Canada Limited's Brief.....	28
Recommendations.....	28
(4) The Prince Rupert Chamber of Commerce's Brief.....	28
Recommendations.....	29
(5) The Aluminum Company of Canada Limited's Brief.....	29
Recommendations.....	30
(6) G. W. Nickerson Company Ltd.'s Brief.....	30
Recommendations.....	30
(7) Alaska Trainship Corporation's Brief.....	30
Recommendation.....	30
 CHAPTER C 	
EVIDENCE.....	31
1. General Description.....	31
(1) District Limits.....	31
(2) Physical Features.....	35
(3) Maritime Traffic.....	37
(4) Southern and Northern Regions.....	41
(5) Principal Harbours.....	42
(a) Vancouver.....	42
(b) Victoria and Esquimalt.....	43
(c) Nanaimo.....	43
(d) Port Alberni.....	43
(e) Kitimat.....	44
(f) Prince Rupert.....	44
(6) Aids to Navigation.....	45
(a) Southern Region.....	45
(b) Northern Region.....	45
2. Nature of Pilotage Service.....	46
(1) Opinions Received on the Nature of the Service.....	46
(2) Compulsory Payment of Pilotage Dues.....	47
(3) Exemptions.....	50
(a) Exemptions by Legislation.....	50
(b) <i>De facto</i> Exemptions.....	52
(i) Small foreign ships.....	52

	PAGE
(ii) Special cases.....	52
(iii) Rosario Strait traffic.....	53
(c) Ships in Transit and Ferry Services Between a Puget Sound Port and a B.C. Pilotage District Port.....	53
Coastwise Lines Inc.....	56
S.S. <i>Alaska</i>	57
(d) Recommendations Received re Exemptions.....	58
(i) Exemption for Prince Rupert.....	58
(ii) Exemptions for regular traders.....	58
(4) Statistics on Ships Paying Dues but not Employing Pilots.....	61
3. Organization.....	62
(1) Pilotage Authority.....	62
(2) Pilots' Committee.....	63
(3) Advisory Committee.....	64
(4) Recommendation on District Administration.....	65
4. Pilots.....	67
(1) Recruiting and Qualifications.....	67
(a) Conditions of Admission.....	67
(b) Board of Examiners.....	68
(c) Examination.....	69
(d) Alleged Discrimination against Deep-water Officers.....	70
(e) Licensing and Control.....	71
<i>Comments</i>	72
(2) Organization.....	74
(a) Pilots' Committee.....	74
(b) Pilots' Corporation.....	75
(3) Pilots' Meetings.....	76
(4) Leave of Absence.....	77
(5) Status of Pilots.....	79
(a) Pilots' Concept.....	79
(b) Vancouver Chamber of Shipping Concept.....	80
(6) Responsibility—Conditions of Work.....	81
(7) Administrative Inquiries, Reappraisal and Discipline.....	82
(8) Extent and Nature of Casualties Involving Pilots.....	87
5. Pilotage Operations.....	91
(1) Pilot Stations.....	91
Situation.....	91
Recommendations Received.....	92
(a) The Prince Rupert Chamber of Commerce.....	92
(b) Shipping Interests.....	93
(c) Saguenay Shipping Limited.....	93
(d) G. W. Nickerson Company Limited.....	94
(e) B. C. District Pilots.....	94
Statistics on Northern Region Trips with Pilots.....	95
<i>Comments</i>	97
(2) Pilot Boarding Stations.....	98
Arrangements for Pilot Boarding Stations.....	99

	PAGE
(a) By By-law.....	99
(b) By Notice to Mariners.....	99
(c) By Special Arrangement.....	100
(i) Inside the District.....	100
(A) Cape Beale.....	100
(B) In Ports.....	100
(C) Elsewhere.....	100
(ii) Outside the District.....	100
(A) Seattle or other Puget Sound ports.....	100
(B) San Francisco or other California ports, and Oregon or Alaska ports.....	101
Agreements by B. C. District Pilots.....	101
(a) Puget Sound Agreement.....	101
(b) California Shipping Company Agreement.....	102
(c) Other Agreements.....	102
Boarding-off Points.....	104
Statistics on Boarding and Disembarking.....	105
Boarding and Disembarking not Including Those from a Berth in a B.C. Port.....	105
Recommendations Received.....	105
(3) Pilot Vessels.....	106
(4) Despatching.....	109
(a) By-law Provisions.....	109
(b) Three Operational Situations.....	110
(c) Procedure.....	111
(5) Requirement for Two Pilots.....	113
Legal Situation.....	113
Background.....	114
Present Situation.....	115
<i>Comments</i>	118
(6) Workload.....	119
Basic Considerations.....	119
Geographical Distribution of Assignments.....	121
Distribution of Assignments Throughout the Year.....	123
Average Time Spent on Assignments.....	124
Workload of Pilot R. McLeese.....	129
<i>Comments</i>	129
(7) Vancouver Harbour Movements.....	131
6. Pilots' Remuneration and Tariff.....	132
(1) Pilots' Remuneration.....	132
Various Concepts of Pilots' Remuneration.....	132
(a) Income Reported for Income Tax Purposes ("Take Home Pay").....	133
(b) Pilot's Share of District Net Revenue Less Pension Fund Contribution.....	133
(c) Pilot's Share of District Net Revenue.....	134
(d) Gross Earnings per Pilot on Strength.....	134

	PAGE
(e) Gross Earnings per Effective Pilot.....	135
(f) Share of Total Cost of District.....	135
Relation Between Pilots' Remuneration and Tariff.....	135
Procedure for Establishing the Tariff.....	136
(2) Tariff.....	138
Comparative Salaries of Masters in B.C. Coastal Trade.....	144
(a) Tugboat Class 1 Master.....	144
(b) Westward Shipping Ltd.....	145
(c) C.P.R. B.C. Coast Steamships Service.....	145
Trend in the Cost of the Various Services Connected with Shipping...	145
(3) Pilotage Dues.....	146
Preamble.....	146
(A) Pilotage Voyage Charges.....	148
(a) Basic Rates.....	148
(b) Additional Charges.....	150
<i>Comments</i>	154
(c) Special Cases.....	155
(B) Other Services.....	156
(C) Indemnity Charges.....	157
(a) Detention Charges.....	157
Time Awaiting Departure.....	159
Delay Awaiting Ship at Cape Beale or Triple Island.....	160
Time Spent in an Outport at a Master's Request.....	161
Idle Time when Travelling on Board but not Piloting...	161
(b) Cancellation.....	164
(D) Surcharge.....	164
(E) Accessory Services.....	164
(4) Complaints About Tariff.....	165
(a) Pilots' Complaints.....	165
(b) Vancouver Chamber of Shipping Complaints.....	166
(c) Complaints by the Aluminum Company of Canada Limited	167
(5) Examples of Pilotage Charges.....	170
(a) S.S. <i>Harpalycus</i>	171
(b) Other Lumber Charters.....	171
(c) Large Grain Ship.....	172
7. Financial Administration.....	172
(1) British Columbia Pilotage Fund.....	173
(A) Assets and Items of Revenue.....	174
(a) Pilotage Dues.....	175
(b) Miscellaneous Revenues.....	175
(i) Overcarriage and quarantine indemnities.....	175
(ii) Examination fees and licence fees.....	175
(iii) Fines imposed on pilots.....	176
(iv) Pilotage dues belonging to other Pilotage Au-	176
thorities.....	176
(v) Non-pilotage dues.....	176

	PAGE
(vi) Monies collected for the pilots as a personal service to them.....	176
(vii) Other miscellaneous revenues.....	176
(viii) Items which are not true receipts.....	176
(B) Liabilities and Items of Expenditure.....	177
(a) Monies Collected for Third Parties.....	177
(b) District and Service Operating Expenses.....	178
(c) Monies Paid to or on Behalf of the Pilots.....	179
(2) Pilots' Reserve Fund.....	185
(3) Pilots' Corporation Finance.....	186
(a) Receipts.....	187
(b) Expenditures.....	188
8. Pilot Fund.....	189
<i>Comments</i>	195

CHAPTER D

RECOMMENDATIONS.....	197
Specific Recommendations Affecting the British Columbia Pilotage District.....	197
Preamble.....	197
1. Pilotage Waters Along the West Coast of Canada to Be Clearly and Accurately Defined; the Safety and Efficiency of Navigation to Be the Determining Factor in Establishing the Seaward Extent of Pilotage Waters.....	197
2. Canada and the United States of America to Settle by International Agreement the Problems Arising from the Contiguity of the Canadian and American Pilotage Services on the Boundary Lines in order to Ensure Safety of Navigation and Continuity of Service.....	199
3. Three Separate Pilotage Districts to be Established within the Limits of the Existing District with the Object of Providing More Economical and Efficient Service to Shipping and Enhancing the Professional Competency of the Pilots.....	201
Gulf of Georgia District.....	204
Vancouver Island West Coast District.....	205
B.C. Northern District.....	207
4. Pilotage in the Proposed Gulf of Georgia and B.C. Northern Districts to be Classified as a Public Service; Pilotage in the Other Area, the Proposed Vancouver Island West Coast District, to be Classified as a Private Service	209
5. The Principal Components of Pilotage Rates to be Based on Maximum Gross Tonnage.....	212

CHAPTER E

APPENDICES.....	217
A. <i>Map</i> —British Columbia Pilotage District and Vancouver Harbour.....	218
B. (1) <i>Graph</i> —1948-1967 Percentage Increase in the Number of Ships Piloted, Number of Times Pilots Employed (“Jobs”), Net Tonnage Piloted, District Gross Earnings, Distribution to Pilots, Establishment of Pilots, and Average “Take Home Pay” per Establishment Pilot.....	219
(2) <i>Table</i> —1948-1967 Figures and Percentages on which the above <i>Graph</i> is based, together with their Source of Information.....	220

	PAGE
C. (1) <i>Graph</i> —1956-1967 Total and Average Number of Jobs per Month, Emphasizing <i>Peaks</i> and <i>Lows</i> as Compared to Annual Monthly Average.....	222
(2) <i>Table</i> —1956-1967 Figures on which the above Graph is based, giving the Total Number of Jobs—per Month, Yearly Total and Monthly Average; Actual Number of Pilots—per Month and Establishment; Average Number of Jobs per Actual Number of Pilots—per Month, Yearly Average, and Monthly Average, together with their Source of Information.....	224
D. Shipping Casualties, Accidents and Incidents Involving Pilots:	
<i>Table</i> —1956-1961.....	226
1962-1967.....	227
<i>Summary</i> —1965.....	228
1966.....	230
E. Workload of Pilot R. McLeese, showing daily hours Piloting, on Detention, At Home Available, On Leave, Travelling, and Away from Home Awaiting Assignment:	
<i>Graph</i> —November 1962.....	233
December 1962.....	235
January 1963.....	237
F. <i>Table</i> —Comparative Analysis of Annual Financial Statements of the B.C. Pilotage District's Revenues and Expenditures—1962 and 1967	238
G. <i>Table</i> —1963, 1964 and 1965 Comparative Table of Annual Financial Statements of Receipts and Disbursements of the Corporation of the British Columbia Coast Pilots.....	240

SECTION TWO

PILOTAGE DISTRICT OF NEW WESTMINSTER

CHAPTER A

LEGISLATION.....	243
1. Law and Regulations.....	243
Preamble.....	243
(1) Creation of the District.....	243
<i>Comments</i>	246
(2) Pilotage Authority.....	247
(3) Compulsory System.....	247
(4) Orders in Council not Passed under Canada Shipping Act and Affecting the Organization of the Pilotage District.....	248
(5) Pilotage Authority's Enactments Confirmed by Governor in Council.....	248
(a) Appointment of a Secretary Treasurer (Sec. 328 C.S.A.).....	248
(b) Authorization for Payment of District Expenses (Sec. 328 C.S.A.).....	249
(c) Exemption for Small Ships (Subsec. 346(c) C.S.A.) and Withdrawal of Exemptions (Sec. 347 C.S.A.).....	249

	PAGE
(6) District General By-law.....	250
(7) Pilotage Authority, Other Rules.....	251
2. History of Legislation.....	251
Preamble.....	251
Legislation prior to 1930.....	252
Legislation after 1930.....	253
Royal Commissions and Other Investigations.....	254
Robb Report of 1918.....	254
Morrison Report of 1928.....	255
Captain F. S. Slocombe Survey in 1947.....	255
Audette Committee of 1949.....	256
CHAPTER B	
BRIEFS.....	257
(1) The New Westminster Pilots' Brief.....	257
(2) The Vancouver Chamber of Shipping Brief.....	258
(3) Crown Zellerbach Building Materials Limited Brief.....	259
(4) The New Westminster Harbour Commissioners' Brief.....	259
(5) Pacific Coast Terminals Co. Ltd. Brief.....	260
(6) New Westminster Chamber of Commerce Brief.....	261
CHAPTER C	
EVIDENCE.....	263
1. General Description.....	263
(1) District Limits.....	263
Recommendations Received on District Limits.....	263
(2) Physical Features.....	264
(a) Freshet, Water Level and Silting.....	265
(b) Surveys, Dredging and Other Works by the Department of Public Works.....	267
(c) Complaints About Ship Channel.....	268
(3) Principal Harbours.....	270
(4) Aids to Navigation.....	271
(5) Maritime Traffic.....	272
(6) New Westminster Railway Bridge.....	274
(a) History of the Railway Bridge.....	278
(b) Accidents at the Railway Bridge.....	280
(c) Safety Regulations.....	281
(d) Submission by Crown Zellerbach Building Materials Limited.....	296
(e) Developments Since the Commission's Public Hearings.....	299
(f) Replacement of Swing Span by Lift Span.....	302
(g) Port Mann Highway Bridge.....	311
<i>Comments</i>	311
2. Nature of Pilotage Service.....	313
(1) Comments on the Nature of the Service.....	313
(2) Compulsory Payment of Pilotage Dues.....	316

	PAGE
3. Organization.....	319
(1) Pilotage Authority.....	319
(a) Borrowing Power.....	322
(b) Right to Own Pilot Vessels.....	322
(c) Right to Own Real Estate.....	323
(d) Contracting Powers—Lease of Berthing Facilities.....	324
(e) Contracting Powers—Subletting.....	324
(f) Right to Own Movable Property.....	324
(g) Contracting Powers—Purchase of Goods and Services, Hiring of Personnel, etc.....	325
(h) Right to Sue and be Sued.....	325
<i>Comments</i>	325
(2) Secretary to the Pilotage Authority.....	326
4. Pilots.....	326
(1) Recruiting and Qualifications of Pilots.....	326
<i>Comments</i>	328
(2) Pilots' Committee and Pilots' General Meetings.....	329
(3) Leave of Absence.....	330
(4) Status of Pilots.....	331
(5) Pilots on Strength.....	333
(6) Administrative Inquiries, Reappraisal and Discipline.....	333
(7) Working Conditions and Responsibilities.....	335
5. Pilotage Operations.....	337
(1) Pilot Stations.....	337
(2) Pilot Boarding Station.....	337
(3) Pilot Vessel.....	338
<i>Comments</i>	339
(4) Despatching.....	340
(5) Workload.....	341
6. Pilots' Remuneration and Tariff.....	343
(1) Pilots' Remuneration.....	343
Preamble.....	343
(a) Definition of Individual Pilot's Earnings.....	344
(b) Relation between Pilots' Remuneration and Tariff.....	346
(2) Tariff.....	346
(3) Pilotage Dues.....	348
(A) Pilotage Voyage Charges.....	348
(a) Basic Rate.....	350
(b) Minimum Charge.....	351
(c) Additional Charges.....	351
(B) Other Services.....	353
(C) Indemnity Charges.....	353
(D) Surcharge.....	354
(E) Accessory Services.....	354

	PAGE
(4) Complaints About Tariff and Pilots' Remuneration, and the Pilots' Strike in 1959.....	355
(a) Shipowners' Complaints.....	355
<i>Comment</i>	355
(b) Pilots' Complaints.....	356
<i>Comments</i>	357
(c) 1959 Pilots' Strike.....	357
7. Financial Administration.....	361
(1) New Westminster Pilotage Fund.....	361
(A) Assets and Items of Revenue.....	363
(a) Pilotage Dues.....	363
(b) Miscellaneous Revenue.....	363
(B) Liabilities and Items of Expenditure.....	364
(a) District and Service Operating Expenses.....	364
(i) Auxiliary services.....	364
(ii) District general expenses.....	364
<i>Comments</i>	366
(b) Expenditures Paid to or on behalf of the Pilots.....	366
(i) Cost of fringe benefits.....	366
(ii) Expenses paid for the pilots as a group.....	367
(iii) Pension contributions.....	368
(iv) Pilots' remuneration.....	368
8. Pension Fund.....	368
Addendum.....	370
CHAPTER D	
RECOMMENDATIONS.....	371
Specific Recommendations Affecting the New Westminster Pilotage District.....	371
1. The New Westminster District to Remain a Separate Pilotage District with the Harbour of Vancouver and the Proposed Roberts Bank Port and Connecting Waters as Joint Territory for the Sole Purpose of Allowing the New Westminster Pilots to Commence or Terminate Fraser River Trips.....	371
2. Pilotage Waters in the District of New Westminster to be Classified as a Public Service for the Time Being.....	373
CHAPTER E	
APPENDICES.....	375
A. <i>Map</i> —New Westminster Pilotage District.....	376
B. (1) <i>Graph</i> —1958-1967 Per Cent Increase (or Decrease) in Earnings and Workload of Pilots.....	377
(2) <i>Table</i> —1958-1967 Figures and Percentages on which the above Graph is based, giving the Number of Ships Piloted, Assignments, Net Tonnage Piloted, District Gross Earnings, Distribution to Pilots, Establishment of Pilots, Average "Take Home Pay", and Sources of Information.....	378
C. <i>Table</i> —1956-1967 Shipping Casualties, Accidents and Incidents Involving Pilots.....	379

	PAGE
D. (1) <i>Graph</i> —1961-1962 and 1966-1967: Total Assignments per Year; Total Assignments and Movages per Month Emphasizing Peaks and Lows as Compared to Annual Monthly Average.....	380
(2) <i>Table</i> —1961-1962 and 1966-1967 Figures on which the above Graph is based, giving the Total Assignments—per Month, per Year; Average Assignments per Year; Total Movages per Month, Total Movages per Year, Average Movages per Year, and their Sources of Information.....	382
E. (1) <i>Table</i> —1961 and 1967 Comparative Analysis of Annual Financial Statements of the New Westminster District Pilotage Authority	383
(2) <i>Table</i> —1961 and 1967 Details of Expenditures (as shown on Appendix E(1))—(a) District and Service Operating Expenses.....	384
(3) <i>Table</i> —1961 and 1967 Details of Expenditures (as shown on Appendix E(1)) continued—(b) Paid to or on Behalf of Pilots.....	385
F. (1) <i>Table</i> —Comparison of Charges according to the Tariff Prevailing in 1963 for S.S. <i>Pacific Northwest</i>	386
(2) <i>Table</i> —1963 Computation of Dues for S.S. <i>Pacific Northwest</i>	387

SECTION THREE

PILOTAGE DISTRICT OF CHURCHILL

CHAPTER A

LEGISLATION.....	391
1. Law and Regulations.....	391
Preamble.....	391
(1) Governor in Council Orders Made Pursuant to the Canada Shipping Act	391
(a) Creation of the District.....	391
(b) District Limits.....	391
(c) Pilotage Authority.....	392
(d) Compulsory System.....	392
(2) Provisions not Emanating from the C.S.A. Affecting the Organization of the Pilotage District.....	392
(3) Pilotage Authority Enactments Approved by Governor in Council.....	393
(a) Appointment of Secretary-Treasurer and Payment of District Expenses (sec. 328 Canada Shipping Act).....	393
(b) Delegation of Powers by the Minister as Pilotage Authority (subsec. 327(2) Canada Shipping Act).....	393
(c) Exemptions and Withdrawal of Exemptions (secs. 346, 347 and 357 Canada Shipping Act).....	393
(d) General By-law Passed Under Sec. 329 Canada Shipping Act.....	394

	PAGE
2. History of Legislation.....	395
Preamble.....	395
(a) Historical Background (1610-1931).....	395
(b) Initial Stage, 1931-1932.....	396
(c) Period 1933-1937.....	397
(d) Period 1937-1964.....	398
CHAPTER B	
BRIEFS.....	401
CHAPTER C	
EVIDENCE.....	403
1. General Description.....	403
(1) District Limits.....	403
(2) Physical Features.....	403
(a) Ice in Hudson Strait.....	403
(b) Ice in Hudson Bay.....	404
(3) Maritime Traffic.....	404
(4) Churchill Harbour.....	406
(5) Aids to Navigation.....	408
2. Nature of Pilotage Service.....	410
(1) Nature of the Service.....	410
(2) Exemptions.....	410
3. Organization.....	410
(1) Pilotage Authority.....	410
4. Pilots.....	411
(1) Recruiting and Qualifications.....	411
(2) Status of Pilots.....	412
(3) Shipping Casualties, Accidents and Incidents.....	415
5. Pilotage Operations.....	416
(1) Pilot Vessels.....	416
(2) Telecommunications.....	417
(3) Pilots' Workload.....	417
6. Pilots' Remuneration and Tariff.....	418
<i>Comments</i>	421
7. Financial Administration.....	422
(1) Pilotage Fund.....	422
(2) Pilots' Complaint.....	423
CHAPTER D	
RECOMMENDATIONS.....	427
Specific Recommendations Affecting the Churchill Pilotage District.....	427
1. The Pilotage District of Churchill to Remain a Separate Pilotage District.....	427
2. Pilotage at Churchill to be Classified as an Essential Public Service.....	428

INTRODUCTION

Part I of the Report is a study of the present state of pilotage legislation in Canada (Part VI of the Canada Shipping Act) and related By-laws and regulations, and reports on its adequacy or otherwise in the light of existing conditions as disclosed by the evidence. It also recommends the basic changes that should be made in the Act to meet present and foreseeable pilotage situations and requirements.

Parts II, III, IV and V of the Report are complementary to Part I and should be read in conjunction with it. They contain fact finding reports on each Pilotage District, and on other areas where pilotage services are performed. They analyze the nature and extent of existing pilotage requirements in each District and area, as disclosed by the evidence, appraise the adequacy of local pilotage organizations, and recommend, in accordance with the principles enunciated in Part I, certain specific changes affecting pilotage in each District.

Part II mainly concerns the navigable waters on the west coast of Canada, all of which are now contained in the Pilotage Districts of British Columbia and New Westminster. It also includes the only small official pilotage organization in the far northern waters of Canada: the Pilotage District of Churchill. From the information before the Commission, it would appear that at present pilotage services are not required elsewhere in the far northern waters of Canada. If the Commission's General Recommendations contained in Part I are implemented, it will be the responsibility of the Central Authority to ascertain future needs in that region, to assess their importance in the light of future developments and in the public interest, and to ensure the provision of the organizational controls that appear desirable. (Vide Part I, C. 11, General Recommendations 8, 10, 12, 14 and 17).

Part II is presented in three sections, one for each Pilotage District. Each section contains;

- (a) a review of the legislation that applies specifically to the District;

Study of Canadian Pilotage

- (b) a list of the briefs submitted for the District and the recommendations they contain;
- (c) a summation of the specific evidence concerning the District, together with the comments of the Commission where necessary;
- (d) the Commission's recommendations that apply specifically to the District;
- (e) the pertinent appendices.

The reader's attention is drawn to the following corrections regarding Part I:

- (a) On page 507, add to paragraph 3 the following cross reference: Re the establishment of the seaward limit of a coastal District, vide Part II, B.C. Recommendation I, pp. 197-198.
- (b) The factual statement regarding the new British Columbia Pension plan on p. 453 is to be corrected as per footnote 19, Part II, p. 192.
- (c) On page 344, third paragraph, secs. 446 and 447, 1934 C.S.A., should be 362 and 363 respectively.

Part II

STUDY OF CANADIAN PILOTAGE
PACIFIC COAST
AND CHURCHILL



Section One

PILOTAGE DISTRICT OF BRITISH COLUMBIA

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

PREAMBLE

Since there are no statutory provisions of exception for the Pilotage District of British Columbia¹, it is wholly governed by the provisions of the Canada Shipping Act which are generally applicable to the pilotage service and its organization. There are, however, a number of Orders in Council, by-laws and regulations that specifically concern this District.

(1) CREATION OF THE DISTRICT (sec. 324 C.S.A.)

The British Columbia Pilotage District was re-established by Order in Council P.C. 493, dated March 22, 1929, which, except for the designation of the Pilotage Authority, has not been amended or rescinded since. The District and its limits are described as follows:

"a Pilotage District to be called the Pilotage District of British Columbia be established, with limits to include all the coastal waters of the Province of British Columbia from the International Boundary between the Dominion of Canada and the United States of America on the South, and the International Boundary between Alaska and the Dominion of Canada on the North, other than the waters of the Pilotage District of New Westminster, British Columbia;"

(For the legislative description of the New Westminster District, vide Section Two, pp. 243 and ff.)

The eastern half of the Gulf of Georgia south of a line extending from Point Grey west into the Gulf of Georgia to the mid-channel line as far as the United States-Canada boundary is in New Westminster District waters. Therefore:

- (a) Sand Heads² is not situated in the British Columbia Pilotage District.
- (b) Vessels plying between Fraser River ports and Washington State ports or using Rosario Strait do not enter the British Columbia District.

¹In 1966, the statutory provisions governing the Pilot Fund were amended by the Appropriation Act No. 2, Schedule B, vote 8b of the Department of Transport. For details vide pp. 191 and ff.

²Not *Sandheads* as in the Schedule of the B.C. General By-law.

(2) PILOTAGE AUTHORITY
(secs. 325 and 327 C.S.A.)

Since 1929 when the District was re-established, it has always been under the direction of a one-man Pilotage Authority in the person of the Minister of the pertinent federal department. The latest appointment, dated August 15, 1956 (Order in Council P.C. 1956-1264), makes the Minister of Transport the Pilotage Authority, *inter alia*, of the British Columbia Pilotage District.

(3) COMPULSORY PAYMENT OF PILOTAGE DUES
(sec. 326 C.S.A.)

The Order in Council which re-established the Pilotage District, i.e., Order in Council P.C. 493 dated March 22, 1929, provided that the payment of pilotage dues was not compulsory. This Order in Council has not been rescinded and, in this respect, has not been amended by another Order in Council emanating from the Governor in Council pursuant to the powers conferred upon him under sec. 326 C.S.A.

However, the payment of dues is purportedly made compulsory by the Pilotage Authority itself through a provision in its own District By-law which it enacted pursuant to the powers it derives from sec. 329 C.S.A. It was first enacted April 14, 1949 (P.C. 1618-1959, Ex. 195), as an amendment to the General By-law and has been reproduced since (sec. 6 of the present General By-law).

Such a By-law provision is obviously *ultra vires* and, therefore, of null effect. The fact that the Governor in Council conferred it does not alter the nature of the regulation: it remains a District regulation over which the Governor in Council has no control once it is sanctioned. This situation is incompatible with the provisions of sec. 326 C.S.A. (vide Part I, C. 8, pp. 244-246).

Therefore, the legal situation is that in the District of British Columbia, notwithstanding the provisions of the General By-law, the payment of dues is not compulsory.

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

By Order in Council P.C. 1959-19/1093, dated August 27, 1959 (Ex. 52), revoking an earlier Order in Council to the same effect (Order in Council P.C. 120/422, dated January 25, 1951 (Ex. 52)), the Department of Transport was granted authority with respect to the British Columbia District, to assume, effective April 1, 1959, the cost of pilot stations and pilot boat service, whether owned or hired.

The Order in Council contained a new provision in that, when a pilot boat was hired on a trip basis, it authorized the Department of Transport to charge every ship requiring the service of the boat one-half the actual charge incurred for such hire, the other half being paid out of public funds.

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

(a) *Delegation of Powers under Subsec. 327(2) C.S.A.*

There is no by-law passed by the Minister as Pilotage Authority quoting subsec. 327(2) as authority. The only existing by-laws are contained in the General By-law enacted under sec. 329 and, therefore, whatever delegation of powers there may be were effected pursuant to the powers derived from subsec. 329(p) (vide Part I, C. 8, pp. 289 and ff.).

(b) *Appointment of a Secretary-Treasurer (sec. 328 C.S.A.)*

No Secretary-Treasurer was ever appointed. His duties are discharged by the Regional Superintendent at no cost to the District, as is the case in all other Districts where the Minister is the Authority.

(c) *Authorization for Payment of District Expenses (sec. 328 C.S.A.)*

No Orders in Council were ever passed under this section for this District since its creation in 1929. Operating costs are normally assumed by the Department of Transport as costs of operating pilot stations pursuant to the 1959 Order in Council mentioned above.

The General By-law, however, contains a provision which purports to contain such authorization; subsec. 10(1) states:

"The Superintendent shall pay each month out of the pilotage fund

(b) the accounts rendered by pilots for expenses incurred in the course of their duties and approved by the Pilots' Committee and the Superintendent;

..."

The Pilotage Authority can not by its own regulations dispense with the necessity of following the requirements of sec. 328 C.S.A. The fact that the By-law was approved by the Governor in Council does not alter the legal situation. The enactment of such a regulation is not within any of the subject-matters of the regulation-making powers of Pilotage Authorities and, hence, is ultra vires (vide Part I, C. 5, p. 110, *Procedural Requirement*).

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

There is no District regulation quoting subsec. 346(c) and sec. 347 as authority but the question is dealt with in the General By-law passed under sec. 329 (for the effect on the By-law's legality, vide Part I, C. 8, p. 248). No exemption is withdrawn and the exemption for small ships is limited to yachts.

Subsecs. 2(h) and 2(k) of the General By-law of 1960 provided for the indirect exemption of scows by not including them in the definition of "vessel". This provision, which was obviously illegal (vide Part I, C. 7, pp. 218 and ff.), was corrected in the current (1965) General By-law when the definition of scow was omitted as well as the reference to scow in the definition of "vessel".

(6) 1965 GENERAL BY-LAW

All the by-laws enacted by the Pilotage Authority that are still in effect are contained in a General By-law, confirmed by Order in Council P.C. 1965-1084 dated June 10, 1965, and its four amendments up to January 1, 1968, confirmed respectively by Orders in Council P.C. 1966-79 of January 12, 1966, P.C. 1966-980 of May 26, 1966, P.C. 1966-1812 of September 22, 1966, and P.C. 1967-1177 of June 8, 1967 (Ex. 195). The 1965 General By-law replaced the previous one which was enacted in 1960 (P.C. 1960-841) and was amended twice: August 16, 1961 (P.C. 1961-1183) and December 13, 1962 (P.C. 1962-1782).

The basic principles of organization provided in the 1960 General By-law, i.e., the General By-law in force when the Commission began its investigation, are the following (the cross reference to Part I of the Report when it appears at the end of a paragraph indicates where the validity of the matter is dealt with in Part I of the Report):

- (a) Full control of the organization of the pilotage service is exercised by the Authority, the actual management at local level being by the Superintendent (Part I, C. 4, pp. 73 and ff.).
- (b) The pilots are represented by a Pilots' Committee of five elected annually (Part I, C. 4, pp. 82-84).
- (c) Pilots are recruited, through competition, from Master Mariners who have the necessary qualifications and local knowledge; there is no apprenticeship but the successful candidate first serves on probation for one year (as to legality of probation, vide Part I, C. 8, pp. 268-269).
- (d) The number of pilots on strength is controlled administratively by the Authority after consultation with the Pilots' Committee (Part I, C. 8, pp. 255 and ff.).
- (e) Pilotage assignments are made by the Superintendent according to a roster system. Two pilots are despatched jointly for a continuous period in excess of eight hours on voyages to or from a point north of latitude 50° North and in other cases at the discretion of the Authority (Part I, C. 4).
- (f) In addition to sick leave with pay or without pay, one month's annual leave with pay is granted and other leave is at the discretion of the Authority.

- (g) The earnings of the District are pooled (Part I, C. 4, pp. 74 and ff.).
- (h) The remuneration of each pilot is an equal share of the net earnings in the pool, i.e., after deduction of the pension fund contribution, payment of monies belonging to third parties and the expenses incurred by each pilot, the share being based on the time each pilot was available for work (Part I, C. 8, p. 249).
- (i) The basic dues are composed of two elements: a first charge for entering or leaving a port computed on the gross tonnage and the draught of the vessel, and a second charge based on mileage travelled in District waters.
- (j) The compulsory contribution to the pension fund is fixed by the Authority after consultation with the Pilots' Committee; the By-law also sets out the terms and conditions of the benefits.
- (k) Two permanent boarding stations are provided: off Brotchie Ledge near Victoria and off Triple Island near Prince Rupert, provision being made for the authorization of additional boarding places to meet all requirements.
- (l) The Master or agent of a vessel is required to supply an E.T.A. in sufficient time to enable a pilot to meet the vessel.

The principal changes effected by the 1965 General By-law (P.C. 1965-1084), which repealed and replaced the 1960 General By-law, and by its amendments are the following:

- (a) The definition of the word "scow" was omitted, as was the reference to it in the definition of "vessel" (Part I, C. 7, pp. 218-220).
- (b) The indemnities payable to the pilots under secs. 359 and 360 C.S.A. form part of the pilotage fund, and part of the net earnings which are shared among the pilots (Part I, C. 5, pp. 105-106).
- (c) Two prerequisites for pilot candidates are added: the required certificate of competency must be endorsed for radar simulator, and British Columbia coastal experience must have been gained aboard a Canadian vessel.
- (d) The rules for the joint assignment of two pilots are transferred from the Schedule to the By-law itself.
- (e) A procedure is provided for dealing with violations of the By-law: an inquiry is to be held by a person appointed by the Authority; if the inquiry indicates that the charge is founded, the Authority is authorized to impose a penalty not exceeding \$200, suspension or withdrawal of licence; the pilot involved has the alternative to be dealt with by the Superintendent, the penalty in such a case not to exceed \$100 (Part I, C. 9, p. 400).

- (f) The annual leave is increased to 60 days, i.e., 5 days for each month served, during which period of absence the pilot is considered an active pilot for the purpose of distribution of earnings.
- (g) The reference to Sand Heads as a port is deleted. The basic dues are now payable not only on a port basis (i.e., each time the vessel proceeds in or out of the port) but also when proceeding to or out of the Fraser River and for a transit without calling at any District port.
- (h) The pilots' remuneration for boarding or disembarking outside the District is determined by agreement between the Authority and, as in the Puget Sound case, becomes part of the pool.
- (i) A charge of \$1.75 per ship is imposed as pilotage dues to pay for the cost of the portable radiotelephone equipment the pilots are provided with (amendment P.C. 1966-79) (Part I, C. 6, pp. 183-184).
- (j) The pension fund provisions are amended to reflect the transfer of the assets and administration of the fund from the Government to the Corporation of the British Columbia Coast Pilots (vide pp. 189 and ff. and Part I, C. 10, p. 453).

2. HISTORY OF LEGISLATION

PREAMBLE

In order to understand the early history of pilotage in what is now the Province of British Columbia, it should be remembered that there were originally two separate colonies: the Colony of Vancouver Island, established in 1849, and the mainland Colony of British Columbia, established in 1858. In 1866, the two were united into a single Colony which became the Province of British Columbia when it joined Confederation in 1871.

(1) COLONY OF VANCOUVER ISLAND

In the early days of the Colony, it appears that pilotage was left a responsibility of the authority of each port, which appointed its own pilots and fixed pilotage rates. It seems that the first of such pilots were appointed for the harbour of Victoria in March, 1859. However, in the absence of pilotage legislation, there was no means to compel a vessel to take a pilot, nor even to authorize an appointed pilot to supersede other persons acting as pilots. The situation was far from satisfactory and there is little doubt that the resultant complaints caused the enactment of the first local pilotage legislation in 1864.

On April 9, 1859, the Victoria newspaper, *The Gazette*, complained: "Pilots have been appointed for this harbour, but of what use are they when boatmen and men living on shore are in the daily habit of bringing vessels in, and almost invariably getting them on shore. Every vessel which runs aground in this port is a real injury to it."

In 1860, the pilots of Victoria and Esquimalt petitioned for an increase in pilotage dues because they could not live on existing rates. They undertook to keep a suitable vessel cruising outside Race Rocks. They also complained they had no legal status and that any person, licensed or not, was allowed to pilot a vessel into port. A bill covering these points was introduced in 1862 and led to the "Victoria Pilot Act of 1864" which applied only to the harbour of Victoria. It appears to be the first pilotage legislation in the Colony of Vancouver Island. The Act provided for a Board of Commissioners to examine pilots and grant licences; set the pilotage rates; required the pilots to maintain a suitable boat and to keep it cruising at all times, weather permitting, between Victoria and the entrance to Sooke Harbour; stipulated that unlicensed pilots had to make way for licensed pilots; and prescribed that inward-bound vessels which were spoken to by a pilot and refused his services should pay half pilotage dues. Exemptions were provided for ships owned in the Colony and engaged in coastal trade, in trade with British Columbia or in fishing; for ships under 100 tons registered in any of the British Dominions or in the territory of Washington; and for Her Majesty's Ships.

In 1866, the pilots appointed for Victoria Harbour were granted a licence under the new Act. However, the Act did not prove a success. In order to meet their obligation to provide a suitable boat and to keep it cruising constantly, weather permitting, the pilots had hired a schooner in 1864, pending the construction of one of their own, but the following year they dismissed the schooner and reverted to their former custom of employing a whaleboat manned by the Indians. From it they boarded any vessel that could be observed from the look-out above Hospital Point. The pilots gave as their reason that their remuneration did not pay for the schooner and added that, unless the Government provided a vessel, they could not possibly operate a schooner in the future.

The Victoria Pilot Act failed because it did not provide enough revenue to pay the pilots and it was suggested that the pilots should be paid by the Government. This was the situation when the Colony of Vancouver Island united with the Colony of British Columbia in 1866.

(2) COLONY OF BRITISH COLUMBIA

On the mainland, a Governor's proclamation dated June 15, 1859, established Queensborough (New Westminster) as a Port of Entry for the Colony of British Columbia, no vessels were exempt and pilotage fees were based on draught.

There was dissatisfaction among the merchants and shipowners about the pilotage charges for small craft. On the other hand, there were not at that time enough large vessels to provide a reasonable income for the pilots and it was recommended that their salary be paid by the Government. As a result of these complaints, a second proclamation dated May 9, 1861, called the Pilotage Act of 1861, repealed that section of the 1859 proclamation which "renders the payment of half pilotage compulsory on vessels drawing less than seven feet of water".

It was not until 1865 that pilots were granted a salary by the Government but this lasted for only a short time because the Government made other arrangements for piloting vessels to New Westminster. In view of the Colony's financial position, it was felt that these salaries could not be justified and that pilotage duties could be performed equally well by the Master of the lightship at Sand Heads or by the Harbour Master, in case of emergency.

After the Legislative Council of British Columbia was established in 1864, the first legislation concerning pilotage was Ordinance No. 15 of 1866 entitled the *Pilotage Ordinance 1866*. It related only to pilotage in the mainland part of the colony; it repealed those parts of the two proclamations which related to pilots and gave the Governor in Council power to appoint and to alter Pilot Boards, and to make rules, regulations and by-laws which were to be published in the *Government Gazette*. Under this authority, a Pilot Board was established in June, 1866.

(3) UNION OF THE TWO COLONIES

After the Union on November 19, 1866, it was necessary to assimilate the laws of the two colonies. The Legislative Council of British Columbia passed Ordinance No. 30 dated April 2, 1867, entitled "The Pilotage Ordinance, 1867" and described as "An Ordinance to Assimilate the Laws for the Regulations of Pilotage in all parts of the Colony of British Columbia". This repealed both the 1866 Pilotage Ordinance of the Colony of British Columbia and the "Victoria Pilot Act 1864" of the former Colony of Vancouver Island. Its provisions were almost a repetition of those of the 1866 Pilotage Ordinance.

The first by-laws were published in the *Government Gazette* of November 2, 1867, and shortly thereafter three pilots were examined and appointed. But this did not improve the situation of the pilots. On February 8, 1869, the Select Committee on Pilotage presented directly to the legislature its report in which it recommended that the then existing pilotage system be abandoned, that pilots should in future be salaried officers of the Government, that pilotage fees be merely nominal, etc.

This report was not acted upon, except for some alterations in the rules and orders published in 1867, and the Pilot Board continued to operate right into the post-Confederation period. In December 1874, the Pilot Board resigned as a body.

In addition to the licensed pilots, there was another group who were the holders of special licences. In order to avoid pilotage dues, companies—such as the Hudson's Bay Co. and the Vancouver Coal Co.—had the Masters of their vessels examined and licensed as pilots for the ships of their companies.

(4) CONFEDERATION

The Colony of British Columbia joined Confederation July 20, 1871.

Until well after this date, pilotage in the Province of British Columbia continued to operate under "The Pilotage Ordinance 1867". On May 23, 1873, the Dominion Government passed "An Act Respecting Pilotage", 36 Vic. c. 54, cited as "The Pilotage Act 1873". Under this Act, every local Pilotage Authority was to retain its powers until they were abrogated by Order in Council. It was not until May 5, 1875, that an Order in Council established under the new Act a Pilotage District which included "the entire Coast of British Columbia with its Rivers and Harbours", extending "from the Shores of Washington Territory to the Northern Boundary of the Province", and appointed five British Columbia citizens to constitute the Pilotage Authority (four of whom had been members of the former Pilot Board) and made the payment of pilotage dues compulsory.

On February 19, 1877, the first By-law of the Pilotage Authority was approved. It provided, *inter alia*, that, in addition to general licences, pilotage certificates could be secured by Masters and mates of vessels regularly plying in B.C. waters, or steamers sailing between Victoria and any port in Puget Sound not less than once a week. Applicants were to pass an examination and pay a yearly fee of \$100. Each regular pilot had to own a share of at least three tons in a registered pilot boat, and each pilot boat was to carry one or more apprentices to serve on board for four years, in addition to an actual six months in a square-rigged vessel.

By different Orders in Council, the District was successively divided into a number of separate Districts: Yale and New Westminster District, 1879; a separate District for Nanaimo and other individual ports, 1879; the District of Victoria and Esquimalt, 1880; Vancouver Pilotage District, formed by the separation of Yale and New Westminster, 1904 (for Order in Council numbers and dates, vide Report, Part I, *Appendix II*).

It is of interest to note that, following complaints received as a result of a request by the Minister of Marine and Fisheries, a public inquiry was held into the administration of the Victoria and Esquimalt Pilotage District. The Commission of Inquiry was appointed by Order in Council P.C. 1830

dated September 28, 1904 (Ex. 1493(c)). The subject of the investigation was the alleged mishandling of pilotage money and the investigation took the form of an audit (vide Sessional Papers).

By-laws for the Vancouver District published in February 1907 provided, *inter alia*, that, in addition to regular licences, pilotage certificates could be granted to Masters or mates of Canadian ships regularly sailing in the District after an examination and a \$300 fee which had to be renewed annually. The pilots had to own and maintain the pilot boats, and the dues were calculated on draught and net registered tonnage. The pilots were to receive assignments in turn and could not move or berth a ship in the harbour as this was within the jurisdiction of the Harbour Master.

In 1910, the number of Commissioners for the Pilotage District of Vancouver was increased from three to five.

In the Vancouver District, each pilot was a shareholder in a joint ownership of the launches, pilot stations, office furniture and other equipment. They were divided into four classes: first, second, third and probationary. Each group was paid salaries and travelling expenses. The profits were apportioned according to rank. The pilots took their turn with all ships, except mail steamers which were handled by first class pilots.

(5) ROBB COMMISSION

During World War I, dissatisfaction with the service was manifested. In particular, the shipping interests objected to the compulsory payment of pilotage dues. In 1918, a three-member Commission, under the chairmanship of Thomas Robb, was "appointed to inquire into and Report upon the conditions in the Pilotage Districts of Vancouver, Victoria, Nanaimo and New Westminster, and to recommend, if necessary, any changes found desirable therein".

The Commission concurred in the shipping interests' representations that costs were excessive and, in its report dated November 6, 1918, recommended that this situation be corrected, *inter alia*, by the following means (Ex. 1327):

- (a) the amalgamation of the Vancouver, Victoria and Nanaimo Districts under the Minister of Marine and Fisheries as Pilotage Authority who would be represented locally by a Superintendent, assisted by an Advisory Committee composed of one member from each Board of Trade of Vancouver, Victoria and Nanaimo, and one representative of the pilots; the New Westminster District to be left as it was on account of its exceptional situation governed by local conditions which did not affect the other Districts;
- (b) the number of pilots to be reduced to fifteen, those over 70 years of age being compulsorily retired;

- (c) the pilots' earnings not to be pooled but the pilots placed on salary, since salaries could be adjusted to meet local requirements; each pilot to receive an annual salary of \$3,000 instead of the average at that time of Vancouver, \$4,961.83; Victoria, \$4,514.39; and Nanaimo, \$3,457.10;
- (d) a new set of tariffs based on draught only, substantially lower than those then existing and designed to provide the above-mentioned salary, as well as to cover the expenses of the District, which were expected to be substantially reduced as a result of the amalgamation;
- (e) a pilots' pension fund to be created and a deduction of 7 per cent of the gross earnings provided for this purpose;
- (f) the payment of pilotage dues to be compulsory in the Gulf (Strait) of Georgia and dues computed on draught only (Recommendation 27);
- (g) with reference to apprenticeship, the report stated:

"It is plainly evident that there is no necessity of maintaining an apprenticeship system on this coast, as there are no doubt many of the local navigators who are eligible to become pilots whenever vacancies occur in the ranks".

In the previous paragraph, it had said:

"It seems that the navigators on this coast look forward to admission to the pilotage service in the light of promotion from the coasting services . . .".

(6) AMALGAMATION OF THE PILOTAGE DISTRICTS

By Order in Council P.C. 1876 of September 10, 1919 (Ex. 1165), all the British Columbia Districts, with the exception of the New Westminster District, were amalgamated under the Minister of Marine and Fisheries as Pilotage Authority and the payment of dues remained compulsory. The other recommendations were not implemented because some six months later, by Order in Council dated April 26, 1920, the British Columbia Pilotage District was abolished, leaving no publicly controlled organized pilotage except the New Westminster Pilotage District.

The Order in Council stated:

". . . the superintendent general of pilotage has recommended that under the circumstances obtaining at present in said district, it would be in the interest of navigation and of the public generally that the said pilotage district be abolished . . ."

It appears from contemporary newspaper articles that this drastic action was brought about by the Authority's attempt to implement the other recommendations of the report.

After Order in Council P.C. 1876 of September 10, 1919, there was a new By-law, dated December 20, 1919 (Ex. 195), published in the *Canada*

Gazette of December 27, 1919, effective January 1, 1920 (Ex. 1165), which provided, in accordance with the recommendations of the Robb Report:

- (a) pilots to be compulsorily retired at 70 and their licences subject to annual renewal on proof of fitness between the ages of 65 and 70 (sec. 13);
- (b) temporary licences in cases of emergency (sec. 14);
- (c) a Pilots' Committee of three (sec. 15);
- (d) authority for the Superintendent to suspend pilots for one week in eight enumerated cases of discipline, absence or safety (sec. 22);
- (e) Superintendent obliged to report all suspensions to the Minister who could add a further suspension (sec. 23);
- (f) the Collector of Customs to collect pilotage dues on inward voyages (sec. 24);
- (g) a maximum remuneration of \$325 per pilot per month (but no minimum) derived from sharing the net revenue of the District after all District expenses had been paid (sec. 25);
- (h) boarding and disembarking outside the District limits permitted if the pilots' transportation and living expenses were paid in addition to the pilotage dues (note following sec. 28);
- (i) a system of multiple pilotage dues, namely, basic dues of \$2.00 per foot draught and 1¢ per net registered ton for entering or leaving a port from Brotchie Ledge as far as Union Bay or Comox (with the exception of Victoria and Esquimalt, where the dues were 50¢ per foot draught and $\frac{1}{2}$ ¢ per net registered ton) and \$1.00 per foot draught and 1¢ per net registered ton for entering second or subsequent ports on the same voyage (sec. 26);
- (j) smaller charges for ships registered elsewhere than in Canada and engaged in coastal trade between British Columbia and Pacific ports of the United States, including Alaska (sec. 27);
- (k) for voyages north of Comox or to the west coast of Vancouver Island, an additional charge of \$30 a day (sec. 28);
- (l) scows to be exempt (sec. 26).

(7) ABOLITION OF THE DISTRICT

The pilots disagreed with the recommendations of the Royal Commission as to their remuneration and requested a minimum guaranteed salary of \$325 per month while the shipping interests recommended \$250. The pilots also objected to the compensation offered by the Government for their equipment, qualifying the offer as confiscation. At first, they threatened to strike but later intimated that, unless the Government's stand was changed as of January 1, 1920, they would act in an independent capacity at the old pilotage rates. This they did for some weeks.

On January 26, a basis of settlement was reached: the pilots were to work under the new regulations on a fixed salary of \$325 per month for a trial period of sixty days, at the expiration of which the situation would be reviewed. With regard to the pilots' equipment, the Government agreed to take over three launches and other gear was to be accepted at a valuation. The agreement could be broken by either side after a month's notice. Under the 70-year age limit clause, two pilots were forcibly retired from active sea service.

At the expiration of the trial period, the pilots again requested more money in the form of larger remuneration plus more travelling expenses. These requests were considered unreasonable at the time and the decision was taken to abolish the District. In March, Capt. B. L. Johnson, the local Superintendent of Pilotage, resigned and by Order in Council P.C. 898 of April 26, 1920, effective May 6, 1920, the District was abolished.

From that time on, except for the New Westminster District where organized pilotage under Government control continued, pilotage in British Columbia waters was conducted as a free enterprise, free from any Government control. The result was that any individual who wished could practise pilotage without examination or licence.

The pilots then established the British Columbia Pilotage Association with an Executive and maintained what appeared to be an efficient service. Vancouver Pilots Limited was formed in 1921 and began operating the following year. In 1923-1924, some members of the British Columbia Pilotage Association broke away and set up Independent Pilots Limited. Thus, at the end of 1925, there were three groups performing pilotage in the former British Columbia Pilotage District.

From 1920 on, a body of Masters and ship's officers, known as the Canadian Merchant Service Guild, tried to amalgamate the pilotage organizations. In 1926, a large percentage of the pilots formed themselves into an association known as Federal Pilots Limited of British Columbia, which absorbed the British Columbia Pilotage Association, Vancouver Pilots Limited, and Independent Pilots Limited.

Those pilots who declined to join the new association formed a second group called Canadian Pilots Limited.

A few pilots, however, including those in company employ, remained unattached, independent of any organization or supervision.

During this period, no pilot required a licence to carry out pilotage duties.

(8) MORRISON COMMISSION

The resultant confusion made it necessary for the Federal Government to intervene by appointing another Royal Commission on August 16, 1927. The sole Commissioner, Chief Justice Aulay Morrison, submitted his report December 20, 1928 (Ex. 1329).

The consensus of opinion expressed by those who appeared before the Commission was that the existing state of affairs should end.

"Various proposals have been formulated and submitted. As to some of these there was unanimity; such as the examination of pilots; the appointment of some central authority, the division of opinion as to the constitution of which is marked."

"As to those points upon which differences of opinion were expressed, emerging from the mass of controversial submissions, there are two outstanding questions which are susceptible of effectual termination and which should be dealt with speedily, viz., that of *Compulsory Pilotage* and that of *Choice Pilots*, with which is allied that of *Pooling*."

The Commission noted that the shipping companies "may be taken by and large to be afraid of compulsory pilotage for various alleged reasons", i.e., red tape regulations of government-operated services, control of Pilotage Board by political appointees and the loss of the privilege of engaging Choice Pilots.

Concerning the free pilotage system that then existed, the Commissioner states:

"Keen competition has developed entailing unnecessary expense for the defraying of which provision must be made in the pilotage rates. Some of the shipping companies, taking advantage fairly enough of this situation, have men on regular salary acting as pilots, but when these companies get exceptionally busy, as often happens, they have to call for assistance on one of the group of pilots who go to the expense of maintaining a regular service and equipment."

With regard to the necessity for a pilotage service, the Commission noted:

"The comment on this is that compulsory pilotage so-called practically exists at the present time. No prudent shipowner will deny his captain the privilege of engaging the services of a pilot. Sometimes in clear weather a ship's Captain will bring his vessel right into the harbour of Vancouver without a pilot, not with the intention of saving his owners the expense. To prevent his owners complaining against other captains of the same fleet for taking pilots in clear weather, he may agree that the full pilotage be paid provided it is split with him or perhaps for him to get the larger share. Whatever reasons may be urged in favour of compulsory pilotage where the pilots are not all getting practically the whole of the work available, such a system can afford little if any additional benefit in places where they are fully employed."

And, quoting from the Departmental Report on Pilotage in the United Kingdom, 1911:

"To prevent risks being improperly run and to induce the maintenance of an adequate service of pilots, it is, in my opinion, both in the interest of the State and of shipowners masters, pilots, and others, that pilotage should be made compulsory in every port where a pilotage system is reasonably necessary."

He added that even although the various systems in vogue may have worked satisfactorily in the sense that they tended to develop an efficient permanent service, yet there is need from time to time to adjust and readjust any system to the exigencies of the times. There are more factors to the problem than either the pilots or the shipping interests because there are other business and public interests.

As to the necessity for pilotage, he found that in British Columbia not security but speed was the main reason for the maintenance of a pilotage service:

"The leading shipping interests resorting to these waters employ experienced navigators, and were not in some cases the element of 'making time' considered, impelling them to make port expeditiously, they all could readily dispense with the services of pilots. Prudence and the demands of marine insurance companies, however, dictate the necessity for their employment. Hence the necessity for their existence and for pilotage to be placed upon a workable and properly organized basis."

He favoured the special pilot system, locally called "Choice Pilots", provided steps were taken to check the main drawbacks to the system which are twofold: firstly, inequality in the earnings of the pilots, and, secondly, an objectionable amount of patronage and even corruption develops when a Choice Pilot, having more work than he can do himself, may exercise his influence to obtain the surplus work for other pilots. He suggested that the Choice Pilots' earnings, as in the case of the Liverpool Pilotage Authority, should not go to the individual concerned but should be placed in a common fund with all other pilots' earnings to be divided in equal proportions, according to class. A shipowner with an assigned pilot would guarantee that his annual pilotage earnings would reach a certain amount, and would make good any deficiency at the end of the year. He reasserted the principle that pilotage rates are intended not for the remuneration of the pilots alone, but for the maintenance of the pilotage system.

As for pooling, he noted that:

"It has been objected to this system that the division of earnings amongst all the pilots would lower the pay of the most capable and experienced ones to the level of the less industrious and experienced, thus tending to lower the standard of efficiency and check healthy competition",

but, on the other hand, he noted that, under the free enterprise system that existed in B.C., the largest of the efficient pilotage groups had voluntarily adopted it and apparently it satisfied both the pilots and the pilotage service generally. He added that the evidence before him was mainly against free competition in pilotage because competition caused unnecessary expense and led to inefficiency.

He then recommended that the number of pilots be limited and that their earnings be pooled with the understanding that it would not be expected that there would be an equal pooling of income, nor should Choice or Special Pilots expect to take the whole of their earnings. He further recommended that the Pilotage District of British Columbia be again brought into existence so that only licensed pilots would be permitted to operate in the District under the control of a Superintendent appointed and paid by the Department of Transport, but on a non-compulsory basis.

With regard to Prince Rupert, he recommended that a special District be created:

"Prince Rupert does not appear to have been mentioned in this old district. From about 1910 on Prince Rupert waters were served by pilots from the southern ports. Now that Prince Rupert, the Portland canal ports and that of Queen Charlotte islands have become of importance in the trade routes of the Pacific, a new district should be established which should be known as the Prince Rupert District, including the above-named ports and extending south as far as Queen Charlotte sound."

As to the system of inquiry into marine casualties, which had been criticized before him, he made only cursory remarks, as he felt this subject was beyond the scope of his mandate. He felt that the Wreck Commissioner system was reasonably adequate and that the criticisms were directed more against the Deputy Wreck Commissioner than against the system.

(9) RE-ESTABLISHMENT OF THE DISTRICT

Following the Morrison report, by Order in Council P.C. 493 dated March 22, 1929 (Ex. 1143), the British Columbia Pilotage District was reinstated with its old limits, i.e., all the coastal waters of the Province of British Columbia other than those of the Pilotage District of New Westminster, under the Minister of Marine and Fisheries as Pilotage Authority, and the payment of pilotage dues was not made compulsory. However, the recommendation that Prince Rupert be made a separate District was not acted upon. New by-laws published on October 30, 1929, provided, *inter alia*, for annual leave not to exceed thirty days and the establishment of two boarding stations off Victoria and Prince Rupert.

In 1933, when the Department of Marine and Fisheries was divided, the Minister of Marine became the Pilotage Authority and was replaced as such by the Minister of Transport when the Department of Transport was created in 1936.

The pilotage dues were reduced in 1932 by 15 per cent and again by 5 per cent; during the War, a surcharge of 25 per cent was added and some readjustments made; in 1947, by P.C. 1949, new rates were set and a charge for pilot boats was added.

(10) SLOCOMBE SURVEY

In 1947, Capt. F. S. Slocombe, an officer of the Department of Transport, made a survey of the special features of the most important Pilotage Districts. Some pertinent points made in his report on the British Columbia District (Ex. 1452):

(a) *Nature of the District*

"The District of British Columbia is different from any other district in Canada, as it includes both harbour and coast pilotage. There are fifty possible

approaches to docks in Vancouver Harbour, eighteen on the mainland north of Vancouver, forty-three on Vancouver Island and five in the Queen Charlottes, in addition to inlets where ships may be required to load small parcels of cedar poles."

"It is necessary for the pilots to have a thorough knowledge of tidal currents throughout the whole district. These currents are so strong in some of the narrow channels, such as in the Seymour Narrows, where the notorious Ripple Rock is situated [since removed], that the ordinary ship cannot stem them and must wait for a favourable tide."

"The main feature is the gorge-like nature of the channels, in which, on a dark night, the steep sides merge into the shadows and reflections in complete absence of light. Along these channels ships must pass within two or three hundred feet of the shore, with deep water below. Anchorages are few and far between."

"Another feature of the district is the frequency of fog."

(b) *Conditions of Service*

"There are at present 32 pilots, all permanent. Of these, 20 are stationed at Vancouver, 10 at Victoria and 2 at Nanaimo. The District is divided into zones, and a few of the older pilots are restricted to certain of these zones."

"The bulk of the pilotage is between Victoria and Vancouver, and the average time spent on such a job is 14 or 15 hours."

"The 20 pilots stationed at Vancouver generally perform only outgoing pilotages and movages, and trips north, but if required by pressure of incoming traffic they may bring in a ship from Victoria as well."

"The pilots live at home, but are always on call. At present the average number of jobs per month is from 10 to 12 per pilot. It was estimated by the pilots that when the necessary sleep is taken into consideration each job requires about 36 hours."

(c) *Pilots' Remuneration*

"With the outbreak of war shipping on the British Columbia coast diminished in volume, and the individual pilot's earnings, after superannuation contribution had been made dropped rapidly from \$5,311.80 in 1938-39 to \$3,858.45 in 1940-41. In 1941-42, in spite of a surcharge of 25% which was added to the rates by Order-in-Council in December 1941, each pilot received only \$1,725.25. This surcharge remained in effect until 1946, and combined with some extra revenue derived from piloting American ships to Alaska to raise the individual pilot's net earnings to \$3,962.12 in 1942-43, \$3,918.82 in 1943-44, \$4,589.00 in 1944-45 and \$5,204.00 in 1945-46. On May 15th, 1946, the surcharge was reduced to 15%, which with the seasonal reduction in shipping resulted in a considerable falling-off in the earnings. The average net earnings of the pilots from June to September inclusive amounted to \$313. per month. Then on October 15th the full 25% surcharge was reinstated, this helping to raise the monthly payments to the pilots to \$475. in October, \$482. in November, \$525. in December."

(d) *Pilotage Dues*

"It is common for a ship to go to Vancouver to unload, then to call at several ports north of Vancouver to load and in such case, as might be expected, a large pilotage bill may accrue."

"There are no special rates for the ships of any particular company and there is no clause providing for detention payment when a pilot may be ordered to a ship in Vancouver and may then be delayed several hours before the ship moves or until the pilot is released."

(e) *Representations by the Pilots*

The pilots made several representations to him and, *inter alia*, requested that

- (i) a detention charge, which had been overlooked, be instituted because there was much abuse involving the necessity of keeping a larger roster of pilots than would normally be necessary;
- (ii) compulsory payment of pilotage dues be instituted on vessels over 250 tons net register, with exemptions as provided in the Canada Shipping Act;
- (iii) the Special Pilots' system which had fallen into almost complete abeyance since the beginning of the War, be not re-established unless a surcharge of 10 per cent be made for the pilotage fund, in order to defray the added expenses that such a system entailed.

(f) *Pay and Qualifications of Pilots*

It was contended that the status of a pilot financially should be better than that of Master because of the intricate nature of the pilotage involved and the extent of the District. To this the shipping interests agreed for, otherwise, the best men would not be attracted into the pilotage service.

As to the qualifications of the pilots, the shipping interests were reluctant to entrust their ships to the care of pilots who had commanded only tug-boats.

(g) *United States Pilots*

Capt. Slocombe's report covers also the situation and status of the American pilots at Puget Sound, who then numbered thirty-one, operating under a Board of five Pilotage Commissioners appointed by the Governor of the State of Washington, two of them being active pilots, two actively engaged in the ownership side of deep-sea ships and the Chairman, the State Director of Labour and Industries.

Their peacetime remuneration was about \$800 to \$900 per month: the average job took from six to nine hours and each pilot had an average of five ships per month, in addition to movages. There was no pension scheme.

(h) *Financial Appendix*

In the Appendix to the report there are samples of pilotage bills, a brief analysis of the bills showing the history of rates from 1929 to the consolidation of 1945, and a statement showing the District's revenues and remuneration of pilots year by year, between 1935-36 and 1945-46 inclusive. It appears from this report that it was the practice to have any contemplated change in the tariffs, status of pilots, or conditions of the service discussed and negotiated on a local basis by the interested parties before any action was taken by the Authority.

After Capt. Slocombe's report had been received, by an amendment to the District By-laws confirmed by Order in Council P.C. 1618 of April 14, 1949, the compulsory payment of the dues was purportedly imposed, the rate structure was basically modified and the tariff was revised upward.

(11) AUDETTE COMMITTEE

As a result of representations made to the Government by shipowners and by pilots regarding pilotage matters generally and their effect on shipping and the movement of ships in seven Pilotage Districts including British Columbia where the Minister was the Pilotage Authority, a Committee under the chairmanship of Mr. L. C. Audette was appointed by Order in Council P.C. 3978 dated August 10, 1949 (Ex. 1330).

The only specific recommendation for British Columbia was with regard to the Board of Examiners and was to the effect that the examination of candidates on local knowledge should be made by the pilot members of the Board in the presence of the remainder of the Board.

The general recommendations that were applicable to British Columbia were, *inter alia*:

- (a) *Pilot vessels*: the Government to assume the full cost of acquisition, operation, maintenance and replacement of pilot vessels as was already done in some Districts;
- (b) *Pilot stations*: same recommendation;
- (c) *Guarantee of minimum earnings*: the proposal was urged by Pilots' Committees that a minimum income of not less than \$4,800 per annum be guaranteed. The Audette Committee recommended against the proposal by a majority decision, the two pilot members dissenting. The majority felt that the principle of a guarantee of minimum earnings by the Government for one group of persons was socially, politically and economically unsound and that such an undertaking already given in some Districts should be reconsidered and discontinued;
- (d) *Pension Fund*: the amalgamation under Government control of the various pension schemes then in existence and the Government to make good the deficit of approximately \$1,500,000 in the amalgamated funds (vide Report, Part I, C. 10).
- (e) *Pilotage tariffs*: in nearly all Districts, the Pilots' Committees suggested a modification of tariff by the imposition of a separate charge for berthing and unberthing. By a majority decision, the Audette Committee recommended against the proposal because it viewed the contract between the pilot and the shipowner as one covering a variety of services and involving various types of advice which led to the safe conduct of ships from boarding stations to

final destinations. The pilots' proposal involved breaking the contract down into one or more of its elements. Therefore, making a specific charge would, in their opinion, destroy the fundamental idea of general advice tending to ensure a safe journey. They felt that this newly advocated principle was only a means to increase the pilots' revenues. The Audette Committee considered desirable the establishment of a uniform basis for the computation of dues for all Districts but they were unable to reach agreement.

(12) LEGISLATION SINCE THE AUDETTE REPORT

Following the Audette Report of November 29, 1949, by Order in Council P.C. 120-422, dated January 25, 1951 (Ex. 52), authority was given to the Crown to assume, effective April 1, 1950, the cost of pilot stations and, effective July 1, 1950, the cost of pilot boat service, and to reimburse the Pilotage Districts for the cost of operation of the pilot boats. This Order in Council which applied to four Districts where the Minister of Transport was the Pilotage Authority, of which British Columbia was one, was later replaced by Order in Council P.C. 1959-19/1093 dated August 27, 1959 (Ex. 52), to the same effect. The other main recommendations of the Audette Report were not acted upon.

The Department of Transport did not effectively take over the pilot boat service and the pilot stations until November 25, 1959. The take-over was not made retroactive and no reimbursement was made to the Districts for the cost incurred between April 1, 1950, and the date of the take-over.

Various other amendments were also made from time to time aimed at improving the financial position of the pension fund.

In 1960, a new General By-law was drafted and confirmed by Order in Council P.C. 1960-841. It abrogated the General By-law of 1929 (P.C. 2164 of October 30, 1929) which had been amended thirty times. Some of these amendments have been mentioned above and most of the others dealt only with increases of the rates and modifications in the rate structure.

The 1960 General By-law (which was analyzed earlier) was in force at the time of the Commission's hearing. It was abrogated and replaced in 1965 by a new General By-law. The main changes are listed on pages 9 and 10 of *Law and Regulations*. Most were aimed at correcting situations that had been revealed or debated at the public hearings of this Commission.

Chapter B

BRIEFS

Seven briefs specifically concerning the British Columbia Pilotage District were filed (vide Preamble to C. 11 of Part I, p. 455):

- (1) The B.C. Coast Pilots of British Columbia, Vancouver and Prince Rupert (B. 10, Ex. 80);
- (2) The Vancouver Chamber of Shipping (B. 3, Ex. 106);
- (3) Crown Zellerbach Canada Limited (B. 5, Ex. 106A);
- (4) The Prince Rupert Chamber of Commerce (B. 8, Ex. 142);
- (5) The Aluminum Company of Canada Limited (B. 12, Ex. 134);
- (6) The G. W. Nickerson Company Ltd. (B. 13, Ex. 144);
- (7) Alaska Trainship Corporation (B. 59, Ex. 1432A).

The reference appearing after each recommendation indicates where the question raised in the recommendation is dealt with in the Report.

(1) THE B.C. COAST PILOTS' BRIEF

In March 1963, when the Commission sat in British Columbia, the B.C. pilots, sixty-six in number, were not organized in any sort of association but were in the process of so doing. All were members of The Canadian Merchant Service Guild, Inc. They had the quasi-organization provided by sec. 5 of the General By-law, i.e., a five-member Pilots' Committee elected yearly in April by ballot to "be recognized by the Authority and the pilots as the sole agent through which representations may be made in all matters affecting the pilots collectively or individually". The brief is signed by the Pilots' Committee members on behalf of the British Columbia pilots.

On February 22, 1963, letters patent had been issued creating under Part II of the Canada Companies Act a non-profit corporation under the name of "The Corporation of British Columbia Coast Pilots". The Corporation is now operating and all the District's pilots are at present members. The head office is in Vancouver.

The Pilots' Committee is still functioning normally; its members are the Corporation's five officers.

Recommendations

The pilots' recommendations are as follows:

- (a) decentralization by giving the Superintendent, in consultation with the local Pilots' Committee, more authority to settle local problems; his name and that of his assistant to be changed to Supervisor and Assistant Supervisor (pp. 65-67 and General Recommendation 15, Part I, pp. 499 and ff.);
- (b) no arbitrary ceiling to be imposed on pilots' earnings, since they have no guaranteed minimum earnings and since additional revenues are the result of increased work (pp. 165-166 and Part I, C. 6, and General Recommendations 21 and 24);
- (c) double dues to be charged when two pilots are employed (pp. 113 and ff. and Comments on pp. 154 and 166);
- (d) the Prince Rupert pilot boat, which is inadequate and unsafe, to be replaced (pp. 107-108);
- (e) a central pilotage board to be created in Ottawa under the authority of the Minister of Transport, composed of a Chairman, with no less authority than the present Director of Marine Regulations, and members representing the shipping industry and active pilots (Part I, C. 11, General Recommendations 15, 16, 17 and 18);
- (f) pilots' expenses, wherever incurred while on duty, to be borne by the shipping industry (pp. 154, 156 and 161);
- (g) pilotage dues to be computed on the basis of maximum gross tonnage (pp. 149-150 and B.C. Recommendation 5);
- (h) moveage charges to be commensurate with the added responsibilities of moving large ships (p. 156);
- (i) the pension fund scheme to be revised in order to bring benefits in line with contributions (pp. 189 and ff. and Part I, C. 10, and General Recommendation 39);
- (j) pilots' strength to be increased by seven (from sixty-six to seventy-three) and the tariff to be increased accordingly in order to give the pilots the same earnings (pp. 119-122 and Part I, C. 8, pp. 255 and ff.).

(2) THE VANCOUVER CHAMBER OF SHIPPING'S BRIEF

The Vancouver Chamber of Shipping is an organization composed of agents, owners or operators of cargo or passenger vessels, operating in B.C. waters to foreign ports off shore. It was formed in 1923 and the membership in 1963 comprised twenty-seven firms. On October 4, 1966, it became incorporated under the Societies Act of British Columbia and

under the name "Chamber of Shipping of British Columbia" (Ex. 1493(k)). It is affiliated with the Vancouver Merchants' Exchange, and is a member of the newly-formed "Canadian Chamber of Shipping" whose offices are in Ottawa. The Chamber is the organization recognized by the various government departments as the shipping interests' representative in matters concerning shipping. As such, the Chamber has always been a party to negotiations regarding pilotage matters. This fact is even recorded in the preamble of the Order in Council confirming many amendments to the District General By-law (e.g., Order in Council P.C. 1618 dated April 14, 1949). The Chamber has a committee on "Pilotage and Navigation" whose Chairman, Mr. K. C. Middleton, appeared before the Commission.

Recommendations

- (a) re pilots' qualifications:
 - (i) pilots recruited from towboat Masters to be given training in manœuvring deep-sea ships;
 - (ii) admission of Masters and Chief Officers with deep-sea experience to be facilitated (p. 70 and Comments pp. 72-74);
- (b) inquiries on all shipping casualties to be open to the shipping interests concerned (Part I, C. 9, especially pp. 329-342, 352-373, and 402-414, and General Recommendations 26, 28, 30 and 33);
- (c) the Canadian Merchant Service Guild, Inc., not to take part in negotiations on pilotage matters (p. 137, and Part I, General Recommendations 14, 19, 20 and 21);
- (d) the establishment of a pilot station at Prince Rupert (B.C. Recommendation 3);
- (e) payment of pilotage dues not be made compulsory where there is no properly manned pilot station, if pilots' services are not used (B.C. Recommendation 4);
- (f) coastal vessels regularly trading between United States and Canada to be exempted (B.C. Recommendation 4 and Part I, General Recommendations 22 and 23);
- (g) tariffs to be agreed upon by the Department of Transport and the Chamber of Shipping, the pilots to have no part in the discussion (Part I, General Recommendations 19, 20 and 21);
- (h) a criterion to be established for the remuneration of pilots (Part I, C. 6);
- (i) the pilotage service to be administered by a Pilotage Commission or Board in Ottawa (pp. 65-67 and Part I, General Recommendations 14, 15, 16, 17 and 18);
- (j) a solution to be found, by treaty if necessary, regarding the problem of the changeover of pilots in international waters. (B.C. Recommendation 2).

(3) CROWN ZELLERBACH CANADA LIMITED'S BRIEF

Incorporated in 1914 and with head office in Vancouver, Crown Zellerbach Canada Limited owns and operates in B.C. a newsprint, kraft papers and tissue plant at Ocean Falls with deep-sea wharves (latitude 52.21° North), a paper converting and box plant, a sawmill plant and a specialty hardwood plywood mill at Richmond, with logging divisions at Kokish, Bella Coola, Kitimat, Sandspit and South Bentinck. In addition, other plants are owned and operated in B.C. by its subsidiaries, namely, the Elk Falls Company Limited which operates at Duncan Bay (five miles north of latitude 50°) a newsprint, kraft papers and market pulp plant and sawmill plant with deep-sea wharves; and Crown Zellerbach Building Materials Limited, operating at Fraser Mills a sawmill and plywood plant, with deep-sea wharves on the Fraser River and with logging divisions at three locations on Vancouver Island¹ (Ex. 106A).

They had at that time three chartered ships employed solely in the shipment of the Company's products to its markets in California: *M. S. Seahorse*, *M.S. Trolleggen*, *S.S. Duncan Bay*, and the recently chartered *M.S. Besseggen* to replace *M.S. Seahorse*.

Recommendations

- (a) exemption for vessels in regular coastal trade (B.C. Recommendation 3, and Part I, General Recommendations 22 and 23);
- (b) the two-pilot requirement to be abolished (pp. 111-119 and 154);
- (c) the compulsory payment system to be abolished (B.C. Recommendation 4);
- (d) a boarding station with resident pilots to be established and maintained in the vicinity of the north end of Vancouver Island (B.C. Recommendation 3).

(4) THE PRINCE RUPERT CHAMBER OF COMMERCE'S BRIEF

The Prince Rupert Chamber of Commerce represents the business interests in Prince Rupert and aims at developing the trade and commerce of the locality.

The municipal authorities have confirmed in writing their approval of the Chamber of Commerce's recommendations.

¹ Other active subsidiaries situated in B.C. are Crown Zellerbach Paper Company Limited (coarse and fine paper distributor in Ontario, Manitoba, Saskatchewan, Alberta and British Columbia), Canadian Tugboat Company Limited (tugboats and barge transportation), S & K Limited (plywood manufacture contractor), S. M. Simpson Limited (sawmill and plywood mill), Ferguson Bros. Lumber Limited (timber holding), Kel Services Ltd. (assembly of bulk bins), the Kelowna Saw Mill Company Limited (wholesale plywood distribution), Lumby Timber Company Limited (sawmill), Stave Lumber Co. Ltd. (timber holding), McLean Sawmills Limited (logging), R & L Timber Ltd. (timber holding), Peachland Sawmill & Box Co. Ltd. (timber holding) and Trautman-Garraway Ltd. (sawmill at Peachland).

Recommendations

- (a) creation of a pilot station at Prince Rupert with one resident pilot (B.C. Recommendation 3);
- (b) Prince Rupert area to remain part of the British Columbia Pilotage District (B.C. Recommendation 3);
- (c) a Department of Transport pilot boat to be furnished for Prince Rupert and the boat charges to be the same as at Vancouver (pp. 107 and 108).

(5) THE ALUMINUM COMPANY OF CANADA LIMITED'S BRIEF

In 1952, this Company established an aluminum plant at Kitimat (latitude 54° North) and in conjunction therewith built a townsite (population in 1963 about 9,000). In 1953, the first ship arrived at Kitimat and production started in 1954.

The original investment of the Company at Kitimat was reported to have been in the order of 475 million dollars to which 200 million had been added up to 1963. While at that time the aluminum plant was the only real industrial development in Kitimat, new industries were expected in the valley because of the Kemano power development and the townsite's municipal utilities.

About 1960, Saguenay Terminals Limited, a fully-owned subsidiary of the Aluminum Company, was split into two divisions, one known as the "Port Alfred Division" and the other as the "Saguenay Demarara Division". The latter was responsible for the operation of the ships carrying the raw material (alumina) from Jamaica and shipping part of the finished product (aluminum ingots) for the Aluminum Company, whereas the Port Alfred Division was responsible for the operation of wharves, stevedoring, etc. Since then, the name has been changed to "Saguenay Shipping" responsible for all shipping activities of the Aluminum Company of Canada Limited.

Saguenay Shipping, in addition to carrying alumina and Alcan products, is also in the ocean freight business. They do not belong to any conference line. They do not charter vessels on a voyage basis but on a time basis, except those that are owned by the company. The ships they charter are all non-Canadian. The officers of their British ships are British or Canadian; in 1963, they had five Canadian Masters.

They have corporation arrangements, such as Cedar Shipping Company or Maple Shipping Company, under which ships may be registered but, in fact, the ships they charter are managed by Saguenay Shipping. They had four of Liberian registry and four British in 1963. The time-chartered ships are generally Norwegian—but in some cases Italian or British.

In 1962, out of seventy-one ships that called at Kitimat twenty-nine were operated by Saguenay Shipping (Exs. 133 and 135). The Aluminum Company uses other lines also to ship their metal.

Study of British Columbia Pilotage District

Saguenay Shipping vessels are equipped with modern equipment: echo sounder, D/F, gyrocompass, radar, etc.; their speed ranges from 12½ to 15 knots, and their dead weight tonnage between 12,000 and 16,000 tons.

Saguenay Shipping is a member of the Vancouver Chamber of Shipping.

Recommendations

- (a) the two-pilot requirement to be abolished as far as Kitimat is concerned (pp. 111-119 and 154;
- (b) pilots waiting at Kitimat to be accommodated aboard (p. 161);
- (c) alternatively, either a northern pilotage station to be established south of Prince Rupert or the compulsory payment system abolished (B.C. Recommendation 4).

(6) G. W. NICKERSON COMPANY LTD.'S BRIEF

This Company, founded in 1909, with head office in Prince Rupert, acts as shipping agent for any ships but mostly ocean-going ships.

Recommendations

- (a) the establishment of one resident pilot in Prince Rupert be not approved because it is economically unsound (B.C. Recommendation 3);
- (b) the pilots be brought into the Civil Service and pilotage charges be made uniform for all British Columbia ports (B.C. Recommendation 3);
- (c) the pilot boat service in Prince Rupert be taken over by the Department of Transport at a \$10 charge, as in Vancouver (pp. 107 and 108);
- (d) in case of expected long delays, the employment as pilot of the Harbour Master, Capt. W. H. Koughan, be authorized (Part I, pp. 208-210).

(7) ALASKA TRAINSHIP CORPORATION'S BRIEF

This Corporation owns and operates the trainship Alaska in regular weekly service transporting rail cars between their Delta Alaska Terminal on the Fraser River near New Westminster and Whittier, Alaska.

The ship is 520 feet in length, 5,598 gross tons, 3,103 net tons, Liberian registry, Canadian crew.

The usual route is in Canadian waters through Dixon Entrance, but occasionally they use Queen Charlotte Sound or Juan de Fuca Strait.

Recommendation

Elimination of the requirement in the British Columbia Pilotage District for payment of fees when services are not rendered (i.e., to the exempt) (B.C. Recommendation 4).

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

(1) DISTRICT LIMITS

The Pilotage District of British Columbia comprises all the coastal waters of British Columbia, with the exception of the waters of the Pilotage District of New Westminster. The District extends 600 miles between the International Boundaries separating Canada from the United States and contains some 11,000 miles of coastline along the mainland and the inlets and islands, including Vancouver Island and the Queen Charlotte Islands.

The *northern limit* of the District is the International Boundary, i.e., a line running between Cape Muzon ($54^{\circ} 40'$ north latitude), the southern tip of Dall Island, and the entrance of Pearse Canal whence it proceeds in a northerly direction through the middle of Pearse Canal and Portland Canal. The first section of the boundary line presents no difficulties. In the two canals, however, a ship may stray over the boundary and be temporarily outside the British Columbia District. At the present time this constitutes only a theoretical problem, firstly, because there are few large ships in the canals and, secondly, because there is no State law governing pilotage in Alaskan waters, existing pilotage being voluntary and conducted by a private organization.

The *southern limit* of the District is the International Boundary, i.e., a line running easterly through the middle of the Strait of Juan de Fuca (the most southerly point is $48^{\circ} 15'$ north latitude), then northerly through Haro Strait, northeast through Boundary Passage, northwest through the middle of the Strait of Georgia to the 49th parallel. Thence, the limit is the seaward boundary of the New Westminster Pilotage District¹.

Because of the narrow waters, the features of the land and the angles of the boundary line in Haro Strait, a vessel crosses the International Boundary Line several times; hence, the pilot on duty—Canadian or U.S.—is frequently outside his territorial competency. Some 90% of northbound movements are in United States waters; approximately half the southbound movements take place on either side of the boundary. For many years Canadian and U.S.

¹ See Section Two, New Westminster Pilotage District.

pilots have had a "working agreement" that when a ship proceeds through Haro Strait with both a Canadian and a U.S. pilot on board pilotage jurisdiction changes either near the Lime Kiln, San Juan Island, or off East Point. This arrangement obviates the necessity for transferring the responsibility for pilotage each time a ship happens to cross the boundary line. Canadian pilots are also permitted to pilot vessels from Brothie Ledge pilot station near Victoria through Haro Strait to Canadian ports, and vice versa, without a U.S. pilot on board, despite the fact that these vessels traverse U.S. waters in the Strait a number of times *en route*, if a normal, safe course is followed.

In 1961, a crisis arose when the Canadian pilots refused to board ships in Puget Sound, U.S.A., ports as had been their custom and thus forced vessels to detour to Brothie Ledge; in return, the U.S. pilots threatened to take measures to keep Canadian pilots out of United States waters.

An unexpected sequel to this dispute was an application to the Attorney General of the State of Washington by the Board of Pilotage Commissioners of that State for a ruling on the extent of the State's pilotage jurisdiction. The reply was that their pilotage jurisdiction extended to the International Boundary which meant that, because of the compulsory pilotage requirements in U.S. waters, every vessel sailing through Haro Strait would have to pay dues to the U.S. pilots since it would enter United States waters while negotiating the channel. In addition, it was ruled that a Canadian citizen was not allowed to pilot vessels in those portions of Haro Strait which are United States territory; that the State of Washington could not give a Canadian citizen a licence to pilot in United States waters; and that, under the American Constitution, the State was not permitted to enter into any agreement with the Canadian Government to distribute the responsibility for pilotage between U.S. and Canadian pilots because only Congress can make international agreements.

The converse would also be true with the important difference that Canadian pilots have no alternative route to Haro Strait while U.S. pilots can bring ships to the Strait of Georgia through Rosario Strait which lies wholly within United States territory (a course of action they followed during the dispute, with the result that they received greater remuneration in view of the increased mileage).

The Haro Strait question is now settled temporarily. The U.S. shipowners adopted a suggestion made at a meeting between the Pilots' Committee and the Vancouver Chamber of Shipping that there be no change in the transfer points (Lime Kiln and East Point) or in the amount of the British Columbia pilotage charges, but that the charges of the Puget Sound pilots be indirectly increased by granting them more than the actual mileage to the turnover points. In an Ordinance dated March 5, 1964, the Board of Pilotage Commissioners of the State of Washington indirectly gave effect to the agreement reached between the U.S. pilots and the U.S. shipowners by establishing a new tariff.

While this *de facto* settlement has been accepted by the Canadian authorities, the basic problem remains and, since further complications are likely to arise, a settlement should be sought at the international level. In Canada, pilotage is the sole responsibility of Parliament. In the U.S.A., the Commerce Clause of the Constitution gave Congress power to regulate commerce with foreign nations and among the several States. In implementing this authority, Congress decided August 7, 1789 (46 U.S. Code, sec. 211) that pilotage should continue to be regulated under the existing and future laws of the respective States until further legislative provision was made by Congress. In 1960, a similar situation on the Great Lakes and St. Lawrence River between Cornwall and Kingston was resolved by intergovernmental "arrangements" between Canada and the United States. Theoretically, such arrangements could be reached with respect to the international boundary waters separating Canada from the United States on the Pacific Coast, but the Department of Transport has adopted the attitude that no action should be taken as long as the existing informal arrangements produce the desired result.

It is a matter of considerable difficulty to give a precise definition of the seaward limits of the B.C. Pilotage District. The Order in Council creating the District (P.C. 493 dated March 22, 1929) makes the limits

"the coastal waters of the Province of British Columbia"

but what constitutes these *coastal waters*, in fact and in law, is a very complex question.

It appears that in 1929 *coastal waters* had no definite meaning in Canadian legislation. The expression is not used in the Canada Shipping Acts of 1906 and 1927, nor has it been defined at any time since. Instead, *coasts* is used in contrast to *inland waters*, but the statutory definition is of little assistance. Sec. 713 of the 1927 C.S.A. states:

"'Coasts' include the sea coast and the salt-water bays, gulfs and harbours on the sea coast."

It would appear, however, that the expression *coastal waters* was used to mean what is now known as the *territorial sea*.

Coastal waters are defined in two British Acts, for the purpose of those two Acts, as follows:

- (a) "'Coastal waters' mean, in relation to any country or territory, waters within a distance of three nautical miles from any point on the coast of any part of that country or territory, as the case may be, measured from low-water mark of ordinary spring tides".

(Whaling Industry [Regulation] Act, 1934, 24-25 Geo. V, c. 49, subsec. 17(1))

- (b) "Inland waters include rivers, harbours and creeks; and coastal waters mean waters within three nautical miles from any point of the coast measured from low-water mark of ordinary spring tides".

(Public Health Act, 1936, 26 Geo. V, and 1 Ed. VIII, c. 49, subsec. 343(1))

The Territorial Sea and Fishing Zones Act (Can.) enacted in 1964 (13 Eliz. II, c. 22) would provide a solution if it were made effective. It provides that:

“the territorial sea of Canada comprises those areas of the sea having, as their inner limits, the baselines described in section 5 and, as their outer limits, lines measured seaward and equidistant from such baselines so that each point of the outer limit line of the territorial sea is distant three nautical miles from the nearest point of the baseline.”

The baseline is to be determined from “one or more lists of geographical co-ordinates of points” to be issued by the Governor in Council by Order in Council (subsec. 5(1)). It consists of “straight lines joining the consecutive geographical co-ordinates of points so listed” (subsec. 5(2)). Until such an Order in Council is passed, “baselines remain those applicable immediately before the coming into force of this section” (subsec. 5(3)). Furthermore, sec. 6 stipulates that the Minister of Mines and Technical Surveys [now Energy, Mines and Resources] may cause a chart to be issued delineating, *inter alia*, the territorial sea of Canada. As of April 1968, no Order in Council had been passed regarding the determination of the baselines on the west coast, nor had any chart indicating the territorial sea on the west coast been issued.

Therefore, it remains to be determined what were the baselines on the B.C. coast prior to the coming into force of the Territorial Sea and Fishing Zones Act. It would appear that the only document containing any information on the matter is Order in Council 3139 dated December 18, 1937 (Ex. 1493 (j)), wherein such baselines were determined for the purposes of the Customs Act which applied nine nautical miles seaward from the baseline. The pertinent section reads as follows:

“III. *As to the bays, gulfs and straits on the Pacific Coast.*

(1) That a map be prepared pursuant to the provisions of the Customs Act marking out the territorial waters of Canada adopting as base lines for this purpose the following lines:—

(a) In respect of Juan de Fuca, the Strait of Georgia, Queen Charlotte Sound and the connecting waters, a line from Tatoosh Island Lighthouse to Bonilla Point reference mark at one end, and in Queen Charlotte Sound at the other end of the straits, a line drawn in accordance with the ten mile rule, i.e., a straight line across the sound in the part nearest the entrance at the first point where the width does not exceed ten miles.

(b) In respect of the bays and straits which form part of the coastal archipelago from Queen Charlotte Sound to the Alaskan Boundary inclusive, and the bays on the west coast of Vancouver Island, lines drawn in accordance with the ten mile rule.

(2) That pending any action by the United States looking to a further extension of the International Boundary beyond the base line in Juan de Fuca Strait described in sub-paragraph (a) above, a proclamation be issued pursuant to section 2 (1) (u) (iii) of the Customs Act restricting temporarily for customs purposes Canadian waters to the waters delimited by said base line to the intent of cutting off the three mile zone west of the said base line, outside of the three mile limit off the coast of Vancouver Island.

(3) That a proclamation be issued under authority of section 2 (1) (u) (iii) of the Customs Act restricting temporarily for customs purposes the extent of Canadian waters in respect of Dixon Entrance and Hecate Strait to the three mile belt.

(4) That the interested departments should take care in their administrative practices and in the issuing of documents to follow no course inconsistent with Canadian sovereignty over Canadian waters as delimited in accordance with the foregoing recommendations; and that special care be taken in respect of Dixon Entrance and Hecate Strait to avoid the issuing in any public documents of any instructions with regard to the nonexercise of Canadian sovereign rights over these waters outside of the three mile zone."

Despite the direction contained in the Order in Council, no chart of the west coast *territorial waters* was prepared. (Ex. 1523.)

This Order in Council, however, applied only for the purpose of enforcement of the Customs Act and, therefore, the baselines therein described would have no application for the purpose of determining pilotage jurisdiction. Hence, the baselines would be those normally recognized in International Law, i.e., the low water mark, normal spring tides. The indented shore of the B.C. coast, especially in the Northern Region, makes a very irregular baseline and, in the absence of a large scale chart indicating this line, it is a practical impossibility to determine with any degree of precision where the seaward limit of the District lies.

In the case of the "Reference re Ownership of Off-shore Mineral Rights" (1967, 65 D.L.R. (2d) 353, at page 375), the Supreme Court stated that the effect of the Territorial Sea and Fishing Zones Act of 1964

"coupled with the Geneva Convention of 1958, is that Canada is recognized in international law as having sovereignty over a territorial sea three nautical miles wide. It is part of the territory of Canada."

The judgment, however, does not deal with the question of the localization of the baseline from which to measure the three nautical miles because this was not a point at issue.

In the organization of coastal pilotage, it is of vital importance to determine the seaward limit of the Pilotage District. A Pilotage Authority has no jurisdiction over navigation outside the limits of its District and a pilot is no longer a licensed pilot when he proceeds beyond those limits (subsec. 333(3) C.S.A.). All pilotage regulations cease to apply whenever a ship is outside District waters, even for a short period. Hence, it is essential to establish exactly where the seaward limit of the B.C. District lies. This will be the subject of a specific Recommendation.

(2) PHYSICAL FEATURES

The pilots of the British Columbia District claim that their Pilotage District is the largest in the world². The long, dangerous coastline is indented with bays and inlets, some extending over a hundred miles from

² The largest coastal pilotage district that has come to the Commission's attention is in the State of Queensland, Australia (vide Part I, *Appendix XIII*, p. 777).

the ocean and lying fifty or sixty miles from the main channel. These fiord-like inlets and channels have rugged entrances strewn with reefs and rocks, their walls are precipitous, they are very deep, offer limited anchorages and present many tidal problems. The mainland is sheltered from the open sea by numerous islands which create a series of deep water channels called the inside passage. They are lighted and buoyed where necessary and are extensively used by shipping. Stretching out from the passage, long intricate channels penetrate the mainland. They are generally narrow and bordered by mountains whose shadows add to the difficulty of night navigation.

The outer shield is formed by Vancouver Island, which extends 240 miles north and westward from the Strait of Juan de Fuca, and the Queen Charlotte Islands which begin after a gap of 100 miles and run for 150 miles almost to the Alaskan border.

The tidal range increases from the outer coastline through the inner passage and also from south to north, reaching a maximum of 24 feet in the Prince Rupert area and diminishing in Northern Alaska.

The Strait of Juan de Fuca, at the southern end of Vancouver Island, is 60 miles long and 20 miles wide. Below Victoria the channel turns southward for a hundred miles to form Admiralty Inlet and Puget Sound in the State of Washington. East of Vancouver Island is the island-dotted Strait of Georgia, 130 miles long and some 15 miles wide, out of which run several large inlets including Burrard Inlet where the harbour of Vancouver is situated.

At the northern end of Vancouver Island are Goletas Channel, Queen Charlotte Strait, Broughton Strait and Johnstone Strait, the latter averaging less than two miles in width over its one hundred mile course.

Johnstone Strait terminates in Quadra and Sonora Islands which almost seal off the southward passage of water into the Strait of Georgia. Between Vancouver Island and Quadra Island lies Discovery Passage, the most dangerous part of which is Seymour Narrows. Large ships must use this thirty-five mile channel although the currents run as high as fourteen knots and vary with the tides.

The strongest currents are met in Seymour Narrows but in other parts of Discovery Passage great eddies and counter-currents are found at certain stages of the tide. Although the reduction of Ripple Rock has removed the danger of foundering on it, a slow ship should not try to pass through Seymour Narrows against the tide because the currents remain hazardous and the eddies thrust the vessel toward the shore; in these waters the value of radar is decreased because tidal rips show up on the screen as would rain squalls or snow flurries.

Ice presents no navigational hazards and all harbours are open throughout the year, but fog, rain and high winds cause frequent difficulties.

Since the western shores of the exposed islands are subject to heavy seas, shipping must keep well clear and it is almost impossible to embark or disembark cargo and passengers except in sheltered harbours.

The inside passage from the Victoria pilot station to the Alaska boundary—a distance of 575 miles—consists of sheltered passages of varying width which enable vessels to avoid rough seas and save steaming time. Tidal conditions prevail throughout. Many areas have not yet been surveyed by the Canadian Hydrographic Service. Navigational aids consist mostly of unwatched lights with no fog signals and many shallows and dangerous areas are unmarked or insufficiently indicated. At night, visibility is contorted by the dark shadows of the neighbouring mountains.

In the canals, channels and inlets the principal hazard to navigation is bad weather: fog, mist, rain, sleet, snow and gusty winds. Area forecasts are not always available or reliable largely because the weather changes so suddenly. While these difficulties do not prevent ships' movements, they cause delays and impose additional strain on the pilots.

Deep draught vessels can proceed to most ports in the District. On the other hand, because of the great depth of water, anchorages are generally lacking and this may be dangerous in certain circumstances. In channels bordered by precipitous shore-lines, a ship which misses a light or which is proceeding in poor visibility will be forced to remain in deep water, navigating by whistle echo, or by radar if it is available. Navigation by whistle echo requires intimate local knowledge for the ship's position is determined by the elapsed time between sounding the ship's whistle and the return of the echo from the surrounding rock face.

(3) MARITIME TRAFFIC

Maritime traffic in British Columbia waters consists mainly of ocean-going vessels (both liners and tramp steamers), coastal vessels, fishing boats, and tugboats towing barges, scows and log booms.

There is a regular movement of ocean-going vessels from Europe and the east coast of the U.S.A. and from the Pacific ports of the U.S.A., Australia, New Zealand and the Orient.

Coastal traffic is extensive for three reasons: the inside passages make excellent protected waterways; land transportation is difficult in the mountainous, indented terrain; maritime traffic between Alaska and Continental U.S.A. is added to the British Columbia traffic.

The sheltered waterways encourage the development of voluminous tugboat traffic. Tugs in this area use long tow-lines to tow log booms, barges and scows, sometimes single, sometimes in tandem; log booms or other tows often exceeding 1,000 feet in length may be encountered throughout the District. Because they take up so much of the fairway, they are a hazard to navigation, especially in narrow waters and where the channel bends. If a

boom is hit or broken, the logs scatter creating additional hazards. To an increasing extent barges towed with six hundred to a thousand feet of cable are now replacing the booms.

The "full cargo" movement—except for newsprint—is generally conducted by tramp steamers. Outwards their principal cargoes are grain, lumber, wood products, coal, potash, sulphur, fish, fruit, metals and metal products; for inward voyages their main cargoes are salt, rock phosphate, gypsum, bauxite (Kitimat), concentrates and manufactured products, but frequently they arrive light. More cargo is carried by tramp steamers than by liners but the latter make more frequent calls.

Lumber ships under charter frequently have to visit six or eight ports on Vancouver Island, in the Strait of Georgia and on the Fraser River in order to load a complete cargo. Of recent years, this pattern has been changing. In the decade 1958-1968, the number of barges is reported to have risen from 250 to 500 and, because of convenience and low cost, they have largely replaced steamships for the coastwise movement of freight, particularly lumber and paper from upcoast ports. It has been proved more economic to barge these products to ship-side in main ports than to sail ships to the sources of supply. (For examples of the charges for such trips, see pp. 170-172.)

The great majority of liners and tramp ships using B.C. waters are foreign vessels. For example, Vancouver Merchants' Exchange *Statistical Reports* (Ex. 117), state:

	1961	1962	1963	1964	1965	1966
1. Deep Sea Vessels Entered Vancouver.....	1,673	1,708	1,667	1,769	1,742	1,658
2. Total Net Registered Tons of <i>I.</i> above.....	8,065,527	8,480,935	8,906,569	9,520,333	9,665,195	9,865,081
3. Total Number all Vessels Entered Vancouver.....	24,535	24,207	21,178	21,462	21,746	20,951
4. Total Net Registered Tons of 3. above.....	21,935,435	20,585,515	17,679,423	18,670,875	19,220,510	19,400,691
5. Total Exports from B.C. in Tons.....	10,989,867	11,223,773	13,760,543	16,009,366	15,615,549	17,395,397
6. Total Imports to B.C. in Tons.....	1,633,693	1,769,865	1,780,998	2,089,690	2,761,017	2,959,517

Of the 1,708 deep sea arrivals in 1962, for example, 175 were U.S., 232 Greek, 227 Japanese, and 300 Norwegian. The extent of coastal traffic is shown by Dominion Bureau of Statistics figures for the same year: 12,226 vessels over 250 net registered tonnage (including the 1,708 ocean-going ships mentioned above), arrived in Vancouver. In other words, 86% of the traffic is coastal, not to mention the extensive tugboat movements in the same waters. The number of deep sea vessels has increased substantially since 1959 when there were 1,433; their net registered tonnage has also increased.

The pattern of maritime traffic has changed in recent years and will continue to alter as ships develop in size, construction, speed and manoeuvrability. The trend is to larger and faster ships. Those in B.C. waters now range from 300 to 1,000 feet in length, from 10,000 to 40,000 tons and from 15 to 18 or 20 knots. The 10-knot ship has practically disappeared. The new vessels are better equipped with navigational aids and the bridge aft type is becoming common.

Salmon fishing boats constitute a particular hazard in the District especially when concentrated in the Fraser estuary during July and August and the foggy autumn months. Five thousand fishing boats—mostly gill-neters drifting—may be seen at one time covering many miles of the Gulf of Georgia. During dark hours, they carry two small lights—one at the end of their net and one on board—as they move with the tide. They do not maintain a strict watch and, in any event, are unable to manoeuvre. Passing vessels must exercise special care, particularly since experience has shown that it is difficult to distinguish which light denotes the boat and which the net.

While no collisions with fishing vessels have been reported, their nets are sometimes cut and local complaints are numerous. Many complaints were forwarded to the Department of Transport and efforts were made to establish open water ship channels about one mile in width that could be kept clear of fishing boats. After discussion with the interested parties, an agreement of this nature was reached and a pamphlet, *1960 Safe Fishing and Navigation (Recommendations)*, was published in 1960. It included diagrams indicating the channels which were to be open for ships (Ex. 89)³.

Two possible remedies were suggested. Firstly, it was noted that on the St. Lawrence River between Quebec and Father Point small craft drawing less than nine feet are required, except when crossing the river, to stay out of the lanes used by steamers⁴. In the opinion of the Department of Transport, these regulations could not be applied in British Columbia because B.C. coastal waters are open waters, not inland waters. There is, however, a

³ There is no record that these recommendations were ever published in a Notice to Mariners.

⁴ St. Lawrence River Regulations, sec. 8, P.C. 1954-1925 dated December 8, 1954, and amendments made by the Governor in Council on the recommendation of the Minister of Transport pursuant to subsec. 645(1) C.S.A., Ex. 1461(j).

possibility that regulations could be made under subsec. 645(4) C.S.A., "other waters of Canada". Secondly, the Department of Fisheries could exercise control by withdrawing the fishing licences of offenders. The Commission was informed that no action was envisaged because the Department of Transport in Ottawa had received no official complaints that the 1960 *Safe Fishing and Navigation (Recommendations)* were not being observed.⁵

Figures supplied by the Dominion Bureau of Statistics for the years 1959-1966 inclusive are as follows:

Year	(1) Total Number of Vessels over 250 Tons Multiplied by two*	(2) Number of Vessels Employ- ing Pilots	(3) Per- centage of (2) over (1)	(4) Total NRT of Vessels over 250 tons Multiplied by two*	(5) NRT Piloted	(6) Per- centage of (5) over (4)
1959.....	38,102	5,925	15.6	51,748,962	21,070,615	40.7
1960.....	44,920	6,468	14.4	66,182,222	28,971,088	43.8
1961.....	47,612	6,629	13.9	68,391,800	30,914,494	45.2
1962.....	53,172	6,866	12.9	76,430,160	32,217,850	42.2
1963.....	59,246	6,873	16.0	85,122,778	34,657,721	40.7
1964.....	60,648	7,303	12.0	83,521,446	36,874,357	44.2
1965.....	60,112	7,147	11.9	89,779,328	37,410,635	41.7
1966.....	59,984	6,885	11.5	91,513,436	37,740,585	41.2

* Because one arrival means two pilotage trips and, hence, one vessel in harbour statistics is counted as two in pilotage statistics, for comparative purposes the D.B.S. figures are multiplied here by two.

This Table should not be taken to give more than general information because a number of factors prevent the DBS statistics from agreeing with the pilotage statistics. When such a comparison is made in a port type Pilotage District, it is more accurate because an entry in DBS statistics means two pilotage trips, but this is not necessarily so in a coastal District because the DBS statistics do not take into account vessels merely in transit. The comparison holds for ships that come from outside the District and call at only one port but, when a pilotage trip is between two District ports, one entry in DBS statistics means one pilotage trip. When a ship calls *en route* at Prince Rupert as a Port of Entry, the round trip from sea to the port of destination and back to sea *via* Prince Rupert accounts for three DBS entries and two pilotage trips. However, since there are few such Prince Rupert entries comparatively speaking and the number of trips involving only one port is considerable, the percentage figures in columns 3 and 6 should be reasonably accurate. It is believed that these percentages would be only slightly higher if accurate statistics could be compiled.

Appendix B shows that during the period 1948-1966 inclusive, the number of vessels employing pilots increased by 174% and the net registered tonnage increased by 391%.

⁵ In reply to an enquiry by the Commission, the Superintendent of Pilotage, Department of Transport—Capt. D. R. Jones—wrote on 15 January 1968 that, according to an official in the federal Department of Fisheries, "this pamphlet which was published by local interests has not been replaced or amended but appears to have fallen into disuse" (Ex. 89A).

In the Northern Region, pilots are being employed more frequently because ocean-going ships are now sailing to primary ports for cargoes of ore, lumber, etc. Statistics for November and December 1962 and January 1963, for example, show that 25% of ships taking pilots were calling at ports in the Northern Region or on the west coast of Vancouver Island.

The pilots and some shipping agents expressed concern that maritime traffic would not be maintained on a regular basis with a consequent effect upon their livelihood, e.g., shipments of wheat and other products tend to be periodic.

(4) SOUTHERN AND NORTHERN REGIONS

Geographically and economically, the British Columbia coast is divided into southern and northern regions; the British Columbia Pilotage District is similarly divided for administrative purposes. The arbitrary dividing line for pilotage organizations is set at the 50th parallel.

The *Southern Region* comprises the Strait of Georgia and the Canadian waters south of it, exclusive of the New Westminster Pilotage District. It contains most of the coastal population and the majority of the principal ports. There are good communications with the interior and with the islands.

The *Northern Region* comprises the waters north of the 50th parallel and the waters west of Vancouver Island south of the 50th parallel as far as the International Boundary, and in the Strait of Juan de Fuca as far as Race Rocks, nine miles south of Victoria. There are few inhabitants and land communications are deficient. Except for Prince Rupert, the ports are isolated and largely dependent on the extractive industries.

One of the recommendations of Mr. Justice Morrison in his 1928 Report was to divide the British Columbia coastline waters (exclusive of the New Westminster Pilotage District Territory) into Southern and Northern Districts because of the growing importance of Prince Rupert and other ports in the northern part of the Province. His recommendation was not implemented.

Appearing before the present Commission, the Regional Superintendent of Pilots, Capt. F. N. Eddy (retired April 1, 1967), who has extensive experience on the B.C. Coast, said that the creation of a separate Northern District would be a retrograde step. Not only would there be additional expenses but shipping would be inconvenienced by the requirements to change pilots at district limits.

At the hearing in Prince Rupert, the City of Prince Rupert supported its Chamber of Commerce in opposing the division because it would involve increased administrative costs.

(5) PRINCIPAL HARBOURS

The preponderance of ocean-going traffic in this District is handled by some thirty harbours of which the most important are: Vancouver, Victoria, Esquimalt, Nanaimo, Port Alberni, Powell River, Ocean Falls, Kitimat and Prince Rupert (including Watson Island and Porpoise Harbour). Since 1963, shipping has continued to increase in the B.C. District. Facilities have been added in existing ports and new ports have been opened. The number of ports reached thirty-five in 1967 with the addition of Gold River, Nootka Sound (on the west coast of Vancouver Island), and Tasu Harbour, Tasu Sound (on the west coast of the Queen Charlotte Islands).

(a) Vancouver

Vancouver is Canada's third largest city and the most important port in B.C. It is a Port of Entry. At the time of the Commission's hearings, the large, natural harbour had 62 deep sea berths and 32 coastal berths, could accommodate the largest ships afloat and handled annually some 15,000,000 tons of cargo (approximately 40% of the total B.C. traffic). The pilots stated that ocean-going traffic increased from 207 ships in 1915 to the 1,839 that the port handled in 1962 (Ex. 80).

In Vancouver Harbour, tidal swirls are a hazard to ships proceeding to Prospect Point and some accidents have occurred there⁶.

Although recent dredging has improved the overall tidal conditions in Vancouver Harbour, it has aggravated the situation in the First Narrows so that, under present conditions, a deeply loaded vessel proceeding out of the harbour with a strong flood tide has to struggle to keep on her own side of the channel until she is almost abreast of Calamity Point. Then the situation is reversed and she has considerable difficulty keeping off the North Shore.

The Second Narrows Bridge has also proved a danger to navigation because of the strong currents created by the narrow central span. Between 1925 and 1930, there were 16 accidents and another in 1954. A modern railway span is scheduled to replace the old bridge. Occasionally, very large ships like the 736-foot S.S. *Argyll* employ two pilots. The second pilot acts as bow lookout and the two pilots communicate by portable radiotelephone (vide Sec. Two, p. 292).

Ships proceeding to Vancouver generally embark their pilots off Brotchie Ledge near Victoria, some 80 miles to the south. In the main harbour, tidal

⁶In 1958, there was a collision between the Liberian *Green River* and the Japanese *Hikawa Maru*; in 1960, between the *Princess Elaine* and the *Alaska Prince*; on January 16, 1964, between the Norwegian M/V *Hoyanger* and the U.S.S. destroyer escort *Whitehurst*. The *Green River-Hikawa Maru* casualty was due, *inter alia*, to the combination of a strong flood tide and the lack of power of one of the ships. The last named accident was caused by a strong ebb sweeping one of the ships off her course.

currents or occasional winds may present problems but the chief difficulty is the glare of the city lights at night⁷.

A special navigational aid is the radar station which has been operating for some time in the centre of Lion's Gate Bridge. There are two radars and two radar screens with an operator on watch at all times to serve ships entering or leaving harbour. Upon request, the operator counts into a loud-speaker and the pilot can judge by the sound of his voice whether the ship is heading for the centre of the bridge. (A ship can use this service without being equipped with radar.) In addition, the pilot can speak by radiotelephone to ships which carry this device.

(b) *Victoria and Esquimalt*

Victoria has an Inner Harbour accommodating coastal vessels and an Outer Harbour for deep sea vessels. The entrance to the Inner Harbour is restricted by the tide, the controlling depth of the channel being only 18 feet. The main deep sea berths lie inside a 2,500-foot breakwater. Tides and winds are frequent hazards and vessels may have to anchor to await favourable weather. It is a Port of Entry.

Esquimalt Harbour lies within the limits of the Port of Victoria. It is the Pacific base of the Royal Canadian Navy and also accommodates merchant ships in repair yards and the large Government Dry Dock.

(c) *Nanaimo*

Nanaimo, the central port of Vancouver Island and situated only 32 miles from Vancouver, has a sheltered inner harbour with a channel depth at mean low water of 31 feet and maximum tides of 14 feet. It is a Port of Entry. There are good anchorage facilities off the harbour. Ships bound for Nanaimo normally embark their pilots off Brotchie Ledge.

Nanaimo is the Customs and Immigration clearance port for vessels loading iron ore and limestone at Texada Island (northern Strait of Georgia). Since Nanaimo is a pilot station, ships also change pilots there.

Certain problems may be experienced when approaching the harbour because the C.P.R. ferry obscures the range lights during its four daily visits. When high tides and spring freshets in the Nanaimo River coincide, it may be difficult to berth large ships in the harbour.

(d) *Port Alberni*

Located at the head of Alberni Canal, some 24 miles from its entrance, Port Alberni is the principal port on the west coast of Vancouver Island. Vessels of any size and draught can be accommodated. It is a Port of Entry.

⁷ For example, at 7.20 p.m. on November 27, 1963, the Greek S.S. *Evie* and the Irish S.S. *Irish Rowan* were in collision because the *Evie* could not see the other ship for the brilliant lights in the background. Pilots have been warned of this hazard and it has been suggested that portable radiotelephones should be standard equipment.

Foggy weather is common during the summer months and ships are often obliged to anchor, if an anchorage is available, or to keep moving slowly in the channel. Strong local winds, often rising to gale force, make navigation difficult especially when ships are light. Detailed local knowledge is essential.

In order to provide a more convenient boarding location than the official boarding stations at Brotchie Ledge and Triple Island, an unofficial boarding station has been established off Cape Beale, in Barkley Sound. A local boat takes the pilots from Port Alberni out to Cape Beale, a distance of 35 miles. Ships are boarded off Cape Beale in daylight and in good weather; in bad weather, the pilot boat leads ships into Alberni Inlet until boarding is feasible.

(e) *Kitimat*

Kitimat is situated well inland at the head of Kitimat Arm, Douglas Channel. A townsite and harbour created by the Aluminum Company of Canada service a smelter capable of producing one billion pounds of aluminum annually. It is a Port of Entry.

An entrance channel 2,400 feet long, varying from 800 to 400 feet in width, leads to two wharves. Mooring dolphins are available for vessels up to 16,000 tons waiting for a berth. Two anchorages are sometimes used, but they are not recommended. In the restricted harbour, the main pilotage difficulties are fog, wind and currents running up to four knots. Ships from the south usually embark pilots off Cape Beale and pilotage commences at McInnis Island; ships from the north take their pilots off Triple Island, 133 miles from Kitimat. Some ships may embark a pilot at other boarding stations and come to Kitimat by the outside passage (560 miles from Vancouver) or by the inside passage (444 miles from Vancouver).

(f) *Prince Rupert*

Prince Rupert is situated in Northern B.C. on the northwest side of Kaien Island, close to the Alaska boundary and almost at the extremity of the Pilotage District. It is a Port of Entry. It is also a railway terminal for Central and Eastern Canada with freight rates the same as to Vancouver. Prince Rupert is also in a preferred geographical position for sailings to and from the Orient:

Prince Rupert—Hong Kong	5320 miles
Vancouver—Hong Kong	5750 miles
Prince Rupert—Yokohama	3830 miles
Vancouver—Yokohama	4260 miles

Pilots are embarked off Triple Island, the northern boarding station, 25 miles from the port. Triple Island is exposed and rough weather creates additional difficulties for the pilot boat. In winter, the wind may reach velocities up to 70 miles an hour and 25 foot tides are also encountered.

The Commission's Nautical Adviser commented as follows on Triple Island Boarding Station:

"While I must confess to some uneasiness regarding the designation of Triple Island as a boarding point—the hard fact remains that there is no suitable alternative. Singularly harsh weather prevails in this area and from the ship masters' point of view it would be anathema to steam directly toward a wall of foul ground such as exists in the Triple Island area. The only gap is a three mile channel between Triple Island and Stenhouse Shoal to the north. A vessel would, in the majority of cases, embark the pilot when lying on [sic.] a lee shore."

"To mitigate these hazards we have excellent aids to navigation in all the approaches to Triple Island; in thick weather the radio beacons in the area would give good navigational fixes. As a final resort the pilot boat could lead a vessel into smooth water by means of the 'Follow Me' signal. My only recommendation as regards aids to navigation is the installation of a Light and Whistle Buoy on Stenhouse Shoal so that the two sides of the entrance 'door' be clearly delineated."

The second half of the inward passage is very restricted and difficult.

Porpoise Harbour, 54° 14' North, 130° 17' West, a landlocked harbour 8 miles south of Prince Rupert, serves the industries of Watson Island and Port Edward. It must be entered in daylight through a restricted passage with two pronounced alterations of course which necessitate close attention to speed and timing.

(6) AIDS TO NAVIGATION

Aids to navigation in the B.C. Pilotage District are generally considered to be satisfactory. Suggestions for improvements are made to District Marine Agents who make their recommendations to the appropriate branch of the Department of Transport. Proposals favourably reported on are usually implemented by the Department, if, and when, funds are available. Ninety-nine per cent of the requests for alterations or replacements received up to the time of the Commission's hearing had been granted.

(a) *Southern Region*

In 1963, there were in this region 315 unwatched lights, a few of which were out of service occasionally, e.g., in 1962, some failed for a total of 827 days, representing a relative efficiency of 99.28 per cent. When a light is reported out, a navigational warning is issued unless repairs can be effected without delay. The Canadian Government operates a system of communications which issues warnings to ships over six coastal radio stations located at Victoria, Vancouver, Cape Lazo, Alert Bay, Bull Harbour and Tofino.

(b) *Northern Region*

From Cape Caution, Queen Charlotte Sound, to the Alaskan Boundary, there were, in 1963, 178 unwatched lights. In 1960, 76 of these were out of service for a total of 689 days; in 1961, 81 for 697½ days; and in 1962, 67 for 476 days. The relative efficiency for 1962 was 99.27 per cent. When one of these lights fails, the District Marine Agent may have a trip of

as long as three days from Prince Rupert to relight it. Obviously, it is uneconomical to make such a long trip for a single incident and, therefore, a light some distance away may be out of service for several days. If a light can not be repaired without delay, a notice is sent out to ships and warnings are broadcast by the Government's radio stations at Tofino, Bull Harbour, Alert Bay, Sandspit and Digby Island near Prince Rupert.

2. NATURE OF PILOTAGE SERVICE

(1) OPINIONS RECEIVED ON THE NATURE OF THE SERVICE

The Department of Transport, the pilots and most of the shipping interests are of the opinion that pilotage is a special service to Masters who are not familiar with the coast of British Columbia.

On the other hand, the spokesman for the Aluminum Company of Canada and the President of G. W. Nickerson Co. Ltd., Prince Rupert, consider that pilots render a public service which might be compared, for instance, with the aids to navigation supplied by the Department of Transport. They recommend that pilotage should be furnished on the most economical basis and to all ports without discrimination.

Pilotage duties may be performed in either coastal or harbour waters. Coastal pilotage presents few difficulties in fine weather but is hazardous when the weather is adverse—especially during fog. Pilots are then called upon to make many decisions which must be based on skill, experience and local knowledge. In most B.C. harbours, there is sufficient depth of water but strong tidal currents, frequent obstructions, and restricted space present constant problems.

Few ships without pilots have become casualties but this is due, in the opinion of the pilots themselves, to the fact that only a small number of ocean-going vessels attempt to ply B.C. waters without a pilot⁸.

Before certain coastal voyages are undertaken, the Master, ship's agent or owner must decide whether to take the outside or inside passage. The outside passage is longer but pilotage charges are less because pilotage service is required for only a comparatively small portion of the trip. The inside passage is shorter and safer in all weathers but, since the whole route is through restricted waters, two pilots must be employed to supply continuous pilotage service.

⁸ Reference was made to S.S. *Hermion* which ran aground on Barrett Rock August 16, 1961, while sailing to Prince Rupert in dense fog. The Master had signalled his E.T.A. but had specified that he did not require a pilot. After rounding Georgia Rock, the vessel somehow went inside Barrett Rock and grounded although Barrett Rock is marked by a flashing red light and has a foghorn sounding two blasts every 20 seconds. The vessel was refloated during the afternoon with the assistance of tugs; the repairs were then estimated at \$51,000. The vessel was equipped with radar and gyro. The Master refused to make any statement but when asked whether he had heard the foghorn replied that he thought the two blasts came from a ship stopped in the channel. Apparently the Master was also unaware of the strong tidal currents prevailing in that area.

Bridge aft ships have proved more difficult to handle than conventional ships but the pilots are confident that with practice they will gain the necessary experience. No accidents with this type of ship have occurred.

In the interest of safe navigation, the pilots recommend that any Master not familiar with the coast should employ a pilot. While unfamiliarity with the English language may not present much difficulty, these Masters usually lack local knowledge and are unaware of the procedures normally followed by regular traders and pilots.

(2) COMPULSORY PAYMENT OF PILOTAGE DUES

From 1920 to 1929, the pilotage service in British Columbia—except for the New Westminster Pilotage District—was completely unregulated. There was no Pilotage Authority and pilots were not required to pass examinations or to obtain a licence, and anyone could offer his services as a pilot. There were no franchises, competition was open, and the rates consisted of whatever price the pilot could arrange with the Master.

As a result of Mr. Justice Morrison's Report in 1928, the pilotage service was reorganized under public control, but it was not until 1949 that the payment of pilotage dues was made compulsory. Otherwise, the organization was very similar to what exists now: pilots were licensed and despatched by the Pilotage Authority on a roster system, tariffs were established by the Authority, and pilotage revenues were pooled.

In 1947, a survey was made by the Assistant Superintendent of Nautical Services, Department of Transport, and as a result of his recommendations, which were concurred in by the pilots and by the Vancouver Chamber of Shipping, a provision was inserted in the General By-laws of the District (P.C. 1618 of April 14, 1949) purporting to re-establish the compulsory payment of pilotage dues in British Columbia.

The main reasons advanced at the Commission's hearing for this decision were:

- (a) to protect the interest of Canadian pilots by preventing U.S. pilots from operating illegally in Canadian waters;
- (b) to provide lower pilotage charges by spreading the cost and, at the same time, to assure the pilots of adequate remuneration;
- (c) to adopt the practice of most other Pilotage Districts in Canada;
- (d) to follow the regulations of most U.S. Pacific ports where pilotage dues are compulsory and particularly of the Puget Sound area where the Washington State Pilotage Act provides, *inter alia*:

"... Every vessel not so exempt, shall while navigating Puget Sound and adjacent inland waters employ a pilot licensed under the provisions of this act and shall be liable for and pay pilotage dues as herein provided ..." (RCW 88.16.070) (Ex. 879);

- (e) to provide effective control of pilotage in British Columbia, thereby avoiding a possible reappearance of the free-lance system of pilotage that existed between 1920 and 1929.

It is worth noting that the safety of navigation was not one of the reasons that motivated the decision. Of all the reasons advanced, only (b) could have been a criterion for the imposition of the compulsory payment system (vide Report, Part I, C. 7, pp. 211 and ff.) if such was the factual situation. The evidence adduced before the Commission, however, indicates that during the period 1929 to 1949, almost all ocean-going vessels always took a pilot; this explains the practically disinterested attitude the Vancouver Chamber of Shipping adopted toward the proposal. Reasons (c), (d) and (e) are not grounds that would justify the Crown's interference with the freedom of navigation.

This move was merely an expedient to give some kind of satisfaction to the pilots who were irked by the inability of the Pilotage Authority and the Department of Transport to take effective action to put an end to the practice of American pilots on board ships coming from an American port continuing piloting while in Canadian waters. The situation was complex. Contrary to what is stated in reason (a), it was quite legal for American pilots (as for any other person) to pilot during an inward voyage as long as they ceased to do so after a licensed pilot for the Pilotage District of British Columbia offered his services to the ship after she entered District waters. The governing provision of the Act then applicable was sec. 347, 1934 C.S.A. (now sec. 354, C.S.A.), the first part of which then read as follows:

"347. (1) Any person may, within any pilotage district for which he is not a licensed pilot, without subjecting himself or his employer to any penalty, pilot a ship,

- (a) when no licensed pilot for such district has offered to pilot such ship, or made a signal for that purpose, although the master of the ship has displayed and continued to display the signal for the pilot in this Part of this Act provided, whilst within the limits prescribed for that purpose; . . .".

The implementation of this provision would first have required the existence of such signal and there was none (vide Report, Part I, C. 3, pp. 60-62). This, however, was an obstacle which could easily have been overcome. The other obstacle was more serious. To enforce this provision, the pilots would have been obliged to keep watch over all the possible routes that ships might choose to enter District waters and be in a position to signal and meet the ships. This requirement was not capable of application in practice in the circumstances of the B.C. District at that time. This was, no doubt, one of the reasons which caused the 1956 amendment to this section, an amendment that is in conflict with the scheme of organization of Part VI C.S.A. (vide Report, Part I, C. 7, pp. 208 and 209).

The question was further complicated due to the fact that the Crown, as complainant, had the burden of proof and experience has shown that in such cases it is a major difficulty to produce the evidence necessary to support the charge.

With the compulsory payment system, the problem appeared to be solved in that all non-exempted ships were being charged pilotage dues, whether or not they employ a licensed pilot, thus discouraging the employment of persons unlicensed for the District because they had to be remunerated as well. Since then, the Pilotage Authority has successfully applied the compulsory payment system. It has not been challenged to date although (a) it is illegal because of faulty enactment (vide p. 6), and (b) it could not be applied to coastal pilotage in general and to the British Columbia District in particular.

The provisions of the C.S.A. governing the compulsory payment system are contained in subsec. 345(a) which extends an automatic exemption if, on an inward voyage, "no licensed pilot offers his services as a pilot after reasonable notice of expected time of arrival has been given". These provisions were devised for port pilotage with the result that it is a practical impossibility to enforce the system in a coastal pilotage area, because, *inter alia*:

- (a) In port pilotage, vessels on the inward voyage have to follow a definite route which can be easily observed by the pilots who have been alerted by E.T.A.'s. This is not the case in the British Columbia District because ships can enter District waters at many places along a six hundred-mile coastline.
- (b) The notice must state only port of arrival and E.T.A.; therefore, it can not be interpreted as meaning arrival at a district limit because the section deals with "every ship that navigates within any pilotage district". With port pilotage the port must be the destination and an E.T.A. gives sufficient information for a pilot to estimate when the ship may be expected at the port approaches. This section can not be construed as obliging vessels to disclose in their E.T.A. their point of entry into District waters and the time such entry is expected to be made. A notice giving an E.T.A. at a given port along the British Columbia coast can not provide the pilots with any useful information about when and where a ship will enter the District.
- (c) There is nothing in the Act, or in any other statute, authorizing the Pilotage Authority or any other authority, to oblige ships, for the purpose of enforcing the compulsory payment system, to detour from their intended routes to pass through a boarding area where pilots might be waiting. Hence, entry can be effected anywhere at a ship's discretion.

- (d) There is nothing in the Act, or in any other statute, that gives authority to a Pilotage Authority, or to any other authority, to establish a reasonable E.T.A. Automatic exemption is not lost if a Master has given a few hours' notice sufficient to announce arrival but insufficient to allow a pilot to meet a ship when it enters a District many miles away from her port of destination.

The Act is as silent as to the pilots' obligation to be available with regard to outward voyages and voyages within the District waters. It is clear that the Act presupposes the presence and availability of pilots in the port from where ships will depart. There, as well as on the inward voyage, it is up to the pilots to arrange to be available, given reasonable notice. Pilotage is a service and, therefore, a ship should never be delayed on account of the non-availability of pilots; the internal organization of the service is the Pilotage Authority's and the pilots' own concern and if, at any port, after reasonable notice of requirement, i.e., a few hours, a pilot can be made available, a ship would not be liable for compulsory payment if she sailed without a pilot.

Hence, in the British Columbia District, vessels may enter District waters wherever they choose and their only obligation is to give a few hours' notice of arrival at the port of destination. On outward voyages a similar notice of departure is required, and it is the pilots' responsibility to offer their services before ships leave. If, in any such instance, no pilot offers his services, the ship concerned is automatically exempted. This situation makes it a practical impossibility to enforce the compulsory payment system as provided in the present Act in coastal districts and, hence, in the British Columbia District.

Like other Authorities, the B.C. Pilotage Authority tried to extend the application of pilotage legislation through its By-laws, and of compulsory payment through the device of making the system applicable to vessels and by giving the term "vessel" a regulation definition to meet its needs. As pointed out in part one (vide Part I, C. 7, pp. 218 to 220), the ensuing provisions are *ultra vires* to the extent they are incompatible with the governing provisions of the Act.

(3) EXEMPTIONS

(a) *Exemptions by Legislation*

Very little use was made of the regulation-making powers available in the field of exemptions. No use was made of the powers conferred by sec. 347 C.S.A. with the result that none of the statutory relative exemptions of sec. 346 have been withdrawn or modified. Incomplete use was made of the

power conferred by subsec. 346(c) in that the By-Law provision concerned (subsec. 6(2)) extends small foreign ship exemptions to pleasure yachts only (vide Part I, C. 7, p. 227).

In British Columbia, the need for additional revenue was doubtless not such as to warrant the withdrawal of any of the relative exemptions granted to the coastal trade under subsec. 346(e), as was done, for instance, by the Halifax and Sydney Pilotage Authorities.

One result is that a British or Canadian steamship trading between a B.C. port and an American port is legally exempt, whether or not the Master has local knowledge, by virtue of subsec. 346(e) which exempts

“steamships registered in any part of Her Majesty’s dominions

- (iv) employed in voyages between any port in the Province of British Columbia, and the port of San Francisco, or any port of the United States of America on the Pacific, north of San Francisco, and between any port in the Province of British Columbia and any port in Alaska”.

However, an American vessel engaged in the same voyages or even merely passing through the District waters in transit between a U.S. Pacific port and a port in Alaska, even though in the last case the vessel does not call at any B.C. port *en route*, is not exempt.

The 1960 General By-Law indirectly provided an exemption for scows through the combined effect of subsec. 2(h), subsec. 2(k) and sec. 6 because scows were specifically excluded from the meaning of “vessel” as defined by regulation. The term “scow” was similarly defined by regulation but this definition was considered inadequate. According to a Department of Transport official, the definition in subsec. 2(h) of the By-Law that a scow means a barge with no living accommodation is unrealistic under modern conditions. One example quoted was an American barge carrying some 200 trailer vans, 53 cars, a helicopter and a large distilling apparatus which appeared on the Fraser River in 1963. The Department of Transport was of the opinion that such a vessel should obviously not be exempt. It was explained that the regulation definition was intended to apply to small barges such as small sand scows or open scows which have no living accommodation and are usually secured alongside a tugboat. The definition was worded to exclude the very large barges on the Great Lakes which have living accommodation on board and are steered as well. The Department of Transport stated that they planned to remedy the situation in B.C. by deleting from the By-Law definition of vessel the proviso for scows in the hope that only real scows would be exempted under subsec. 346(f) of the Act. This was done with the adoption of the 1965 General By-Law which does not contain a definition of “scow” nor the proviso concerning scows that previously appeared in the definition of “vessel”.

Whatever the regulations may be, scows and barges are excluded from the application of pilotage legislation because they are not ships. Hence, whatever their size, country of registry, destination or trade, they can not be compelled to pay pilotage dues and no Pilotage Authority has power to fix rates which determine the remuneration of pilots, if and when they are used. A further example is the barges towed by M.V. *Haida Brave* which was launched October 26, 1965. These barges are over 350 feet in length and carry 6,000 tons of newsprint; they run from Port Alberni to Long Beach, California, making three round trips per month.

(b) *De facto Exemptions*

In practice, additional unofficial exemptions are granted with the mutual consent of the pilots, shipping interests and Pilotage Authorities.

When the payment of pilotage dues was made compulsory in 1949, it was intimated to the pilots that the intention was not to place a "toll gate" across B.C. waters but rather to protect the pilots. Consideration had to be given to the treatment enjoyed by Canadian vessels in American waters, to existing agreements and to various other factors.

(i) *Small foreign ships*

Although subsec. 346(c) of the Canada Shipping Act permits all foreign vessels under 250 tons exemption from the payment of pilotage dues, provided this is authorized in District Regulations, subsec. 6(2) of the B.C. District By-law, as stated above, exempts pleasure yachts only. Despite this limitation, the practice is not to charge such vessels pilotage dues unless a pilot is employed. The resulting unofficial exemption benefits American vessels almost exclusively because small ships of other foreign nations do not sail in British Columbia waters. This practice is wholly illegal. The Pilotage Authority like anyone else is bound by existing legislation and no administrative discretion remains. It is also noted that the situation could easily have been corrected by a valid amendment to the By-law.

(ii) *Special cases*

Occasionally, an individual ship is not charged pilotage dues because the pilots felt there was a particular reason for exemption, e.g., the Chilean training ship *Presidente Pinto* (a former 4,100 ton U.S. attack transport) which called at Vancouver in the early 1950's; the Japanese Merchant Marine training bark *Nippon Maru*, which attended the B.C. Centennial celebrations in June 1958; and the four-masted training bark *Kaiwo Maru* which visited Vancouver June-July 1963.

The only legislative provisions which permit an administrative decision not to enforce compulsory payment in special cases is contained in subsec. 346(h) in which exemption is limited to ships of war and hospital ships of foreign nations (vide Report, Part I, C. 8, p. 298). Any other exception so

empowered is illegal. Furthermore, when pilotage services have been rendered a ship, a Pilotage Authority has no discretion to collect or not collect the dues, even if unanimous consent is obtained from the pilots. There are two reasons: in most cases, the dues do not belong, *in toto*, to the pilots; secondly, a pilotage claim is a public claim and a Pilotage Authority, as a Crown officer, has no authority to decide that in certain circumstances it will not make such a claim and will not collect. At present, authority for not collecting a pilotage claim (whether or not a pilot has been employed) must be obtained from the Governor in Council acting on a recommendation of the Treasury Board pursuant to sec. 22 of the Financial Administration Act (vide Part I, C. 6, pp. 199 and 200).

(iii) *Rosario Strait traffic*

After the Commission's hearings in British Columbia, an additional ultra vires exemption came to light: vessels sailing through Sand Heads from and to the United States ports of Bellingham, Ferndale and Anacortes are not charged dues when they do not take a pilot. This exemption arose in April 1962 when Sand Heads, at the request of the pilots, was withdrawn as a boarding station as a result of the Puget Sound dispute. The decision not to charge dues was the logical consequence of the discontinuation of Sand Heads as a regular B.C. District boarding station. Since a prerequisite to the enforcement of compulsory payment is that pilots offer their services, a boarding station must exist at the point of entry. No authority exists to force a vessel to embark a Canadian pilot in U.S.A. territory. Under the circumstances, the pilots agreed that the compulsory payment system should not apply to vessels using Rosario Strait but later, in a letter dated February 27, 1963, they charged that the practice was illegal (Ex. 1423). There has been no explanation why the matter was not mentioned at the Commission's hearing a few days later. The correspondence exchanged would indicate that only ships sailing to and from the Fraser River, and not to and from B.C. District ports, were to be exempt. This question is of no concern to the B.C. pilots because ships so sailing never enter B.C. District waters. However, the B.C. District Superintendent stated that, in practice, all vessels passing Sand Heads to and from the three American ports named above enjoy the unofficial exemption. In fact, the compulsory payment system can not be enforced on any ship sailing through Rosario Strait, whether or not she is bound for a B.C. District port.

(c) *Ships in Transit and Ferry Services Between a Puget Sound Port and a B.C. Pilotage District Port*

The compulsory payment system was imposed in the British Columbia District in 1949 as a result of negotiations between the B.C. pilots and the Vancouver Chamber of Shipping. In order to obtain the agreement of the shipping interests, the B.C. pilots had to concede that ships in transit and

ferry ships sailing between British Columbia ports and United States Puget Sound ports would not be affected. The agreement was reached March 10 when the Vancouver Chamber of Shipping gave approval to a document dated March 7 which had been signed by two members of the Pilots' Committee and approved by the Superintendent of Pilots for the B.C. Pilotage Authority. This document (Ex. 1159), which is referred to as the "Gentlemen's Agreement", reads as follows:

"At the request of the Chairman of the Pilots' Committee, now in consultation with the Department at Ottawa, and with the approval of the Pilotage Authority, the Pilots' Committee of the British Columbia Pilotage District offer to the Vancouver Chamber of Shipping the following undertaking.

In the event the institution of compulsory payment of pilotage dues within the B.C. Pilotage District be adopted and confirmed by By-law, this Committee, representing all the Pilots of the said District, undertakes neither to offer pilotage services to, nor to attempt to collect pilotage dues from vessels passing through British Columbia waters and not calling at a British Columbia port; nor to offer such service nor attempt the collection of pilotage dues from any recognized ferry service between British Columbia ports and United States Puget Sound ports.

This undertaking to apply also to all bona fide yachts not operated for commercial profit whether they enter British Columbia ports or not."

The Vancouver Chamber of Shipping insisted on such a commitment, first, because the enforcement of a compulsory system without such a proviso would merely have had the effect of forcing ships in transit to sail outside B.C. District waters with the result that, one way or another, the B.C. pilots would have gained no extra revenue while, at the same time, the ships involved would have experienced unnecessary inconvenience.

The Vancouver Chamber of Shipping demanded these exceptions mainly to avoid strained relations between the State of Washington and the Pilotage Authority of the British Columbia District, a situation which would have been detrimental to Canadian shipping interests.

The agreement was no more than partial reciprocity for the favoured treatment extended to all *bona fide* coastal vessels sailing in State of Washington waters. The pertinent section of the State of Washington, Puget Sound Pilotage Act (RCW 88.16.070) reads as follows (Ex. 879):

"All vessels under enrollment and all vessels engaged exclusively in the coasting trade on the west coast of the continental United States (including Alaska) and/or British Columbia shall be exempt from the provisions of this act unless a pilot licensed under this act be actually employed, in which case the pilotage dues provided for in this act shall apply."

However, no similar advantages were provided at the other American ports on the West Coast (except in Alaska which lacks pilotage legislation) where no exemption from compulsory pilotage is provided for foreign coastal traders, including Canadian vessels.

The Vancouver Chamber of Shipping contended that the problem was basically economic because the withdrawal of U.S. exemptions would have been a heavy burden for some Canadian shipping industries, e.g., ferries,

small freighters and tows, including a number of Vancouver tugs with contracts to tow cargoes of pulp chips in barges (3,500 tons each) in tandem from Tahsis to Puget Sound ports. All these vessels are exempt from pilotage dues while engaged in British Columbia-State of Washington trade in U.S. waters. The margin of profit of these Canadian operations was so small that the owners would have been in serious straits if they had been forced to pay American pilotage dues. At that time, there were far more Canadian vessels sailing to the Puget Sound ports than in recent years.

With this agreement, the Alaska Steamship Company vessels shuttling between Alaska ports and Seattle through the inside passage are not required to carry pilots or pay dues in British Columbia waters. Mr. K. C. Middleton, Chairman, Committee on Pilotage and Navigation, Vancouver Chamber of Shipping, informed the Commission that safety of navigation is not thereby endangered in that, in accordance with U.S. Regulations, such ships traversing these waters must have two men on the bridge, namely, an officer of the watch and an American pilot holding a manning certificate issued by the United States Coast Guard (not a Puget Sound pilot). D.O.T. officials agreed that when this unofficial exemption was granted to U.S. vessels in transit, no consideration was given to the problems of security and sovereignty.

The intention was that this agreement was to be reflected in pilotage legislation. During their negotiations, the Pilots' Committee and the Chamber of Shipping had drawn up a proposed amendment to the District General By-law concerning the compulsory payment of dues which, in the version dated December 18, 1948, contained the following proviso intended to implement the pilots' commitment (Ex. 92):

"Coastwise ships regularly trading from Puget Sound to Alaska and all Ferry Services to and from Canadian ports and any vessel using ports as points of refuge or shelter only are also exempted."

However, when on April 14, 1949, the compulsory system was purported to be imposed by an amendment to the General By-law (vide p. 6), the By-law amendment did not contain this proviso. No doubt it had been realized that the exemptions provided for in the gentlemen's agreement were not within the regulation-making power of the Pilotage Authority and that an amendment to the Act would be required, as was later done when subsec. (ee) was added to sec. 346 C.S.A. to solve a comparable situation on the St. Lawrence River and Seaway (vide Part I, C. 7, pp. 221-222).

Capt. F. S. Slocombe of the Department of Transport, whose survey was the origin of the B.C. compulsory system, stated it was fully realized that ships in transit should not be affected by such an obligation, since there was no need for it, and that the main reason for the reinstatement of the system was to prevent American pilots from depriving the B.C. pilots of assignments in ships destined for B.C. District ports. On the other hand, it was also realized that, if the compulsory system was imposed, there was no legal way under the statute to exclude ships in transit from its applica-

tion. It had been argued that the difficulty existed merely in theory because in practice the compulsory system could not be enforced upon these ships since they did not pass any boarding station on their regular route and there was no way of forcing them to enter a boarding area where a pilot could offer his services. However, this rationalization was deemed to be weak and the pilot's commitment was made a prerequisite to the reinstatement of the compulsory payment system.

From the legal point of view, such an agreement is completely void and of null effect as if it had never existed. No one is capable of binding himself by a private agreement either not to require the enforcement of, or not to take advantage of, legislation of a public character. It is also quite illegal on the part of Crown officers to agree beforehand not to give full effect to certain provisions of public legislation that is about to be enacted. By so doing, they substitute themselves for Parliament, which is a derogatory act.

In the course of the difficulties that ensued, it was suggested that a possible legal solution would have been to set a nominal pilotage charge under subsec. 329(h) C.S.A. following a supposed precedent established in the Saint John, N.B., District concerning an American ferry company which operated a coastal service between Saint John, Boston and New York (Ex. 1159). The proposal was not factually correct. The Saint John District By-law was not a precedent because it was in conformity with legislation then in force but later repealed (vide Part I, C. 7, pp. 225-226).

If the compulsory system had been legally imposed and pilots had been able to offer their services to all vessels as a matter of course, the obvious solution to the problem would have been to grant pilotage certificates to Masters and mates of regular traders who were able to prove their ability to navigate safely in District waters (vide Report, Part I, C. 7, p. 233).

For ships in transit, the agreement was to apply originally only to American ships in transit from and to Puget Sound ports but such a restriction is not contained in the written document. In practice, exemption is granted to all ships in transit without consideration of nationality whether or not the port of destination or arrival is situated outside Canadian territory. However, the Pilotage Authority has placed a restrictive interpretation on the *gentlemen's agreement* with the result that two cases at least have given rise to much contention: the Coastwise Lines Inc. case and the S.S. *Alaska* case.

Coastwise Lines Inc.—The compulsory payment system as modified by the *gentlemen's agreement* was soon attacked by an American shipping company, Coastwise Lines Inc., whose vessels, which had been plying between California ports and B.C. ports with an occasional call at Port Angeles, Wash., never took a B.C. pilot when in B.C. waters. Since these vessels were neither in transit in B.C. waters nor ferry ships plying regularly between a Puget Sound port and a B.C. port, they did not fall within the terms of the exceptions to that agreement and, therefore, were charged pilotage dues.

The company refused to pay, not because of the illegality of the compulsory system and the *gentlemen's agreement* but because the agreement discriminated against its ships which had been regular traders to B.C. ports prior to the imposition of the compulsory system. When clearance was withheld by Canadian Customs officials at the request of the Pilotage Authority (vide Part I, C. 6, pp. 196 and ff.), the shipping company paid under protest. The company applied to be included in the agreement but without success. It was refused on the grounds that a reciprocal exemption was not extended beyond Puget Sound ports to Canadian coastal ships calling at a California port.

Coastwise Lines Inc. challenged the legality of the agreement and received from the Director of Marine Services a letter dated March 5, 1954, which stressed that the *gentlemen's agreement* implied no official approval and that it could be said only

“these interested Bodies have seen fit mutually to agree to refrain from collecting compulsory payment of pilotage dues which have been duly authorized”.

The “interested Bodies” were not identified in the letter. The company took its case before the U.S. Congress pleading discrimination against U.S. vessels and urging that Canadian vessels be required to pay pilotage dues in all U.S. ports unless reciprocity was granted (Ex. 1159). The question was never settled and the matter was dropped when the plaintiff company suspended operations.

S.S. Alaska—The *S.S. Alaska* is a train ferry of foreign registry which, since 1964, has operated a year-round weekly ferry service between New Westminster, B.C., and Whittier, Alaska.

As a ferry, the agreement did not apply because the service was not with a Puget Sound port; as a ship in transit (which she is as far as the B.C. District is concerned), she should have been exempted, assuming the *gentlemen's agreement* was valid. However, the Pilotage Authority took the term “British Columbia” as used in the agreement to mean the Province (thus including the New Westminster District), and not the Pilotage District as indicated by the context.

However, when the Alaska Trainship Corporation began its train ferry service with *S.S. Alaska*, it was aware that, unless the ship was under Canadian registry, she could not be exempted. U.S. laws would not permit the *Alaska* to be registered in the U.S.A. because she had been built in Japan and was registered in Liberia; nor could a ship not registered in the U.S.A. ply between U.S. ports. Hence, the company had to find a base in Canada as close as possible to the U.S. border.

S.S. Alaska makes a round trip each week. She uses the inside passage which calls for two pilots, thus increasing expenses as well as the demand for pilots. The Superintendent of Pilots stated that the corporation employed pilots regularly in the early days of their operations but now does so only for its convenience.

The Alaska Trainship Corporation, in a letter dated February 10, 1965, addressed to this Commission (Ex. 1432(a)), protested against such a state of affairs pointing out that, although the ship is under Liberian registry, carries a Canadian crew and is merely in transit in B.C. Pilotage District waters, she is forced to pay pilotage dues to the B.C. Pilotage Authority for each transit (i.e., twice a week) in the amount of \$900 (at the 1965 rates) when no pilot is employed and, when pilots are employed, the bill is \$1,500 not counting the dues required by the New Westminster Pilotage Authority (slightly over \$100 per single trip). If the S.S. *Alaska's* southern terminal had been located just a few miles away, south of the border in the State of Washington, she would have qualified for an unofficial exemption under the agreement.

Aside from the question of the legality of the compulsory system in the B.C. District, this is a good example of the unfortunate consequences of legislation and policy made locally to meet local interests without consideration being given to Canadian interests at large. In this case, Government officials are discriminating against a Canadian port, New Westminster, in favour of American ports. Such a situation would not be allowed to continue if the Pilotage organization was under the general control of a Central Authority responsible for safeguarding and promoting the interests of the Canadian public and provided with the effective powers recommended by the Commission (vide Part I, C. 11, Recommendations 16 and 17).

(d) *Recommendations Received re Exemptions*

(i) *Exemption for Prince Rupert*

In the course of the Commission's hearings, the representative of the Prince Rupert Chamber of Commerce stated that the Chamber of Commerce would be in favour of the port of Prince Rupert being exempt from the compulsory payment of pilotage dues provided pilotage services are available.

(ii) *Exemptions for regular traders*

The *Vancouver Chamber of Shipping* advocated to the Commission that regular traders be exempted. It was argued that for many years prior to 1949 the shipping interests had obtained satisfactory pilotage services without compulsion. The decision to take a pilot was left to the company or the Master. They felt that, when a Master had made a particular trip five times, he had as much experience of the area as a pilot and his ship should not be liable for dues if he did not wish to employ a pilot.

They submitted that the Masters and mates of a few vessels on regular runs, such as those carrying grain to China or ore to Japan which call at brief intervals, may easily become well acquainted with a particular section of B.C. coastal waters but they concluded that the Masters of

tramp steamers which arrive infrequently can not expect to gain much experience of the area.

A ship in the former category is the 5161 NRT (17,254 GRT) Japanese ore carrier *Harriet Maru* which is on a regular four-week run between Wakayama, Japan, and Harriet Harbour⁹, Queen Charlotte Islands via Prince Rupert, the area Port of Entry. After four round trips to Harriet Harbour with a Canadian pilot, the Master felt that he had sufficient local knowledge to proceed on his own and he has dispensed with a Canadian pilot ever since. When he enters the Japanese port of Wakayama at the end of a voyage, he does not employ a Japanese pilot. In fact, the Master is of the opinion that he has the advantage in experience since he was served by a different pilot on each of the four trips to Harriet Harbour.

Correspondence filed as Exhibit 219 shows that the Japanese owner instructed his Vancouver agent that no pilot would be required on any trip between Triple Island, Prince Rupert and Harriet Harbour when Capt. Ohtatsume was in command and that the agent would be informed if a Master without experience of the area were in command. Under these circumstances, the owner felt that compulsory payment of pilotage dues was unreasonable. The *Harriet Maru* and another Japanese ship which sometimes calls at Harriet Harbour no longer employ pilots.

When either ship arrives from Japan, she is in ballast. She must first call at Prince Rupert which is the closest Port of Entry to Harriet Harbour. Returning loaded, she must again call at Prince Rupert for clearance. Only the approaches to both ports are in pilotage waters (vide p. 6). During the passage between Prince Rupert and Triple Island (Prince Rupert boarding station), navigation is under the direction of a pilot; between Triple Island and the entrance to Harriet Harbour, the Master takes over; the pilot then takes the ship into the harbour and berths her. For the return trip, there is no changeover of pilots because transportation facilities to and from the mainland are meagre. The pilot remains on board while the ship loads—an average of twenty hours for which a detention charge is made. On the return trip to Prince Rupert, he performs similar pilotage duties. It has been calculated that such an assignment takes from 57 to 64 hours of a pilot's time, beginning when he boards the pilot boat at Prince Rupert and ending when he disembarks from the pilot boat after completing the assignment at Prince Rupert. This does not take into account the time taken by the pilot to proceed from his base (Vancouver, Nanaimo or Victoria) to Prince Rupert and return, or the time spent at Prince Rupert

⁹ Harriet Harbour, on the southeastern coast of Moresby Island, Queen Charlotte Islands, was specially created to provide a shipping outlet for the iron ore mined by Jedway Iron Ore Ltd. for shipment to Japan in Japanese vessels built for the trade and operating on a regular schedule. *Harriet Maru* is in regular service on a five-year contract (from October 1962) to deliver ore and occasional additional cargoes are carried by other vessels. The Harriet Harbour case is not an isolated instance. For example, since 1966, there has been a similar large-scale operation centred around the development of an ore deposit at Tasu Harbour.

waiting for the ship to arrive. Of this total time, about nine or ten hours only are spent in actual pilotage duties, the run from Prince Rupert to Triple Island being counted as 3½ to 4 hours and entry to Harriet Harbour about one hour.

When a pilot is employed, such a round trip, e.g., February 22-24, 1963, cost the ship \$1,162.31 in pilotage dues at the pilotage rates prevailing that winter. These included pilot's travelling expenses \$103.40, detention \$127.05, and pilot boat charges \$120.00, i.e., \$350.45 for items other than direct payment for pilotage. This sum is the amount that a ship, such as the *Harriet Maru*, saves by not taking a pilot (re the legality of such a saving, vide Part I, C. 6, pp. 186 and ff.).

The principal navigational hazard in Harriet Harbour is the wind. During strong southerly gales, heavy squalls from the valley at its head may prevent ships from berthing or may force them to leave the harbour. Harriet Island must be passed with care and abnormal magnetic variation has been reported. Notices to Mariners and Notices to Shipping are provided regularly to the Master of the *Harriet Maru*. Future shipping traffic in Harriet Harbour will be limited by the amount of iron ore cargo available.

In 1963, *Crown Zellerbach Canada, Ltd.*, which sells a great percentage of its newsprint in California, had two ships on regular fortnightly round trips from Ocean Falls and Duncan Bay. *MacMillan, Bloedel and Powell River Ltd.* (now MacMillan, Bloedel Ltd.) has frequent sailings from Port Alberni and weekly sailings from Powell River to California of full cargoes of newsprint.

The Vancouver Chamber of Shipping considers the Masters of these ships and others on regular runs have sufficient local knowledge to warrant dispensing with pilots.

It was noted that Masters on these regular runs might be in a better position to become acquainted with a specified route than pilots who would have infrequent assignments to the comparatively small number of ships visiting some ports in the Northern Region.

Saguenay Shipping Limited, a subsidiary of the Aluminum Company of Canada, Limited, advocated a similar exemption for its ships on the grounds of both experience and the overall cost of their products. One of its former Masters, Capt. K. J. Loder, stated that he had called at Kitimat once as Master and four or five times as Chief Officer. He had also often been on board vessels sailing to and from Kitimat via McInnes Island. A pilot was always employed because it was the company's policy but, if the company had instructed him to dispense with a pilot, he would have felt quite capable of piloting the ship himself. In addition to his previous experience, he had the latest available information because tide tables and the reference book "British Columbia Pilot" were carried and Notices to Mariners were received by radio.

Saguenay Shipping Limited recommended the abolishment of the compulsory payment of pilotage dues with the retention of an organized pool of pilots to serve Masters who might require assistance.

The pilots observed that a Master does not necessarily acquire detailed knowledge of an area because generally he does not remain on the bridge. They concede that a Master can learn the details if he stays with the pilot for two or three trips but they feel that it is an imposition to ask the Master to spend an additional twelve hours on the bridge after bringing his ship in from sea.

The individual B.C. pilot has very infrequent experience with the navigation of northern waters. The internal organization of the service does not provide for a selected group of pilots for northern assignments; instead, a northern assignment roster is kept on which appear the names of all the B.C. pilots, with the result that some pilots may not have had an assignment to a given northern port, even Kitimat, for one, two or three years. Therefore, they have no opportunity to maintain their local practical knowledge and experience (vide Part I, C. 11, Recommendation 8, pp. 476-477).

(4) STATISTICS ON SHIPS PAYING DUES BUT NOT EMPLOYING PILOTS

Very few non-exempt ships did not employ a pilot in the B.C. Pilotage District during the period 1960-1962, but there has since been a considerable increase proportionally. This table shows the number of times non-exempt ships paid dues without taking a pilot on board, the number of times a pilot was employed, the compulsory payment revenues, and the percentage of the District gross earnings.

Year	Trips		Movages		Dues	
	Without Pilot	With Pilot	Without Pilot	With Pilot	Paid without Pilot	% of District Gross Earnings
1960.....	3	6468	1	1643	\$ 314.47	.03
1961.....	8	6629	0	1894	1,033.90	.08
1962.....	12*	6866	4	1803	468.48	.03
1963.....	41*	6873	12	2141	6,049.53	.42
1964.....	63*	7303	1	2322	12,545.08	.82
1965.....	118*	7147	9	2394	29,881.13	1.83
1966.....	167*	6885	10	2399	38,023.55	2.20
1967.....	202*	7387	16	2278	44,116.99	2.30

* These figures for trips without pilot from 1962-1967, which have been omitted from District financial reports since 1962, were obtained from sources considered reliable but their accuracy can not be checked. Since 1962, dues from ships which do not employ a pilot have not been paid separately into the Pension Fund and accurate records are no longer kept. The remaining data are official figures appearing in the annual financial statements of the District.

SOURCES OF INFORMATION: Exhibits 197-201 and 205; *Appendix B*.

3. ORGANIZATION

(1) PILOTAGE AUTHORITY

The Pilotage Authority for the British Columbia District is the Federal Minister of Transport (vide p. 6).

The District is administered locally by a Department of Transport official holding the civil service appointment of Regional Superintendent of Pilots and referred to in sec. 2 (1) of the District General By-law as the "Superintendent". He holds no formal appointment from the Pilotage Authority although he is its *de facto* representative. As D.O.T. representative, he is responsible for the equipment and premises that the Federal Government places at the disposal of the Pilotage Authorities and the pilots on the B.C. coast including the pilot boat service at Sand Heads, New Westminster Pilotage District. In Vancouver, he maintains a pilotage office which serves as the pilotage headquarters of the B.C. District.

Capt. F. N. Eddy was the Regional Superintendent in 1963. His Assistant, Capt. V. R. Covington, was called, for civil service establishment purposes, Supervisor of Pilots. There is no provision in the British Columbia District By-law for a Supervisor of Pilots; the term has no legal meaning because it is not defined either in the C.S.A. or any By-law or regulation pertaining to the British Columbia Pilotage District.

Capt. F. N. Eddy held this office from May 1st, 1953, until April 1, 1967. His experience on the B.C. Coast was extensive: from 1947 to 1953, he was a Steamship Inspector for the Department of Transport and, from 1917 to 1967, he was employed either at sea or in an occupation connected with the sea, mostly on the B.C. Coast, during which time he gained the high regard of both the pilots and the shipping interests.

In the District of British Columbia, as in all the main Districts, the Government has extended its control to the whole operation of the service, the pilots being *de facto* employees of the Authority which, in addition to granting licences and billing and collecting pilotage claims, is responsible for despatching the pilots and remunerating them through a pooling system.

It is the immediate responsibility of the Superintendent to enforce such control and to manage the District and the service. In the discharge of these functions, the Superintendent issues a large number of memoranda dealing with orders and information. Those which state policy or are of a permanent nature are entered in a Pilotage Memorandum Book. Many of these memoranda, especially those on technical subjects concerning pilotage, have been drawn up in consultation with the Pilots' Committee. A copy of each memorandum is sent to each pilot and he is required to acknowledge receipt. In order to bring important memoranda to the pilots' attention, they are mimeographed and a copy sent to every pilot, then posted on the notice-board, and posted in the Despatching Office if they have a particular local

significance, e.g., the depth of Kitimat approach channel, so that the despatcher may bring the information to the attention of the pilots assigned to that area. This routine was established because the Superintendent wishes to ensure that all pilots are supplied with up-to-date pilotage information even though they are dispersed throughout the District and seldom call at the Pilotage Office. It is also particularly important that the despatcher be in a position to provide pilots with the latest information and instructions about ports which they rarely visit.

The Superintendent maintains the Licence Register, accessible to the public, which contains the licence of each pilot in the District, as required by sec. 334 C.S.A., and also the separate Establishment Book, stipulated by sec. 19 of the By-law, which contains the professional record of each pilot. In addition, as a personal service to the pilots, he keeps for each pilot an individual file of all his personal records: income tax forms, medical reports, etc.

The staff of the Regional Superintendent's office has not been increased for twenty years and consequently is overworked. This explains why he could not spare the time to make the analysis that accompanies the financial statement (Ex. 205) fully detailed, complete and accurate; and why he could not undertake the research and studies that would have been needed to ascertain the actual workload of the pilots when they refused to cooperate by volunteering the information.

In his capacity as representative of the Pilotage Authority occasional difficulties arise because:

- (a) matters not expressly delegated to the Regional Superintendent through the By-law belong exclusively to the Pilotage Authority and must be referred to Ottawa for decision;
- (b) since the Pilotage Authority is the final authority, it may overrule any decision the Superintendent is authorized to make.

However, a vast amount of routine daily work is done locally.

(2) PILOTS' COMMITTEE

The Pilotage Authority is assisted locally by a Pilots' Committee and an Advisory Committee.

The Pilots' Committee is composed of five pilots elected annually by the pilots of the District. It is their "sole agent" in dealing with the Pilotage Authority (By-law, sec. 5) (vide Report, Part I, C. 4, p. 82).

This Committee is very active in the British Columbia Pilotage District because the Regional Superintendent consults it frequently (for details of Pilots' Committee, see pp. 74 and 75).

(3) ADVISORY COMMITTEE

In British Columbia, as in other Districts where the Minister is the Pilotage Authority, the Department of Transport formed a committee of representatives of the pilots and of the shipping interests with the Regional Superintendent of Pilots as Chairman. This Committee is called the Advisory Committee. In British Columbia, it consists of three representatives of the Pilots' Committee, three of the Vancouver Chamber of Shipping and the Superintendent of Pilots.

This Committee has no legal status; it is not provided for in any legislation, by-laws or regulations. Its meetings are informal, minutes are not kept officially, but notes of the proceedings are generally taken by one of the representatives of the Vancouver Chamber of Shipping.

Its function is to provide a forum for the parties interested in pilotage matters in order to bring to the Authority's attention all the facts and circumstances of any problem and to give the Authority, after full and open discussion, the benefit of its opinions and recommendations. This procedure was designed to enable the Authority to render a decision with full knowledge of the situation. The Committee has merely an advisory role and the Authority is not bound even by the unanimous opinion of those attending. The Authority can decide otherwise, mainly for reasons of public interest that might transcend the individual interests of the parties, and it can profit from the experience of other Districts.

However, the Advisory Committee has not lived up to expectations. Although it has worked well in some instances, it is not successful in dealing with contentious questions involving the personal interests of the members. When agreement is reached, the Pilotage Authority generally gives effect to the Committee's recommendations, but the Authority hesitates to rule on contentious points and prefers to wait in the hope that a compromise solution will be reached.

Controversy between pilots and the shipping interests has caused ill-feeling and complications, and even disruption of the pilotage service, as was the case during the Puget Sound dispute in 1961.

The Vancouver Chamber of Shipping objected that the Advisory Committee has degenerated into a kind of conciliation forum, with the Pilotage Authority acting merely as mediator. The result is that the Authority does not exercise authority and administers the District simply by compromise.

At the time of the Commission's hearings in March 1963, the Advisory Committee was discussing proposed amendments to the By-law including a new tariff. Agreement had been reached on some items, one of which concerned detention. The practice has been for the Pilotage Authority to give effect to agreements on individual items as soon as they are reached and before they became law through regulations. It is hoped, thereby, to accommodate the parties and to avoid a multiplicity of single amendments so

that a comprehensive amendment need be made only when sufficient items have been agreed upon. Such an illegal practice is indicative of the wrong concept the Pilotage Authority holds of its functions and powers, and of the character of a pilotage service controlled by Part VI of the Act.

(4) RECOMMENDATION ON DISTRICT ADMINISTRATION

Administration in the British Columbia Pilotage District has, on the whole, functioned smoothly and satisfactorily and the Pilotage Office has been commended for its efficiency both by the Pilots' Committee and by the Vancouver Chamber of Shipping. Neither body, however, has an equally favourable opinion of the structure and procedures of the Pilotage Authority and its staff in Ottawa. The effectiveness of procedures in the British Columbia District may be due less to the merits of the organization itself and more to the qualifications and personality of the Superintendent and his staff who, the evidence shows, have often made special efforts to help the pilots, to consult all parties, to arrange negotiations and to adjust difficult problems.

In addition to general dissatisfaction with the Authority in Ottawa, there are specific complaints about:

- (a) delays due to the necessity for the Superintendent to refer to Ottawa for decisions;
- (b) confusion arising when decisions are taken in Ottawa without consulting the Superintendent or when they are contrary to his recommendations;
- (c) the limited power of decision of departmental officials and even of the Minister himself.

The Vancouver Chamber of Shipping reported that, in their experience, the Regional Superintendent and his staff deal promptly and efficiently with matters that can be handled locally but that the procedures are difficult and clumsy for those matters that have to be referred to Ottawa for decisions.

Because the Superintendent has not any final authority on any matter, it has been the practice for the pilots, and the shipping interests as well, to appeal to the Authority in Ottawa whenever they are displeased with a decision of the Superintendent.

Whether the Ottawa headquarters is confronted with a question because the case was referred for decision by the Superintendent or because one party seeks the reversal of the Superintendent's decision, the parties feel obliged to proceed to Ottawa to see the various officials concerned to present their case. It is a common occurrence for the pilots to send their representatives to Ottawa at great expense and many such trips may be required until a case reaches the Minister, the final authority. This procedure has been a serious cause of frustration for all concerned.

The pilots pointed out that decisions taken in Ottawa against the Regional Superintendent's advice cause administrative and operational difficulties because the Ottawa officials lack detailed knowledge about local conditions and requirements. For instance, a few years ago the pilotage service was seriously disrupted when, on orders from Ottawa, the practice that had been followed for over twenty-five years by the Victoria pilot station of sending wireless requests for E.T.A.'s to incoming ships was discontinued by Ottawa as an austerity measure without consulting the Regional Superintendent. The pilot service was thrown into such confusion that the procedure had to be re-established.

On another occasion, a strictly local problem arose regarding the collection of money earned by the pilots for embarking and disembarking outside the District. Since the By-law in force at that time did not provide for such services, the pilots had to make arrangements with Ottawa for the Superintendent to be authorized to make the collection.

Another example was the problem of giving effect to changes requested by the Pilots' Committee in their leave system—changes which were not authorized by the By-law. It would appear that eventually the Superintendent took it upon himself to accept their proposal without reference to the Department.

The pilots' complaint is that too many people are concerned with pilotage and everyone is responsible to somebody higher. Whenever a group is dissatisfied with a decision taken locally, it seeks to obtain a reversal by the Minister, knowing that the Minister is the final authority. More often than not, the Minister can not be seen and the problem is referred to departmental officials. There is no guarantee, however, that their decisions will be accepted by the Minister as Pilotage Authority.

When decisions overriding the Superintendent's decisions are taken in Ottawa, his authority is undermined and confusion is occasionally created. This problem is not peculiar to British Columbia but is common to all Districts where the Minister is the Pilotage Authority. Gradually, Regional Superintendents and District Supervisors have come to a private understanding with the officials of the Department of Transport in Ottawa that they will consult with them on any matter of policy before making a decision. The departmental officials in Ottawa have prompted this kind of understanding with the local representatives so that the latter can rely on departmental support.

The pilots complain that the Department of Transport is suspicious of them and thinks that the sole motive for their requests is to exact more revenue. They feel that the Department is unwilling to approve increases and, hence, most of their proposed amendments to the By-law have been refused. The Department points out that a decision must be made by the Pilotage Authority who, in order to discharge this responsibility, has to know the circumstances, the facts and the reasons concerning the recommendation.

They point out that it would be easier always to agree with all the pilots' proposals automatically but this would amount to a surrender and a denial of authority.

Both the pilots and the Vancouver Chamber of Shipping recommended that the pilotage service be disassociated from the direct responsibility of the Department of Transport and entrusted to a distinct organization or board especially created for this purpose. Furthermore, they unanimously recommended that the local representative, the Superintendent of Pilots, be given wider powers to enable him to settle all local problems.

4. PILOTS

(1) RECRUITING AND QUALIFICATIONS

District pilots are recruited from mariners most conversant with local navigation, i.e., Master Mariners serving in the coastal trade of British Columbia. There is no established system of apprenticeship and, as reported, none is likely to be considered by the authorities as long as the B.C. coastal trade continues to be a ready source of candidates for the pilotage service. The satisfactory record of the District pilots is *prima facie* evidence that the existing method of recruitment is working well.

(a) *Conditions of Admission*

As for *general qualifications*, subsec. 15(f) of the General By-law requires that a candidate "holds a certificate of competency endorsed for radar simulator, not lower than that of master of a home trade tug boat".

This provision prompts the following remarks:

- (i) Following the principle of interpretation that different words in legislation should be interpreted to mean different things, the expression "tug boat" should not be used because, according to subsec. 116(4)(d) of the C.S.A., a home-trade certificate may be granted, *inter alia*, for "tug", but there is no such class as "tug boat".
- (ii) A certificate for "tug" is the lowest class that may be granted to a Master home trade for a vessel which is not a sailing ship.
- (iii) The endorsement for radar simulator is a new and realistic requirement that was added in 1965. However, it is considered that for such an essential aid to navigation this requirement is still insufficient and that the endorsement should be for radar observer qualification in addition to radar simulator.

As for *local qualifications*, actual experience in the navigation of vessels in District waters is a prerequisite. Subsec. 15(g) of the By-law requires that a candidate "has served on a Canadian vessel engaged in the coastal trade of British Columbia" either three years as Master or as

Master for a lesser period, not less than one year, plus sufficient time as Chief Officer or "as a first mate on a vessel required by law to carry a certificated mate" counting half to reach the required total.

This provision of the By-law prompts the following remarks:

- (i) The requirement that service must have been on board a Canadian vessel is an illegal and discriminatory condition which bears no relation to the degree of qualification of the candidate and, therefore, does not come within the ambit of the regulations that may be made under subsec. 329(a) C.S.A. (vide Part I, C. 8, p. 251).
- (ii) No minimum is placed on the size or class of ship in which experience must be gained except as first mate.
- (iii) The term "Chief Officer" is meaningless because such a function on board ships is not recognized by the Act. If the term acquires a special meaning in a local context, it should be made the object of a legislative definition in the interpretation section of the regulations.

Other important requirements are that an applicant must be between 35 and 50 years of age, meet certain medical standards, and have successfully passed before a Board of Examiners an examination on the required general and local knowledge for safe navigation in District waters.

The Superintendent maintains a list of eligible candidates, i.e., those who have successfully passed the pilot admission examination. As soon as a vacancy occurs in the authorized establishment of pilots, the first available man on the list is called into the pilotage service and duly licensed as a pilot. When the list is exhausted, the Superintendent, with the approval of the Pilotage Authority, invites applications and arranges for an examination. A public notice to that effect is published in the press and copies of the notice are sent to interested groups such as the Canadian Merchant Service Guild.

(b) *Board of Examiners*

For the composition of the Board of Examiners (see By-law, Sec. 16) and the legality of the delegation of power to the Board so composed, reference is made to Part I, C. 8, p. 296.

The Superintendent reported that pilots take an interest in the composition and proceedings of the Board; they are proud of their own reputation as pilots and are anxious to see that only those candidates who have the necessary qualifications are accepted into their group. This interest is reflected in the appointments made by the pilots of their two representatives on the Board of Examiners; they see that these nominees are not only proficient in their occupation, but also skilful in the examination of candidates. The appointment of the Master Mariner member (usually a retired officer) is arranged by the Superintendent after consultation with the

Vancouver Chamber of Shipping. The nominee represents the shipping interests and ensures that any points or questions pertaining to the duties of pilot which the Chamber considers of importance are included in the examination.

(c) *Examination*

Applications are first checked to ensure that the candidates have the basic qualifications. Each candidate is then put through both written and oral examinations on subject matters specified in the By-law (sec. 17).

For the written tests there are:

- (i) a paper on navigation prepared by a Department of Transport Examiner of Masters and mates;
- (ii) a paper on general pilotage knowledge prepared by the Superintendent and approved by the Board of Examiners;
- (iii) a correction of a chart. This test is probably unique. Different parts of the B.C. Coast are traced from a Canadian hydrographic chart with eight to twelve dangerous areas or aids to navigation deliberately omitted;

It has been found that many of the candidates make an almost perfect reproduction of the chart. These so-called "shift tests" are done in order to determine whether the candidates do have the detailed knowledge of the coast they claim they have acquired from their actual coastal trade experience.

For the oral examinations, lasting about two to three hours each, the order of appearance of the candidates before the Board of Examiners is determined by lot. The candidates' knowledge of the B.C. Coast is tested once more. This is an important part of the whole examination. The candidates are instructed to assume they are piloting a vessel of a certain size, under given conditions; they are given charts but are expected to know the tides and currents; they are asked to lay off courses and pilot the vessel through certain areas on the charts.

When the examinations are concluded, the Board convenes to discuss the results and prepares notes. The marks of all tests are totalled and averaged (tests on eyesight, hearing and rule of the road are passed or failed only). The successful candidates are placed on the eligibility list in order of merit. Seventy per cent is the minimum percentage required to pass. In the examination held in 1963, 11 out of 20 candidates were successful. In the examination held two years earlier, only 5 out of 29 were successful and are now serving as pilots.

Until the successful candidates are called into the pilotage service they must continue to serve in the coastal trade of British Columbia; otherwise, they would have to be re-examined. Up to the time of the Commission's hearings in Vancouver, such a re-examination had never been required.

Since the examination will stress detailed knowledge of many harbours in the District, experience in the B.C. coastal trade is essential. This explains why the District By-law stipulates that the candidate must hold "a certificate of competency not lower than that of master of a home trade tug boat" and why the opinion was expressed that one of the best ways to acquire knowledge of the coast is to command a tug. In fact, this was borne out by the evidence: particulars showing the past sea experience of the 66 pilots on strength in 1963 (entered into the Commission's records as Exhibit 215) indicate that 52 had their basic experience in the coastal trade, mostly in tugs, that 9 had experience in tugs only, and that 5 had been Master or Chief Officer of a foreign-going vessel only.

(d) *Alleged Discrimination against Deep-water Officers*

Both the pilots and the Vancouver Chamber of Shipping expressed satisfaction with the fairness of the examination under the chairmanship of the Superintendent. However, while no one questioned the qualifications of the pilots as ascertained by this method, the Vancouver Chamber of Shipping expressed the view that the candidates' experience in manoeuvring large passenger vessels, cargo ships and tankers was often negligible. The Chamber also claimed that the present By-law requirements for service on the B.C. Coast with the further stipulation of having command of a vessel on the coast were too restrictive, practically barring *deep-water officers* from the pilotage service. The Chamber, therefore, recommended that provisions be made in the By-law for training applicant-pilots in manoeuvring deep-sea ships before they become pilots and that the existing admission requirements be modified so that foreign-going Masters and Chief Officers have a better opportunity to qualify as pilots.

It is the opinion of the Chamber that a Master Mariner with an unlimited certificate should be able to qualify as a candidate for the pilotage service by familiarizing himself with the coast of B.C. without spending eight or ten years in the process. He has the advantage over most coastal Masters of being qualified to handle ships of very large size and, with his background and knowledge, he should be able to familiarize himself in a comparatively short time as Master or mate of a coastal vessel.

The Chamber conceded that an ocean-going Master must have adequate experience in coastal waters in order to become proficient, but pointed out that this experience could be readily obtained. The Philippine Islands were cited as an example of coastal waters, as intricate as those of British Columbia, where only harbour pilots are available and where deep-water Masters have to navigate without pilots through the passages between many islands.

The pilots contended that an ocean-going Master would take longer than a coastal Master to acquire the necessary local knowledge because the coastal Master is accustomed to headlands and narrow channels. It is the pilots' view

that the principal concern of a pilot is not ship-handling but coastal pilotage and that the most important qualification of a candidate is his experience on the B.C. coast regardless of his certificate.

(e) *Licensing and Control*

When a pilot is called to the pilotage service, he is granted a one-year probationary licence, provided he passes the necessary medical examination (re legality and advisability of probationary licence, vide Part I, C. 8, pp. 269-270). The By-law is silent about the terms and conditions of the probationary year beyond stating that at its expiration a suitability report from the Superintendent is a prerequisite to the issuance of a permanent licence. In 1963, the practice was for the probationer to spend one month becoming acquainted with the organization and its procedure, after which he was on his own. In that first month, the probationary pilot watches the other pilots and asks questions; during the first two weeks, he is sent throughout the District to watch other pilots manoeuvre and during the last two weeks he goes with another pilot to areas which he has selected himself.

At the request of the Superintendent, the pilots who have been with the probationer report on his ability but all pilots continue to watch him during his probationary year. A few weeks before the end of the probationary year, the Superintendent writes to the Pilots' Committee asking for their comments. If these are favourable, the Superintendent recommends to the Pilotage Authority that a permanent licence be issued.

Here again, although there is no provision for a grade system in the By-law, during a pilot's first five years—including his probationary year—he is limited to vessels under 20,000 tons and is not allowed to take a heavily loaded ship through the Second Narrows bridge in Vancouver Harbour. Similarly, pilots with less than ten years' experience are not assigned to passenger ships and only highly experienced pilots are selected for particularly difficult assignments.

These restrictions are placed by the Regional Superintendent in the normal discharge of his responsibility under the By-law when assigning pilots to duty (sec. 23), although the Superintendent usually seeks the recommendations of the Pilots' Committee for any departure from the regular tour de rôle procedure. The Superintendent reported that the Pilots' Committee had always co-operated with him in this regard, especially when advising which pilots should be selected for particularly difficult assignments and that, because of this excellent co-operation, it had never been felt necessary to establish a grade system.

The pilots testified that the rigid controls exercised over their professional qualifications and conditions of employment are not objectionable to them and that the Government should not relinquish them. At the same time, they were of the opinion that these controls should be accompanied by some privileges, such as a guarantee of employment.

COMMENTS

Of the many methods that may be adopted for the recruiting and training of pilot candidates, the choice should fall on the system that is most suitable in the local circumstances to provide the qualified mariners who possess the highest degree of local knowledge and experience in local navigation.

A pilot must first be a mariner qualified in the handling of the ship to which he is assigned. This does not mean that he should possess the marine certificate of competency that would allow him to be Master or mate of the largest ship to which he may be assigned. He will never take over the ship as Master but only take charge of her navigation and, therefore, all that is required is for him to be competent in handling any ship to which he is assigned. Ship handling is, above all, a question of experience and training. This is why the Commission, in its General Recommendation 13 (vide Part I, C. 11, pp. 494-495), did not recommend as the lowest permissible minimum a certificate of competency higher than Master Home Trade or Master Inland Waters. On account of the nature of B.C. waters, the ultimate statutory minimum would, therefore, be Master Home Trade, tug (sec. 116 C.S.A.).

But such a minimum is not ideal and legislation should be so drafted as to result in the selection of those with the highest degree of qualification. For instance, if a survey of the pool of potential candidates indicates that a large number of them possess a higher certificate of competency, the recommended statutory minimum should be raised accordingly. Furthermore, consideration should be given to higher qualifications. This could be done in many ways, but a particularly attractive method is to allot a given number of points for each professional requirement. For instance, for general qualification, the holder of a foreign-going certificate of competency of the highest grade should be granted the maximum number of points allotted for that item, while the holder of the minimum admissible certificate should be granted none (or a lesser number, according to whatever computation system is devised). Similarly, for local experience, the system should be such that the most experienced are given a marked advantage, e.g., a candidate with ten years' coastal experience as Master should not be considered on an equal basis with a candidate who barely meets the minimum requirement for experience.

As for *expertise* in local knowledge and local navigation, this is also a qualification which is acquired by actual experience. Apprenticeship is a last resort which should not be adopted if a large number of qualified mariners possessing the necessary local qualifications are available. Thereafter, competency in ship handling could gradually be improved through a grade system based on experience and performance as pilot.

This does not constitute discrimination against a group of mariners but merely relates to convenience and higher qualifications in the special field of knowledge which qualifies mariners to be pilots.

Therefore, it is considered that the method of recruiting candidates in B.C. is realistic and adequate. The regulations should be changed, however, in order to reflect intent and practice, *inter alia*:

- (a) The minimum competency certificate should be fixed at the highest possible level, considering the potential candidates available, and precedence should be given to those possessing higher certificates.
- (b) The requirement for practical experience in coastal navigation should be further qualified by indicating the minimum class of vessel in which it may be gained and by requiring that it should extend to all District waters and not be limited to a given port. Again, precedence should be granted to candidates with greater local experience.
- (c) The grade system should be incorporated in the regulations and should be so devised that a higher classification is not granted automatically after a certain length of time but also depends on satisfactory performance in handling the largest ships the grade held allows.

There is also the consideration that a pilot should never be given an assignment for which he is not qualified or for which he may no longer be qualified for lack of continued experience. This is a problem that arises especially in large Districts (vide Commission's General Recommendation 8, Part I, C. 11, p. 477).

Complaints by shipping in this regard are well founded. It amounts to misrepresentation on the part of a Pilotage Authority to assign pilots to areas with which they are not thoroughly conversant and where they do not navigate regularly. Such assignments are a clear indication that a District is too large.

This is a question of public interest which transcends the private interests of the individual pilots. The organizational principle of equal sharing of assignments through a tour de rôle can apply only among pilots equally qualified for each individual assignment.

When, for practical reasons, a District can not be divided into separate Districts within which every individual pilot is given equal and adequate opportunity to maintain and improve his qualification over the whole of such District territory, the situation should be remedied through training and assigning a few selected pilots in sufficient numbers to meet the demand for such assignments, but not in excess of the required number, so that those so chosen have sufficient assignments to maintain their special qualifications.

Training of new pilots for such assignments could be effected by sending a second pilot as a trainee to accompany a pilot fully qualified for the given assignment, but without additional cost to the ship concerned.

(2) ORGANIZATION

From 1929 until their incorporation in early 1963, the B.C. District pilots were not formally organized in any association, although they were all individually members of the Canadian Merchant Service Guild in addition to being represented by their own Pilots' Committee established under the District By-law (sec. 5).

During most of that period, however, they met as a group informally in order to discuss their problems; during the last several years they even held monthly general meetings.

In February, 1963, the pilots were formally incorporated under the name of The Corporation of the British Columbia Coast Pilots.

(a) *Pilots' Committee*

In accordance with the By-law, the pilots annually elect five of their members to form the Pilots' Committee which is

"recognized by the Authority and by the pilots as the sole agent through which representations may be made in all matters affecting the pilots collectively or individually" (subsec. 5(5)).

The By-law does not provide for the mode of appointment of the Committee. The practice adopted is for the election to be effected by ballot sent through the mail to all pilots; the Committee subsequently chooses one of its five members as Chairman.

The Committee was reported to be working well and the Superintendent found that, from his point of view, it served a most useful purpose because, instead of having to deal with sixty-six individual pilots (in 1963), the Superintendent only had to deal with the five members of the Committee.

In one instance, consultation with the Pilots' Committee is mandatory. Section 4 of the By-law stipulates:

"The number of pilots shall be determined by the Authority after consultation with the Pilots' Committee".

An erroneous interpretation given by the pilots to this stipulation resulted in a controversy in October, 1961, when the Authority increased the number of pilots by two (Ex. 122). In a telegram to the Department of Transport, dated October 6, the pilots protested against the Authority's "unilateral decision . . . contravening By-law section four" and refused to accept the additional pilots until other matters under discussion had been settled. On October 11, the Department replied that the increase was warranted by the workload and pointed out that the consultation provided for in the By-law had been held at great length. In fact, long negotiations had been held between the pilots, the Vancouver Chamber of Shipping and the

Authority with regard to various points, including certain tariff modifications. The shipping interests refused to accede to the pilots' demands and in return the pilots declined to discuss an increase in the number of pilots unless it was accompanied by an increase in tariff. It was during this dispute that the pilots retaliated by ceasing to render the special service to shipping of boarding and disembarking outside the District, which resulted in the Puget Sound dispute, (see pp. 31 and 32). The pilots had misinterpreted the By-law stipulation which required only that the *advice* of the Pilots' Committee be sought, not its *approval*.

(b) *Pilots' Corporation*

On February 22, 1963, letters patent were issued under Part II of the federal Companies Act (1952 R.S.C. c. 53), creating "The Corporation of the British Columbia Coast Pilots" (Ex. 93). The aims of the Corporation are generally to promote and regulate, within the limits authorized by law, the practice of pilotage by its members, to undertake and pursue the study of questions of interest to the members, and to represent the members at meetings with governmental authorities, shipping companies and any other public or private bodies. (Vide also Part I, C. 4, pp. 93 and 94.)

As of 1964, all seventy pilots in the District were members of the Corporation but, according to the Corporation's General By-law No. 1 (Ex. 1166), pilots do not belong to the Corporation as of right since they have to be admitted by the Board of Directors. Moreover, a member may be suspended or even excluded from the Corporation by resolution either of the Board of Directors or of a general meeting for refusal to work or to abide by the By-laws and decisions of the Corporation. Thus, pilots do not automatically become members of the Corporation and, in theory, those who do not choose to seek admission do not become members. On the other hand, no regular member may resign as long as he remains in the practice of pilotage in the District; to that extent, membership in the Corporation may be said to be compulsory (vide Part I, C. 4, p. 90).

The five Directors of the Corporation are, by virtue of General By-law No. 1, the duly appointed members of the Pilots' Committee. The Directors select from their number a President and Vice-President, and appoint other officers as they see fit.

The Corporation has nothing to do with handling pilotage dues; this continues to be a responsibility of the Regional Superintendent who distributes the pilots' earnings directly to the individual pilots. The only monies the Corporation controls are the members' dues to the club fund which, in 1964, were set at \$7.50 per month. They have been increased substantially since then.

In practice, however, the Pilots' Committee continues to finance part of its activities out of the pool. This is considered quite irregular (vide p. 182). For an analysis of the Corporation's financial statements see p. 188.

(3) PILOTS' MEETINGS

Regular general meetings are held, usually in Vancouver, sometimes in Victoria. In order not to disrupt the service, there has never been a general meeting¹⁰ attended by all the pilots or even by a majority of the pilots. Notices of meetings are posted on Notice Boards and mailed to each pilot. Those who are not on duty usually attend with twenty or thirty being an average attendance. The Regional Superintendent does not attend, but the Pilots' Committee makes it a point to discuss with him any proposals from a meeting.

Several years before incorporation, the pilots adopted the practice of holding monthly general meetings. Since incorporation, the procedure remains the same but the meetings are conducted in a more business-like manner. The quorum is one-third of the members entitled to vote. No one may vote by proxy but a vote through a ballot sent by mail to each pilot may be taken if a poll is requested on a question of particular importance, such as proposals concerning expenditure of the pilots' money. In fact, the practice of taking a poll on important matters existed before incorporation. When this is done, ballots are mailed and counted at the next general meeting. The required majority is usually stated in the motion requesting a poll. In most instances, a two-thirds majority is stipulated because experience has shown that bare majorities are inconclusive and likely to cause friction. Proposals adopted in this manner, even though unanimity is not reached, are considered binding (in fact, if not in law) and have been implemented by the Superintendent on behalf of the Pilotage Authority, although sometimes they are contrary to the District By-law, e.g., those relating to annual leave and sick leave, or are even contrary to the provisions of the Act, e.g., the appropriation of compulsory pilotage money.

Generally, any subject dealing with pilots or pilotage may be discussed at a general meeting. Letters of complaint, if any, are usually the first items considered on the agenda. When indicated, a pilot's conduct is discussed and, at times, a pilot is ordered to appear before the Pilots' Committee for censure. The Pilots' Committee then reports on all its activities, including negotiations with such bodies as the Vancouver Chamber of Shipping. Proposed amendments to the By-law are studied. Other pilotage matters such as despatching, the suitability of tugs, improvements in privately-owned pilot boats, leave, sickness and accident insurance and the club fund may also be discussed and necessary action taken.

The minutes of the general meetings held in 1962 and 1963 prior to incorporation were made available to the Commission. Among the many matters discussed (and some of them several times) were the Puget Sound

¹⁰ On November 15, 1967, the B.C. pilots held a one-day study session, which in effect was a strike as a protest against the Pilotage Authority's decision not to grant in full the demand for a substantial increase in pilotage dues.

dispute; Sand Heads as a boarding station; refusal of a pilot to bring a vessel from Puget Sound owing to lack of suitable accommodation; pension arrangements; the two-pilot requirement for vessels sailing to Harriet Harbour and to Ocean Falls; new system of leave; incorporation; referral to the Pilots' Committee for censure of a pilot who had taken a "ship through the inside passage on his own"; increasing the amount allowed for incidental expenses and taking a poll on a proposal to increase the number of pilots.

(4) LEAVE OF ABSENCE

The question of leave of absence with pay, half pay and without pay is related to a system where pilots are either employees or quasi-employees. In the B.C. District, it presupposes control by the Pilotage Authority over the pilots' earnings and remuneration through a pool system. Under the present Act, the Pilotage Authority does not possess such powers; hence, these regulations—although required—are ultra vires (vide Part I, C. 4, pp. 73 and ff., and Comments p. 76, and C. 6, pp. 192 and ff.). The study and comments that follow are subject to that reservation.

According to the 1961 District By-law, which was in force at the time of the Commission's hearings (secs. 34 and 35), pilots were granted leave of absence on the following basis:

- (a) annual leave with pay at the rate of $2\frac{1}{2}$ days per month (30 days per year);
- (b) leave without pay not to exceed six months;
- (c) sick leave, a medical certificate being compulsory over six days, for:
 - (i) illness or injury off duty:
 - (A) with full pay (two months per year);
 - (B) with half pay (one additional month in the year);
 - (C) without pay (the remaining period of the year);
 - (ii) injury on duty:
 - (A) with full pay (six months);
 - (B) with half pay (six additional months);
 - (C) if, after one year, still unfit, retirement to be considered.

The foregoing was the *official* leave system; in practice, it was altogether different:

- (a) An additional thirty days of annual leave plus a six-day rest period per month, with full pay, were being taken by all pilots.
- (b) Sick leave, whether resulting from illness or injury incurred on duty or off duty, was granted with full pay, provided it was not in excess of two years. After two years' sick leave with full pay, the pilot's licence was cancelled if he was still unable to work.

Before the Second World War, the pilots had no days off except their annual leave and were always liable to be called. After the war, they decided to take four days a month to rest. When the Regional Superintendent took office in 1953, this rest period had gone up to six days. In 1958, it was increased to seven and a half days, or fifteen days off call every two months. In 1963, the pilots reverted to a six-day rest per month but added an extra month's annual leave, thus providing two annual leave periods of thirty days, one in the summer and one in the winter. However, the pilots informed the Superintendent that they would have no objection to pilots on unofficial leave being recalled if there were demands for their services.

In 1962, when the seven and a half day period was in effect, the Superintendent had approximately fifty pilots on duty at all times. As a result of the new system, the Superintendent had available for duty during the period January-March 1963 only forty-four pilots on call at all times, plus eleven more who were not on the normal roster and liable to be called.

In the opinion of the Superintendent, the pilots' idea of taking a second thirty-day period of leave was not sound; he would have preferred a monthly rest period of seven and a half days because rest between assignments is more important than leave. In addition, the thirty-day cumulative unofficial rest period presents a particular administrative difficulty in that a pilot who has so much time at his disposal may not remain in the vicinity and, hence, will not be available at short notice. Moreover, this practice tends to increase the workload of the pilots available for duty. However, despite the views of the Superintendent, the second thirty-day period of leave became official leave in the new General By-law of 1965. Nevertheless, the sick leave with pay period was also extended to three months. The extended sick leave and monthly rest periods have still not yet been recognized officially and, therefore, constitute an irregularity.

As a result of the leave system in force in the District, each pilot is off the assignment list or tour de rôle for a maximum of 120 days a year. During 60 of these, he is not on call and, during the remaining 60 days, he is subject to recall if he can be reached. In this regard, counsel for the pilots remarked that people in many other occupations have 121 days off each year: Saturdays and Sundays, seven statutory holidays, plus two weeks' annual leave.

At the time of the Commission's hearings, the new system had not been in effect long enough to give the Superintendent the opportunity to find out whether or not the demand for pilots would be, at times, such as to warrant recalling those on official leave. When the pilots had seven and a half days unofficial leave each month, his experience was that some had to be recalled during peak periods and, on one or two occasions, he had been forced to cancel all unofficial leave because the pilots available could not

handle the traffic. Since the new system was put in operation, effective January 1, 1963, he had not yet run out of pilots although he had been down to the last name on the list.

With regard to sick leave, the practice is to remove from the tour de rôle any pilot who is reported ill and to place his name on the "follow-up card". If he is still sick six days later, his doctor is asked to fill out a certificate of disability on a special form which is then forwarded to the Department of Transport in Ottawa.

The pilots are insured individually under a group disability insurance policy which provides \$125 per month for any member who is unable to work but, instead of paying this benefit to the pilot concerned, the money is put in the general pilotage fund as miscellaneous revenue and the sick or disabled pilot is considered—for the purpose of distributing earnings—as having been available for duty, and shares in the net revenues of the District as if he had not been ill, up to a maximum of two years. The insurance premiums are paid by the Superintendent on behalf of the pilots out of the net revenues of the District, i.e., out of the pilots' money.

(5) STATUS OF PILOTS

(a) *Pilots' Concept*

The pilots consider that their function is to pilot a ship to the best of their ability so as to take her to her destination safely; they also consider as part of their duties the berthing and unberthing of ships. They do not see themselves in command but believe that they are in charge of a ship's navigation from the time pilotage duties are required until she is berthed or anchored. In fact, Masters normally allow pilots to take over the navigation of their ships when sailing in pilotage waters. They will advise the pilot about their ship's peculiarities and may remain on the bridge but seldom countermand the pilot's orders. From the moment he takes over, the pilot gives helm orders directly to the helmsman and passes engine orders through the officer of the watch. The late Capt. W. A. Gosse testified that, in his twenty-six years of piloting, he had never been refused navigational control and was satisfied that pilots do more than offer advice—they actually take charge of navigation. (Re the status of the pilot on board, vide Part I, C. 2, pp. 22 and ff.)

The pilots consider themselves professional men as opposed to employees. The pilots believe that their functions differ considerably from, and should not be compared with, those of other occupations in that they are offering their services under varied conditions and subject to rigid federal control of their qualifications, licensing, conditions of employment, tariff, etc. They argue that they should not be treated as salaried employees enjoying a guaranteed level of earnings, security of employment and various benefits. They do not consider themselves employees of the Pilotage Authority

and give that as the reason why they would not co-operate with the Authority to define their workload. They believe that, not being employees, the number of hours they work is their own affair (vide p. 63).

The pilots consider themselves independent contractors operating under governmental control. They point out that they assume the risk of trade fluctuations because of changing economic conditions, they have to provide for their retirement years without the aid of contributions from the Government and they must make their own arrangements for their welfare needs (vide Part I, C. 4, *Comments* pp. 76 and ff., and p. 82).

The pilots believe that their franchise is related to the public service of transportation. The Government contributes largely to the maintenance of the pilotage service but the pilots do not view this as a contribution to themselves but rather as a subsidy to a public service and an aid to navigation which is, in turn, a subsidy to national trade and commerce.

Although the Federal Government has assumed most of their expenses, the District pilots pay for their office telephones and their own insurance and medical plans, the costs of which are deducted from their earnings by the Pilotage Authority. Believing themselves to be self-employed, they are not interested in fringe benefits or in the question whether there should be a ceiling placed on their earnings. As in other professions, they feel there should be no arbitrary limit on the amount they can earn.

In their Brief to this Commission, the British Columbia Coast pilots reported that several years ago a delegation of pilots from a number of Districts, including their own, met with a senior official of the Taxation Division of the Department of National Revenue in Ottawa and were informed that, after consideration by the department heads, it had been concluded that

"Pilots were contractors in that they had the contract to pilot ships in their separate Districts and they were given privileges and hemmed in by restrictions by the Government By-laws under which they operate".

This official is reported to have said that he did not altogether concur with this decision since he was of the opinion pilots were "cessionaires" (Ex. 80, Brief p. 7).

(b) *Vancouver Chamber of Shipping Concept*

The Vancouver Chamber of Shipping is of the opinion that pilots are employees of the Pilotage Authority and that they do not meet the definition of professional men such as lawyers and architects. Referring to the three hundred dollar statutory limitation of damages "occasioned by a pilot's neglect or want of skill" (subsec. 362(2) C.S.A.), the Chamber stated that shipowners and insurers would like to see it removed so that the pilot or the Authority could be sued in such cases. The Panama Canal Authority, which accepts full liability for damages incurred during a transit, was quoted as an example (Ex. 496).

On the other hand, the Chairman of the Vancouver Chamber of Shipping considered that pilots were, to a certain extent, ships' employees because the shipping interests "are paying the pilots' wages", and on that ground felt that, as a shipping representative, he should have a right to attend disciplinary inquiries.

(6) RESPONSIBILITY—CONDITIONS OF WORK

As elsewhere, the duties of the B.C. coast pilot demand a considerable degree of responsibility.

The pilot's responsibility extends not only to the safety of the ship herself, her passengers and/or cargo but also to the safety of other ships travelling the same waters and to the safety of port or harbour installations and shore communities. Since ships are becoming larger, faster and more costly, the pilot's responsibility is indeed a heavy one.

In this connection, it was pointed out that new ships, such as the Mariner class of fast American cargo ships, e.g., S.S. *Canada Mail* and S.S. *Washington Mail*, length 563.8 feet, 12,716 and 12,714 GRT respectively, speed 22 knots, cost 13 million dollars to build. During the winter of 1962-1963, the late Capt. W. A. Gosse piloted to sea two Greek freighters, S.S. *Sonic* and M.V. *Pharos*, one with the largest wheat cargo, the other with the largest lumber cargo on record in the world at that time. Also among the newer types of ships are those with the bridge aft; while the B.C. coast pilots do not find these vessels any more difficult to pilot, they encounter some problems in berthing them. The pilots state they can resolve these problems relatively easily provided they have available, and can use, all the tugs they need. As a rule, the shipping companies allow the pilots the number of tugs they ask for but, in some of the remote ports, such as ore ports, tugs are not available and, on occasion, have to be sent from Vancouver.

While ships are now generally better equipped with navigational aids such as radar, direction finder, echo sounder and gyro compass, pilots still find ships with only a magnetic compass. However, aids are only aids, and a ship cannot be navigated by them alone. Radar, for example, is a useful instrument but is sometimes unreliable because of distortion and, in any case, the pilot may require someone else to scan the radar in order that he may remain at his working position and maintain a look-out.

It is also the duty and responsibility of the pilot (By-law sec. 27) to report any violation of the law on the part of other vessels just as much as he is obligated to report any defect in the operation or the position of an aid to navigation. In this connection, the Regional Superintendent stated that several violations by tugs and tows in the First Narrows, such as coming in or going out on the wrong side of the channel, had been reported to him; he in turn reported them to the Harbour Master but was

unaware of what action, if any, had been taken. There were also instances of vessels dumping oil overboard in contravention of the Oil Pollution Prevention Regulations, reports of which were passed on to Steamship Inspection Services for investigation. Occasionally, the Superintendent had assisted the prosecution by having a pilot boat sent from Victoria or the Fraser River to take oil samples.

Another aspect of pilotage in British Columbia, which was mentioned by the B.C. coast pilots, is the considerable variation in the conditions under which they are called upon to work. In addition to handling various types and sizes of ships, their work is unevenly distributed throughout the year, is done mostly at night, involves peaks and lows, and sometimes requires them to be away from home for long periods.

Their work can also be hazardous. Ships often have to be boarded in open waters, e.g., off Cape Beale or Triple Island, an operation which may present considerable risk; two pilots were drowned a few years ago when making such an attempt. Pilots may also be exposed at times to disease-infected ships and may have to go through quarantine themselves, for they can not refuse to board ships in need of their services even if they are known to be infected.

With regard to accommodation provided for them on board, pilots pointed out that in some ships quarters are not clean and the food is poor and in others loading noises disturb their sleep while waiting in port. At Kitimat, they are also incommoded by alumina dust during the unloading process. According to present regulations, pilots are not obliged to remain on board while waiting in port and, accordingly, they often take hotel accommodation. In the southern part of the District, this expense is incurred by the pilots themselves but, in the Northern Region, it will be a charge against the ship. At Kitimat, for instance, pilots may be detained up to three days. In such a case, shipping companies prefer to accommodate pilots on board ship at a cost of approximately \$2.00 per day. In this connection, Saguenay Shipping Ltd. pointed out that they have a large number of modern 12,000 to 13,000-ton vessels on long term charter in which comfortable accommodation is available, although when two pilots are involved they may have to share the same cabin.

(7) ADMINISTRATIVE INQUIRIES, REAPPRAISAL AND DISCIPLINE

During recent years, disciplinary action has caused much dissatisfaction and argument, particularly in regard to the authority for its application. In the B.C. District, as elsewhere, no distinction is made between administrative inquiries, reappraisal, discipline, powers of the Minister as Pilotage Authority and powers of the Minister under Part VIII C.S.A. (vide Part I, C. 9, pp. 370 and ff., and pp. 397 and ff.).

At the time of the Commission's hearings in 1963, the Superintendent had no special power in any of these fields. Between 1939 and 1960, the By-law purported to give him limited disciplinary powers but these were withdrawn in 1960 and until they were reinstated in 1965 all disciplinary cases, no matter how minor, had to be decided by the Pilotage Authority in Ottawa. In order to correct this obviously excess centralization, sec 33 of the 1965 By-law purported to give the Superintendent jurisdiction in any disciplinary case, provided the accused pilot's consent was obtained, the Superintendent's power of punishment being limited to \$200. All other cases remained under the jurisdiction of the Pilotage Authority in Ottawa except that provision was made for an inquiry to be held in the District by a delegate of the Pilotage Authority. (Re the legality of the new system, vide Part I, C. 9, pp. 400 and 401).

The practice was for the Superintendent to carry out a personal and informal investigation whenever a reported casualty, incident or complaint did not appear at first glance to be of a serious nature. The main criterion to decide whether a shipping casualty was minor or not was the extent of damage or inconvenience.

When it appeared that a case was not serious, the Superintendent tried to verify the accuracy of the pilot's casualty report or the complaint received by interviewing the pilot, visiting the site of the occurrence and the ship(s) involved, and obtaining from the Master or any other witnesses whatever information they wished to volunteer.

The Superintendent did not allow anyone (not even the pilot) to accompany him or be present at interviews during his personal, informal investigation.

He then consulted the Pilots' Committee about the action that ought to be taken. If it appeared that the case was not founded or that it was so minor that disciplinary action was not indicated, and if the Pilots' Committee shared that view, no report was made to Ottawa and the case was dropped. However, when it was felt that the Ottawa headquarters should be informed or that some disciplinary measures should be taken, he forwarded the pilot's casualty report or the complaint to Ottawa and, in his covering letter, reported the result of his own personal inquiries and suggested any further course of action.

On the other hand, when it appeared from a casualty report that a shipping casualty was of a serious nature, no time was lost and the occurrence was reported immediately to Ottawa by telegram together with his recommendation for holding a Preliminary Inquiry.

All the Preliminary Inquiries held in the District were conducted by a Department of Transport officer; in no case was there any formal document appointing the investigator (Ex. 1450(d)).

When a breach of discipline was reported to him, he held a form of hearing. With the exception of the Pilots' Committee, third parties were not allowed to be present. He summoned the pilot concerned before him, invited the Pilots' Committee to attend, presented the pilot with all the evidence against him, and gave him the opportunity to defend himself. Then, in consultation with the Pilots' Committee, he decided whether the case was serious enough to warrant disciplinary action or whether it should be dropped. If the former, the Superintendent in his advisory capacity to the Pilotage Authority made a full report of the proceedings to Ottawa, including his opinion and that of the Pilots' Committee as to the pilot's guilt and, when applicable, the punishment considered appropriate in the circumstances.

Then the case was dealt with in Ottawa where, in the name of the Pilotage Authority, the pilot was found guilty or not guilty and, if the latter, was awarded punishment in the form of a reprimand, a fine, suspension or cancellation of his licence.

The Superintendent stated that the Pilots' Committee was generally inclined to be more severe than himself. The pilots as a group have always been very jealous of the reputation of their District, are anxious to maintain the highest standard of service, and consider discipline a necessity. In particular, they would not tolerate any of their fellow pilots indulging in alcohol and in case of a relapse would show no mercy and would urge that the offender's licence be cancelled.

During the five-year period 1960-1964, four Preliminary Inquiries were held but none was followed by either a Court of Formal Investigation or a Court of Inquiry under sec. 579 C.S.A. However, the grounding of the *Union Capitol* December 19, 1959, resulted later in the imposition by the Pilotage Authority of a punitive sanction of a one-month suspension of the pilot's licence (Ex. 1450(d)).

In order to bring the record up to date, the Commission obtained similar information for the three-year period 1965-1967. Re shipping casualties involving pilots, seven preliminary inquiries were held, one followed by a Formal Investigation (Ex. 1450 (d)).

- (i) *Hoyanger/Whitehurst*—a preliminary inquiry was held on the collision in dense fog between the Norwegian M.V. *Hoyanger* with a B.C. pilot on board and the U.S. Destroyer *Whitehurst*. This incident occurred in the vicinity of the Lion's Gate Bridge, Vancouver Harbour, on January 16, 1965. The pilot was found to be in no way responsible for the incident and no further action was necessary.
- (ii) *Olympic Palm*—a preliminary inquiry was held into the circumstances of the grounding of M.V. *Olympic Palm*. This vessel, under the conduct of a B.C. pilot, ran aground on the west coast of Orcas Island on April 1, 1965. The pilot was held responsible for

- the grounding, offered no defense on receipt of a *show cause letter* and, in due course, was suspended for four months. (Re *show cause letter* procedure, vide Report Part I, C. 9, p. 417.)
- (iii) *Pacific Princess*—a preliminary inquiry into a collision between M.V. *Pacific Princess* and the wharf at Cowichan, Vancouver Island, on August 18, 1966, held that the B.C. pilot involved failed to manoeuvre his vessel safely while making an approach to the wharf. He was reprimanded for this failure by the British Columbia Pilotage Authority.
- (iv) *Rondeggen*—a preliminary inquiry was held regarding the grounding of the Norwegian M.V. *Rondeggen*. She ran aground just inside the harbour entrance of Ocean Falls, B.C., on August 16, 1966. The grounding was found to have resulted from steering gear failure and the B.C. pilot involved was in no way to blame. No further action was necessary.
- (v) *Hoegh Marlin*—a preliminary inquiry was held into the circumstances surrounding the grounding of the Norwegian M.V. *Hoegh Marlin* in Active Pass, B.C., on May 4, 1967. As a result of this inquiry, disciplinary action was instituted against the pilot, pursuant to the procedure laid down in sec. 33 of the General By-law, for his failure to exercise the utmost care and diligence in the safe conduct of the vessel.
- (vi) *Nichieri Maru/Glacier Queen*—a preliminary inquiry was held into the circumstances surrounding the collision, in dense fog, between the Canadian home trade passenger and cargo ship S.S. *Glacier Queen* and the Japanese M.V. *Nichieri Maru* which was under the conduct of a B.C. pilot at the time of the incident. This collision occurred off Cecil Patch near Prince Rupert, B.C., on June 9, 1967. As a result of the evidence obtained in this inquiry, a Court of Formal Investigation was held. The Court found that the probationary pilot who had the conduct of the *Nichieri Maru* was to blame in that he had erred in the course of action he had taken at the time of the collision. As a result, his probationary period was extended.
- (vii) *Ross Sea*—a preliminary inquiry was held into the circumstances surrounding the grounding of the Norwegian bulk carrier M.V. *Ross Sea* which was under the conduct of a B.C. Pilot. The vessel grounded off Cape Beale at the entrance to Barkley Sound, B.C., on December 29, 1967. As a result of evidence obtained in this inquiry, a pilot was charged under sec. 33 of the British Columbia Pilotage District General By-law for his failure to exercise the utmost care and diligence in the safe conduct of the vessel. An order suspending the pilot's licence for thirty days was issued April 22, 1968 (Ex. 1450(d)).

The record indicates that in the District of British Columbia the pilots' conduct is good. Between 1953 and 1963, disciplinary measures have been taken on only very few occasions. One pilot was fined for using abusive language to the Superintendent. Three reprimands were given at the request of the Department of Transport and were considered sufficient punishment for one minor stranding, one case of minor damage to a pier, and one border-line case of insobriety. There were three suspensions: two for indulgence in alcohol by the same pilot who was later allowed to resign, the third the *Union Capitol* case referred to earlier. In this third case, the Pilots' Committee disagreed with the findings of the Preliminary Inquiry. They did not have access to the report of the Investigating Officer but extracts from it were read to them. On the basis of such information and of their own personal knowledge of the case (no alcohol involved), they agreed that there was negligence on the part of the pilot and recommended that he be given a severe reprimand and, if the Pilotage Authority deemed it necessary, that he also be fined. The Regional Superintendent agreed with the Pilots' Committee and so advised the Pilotage Authority in Ottawa. The Pilotage Authority generally concurred with such recommendations but, in this case, suspended the pilot's licence for one month. Between 1963 and early 1968, disciplinary measures were taken in five of the seven cases where Preliminary Inquiries were held, as indicated earlier, and also in other cases. For example, in 1967, on three occasions following a minor shipping casualty the pilot was reprimanded (Ex. 213).

The suspension of a pilot's licence has a very reduced punitive effect in the District of British Columbia because the pilots carry group insurance to protect them against such a risk. For a monthly premium of \$3.53 per pilot, each pilot has a guaranteed indemnity of \$1,000 for each month of suspension or cancellation, plus \$8 per day subsistence allowance, for a maximum period of fifteen months, provided the loss of his licence did not result from wilful misconduct, lack of sobriety or criminal offence. These insurance benefits are paid directly to the pilot concerned and are not paid into the pool since while he is suspended he has no share in the pilots' earnings and receives no pilotage remuneration. Therefore, suspension of a licence has very little effect as a mode of punishment.

As seen earlier, the pilots as a group (on the occasion of their general meeting) assume the right to censure their fellow pilots. A pilot whose conduct is found to have been reprehensible is ordered by the meeting to appear before the Pilots' Committee for reprimand. It is unnecessary to demonstrate that the pilots do not possess any such powers. Although they act with the best of intentions, it is a practice that should be discontinued since no one has the right to substitute himself for the tribunals legally provided to enforce discipline, especially when there is a close connection with the person being disciplined and the necessary disinterested and unbiased position can not be maintained.

The Vancouver Chamber of Shipping complained that neither the owner of the ship involved nor his representative is allowed to attend any of the foregoing hearings. They argue that they should be allowed to attend hearings held by the Superintendent relating to discipline because they contend that the shipowner is the employer of the pilot since he pays his wages. They complain that they are not allowed to attend Preliminary Inquiries and they maintain that all interested parties should be entitled to attend. They argue that in practice the investigation does not progress beyond the preliminary fact-finding stage and, therefore, the shipowner has no means of ascertaining for his own benefit the facts of the case within a certain degree of accuracy.

The submission of the Vancouver Chamber of Shipping is the result of a misconception of both the status of a pilot and the purpose of the Preliminary Inquiry (vide Part I, C. 9, pp. 404-414). However, because of the rôle the Pilotage Authority has made them play through the Advisory Committee and because of the current misuse made of the information gathered at the Preliminary Inquiry by the Department of Transport and the Pilotage Authorities, it is quite understandable that the Vancouver Chamber of Shipping was completely confused (vide Part I, C. 9, pp. 414-428).

(8) EXTENT AND NATURE OF CASUALTIES INVOLVING PILOTS

During the seven year period 1961-1967, there were 153 so-called shipping casualties involving pilots. The annual reports claim this is an enviable record because it represents a relatively small proportion of the total pilotage assignments:

Year	Number of Shipping Casualties	Percentage of Total Assignments
1961.....	26	0.4
1962.....	29	0.4
1963.....	17	0.2
1964.....	15	0.2
1965.....	15	0.2
1966.....	9	0.1
1967.....	42	0.6

Such statistical information, however, may give a very distorted picture because of the meaning given to the term "shipping casualty" and the fact that no distinction is made between minor incidents and serious occurrences involving extensive damage and even loss of life.

Since safety of navigation is a matter of public interest, the Canada Shipping Act requires the senior officer aboard any vessel involved in a

shipping casualty to report for examination (sec. 553). In addition, the pilot—if there is one aboard—is obliged to file his report without delay with his Pilotage Authority. All these casualties are listed and to varying extent are the subject of investigation by the Department of Transport. This Commission is concerned only with those in which a pilot is involved.

At first sight, the term “shipping casualty” connotes something in the range of a major disaster but, in fact, it means much more although it does not include all marine accidents.

The term “shipping casualty” is defined in sec. 551 of the Canada Shipping Act. Leaving aside the question of territoriality, it means only:

- (a) loss of a ship;
- (b) abandonment of a ship;
- (c) stranding of a ship;
- (d) damage to a ship whether due to navigation or caused by another ship;
- (e) loss of life due to a casualty happening to or on board any ship.

It is to be noted that this definition does not include touching the bottom or damaging aids to navigation, wharf installations, etc., if a ship does not suffer any damage. On the other hand, whenever a ship is damaged, no matter how negligible the damage may be, it is a shipping casualty. Sec. 551 does not differentiate as earlier legislation did.

Sec. 551 has its origin in pre-Confederation legislation since the first part of sec. 1 of the 1869 “Act respecting inquiries and investigations into ship-wrecks, and other matters” (32-33 Vic. c. 38), is substantially and almost verbatim the present sec. 551 but stranding was not mentioned, and in case of a vessel being damaged, it had to be “materially damaged” for the accident to be classified as a shipping casualty. There was no change in this regard in sec. 4 of the 1886 *The Wrecks and Salvage Act* (49 Vic. c. 81) but the word “materially” was deleted from the 1901 *The Shipping Casualties Act* (1 Ed. VII c. 35) and “stranding” was added by a 1903 amendment (3 Ed. VII c. 64). In 1906, this legislation was incorporated in the Canada Shipping Act (R.S.C. 1906, c. 113, sec. 776) and the section has not been materially changed since.

Despite the definition in the statute, the term is actually given a wider meaning, with resultant misunderstanding.

Subsec. 27(1) of the B.C. District By-law requires a pilot to report where:

- “(a) a shipping casualty, within the meaning of section 551 of the Act, occurs to a vessel with a pilot on board,
- (b) any incident out of the ordinary occurs in connection with the navigation of a vessel with a pilot on board, or
- (c) any violation of the law on the part of other vessels is observed . . .”.

The pilot has to make "a written report on the form provided for the purpose". The only form that is so provided is entitled "Pilot's Casualty Report Form", and it is currently used to make any of these reports without distinction.

For statistical purposes, the term "shipping casualty" is used loosely to mean shipping casualties, accidents and incidents with the result that the meaning of the statistical figures can be quite misleading. For instance, for the year 1966 in the B.C. District, nine shipping casualties involving pilots are reported; in fact, only four of these can be technically classified as shipping casualties; the other five are either accidents, i.e., damage to wharf installations, or mere incidents in navigation.

For statistics to convey relevant information, casualties, accidents and incidents should first be classified in two main groups:

- (a) those happening in the course of navigation;
- (b) those happening in the course of berthing or unberthing, or at anchor.

The distinction has its importance for the safety of navigation because any incident, even minor, when a ship is underway, might result in the most serious consequences. On the other hand, when ships are manoeuvring to anchor or when they are berthing or unberthing, the circumstances are totally different: they are moving slowly, more often than not they are assisted by tugs and heavy damage is rare. It is not so much a question of safety of navigation as of efficiency of operation. These are by far the more frequent occurrences and, when entered as shipping casualties, they give the wrong impression and portray false, or at least inaccurate, information. Technically speaking, plates dented while berthing represent a shipping casualty but, from the point of view of safety, such an incident can not be compared with a collision between two vessels transiting a channel, even if very little damage results.

Accidents should also be segregated according to their gravity.

Shipping casualties are usually divided into major casualties, substantial casualties, and minor casualties which can be defined as follows:

- (a) Major casualty: Loss of life, total loss of vessel or vessels, constructive total loss of vessel or vessels (written off by underwriters), watertight integrity lost making the vessel unseaworthy and necessitating drydocking.
- (b) Substantial casualty: Heavy structural damage not affecting watertight integrity or seaworthiness but involving heavy financial outlay for repairs.
- (c) Minor casualty: Repairs involving little or no delay and not affecting a vessel's seaworthiness.

Since the Commission did not possess the necessary information to apply these criteria, it was believed that for the purpose of this Report grouping in the following categories would be sufficient:

- (a) Major casualties—classified as cases involving loss or abandonment of a vessel, stranding with heavy damage to the vessel, damages to vessels exceeding \$50,000, and loss of life resulting from a shipping casualty.
- (b) Other casualties are classified as minor casualties.
- (c) Accidents—defined as cases when there was no damage to any ship and no loss of life but possible injuries to people, or damage to property, due to faulty navigation.
- (d) Minor occurrences out of the ordinary in connection with the navigation of a vessel, but without damage or injury to anyone, are called incidents.

Appendix D is a tabulation of all the so-called shipping casualties involving pilots that occurred between 1956 and 1967 inclusive. Furthermore, to further illustrate the table, a detailed analysis is given for the years 1965 and 1966.

With regard to damage to piers and wharves, the Regional Superintendent informed this Commission during its Vancouver hearings (March 1963) that he had made a recent survey of all the Vancouver wharves with representatives of the Pilots' Committee, The National Harbours Board and the Vancouver Chamber of Shipping, and had found that some were in need of repair and could easily be damaged by a ship making a normal approach. In support of this statement, the Superintendent subsequently submitted to the Commission a copy of a further survey dated September 3, 1964 (Ex. 1425) showing that several wharves were still in poor condition.

At the time of his testimony, the Superintendent lacked the opportunity and the time to visit the whole District and carry out similar surveys. He said that, as a result, he was at a disadvantage when he received a pilot's casualty report mentioning damage to a wharf and felt unable to determine whether the extent and nature of the damage warranted classification as major or minor, e.g., when the Texada Mines wharf at the northern end of Texada Island was struck on the night of September 30, 1963, while a ship was berthing with the result that the wharf, cat-walk and conveyor tower were completely destroyed. In this case, damage amounted to more than appeared on the pilot's report although it had been noted that the wharf was situated in an open roadstead with insecure footings. Because his staff was small and time was not available, the Superintendent was unable to visit Texada Island to make a personal survey. As in most cases of this kind, the ship sustained very minor damage.

It was also noted that in Vancouver Harbour wharves are not built to accommodate ships with large, flared bows. At the Columbia grain elevator, for instance, a ship has only six inches clearance between its spouts and the ship's bridge, and one degree of list will cause damage.

5. PILOTAGE OPERATIONS

(1) PILOT STATIONS

SITUATION

The term "pilot station" is neither defined nor used in the Act because the feature to which it refers is foreign to, and incompatible with, the free enterprise system on which the Act is based.

Pilot stations are a feature of the internal organization of a controlled service and are directly related to despatching pilots. Each one is a place or locality where a number of pilots are expected to be available at all times and from which they proceed to duty assignments. A pilot station becomes the home base of a pilot when he is attached to it; pilots become temporarily attached when they are temporarily transferred or when an assignment from their home base has brought them into the limits of another pilot station where, according to the administrative instructions of the District, they are obliged to remain while awaiting further instructions, i.e., generally a return assignment to their home base.

The number and location of pilot stations are governed by the requirements of the service and local conditions. The essential problem is to provide vessels with pilots anywhere in the District in the most efficient manner with the least possible inconvenience for both vessels and pilots, bearing in mind, however, that, since pilotage is a service, it should adjust within reason to the requirements of the users.

In the B.C. District, there are three pilot stations all located in the Southern Region, i.e., Vancouver, Victoria and Nanaimo. All the pilots of the District are attached to one of these three stations. When the Commission held its hearings in B.C. in March 1963, 37 of the 66 pilots then licensed in the District were stationed in Vancouver, 23 in Victoria and 6 in Nanaimo. In 1966, there were 74 pilots, 42 in Vancouver, 28 in Victoria and 4 in Nanaimo.

The headquarters in Vancouver is the main pilotage office and controls all despatching in the District. There is also an office in Victoria. The pilotage offices in Vancouver and Victoria are manned twenty-four hours a day and are linked by teletype. The official on duty at Victoria receives, acknowledges and records all teletype messages from the Vancouver office, informs the Victoria pilots of their assignments, and arranges for their pilot boats. At Nanaimo, however, the situation is different: there is no office and the pilots are reached directly at their homes by telephone from the Vancouver

office. Because Nanaimo is centrally located on Vancouver Island, it was selected as the most convenient place to station pilots in order to serve nearby ports, such as Port Alberni, Campbell River, Chemainus and Crofton. It was stated that this pilot station enabled the pilots to effect substantial savings in time and money.

There is no pilot station in the Northern Region. When pilotage was unorganized from 1920 to 1929, the pilot groups based in Vancouver maintained a resident pilot in Prince Rupert but the charges were double those for Vancouver. One of the recommendations of the Morrison Commission in 1928 was that a pilot station be maintained in Prince Rupert when the District was reactivated (vide p. 20). However, no pilot has been stationed in Prince Rupert since 1929 when pilotage was brought back under Government control.

The question has been under discussion for years. All agree that the pilotage service now provided at Prince Rupert and elsewhere in the Northern Region is generally satisfactory. The contentious points are not quality of service but, partly, the inconveniences resulting from the unavailability of a pilot on location and, principally, economics.

RECOMMENDATIONS RECEIVED

(a) *The Prince Rupert Chamber of Commerce*

With the support of the City Council, the Prince Rupert Chamber of Commerce advocated the establishment of a pilot station at Prince Rupert to take care of the increasing pilotage needs in Prince Rupert (including Porpoise Harbour and Watson Island) as well as to provide service to ships calling at other ports in the north.

The Chamber based its case on the need to develop shipping facilities and services in Prince Rupert so as to permit the port to play its full rôle in Canada's expanding trade with the Orient, stating that since Prince Rupert is Canada's nearest port to the Orient and is also the terminus of a trans-continental railway network, it appears to have a natural rôle for Pacific trade. The growing importance of the Northern Region and the favourable geographical location of Prince Rupert were demonstrated by the fact that the number of deep-sea ships entering Prince Rupert Harbour increased from a maximum of 50 per year before 1962 to 111 in 1964 (Ex. 141). However, the increase mainly involved vessels engaged in export shipments to Japan (lumber and iron ore) and China (grain).

It is the Chamber's view that a pilot residing in Prince Rupert could not only take care of local pilotage requirements but also provide service for ships in other north coast ports, e.g., Kitimat, Port Simpson, Stewart, Harriet Harbour and Tasu. Good charter aircraft service by both amphibian and land types is available to any of these ports.

(b) *Shipping Interests*

The shipping interests generally deplored the lack of a pilot station in the Northern Region. They gave the following as the principal reasons for their dissatisfaction with the present arrangements:

- (i) Most of the deep-sea ships calling at Prince Rupert and Watson Island approach the harbour from the north *via* Triple Island. In addition to the normal pilotage dues, these ships must pay the travelling expenses of the pilots who have to be despatched from one of the three pilot stations located in the Southern Region (By-law, Tariff Schedule, sec. 11).
- (ii) An abnormal advance notice must be given whenever the services of a pilot are required. The only adequate means of transport between Vancouver and Prince Rupert is by air. Since the air service operates only once daily (except Sunday), the pilot may have to be there one day ahead. Therefore, a ship's agent has to calculate the ETA at least two days in advance, calculations which are bound to be inaccurate since either the ship is at sea and could be delayed for many reasons or is in harbour loading or unloading, the duration of which may be affected by many factors that can not be appraised with accuracy long in advance. If a pilot was stationed and available at Prince Rupert, a shorter and more accurate ETA would suffice and this would reduce the pilots' travelling and incidental expenses.

Furthermore, the air service between Prince Rupert and the Southern Region is subject to disruption on account of adverse weather conditions. When this occurs, the ship is bound to be delayed unless it decides to proceed without the assistance of a pilot. However, when such interruption of the air service is expected, the pilot is sent one or two days in advance, provided the Vancouver office is then aware of the requirement for a pilot. In such a case, this means a substantial loss of the pilot's time.

- (iii) Whenever a vessel is in harbour loading or unloading, the Master or agent is always confronted with the difficult problem of deciding whether it is more economical to retain or dismiss the pilot (in some cases, two pilots).

(c) *Saguenay Shipping Limited*

Saguenay Shipping submitted that it was also interested in establishing a pilot station in the Northern Region but not at Prince Rupert. Most of the company vessels which call at Kitimat approach from the south, embark pilots off Cape Beale and proceed to Kitimat *via* McInnes Island. If these vessels were required to call at Triple Island to embark pilots, they would have to make a three hundred-mile detour. Very occasionally, vessels serving

Kitimat arrive from, or depart for, the Far East directly, in which case the northern approach *via* Triple Island is used. In 1962, for instance, there were only four such vessels, one inbound and three outbound. Saguenay Shipping, therefore, would prefer to see a pilot station established south of Prince Rupert at an intermediate place close to McInnes Island.

(d) *G. W. Nickerson Company Limited*

The President of G. W. Nickerson at Prince Rupert expressed views at variance with those held by the Prince Rupert Chamber of Commerce. In his opinion, the ocean shipping business at Prince Rupert is unlikely to develop in the foreseeable future to the point where the stationing of pilots at Prince Rupert would become necessary. He pointed out, in particular, that if arrangements were made to have customs entry and clearance procedures carried out at Harriet Harbour¹¹ for the Japanese ore carriers calling there monthly (arrangements which he thought might very well be made in the near future), Prince Rupert would lose a significant number of vessels that now have to call solely for customs purposes. He stated that he was satisfied with the existing system, noting that on only two occasions during the last few years the pilotage office in Vancouver was unable to provide pilots and, on these occasions, the Harbour Master at Prince Rupert supplied the necessary service himself without difficulty. Mr. Nickerson added: "Any fisherman can pilot a boat in here, but he can't dock her". He did not regard berthing as a normal responsibility of pilots. His suggestion is that the pilots in British Columbia be brought under the Civil Service and that all pilotage charges be made uniform in every part of the District.

(e) *B.C. District Pilots*

The District pilots' stand on the question is governed by one proviso, namely, a pilot station in Prince Rupert or elsewhere in the Northern Region must be financially self-supporting. Otherwise, because of the present system under which they are remunerated, the British Columbia District pilots would have to subsidize this station, a responsibility which they claim is not theirs. They stated, however, that if traffic in deep-sea vessels at Prince Rupert were to increase sufficiently to enable resident pilots to derive an adequate remuneration, their present objection to the stationing of pilots there would disappear. Similarly, their objection would disappear if the remuneration of pilots in their District were put on the basis of an acceptable guaranteed annual salary, assuming that all other working conditions were satisfactory.

In order to assess the financial aspects, the Regional Superintendent prepared an estimate (Ex. 131) of what a pilot resident in Prince Rupert would

¹¹ Early in 1968 it was reported that operations at Harriet Harbour would close during the year because ore reserves were running out.

have earned in the years 1962-1963-1964, based on the number of ocean-going vessels that entered Prince Rupert and Watson Island that year, assuming:

- (i) the resident pilot would not proceed outside Prince Rupert-Watson Island—Porpoise Harbour and their approaches, i.e., would take only ships coming from sea to harbour or proceeding to sea from harbour, the other vessels being piloted in and out of harbour by the pilot already on board when coming from another B.C. port or going to another B.C. port;
- (ii) an average pilotage charge of \$95 per trip (10,000 tons, 22 feet draught, 28 miles).

These calculations (Ex. 131) supported the pilots' objection that the revenue earned by a resident pilot on these assignments would be less than the average net earnings for a B.C. pilot and that the Prince Rupert station—even if it consisted of only one pilot—would be financially dependent upon earnings elsewhere in the District:

	1962	1963	1964
Number of times a local pilot could have been used on port pilotage assignments at Prince Rupert.....	70	85	110
Average <i>gross</i> earnings of local pilot.....	\$6,650	\$8,075	\$10,450
Average <i>net</i> income for a B.C. pilot (income reported for income tax purposes, p. 133).....	\$14,555	\$15,060	\$15,364

Establishing resident pilots for a limited port operation is only one of the possible solutions. The others include dividing the District or establishing a northern pilot station to take charge of all assignments in the Northern Region and also assignments to the Southern Region.

STATISTICS ON NORTHERN REGION TRIPS WITH PILOTS

In order to appreciate the situation, the Regional Superintendent, at the request of the Commission, compiled for the year 1965 statistics on all northern assignments, i.e., exclusive of those that commenced or terminated in the Southern Region. He also provided previous statistics for the year 1961 which, however, covered only the assignments that concerned only Prince Rupert and vicinity, i.e., from or to sea, and, although incomplete, give a clear indication of the constant and steady growth of the Northern Region as compiled in the following table:

Study of British Columbia Pilotage District

PILOTAGE DISTRICT OF BRITISH COLUMBIA—NORTHERN REGION EXCLUSIVELY—TRIPS WITH PILOTS

	1965				1961					
	No. of Trips	Trip Charges \$	Detention Charges \$	Expenses \$	Total Charges \$	No. of Trips	Trip Charges \$	Detention Charges \$	Expenses \$	Total Charges \$
<i>Assignments Exclusively between Sea and Prince Rupert & Vicinity</i>										
Triple Island to Prince Rupert.....	46	4,975.70	320.65	3,269.71	8,566.06	30	2,609.97	145.20	2,350.35	5,105.52
Port Edward and Watson Island to Triple Island.....	18	1,776.90	671.55	1,525.03	3,973.48	10	919.06	756.25	528.54	2,203.85
Triple Island to Watson Island and Port Edward.....	3	240.33	72.60	286.67	599.60	5	427.62	—	119.56	547.18
Port Edward and Watson Island to Prince Rupert.....	9	1,281.34	471.90	299.23	2,052.47	1	35.06	—	60.60	95.66
Prince Rupert to Triple Island.....	54	6,154.04	514.25	3,854.56	10,522.85	27	2,675.71	786.50	1,810.99	5,273.20
	130	14,428.31	2,050.95	9,235.20	25,714.46	73	6,667.42	1,687.95	4,870.04	13,225.41
<i>Assignments Between Prince Rupert and Vicinity and Other Ports in the Northern Region</i>										
Prince Rupert to Harriet Harbour.....	12	3,081.43	417.45	7.50	3,506.38					
Harriet Harbour to Prince Rupert.....	12	3,324.43	853.05	—	4,177.48					
Prince Rupert to Kitimat.....	24	3,438.81	350.90	1,104.71	4,894.42					
Kitimat to Prince Rupert.....	22	3,476.82	—	1,533.34	5,010.16					
Watson Island and Port Edward to Kitimat.....	4	689.38	72.60	—	761.98					
Kitimat to Watson Island and Port Edward.....	14	2,536.28	356.95	730.89	3,624.12					
Triple Island to Port McNeill.....	7	802.57	477.95	223.65	1,504.17					
Port McNeill to Triple Island.....	1	132.12	—	88.75	220.87					
Watson Island and Port Edward to Vancouver Island West.....	7	2,778.08	459.80	364.45	3,602.33					
Vancouver Island West to Watson Island and Port Edward.....	1	240.85	—	53.65	294.50					
Prince Rupert to Vancouver Island West.....	6	2,810.17	266.20	387.28	3,463.65					
Vancouver Island West to Prince Rupert.....	6	1,793.07	242.00	328.70	2,363.77					
	116	25,104.01	3,496.90	4,822.92	33,423.83					
GRAND TOTAL, 1965.....	246	39,532.32	5,547.85	14,058.12	59,138.29					
Average surcharge through detention and expenses over basic trip charges.....		100%	14.03%	35.56%	149.59%					

(Not available for 1961)

This table suggests the following remarks, *inter alia*:

- (a) It does not include all possible northern assignments because it does not show non-exempt ships which paid dues without employing a pilot. This practice, which occurs mostly in the Northern Region, has developed steadily during recent years (vide p. 61) as a result of the increase in the number of ships trading regularly with certain ports in the north and the substantial savings derived by dispensing with a pilot since only the trip charge is demanded (vide pp. 58-61).
- (b) The average surcharge on Northern Region assignments in 1965 amounted to 49.6% of the total pilotage charges to each ship. Since that time, the surcharge must have increased substantially because the 1966 amendment to the detention section of the *Schedule* (P.C. 1966-980) not only raised the daily minimum charge from \$36.30 to \$60 but also added further periods of time for which detention is payable with no deductible period and without a maximum limit, i.e., when a pilot is travelling in a ship but not piloting. This provision is of particular significance during most trips in the Northern Region. The higher cost is caused by the pilots' travelling and other expenses that are charged against the ship in the Northern Region only, and detention charges which are more likely to occur there owing to the absence of a northern pilot station.
- (c) The difference in the pilotage dues charged a ship when light and loaded is very small as is shown by the aggregate charges levied for twelve trips light from Triple Island to Harriet Harbour and return loaded.
- (d) These statistics would remain substantially the same if payment of dues were not compulsory. Contrary to the situation in the Southern Region, ships that can dispense with pilots in the Northern Region have good financial reason to do so.

COMMENTS

In this debate, it appears to have been completely forgotten that pilotage is a service and, hence, its organization must adapt to the legitimate requirements of those for whom it exists.

The fact that the Crown has intervened by creating a District and licensing pilots should be a further guarantee to shipping of a more efficient service. Such intervention should never serve primarily for the private interests of the pilots to the disadvantage of shipping and the pilots should not abuse the franchise thus created by not providing as efficient a service as might reasonably be expected.

Furthermore, when a service becomes a public service, as is the case when compulsory pilotage of any form is imposed, the private interests of the pilots should yield before the superior interests of the service. If a pilot station ought to be maintained in a given area in the interests of the public and shipping, such considerations as whether it would be financially self-supporting should not be entertained. In a public service, some sectors are always more profitable than others and working conditions easier. Those who provide the service, especially when they are given a franchise, should not be allowed to neglect less profitable areas. The service should be considered as a whole, the smaller return and greater difficulties in some sectors being compensated for by higher revenue and easier arrangements in others. This is one factor to be considered when the tariff is established so that in the end each pilot will receive in aggregate an adequate annual income. But when a tariff has been established along these lines, no pilot should be allowed to alter the organizational structure so as to discriminate between regions.

This problem will be half solved if, as recommended earlier (*vide p. 72*), the same assignments are always given to the same pilots on the basis of the specific qualifications they possess for the waters concerned. It would then be logical for these pilots to reside as close as possible to the scene of their most frequent employment.

(2) PILOT BOARDING STATIONS

The expression "boarding station" is not used in the Canada Shipping Act but reference is made to such stations with regard to the application of the compulsory payment system. Secs. 348 and 349 stipulate that a ship requiring a pilot on her inward voyage must display the signal for a pilot "whilst within the limits prescribed for that purpose" (subsec. 348(a)), or "until the ship has passed a point or place, from time to time fixed in that behalf by the pilotage authority of the district" (subsec. 349(1)(b)).

Therefore, a boarding station was conceived as the area at the approaches to a harbour or at the entrance to a Pilotage District where pilots were required to await the arrival of ships to offer their services and were forbidden to go beyond the limits of the boarding area to do so. The creation of boarding areas and legislation regarding their use by pilots are matters to be dealt with by the Pilotage Authority by regulations pursuant to subsec. 329(f) C.S.A.

With fully controlled pilotage the necessity for legislation imposing boarding stations on pilots has disappeared nor is it required to enforce the compulsory payment system. These are now details of internal organization. This is probably why the subject is generally no longer dealt with in District regulations. The British Columbia District is the sole exception in this regard, but its governing By-law provisions on the matter (sec. 14) are informative

only and create neither rights nor obligations. Designated stations are required because of the very nature of the District which extends over the whole of the Pacific coast of Canada. It would be impossible to have boarding stations at every point where ships might choose to enter the District since this might be anywhere along the six hundred-mile coast line. Accordingly, it was decided to establish permanent boarding stations only on the entry routes mostly used by ocean-going vessels and to permit arrangements for other boarding facilities to meet special cases. The inclusion of such information in the District By-laws was one of the means at the disposal of the Pilotage Authority to notify all concerned.

ARRANGEMENTS FOR PILOT BOARDING STATIONS

(a) *By By-law*

Two permanent boarding stations are specified in the District By-law; one is situated at the southern entrance to the District "within a radius of two miles of the fairway buoy off Brotchie Ledge near Victoria", and the other is situated at the northern entrance to the District "off Triple Island near Prince Rupert". Both Victoria and Prince Rupert are official Ports of Entry for customs and immigration purposes.

(b) *By Notice to Mariners*

The District By-law also provides for the establishment of pilot boarding stations "at any other place specified in a Notice to Mariners promulgated by the Deputy Minister of Transport". At present, there are none, but *Sand Heads*, which is still regularly maintained as a boarding station for the New Westminister District pilots, was specified as a boarding station for the British Columbia District pilots as well at the time of the Puget Sound dispute (vide pp. 31-33). Sand Heads is the nearest boarding area for ships sailing between British Columbia ports and United States ports at the southeast end of the Strait of Georgia when using Rosario Strait.

With the settlement of the Puget Sound dispute, the British Columbia District pilots requested the withdrawal of Sand Heads as one of their boarding stations. The Pilotage Authority agreed but, as a consequence of the B.C. pilots no longer making themselves available at this point of entry, it was also decided that ships passing Sand Heads to and from an American port in the Strait of Georgia and not taking a pilot would not be charged dues (vide p. 53). At present, there is little traffic of this nature but the situation may change.

In the case of traffic between the New Westminister (Fraser River) and British Columbia Districts, the Sand Heads boarding facilities are used by the British Columbia District pilots only when convenient. Most of the time, they find it easier to board or disembark at New Westminister. As this is

strictly a matter of personal choice involving no additional expense to the vessel, no exact account is kept of the use made by them of the Sand Heads boarding facilities, but the Superintendent estimated that in 1964 they used the launch there about 40% of the time (Ex. 1450 (a)).

(c) *By Special Arrangement*

Finally, the District By-law provides for setting up a pilot boarding station "at any other point by special arrangement with the Superintendent". This provision is used to cover all other boarding arrangements both inside and outside the District.

(i) *Inside the District*

(A) *Cape Beale*—Boarding arrangements were made at Cape Beale, Barkley Sound, to accommodate ships from the south bound for ports on the west coast of Vancouver Island or in the northern part of British Columbia, and *vice versa*. The boarding facilities at Cape Beale were originally arranged by the Superintendent when the District was put under Government control in 1929. They have been used extensively ever since and, although Cape Beale has been considered for quite some time a regular and permanent boarding station, it has never been officially recognized as such either by By-law amendment or by Notice to Mariners. No reason was advanced by the Pilotage Authority to explain this apparent inconsistency.

(B) *In Ports*—Arrangements are also made for pilots to board vessels in ports when ships are ready to sail or when pilots are needed to make harbour shifts (movages).

(C) *Elsewhere*—Except as noted above, pilots seldom board vessels anywhere else in the District either because land communications are non-existent or because the coastline is generally too exposed to permit pilots to board in open waters (unless the weather is exceptionally favourable) and ships can not afford to wait for fine weather.

(ii) *Outside the District*

Embarking or disembarking a pilot outside the District is a special feature of coastal pilotage in British Columbia. Normally, an incoming ship wishing a pilot should proceed to one of the boarding stations but this might entail a considerable deviation from the shortest route and cause extra expense and delay. A ship loses time and money when she slows or stops to embark a pilot (turbine tankers are particularly affected) and there is added risk whenever land or other ships are approached.

To obviate this difficulty, the shipping interests concerned asked the pilots to travel outside the District to board:

(A) *in Seattle or other Puget Sound ports* for trips between these ports and Vancouver or other B.C. District ports *via* Haro Strait;

(B) in *San Francisco or other California ports, and in Oregon or Alaska ports* for trips between these ports and B.C. ports on the west coast of Vancouver Island or in the northern part of the District.

The pilots agreed subject to certain conditions noted hereunder. They stated that they consented to provide this service solely as a convenience to shipowners. They do not consider it a holiday to join ships outside the District and frequently find it boring to be idle for long periods. Some pilots prefer to trade places with other pilots when their turn comes.

This, however, must be recognized as one of the features of coastal pilotage that has to be accepted. For example, the coastal pilots in Australia performing pilotage in the Great Barrier Reef region are faced with the same problem; they do not require a ship to detour from its route to embark or disembark a coastal pilot but regularly board and disembark at any place or port—even outside Australian waters—provided they are adequately compensated for the expenses they thereby incur (vide Part I, *App. XIII*, p. 779).

AGREEMENTS BY B.C. DISTRICT PILOTS

(a) *Puget Sound Agreement*

This agreement has been in operation for many years. It involves both Canadian (B.C. District) and American (Puget Sound) pilots and provides that in ships sailing between Puget Sound and B.C. ports the pilots travel outside their respective Pilotage Districts to board or leave vessels. For instance, in a ship bound from Seattle to Vancouver, the Canadian pilot is asked to proceed to Seattle to board the ship there with the Puget Sound pilot and travel as a passenger until the ship enters British Columbia District pilotage waters where he takes over pilotage duties from his American colleague. Since this is a reciprocal agreement, the Puget Sound pilot stays on board as a passenger until the ship's arrival in Vancouver and returns home by land or air. On voyages from British Columbia to Puget Sound ports, the procedure is reversed. Ninety per cent of the Puget Sound trips are to or from Vancouver. The changeover takes place either in Haro Strait off the Lime Kiln, San Juan Island, or off East Point (vide pp. 31-33) or in ships proceeding through Rosario Strait at the Canada-U.S. boundary line at the South entrance to the Strait of Georgia (although from the boundary line almost up to Vancouver, the Strait forms part of the New Westminster District).

For this extra service, including the pilot's travelling expenses, the tariff up to 1965 included an additional charge of \$48.40 although, in fact, the charge was raised to \$60 in 1961. This discrepancy was not corrected until the 1965 By-law which, in subsec. 11(2) of the *Schedule*, provides for two different charges depending upon the Puget Sound port concerned, i.e.,

\$60 for a port on the eastern or southern shores of Puget Sound, including Tacoma and Port Angeles, and \$100 for any other Puget Sound port.

(b) *California Shipping Company Agreement*

To avoid calling at the Cape Beale boarding station on trips to and from ports on the west coast of Vancouver Island and the Northern Region of the District, the California Shipping Company invited the British Columbia District pilots to embark or disembark in California ports. On November 16, 1961, an agreement was signed between the California Shipping Company and the British Columbia Pilots' Committee (Ex. 81). Under the terms of this agreement, the pilot is paid first class travelling and subsistence expenses. As of 1963, he also receives, in addition to the regular pilotage dues, detention money of \$75 for each day, or part thereof, calculated from the time of departure from his home base until he commences pilotage duties within the District on northbound sailings or from the time he ceases pilotage duties at his district limits until he returns to his base on southbound trips. Although these trips are all north of latitude 50°, only one pilot is despatched because that part of the trip in Canadian pilotage waters is below the eight-hour requirement (see sec. 5 hereunder). In this connection, the following reservation is made in the agreement:

"5. Inasmuch as there will be no requirement under these arrangements for the Pilot to be on duty for any period in excess of eight hours, it will be necessary to carry only one Pilot" (Ex. 81).

(c) *Other Agreements*

On November 6, 1961, the British Columbia District pilots made a general offer to the shipping companies

"to board or disembark from vessels at any port, anchorage, point, or place, outside of the B.C. Pilotage District, when this can be done in safety, and when the exigencies of the service permit" (Ex. 1164)

for the same monetary consideration as that of their agreement with California Shipping. Among others, Standard Oil and Saguenay Shipping Companies have taken advantage of this offer. For Standard Oil, pilots fly from Vancouver to San Diego, Los Angeles or San Francisco to embark and wait, if necessary, for the tankers to load. If the destination is Prince Rupert or Watson Island (Porpoise Harbour), they are on board as passengers for four or five days before commencing to pilot the ship into harbour. They normally wait during unloading (about a day) and pilot the vessel out to sea. Sometimes they may have to remain with the ship until she returns to California from where they fly home. Pilots are usually so retained at Ocean Falls, Port Alice and other ports where the difficulty of land transport or

other factors do not make it advisable to effect a changeover of pilots. Standard Oil Company Ltd. is reported to be pleased with the arrangement. The pilots also embark or disembark at any Alaska port subject to the same conditions.

On one occasion, a Saguenay Shipping Company vessel sailing from Kitimat to a California port used this out-of-District service because the weather made it inadvisable to attempt to disembark the pilot at Cape Beale. This was not a situation foreseen by sec. 359 C.S.A. where the pilot is taken out of his District by stress of weather. In this particular instance, it would have been possible, although inconvenient, for the vessel to detour to one of the official boarding stations.

While the Pilotage Authority has not been a party to any of these agreements, the Authority has taken no exception to them and will not object provided these out-of-District services do not interfere with normal pilotage operations inside the District. In other words, the Superintendent would not approve of a pilot taking such an assignment if it would interfere with local requirements. Similarly, since this is a service being provided outside the district limits, the Superintendent would not urge a pilot to accept the assignment if it were against the pilot's wishes (e.g., at the time of the Puget Sound dispute).

Contrary to the attitude taken in the Puget Sound agreement, the California Shipping Company agreement, as extended to all shipowners, was not reflected in the tariff. In the 1965 General Bylaw, this situation was corrected somewhat by the inclusion of a general provision to the effect that the additional charge in such cases would have to be agreed upon between the Authority and the Master or agent concerned (*By-law Schedule*, subsec. 11(3)).

In all cases, however, the Superintendent collected the money on the pilots' behalf and, after deducting travelling and subsistence expenses, placed the remainder in the pool for eventual distribution. The charges were shown separately on the bill presented to the shipping companies, qualified by the words "as agreed", but the revenues were nonetheless shown as earnings in the District pilotage financial statements.

So far, it appears that this extra service has not interfered with the pilotage service in the District. However, to meet the additional requirement, it has been necessary to increase the number of pilots considerably. In fact, the pilots admitted that if these out-of-District services were to be discontinued, the number of pilots in their District could be decreased by ten or twelve.

BOARDING-OFF POINTS

Although the By-law implies that a ship should call at a boarding station to disembark a pilot, it has been agreed by the Pilots' Committee that they will disembark in any suitable place provided:

- (a) weather permits,
- (b) a safe pilot boat is available, and
- (c) the ship pays a "boarding-off" charge of one day's detention, i.e., \$36.30 in addition to the normal dues as if the trip had been completed to the boarding station.

Although this practice had long been in effect, it was not until the General By-law of 1965 that it was sanctioned in the regulations. Section 8 of the *Schedule* to the present General By-law reads as follows:

"8. Where, for the convenience of a vessel that is entering or leaving the District, a pilot is embarked or disembarked at a point north of 50° north latitude on the west coast of Vancouver Island other than a pilot boarding station at Triple Island or Cape Beale, there shall be paid, in addition to any dues otherwise payable pursuant to this Schedule, the sum of \$36.30".

There are a number of boarding-off points, the main ones being Esperanza Inlet, Port Hardy and Quatsino Sound. The principal ports they serve and their respective distance from the nearest pilot boarding station are as follows:

Boarding-Off Points	Principal Ports Served	Distance to Nearest Pilot Boarding Station
1. Esperanza Inlet.....	Tahsis Zeballos	} Approx. 60 miles—Cape Beale
2. Port Hardy (or Pine Island, weather permitting).....	Port McNeill Beaver Cove Telegraph Cove	
3. Quatsino Sound.....	Port Alice	Approx. 150 miles—Cape Beale

When a ship is returning to sea, the Master may not need as much help as on the inward passage and may be able to dispense with the pilot after receiving advice as to which course to steer. He could then disembark the pilot anywhere this can reasonably be done and where the pilot has means of transportation to return to his base station. If the weather is inclement, or the boat owner feels conditions are too dangerous, the ship must then proceed to a regular boarding station to disembark the pilot unless he agrees to be overcarried and disembarked outside the District.

STATISTICS ON BOARDING AND DISEMBARKING

The following tabulation shows the number of times each type of boarding arrangements was used and indicates their relative importance, not counting boarding and disembarking from a berth in a B.C. District port or at New Westminster:

BOARDING AND DISEMBARKING
NOT INCLUDING THOSE FROM A BERTH IN A B.C. PORT

	1961	1962	1963	1964	1965	1966	1967
Boarding Station							
Brotchie Ledge.....	3,162	3,666*	3,840	3,643	3,412	3,434	3,620
Cape Beale.....	344	388	429	449	469	423	367
Triple Island.....	105	103	135	165	162**	186	206
Boarding-off Points							
Port Hardy.....	36	19	21	18	6	7	20
Quatsino Sound.....	12	12	15	17	17	20	21
Others.....	n.a.	9	—	6	—	37	—
Total Times Pilot Boats and Hired Launches Used.....							
	3,659	4,197	4,435†	4,298	4,066	4,107	4,234
Boarding and Disembarking Outside B.C. District Waters							
Puget Sound ports.....	647	336	106	603	762	659	731
Alaska ports.....	4	11	8	3	—	—	1
California ports.....	11	20	15	15	11	16	18
Oregon ports.....	—	8	—	3	3	6	1
Total.....	662	375‡	129‡	624	776	681	751

*Including 2 at Sand Heads.

**51 by the privately-owned pilot boat up to the take-over by D.O.T.

†Discrepancy of 5 disregarded.

‡Decrease no doubt attributable to the Puget Sound dispute.

n.a. not available

SOURCE OF INFORMATION: Ex. 205 and Ex. 1160.

RECOMMENDATIONS RECEIVED

The Vancouver Chamber of Shipping explained that with only Brotchie Ledge, Cape Beale and Triple Island as regular boarding stations, ships whose destination is a port between Cape Beale and Triple Island (for example, Ocean Falls or Kitimat) have to make a long and expensive detour to embark a pilot. The Chamber therefore recommended that an intermediate boarding station be established between Cape Beale and Prince Rupert adding that it did not wish to specify any one place owing to the necessity for the Department of Transport to make a thorough survey of the services that would need to be provided there, such as aids to navigation, D. F. Stations, pilot boats, etc., before a site is selected.

Saguenay Shipping Ltd. never used, nor considered using, Triple Island as a regular boarding station for its ships coming from the South because it found it more economical to pay detention charges for two pilots than to incur the additional operating expenses of diverting its ships to Triple Island. From the Company's point of view, Cape Beale is at the moment the most satisfactory of the three available boarding stations, but the Company feels that an intermediate station would reduce its operating costs and any such reduction would enable the Company to be more competitive in world markets. While the Company appreciated that few sheltered places were available for this purpose, it appeared at the time of a meeting between officials of the Company and the pilots in 1962 that a pilot boat might be kept at Klemtu on Swindle Island, some twenty-five miles northeast of McInnes Island Light (C.H.S. Chart 3711), thus enabling the McInnes Island area to serve as a boarding station for both Kitimat and Harriet Harbour.

Generally, the feeling in the north is that everything is easier in the Southern Region: distances are shorter, there are no travelling or detention charges and, hence, costs are lower. The northern companies claim that their vast investments in the northern areas should entitle them to equal consideration and that some effort should be made to lighten their economic burden by equalizing pilotage costs.

(3) PILOT VESSELS

As seen in Part I (C.5, p. 109 and C.8, pp. 276 and ff.), the question of availability of pilot vessels to allow pilots to board or disembark off shore is not part of the Pilotage Authorities' responsibilities under the scheme of organization still provided under Part VI C.S.A. One of the results of the Pilotage Authorities assuming full control of the service by assigning pilots was to place on the Pilotage Authorities' shoulders the responsibility that the pilots are provided with adequate pilot vessel service. In this respect, British Columbia is a case of exception because it is a coastal District in which it is a practical impossibility to provide regular pilot vessel service at every possible point of entry. The solution the Pilotage Authority adopted was to arrange for regular pilot vessel service at the entrance to the busiest routes, i.e., at each regular boarding station, and to supply private operators on a trip basis for the occasional service required elsewhere. These arrangements were made when it became the Department of Transport's policy to operate pilot vessel service in New Westminster, St. John's, Newfoundland, and Districts where the Minister was the Pilotage Authority. Because of the practical impossibility of providing and operating pilotage vessel service at every point in a District where such service might be occasionally required, Order in Council P.C. 1959-19/1093 authorized the Government to assume half the cost when a privately-owned vessel had to be hired on a trip

basis for such use. British Columbia is apparently the only District where advantage is taken of this provision.

Acting upon this authority, the Department of Transport took over the operation of the pilot vessel service at Brotchie Ledge and has operated it ever since. The pilot boat charge is \$10 per ship serviced. Elsewhere, the service is provided on a trip basis by private operators. The Regional Superintendent supervises the efficiency of the services so provided and negotiates general agreements for the Government with the private operators. The pilots have no say in the hiring of these privately-owned pilot vessels.

Payment for these private pilot vessel services is handled by the Regional Superintendent who charges the ship concerned half the cost of hire and collects the amount as pilotage dues. He pays the full charge to the operator concerned and debits the Government with the other half.

At the time of the Commission's hearing in British Columbia in 1963, the pilots expressed their satisfaction with the three pilot vessels operated by the Department of Transport at Brotchie Ledge, i.e., *Canada Pilot Nos. 20, 21 and 22*. Since that time, Marconi Raymarc radars were installed in *Canada Pilot Nos. 21 and 22*, in August 1965. It has been reported that these radars are satisfactory. Since May 1965, the station has been serviced by only two pilot vessels, *No. 22* having been temporarily transferred to Triple Island.

At Cape Beale, the service is provided by Mrs. Riley of Port Alberni. In 1963, it was a new vessel which made the 35-mile trip from Port Alberni to Cape Beale in five or six hours but was too small to operate beyond Cape Beale in the open sea.

At Vancouver and in the other B.C. ports, the pilots board and disembark at a pier. When ships are at anchor, the pilots use a taxi boat or a tug arranged for and paid by the shipping agents. It would appear that the Government does not contribute to the payment of the relatively small charges incurred on such occasions.

At the time of the Commission's hearing, pilot vessel service at Triple Island was provided by a private contractor, the Armour Salvage Co. The pilots complained that the old wooden fish tugs which were used were not suitable for such service on the grounds that they had insufficient free-board, the bulwarks were an obstacle and, in general, the boats were not seaworthy enough for the conditions frequently met off Triple Island. The pilots felt that while these boats might be safe in sheltered waters, they found them difficult to use for boarding purposes and feared casualties might result from their continued use.

The pilots urged that a pilot vessel be constructed at Government cost for use at Prince Rupert and that its operation be entrusted to the Armour Salvage Co. because the Company has acquired considerable experience over the years in providing this service. They also suggested that the new

vessel be constructed along the lines of the pilot vessels used at Saint John, N.B., and that a naval architect be employed to ensure that the vessel meets local requirements. In particular, the deck should have no railings because otherwise the ship's ladder is apt to tangle with them when the pilot is embarking. In this connection, they remarked that a ship must maintain a speed of 12 knots off Triple Island in order to stem tidal currents that run up to 5 knots.

The Department of Transport representatives observed that the vessel used by the Armour Salvage Co., although uncomfortable, had met inspection standards and was seaworthy. At the same time they agreed that a new vessel would be an improvement and at the 1965 Ottawa hearing of the Commission they stated that provision had been made in the 1964-1965 estimates for a vessel similar to the type used at Les Escoumains (71 feet overall). In this connection, the Department pointed out that all efforts to hire another vessel or to secure a different contractor had failed.

The Prince Rupert Chamber of Commerce urged that the pilot vessel service be taken over by the Department of Transport and that the pilot boat charges be the same as those at Vancouver. Presumably Victoria was meant since there is no pilot vessel service at Vancouver. The President of G. W. Nickerson Co. Ltd. concurred, adding that the charges should be uniform throughout the District.

Action was precipitated when in April, 1965, Armour Salvage Co. increased its charge for pilot boat service from \$120 to \$300. The Department of Transport decided to take over and withdrew from Brotchie Ledge *Canada Pilot No. 22* which was sent to Triple Island on temporary duty. It arrived May 2, 1965. Under the direction of the District Marine Agent, it has provided pilot boat service there ever since, except for a three-week period (February 23 to March 15, 1966) when it was taken out of service for a major refit. During that period, service was provided by the tug *F. H. Phippen* chartered from Armour Salvage Co. The Superintendent reported that the pilots were satisfied with its performance.

However, the Department of Transport stated that it still intends to have a new pilot vessel constructed for Prince Rupert although this may take some considerable time.

The share of the pilot boat charge is now the same as ships had to pay prior to the increase by Armour Salvage Co., i.e., \$60 each time the boat is used to embark or disembark a pilot at Triple Island (Ex. 1450(c)).

The By-law provisions reflect these arrangements. A new subsection added in 1965 (*Schedule*, subsec. 13(2)) fixed the pilot boat charge for service at Triple Island at \$60. Due to a drafting error, the former provision, which later became subsec. 13(3), was not corrected to exclude Triple Id. As it now reads, it provides that elsewhere than at Brotchie Ledge the Government will pay half the pilot boat charge. The fact that Brotchie

Ledge is mentioned and not Triple Island would indicate that a distinction should be made and that this last provision also applied to Triple Island, thereby reducing the charge to shipping to \$30. However, this is merely a drafting error and the actual charge to shipping at Triple Island is \$60 (Ex. 1493(e)).

(4) DESPATCHING

From an operational point of view, despatching is difficult in any coastal District and particularly so in B.C. with its extensive territory and limited transportation.

(a) *By-law Provisions*

District By-law provisions allow all the necessary flexibility:

- (i) The Regional Superintendent is the despatching authority and pilots must obey any assignment to duty required by the Superintendent (unless they are on regular leave of absence) and may never pilot vessels unless so directed (By-law, subsec. 23(1)).
- (ii) To prevent irregularity or discrimination in assignments while leaving discretion for special cases, the By-law provides that "normally" and "as far as is practicable" assignments shall be made "in regular turn", i.e., according to a tour de rôle or roster system. Full discretion is left to the Regional Superintendent to devise whatever system meets the particular needs of his District and to make exceptions to the system if warranted (By-law, sub-sec. 23(2)).

Assignments are not made on a trip basis but on the basis of a service which may include a number of trips, movages and periods of detention. Sec. 25 of the By-law provides that a pilot shall not leave a vessel unless he is discharged by the Master or relieved by another pilot until

"the service for which he was engaged has been performed and the vessel is in a safe position".

This requirement goes beyond sec. 361 C.S.A. which establishes that under the free enterprise system a pilotage service is considered terminated for the purpose of a pilotage contract between a Master and a pilot as soon as the ship being piloted reaches her destination or passes the district limit, whichever occurs first. This provision still has a place in a system of controlled pilotage in that it lays down a statutory minimum which any authority providing pilotage services must observe. In the same way that pilots were at liberty, under the free enterprise system, to extend their obligations toward a Master by private arrangements with him, the authority who provides pilots' services in fully controlled pilotage may extend the statutory minimum duration of a pilot's tour of duty. Whether a pilot may quit a ship at the end of a trip or movage is a question to be determined

by the future requirements of the ship for pilotage services and by operational considerations, e.g., efficiency, economy, and the equitable distribution of assignments among pilots. (The joint despatching of pilots is studied later in this chapter under (5) *Requirement for Two Pilots.*)

(b) *Three Operational Situations*

Hence, three operational situations are generally met in the District:

- (i) A ship calls at a northern port where, for practical purposes, there is no means of transportation to return the pilot to his own base or to send a replacement. In such a case, because pilotage is also required during all or part of the return trip, there is no alternative for the despatching authority but to require that the pilot remain with the ship for the round trip. The period a pilot is retained in port for this reason and does not perform pilotage duties is called "detention" and a charge is made for it. A fair example of this situation is a trip by a Japanese ore ship to Harriet Harbour. The pilot who takes charge on her arrival at Triple Island on the inward voyage performs six pilotage tasks before he disembarks at Triple Island when the ship is outward bound on the return voyage to Japan. He is detained on board when the ship sails outside the District (since 1966 there has also been a charge for this type of detention) when loading at Harriet Harbour, and in Prince Rupert on both inward and outward voyages for the entry and clearance procedure.
- (ii) The opposite situation arises when, after the completion of one trip, the Pilotage Authority is able, without serious inconvenience, to assign a new pilot for the next trip. In such a case, the Master is not allowed to detain the pilot when the ship has reached her destination and is in a safe position. In such a case, the pilot is generally required to proceed to the nearest pilot station and, after a reasonable rest period, is given a fresh assignment, preferably toward his base. While he is at such a pilot station, he may be required to perform local movages. In the Southern Region, a Master has no voice in this matter because the pilots' travelling expenses are not charged against the ship.
- (iii) There is also the intermediate situation, which occurs only in the Northern Region, when a changeover of pilots means extra expense to a ship in that she is obliged to pay for the transportation costs of the first pilot back to his base and of the relief pilot from his base to the port concerned. In such a case, it is left to the Master to decide, the criterion being the convenience of the ship. In some ports, e.g., Kitimat, the shipping companies have found it more economical to retain a pilot and pay a detention charge

whenever a ship is able to complete loading and unloading within three days. A Master's calculations may be upset by unexpected events which must be accepted as hazards that entail re-evaluation of the situation. For instance, in December 1962, S.S. *Sunrip* was unexpectedly delayed in Kitimat for nearly two days by a damaged derrick (Ex. 136).

(c) *Procedure*

The many factors that must be taken into account in assigning pilots and the wide difference between assignments make it impossible to adhere to a strict roster system. Therefore, no attempt is made in the British Columbia District to equalize either the number of assignments or the actual time the pilots spend on duty, although pilots are despatched with the knowledge that throughout the year (as statistics show) the average duty hours of each will be approximately the same.

Despatching must be efficient in order to avoid wasting manpower and prevent unnecessary expense either to shipping in the Northern Region or to the pilots in the Southern Region. For this reason, the despatcher must know the traffic situation at any moment, where the pilots are, and when and where their services are required as well as the nature and particulars of these requirements. In order to make the most effective use of pilots, despatching is centred in the Vancouver office and the Regional Superintendent has authority to assign pilots from wherever they may happen to be on duty inside or outside the District. Two tours de rôle or assignment lists are kept, one for local work and one for northern assignments. A pilot whose name appears on the local tour de rôle (except when he is first on the northern list) is despatched in rotation, i.e., the top name on the list of those available for duty in the locality of the assignment is chosen. However, the northern list is given precedence. The pilot whose name is first on the northern list is given the first northern assignment no matter what his position on the local roster. He may then be away from his base for several days and, as seen above, receive various assignments while he is in the outports. Once he returns to his base, he is put back on the local tour de rôle and, unless he is on leave, depending upon the circumstances, he may be given another assignment after a short period of rest. The northern list was instituted when it was found that some pilots, particularly those based in Nanaimo, had few opportunities to go north. The northern tour de rôle system now ensures that each pilot, in addition to having his fair share of lengthy assignments, has some northern experience to help him maintain his professional knowledge of the District as a whole. In practice, this aim is not attained in view of the extent of the Northern Region and the relatively few opportunities a pilot has to go there when the assignments are shared among all the pilots (vide pp. 73 and 74). An interval of four or five weeks usually elapses before the same pilot is given another northern assignment.

When warranted for the safety of a given ship or a category of ships, the Superintendent may disregard the tour de rôle partly or wholly. Although the Superintendent is not obliged to do so, it has been his commendable practice in such cases to consult with the Pilots' Committee and obtain its concurrence. Consultation is indicated because the pilots are the experts in the navigation of the District waters but concurrence is desirable solely for the purpose of maintaining good relations with the pilots. Their agreement should not be made a prerequisite because it would be a denial of the Superintendent's authority on the matter and because the pilots are not in an unbiased position. If the reasons advanced by the pilots against a proposed despatching are not sufficiently convincing, their advice should not be followed and any doubt in such matters should always be resolved in the interest of safety. Such decisions may be taken on an individual basis but, when similar cases are likely to reoccur, standing rules are drawn up, e.g., the first pilot on the roster with ten or more years' experience is assigned to a passenger liner such as the T.T.-E. *Canberra* and the criterion is only the length of time a pilot has served in the District.

In the pilotage office at Vancouver, there is a despatching room with a despatcher on duty at all times. In order to enable the despatcher to know the whereabouts of the pilots at a glance and permit despatching operations to be effected as economically as possible, in regard to both time and cost, a large map of the 600-mile coastal District is used as a working board on which an up-to-date plot is kept of all incoming ships requiring pilots as well as all ships employing the services of a pilot. Each pilot is given a marker bearing a number. When he is assigned to a ship or is on board, the pilot's marker is placed with the ship and both are moved along together on the plotting map; otherwise, the pilot's marker is placed on a special board indicating that he is either off duty, on leave, awaiting assignment on the general roster, or awaiting assignment on the northern roster.

The despatcher tries to give pilots their assignments as far in advance as possible and during normal daylight working hours so as to allow them the maximum time off duty. Since distance is such an important factor in the District, the despatcher must be conversant with air, rail and bus timetables to ensure that pilots reach their assignments in good time. In this connection, it is noted that most pilotage trips take place at night: ships usually load by day and sail or move to another harbour or another berth at night to continue loading the next day. Stevedores stop work at midnight and are paid overtime if they work after 5 p.m.

The Regional Superintendent reported that there was no recorded instance of a pilot quitting a ship or refusing to perform his duties. Once, a pilot was relieved because of an argument with the Master who wished to proceed despite the pilot's advice; occasionally, the Superintendent relieves a pilot who claims he is too tired to continue.

(5) REQUIREMENT FOR TWO PILOTS
LEGAL SITUATION

Normally, pilots are despatched one at a time to assignments including movages. Subsec. 23(5) of the B.C. General By-law provides two exceptions and sec. 2 of the *Schedule* fixes the remuneration of the second pilot at half the regular dues in addition to the full payment of travelling and other expenses detailed in sec. 11 of the *Schedule*. Subsec. 23(5) reads:

“Two pilots shall be assigned to a vessel when

- (a) that vessel requires the services of a pilot for a period in excess of eight consecutive hours while on passage to or from any point north of 50° north latitude, or
- (b) the Superintendent is of the opinion that the intended movements of the vessel require the assignment of two pilots”.

This requirement is not permissible under the present legislation but is, nevertheless, the logical result of a system which exercises full control of the pilotage service. When the pilots' status is altered from private contractors to quasi-employees, their natural tendency is to attempt to improve their working conditions and, when a Pilotage Authority becomes responsible for despatching, it *ipso facto* assumes responsibility for ensuring that adequate service is provided for each individual assignment.

Under Part VI C.S.A. there is no provision requiring a ship to employ more than one pilot. When a pilot is employed, he is obliged to perform pilotage duties as requested by the Master until the ship has reached her destination or the limit of the District, whichever is first (sec. 361 C.S.A.). Under no circumstances can a pilot demand he be accompanied by a second pilot. Until recently, a normal pilotage trip took considerable time—fifteen or even twenty hours of continuous duty was a common occurrence—but this was accepted as inherent in the profession. If the question of safety was not raised, it may be surmised it was because along the various routes followed there were a number of areas where navigation did not require the constant personal attention of the pilot, thus allowing him time for rest. On the other hand, there was nothing to prevent a Master from hiring two pilots (provided he paid each pilot his full remuneration) if he thought that the safety of his ship so required or that some advantage, e.g., a fast transit, would be gained thereby. The fact that the Pilotage Authority, despite the law, has assumed responsibility for controlling the service has not altered the situation: under present legislation, the Pilotage Authority can under no circumstances require a ship to pay extra pilotage dues because a second pilot is assigned, unless the Master concurs. This has placed the Pilotage Authority in a dilemma: on one hand, it can not force any pilot to work without remuneration; on the other hand, it must allocate two pilots to an assignment if the intended trip and the prevailing conditions so require for the safety of the ship. In the B.C. District, a compromise solution was arrived at which leaves much to be desired.

BACKGROUND

The two-pilot requirement at one and one-half times the regular dues dates back to 1945 when it was agreed that, because of the increasing frequency of northern trips, two pilots could be employed on any vessel proceeding to or from ports on the British Columbia coast north of latitude 50° whenever the voyage required a tour of duty exceeding twelve hours. The District By-law was then amended accordingly (P.C. 1794 dated March 16, 1945, Ex. 195-10.). Formerly northern trips, which were very infrequent occurrences, were accepted by the individual British Columbia pilots as one of the hardships of their profession like any other trip that may be occasionally delayed by adverse weather conditions or other causes, but when ships began to trade more regularly to northern ports pilots insisted on being relieved after twelve hours of pilotage duties on the alleged ground that the safety of ships was affected by the many dangerous and adverse conditions experienced in northern latitudes.

With the opening of new trade routes and the advent of larger and faster ships, the time factor soon became a point of contention which was solved superficially and temporarily by decreasing the maximum time of continuous pilotage duty from twelve hours to eight hours.

Early in 1951, when the Aluminum Company of Canada Limited started the construction of its project at Kitimat, increasing numbers of ocean-going ships visited the area and Kitimat soon became a border-line case with respect to the application of the twelve-hour rule. On the route normally followed, i.e., *via* Cape Beale, pilotage is deemed to commence off the McInnes Island Light. From there to Kitimat, the pilotage run is 120 miles. At first, the trip took more than twelve hours because the ships used on this run by Saguenay Terminals Ltd. (subsequently called Saguenay Shipping Limited) averaged only nine to ten knots and because delays were to be expected on account of insufficient aids to navigation, unsatisfactory anchorages in Douglas Channel, and lack of proper berthing and anchorage facilities at Kitimat. However, when larger, faster ships were placed on the run, Saguenay Terminals Ltd. requested that the two-pilot rule be deemed not to apply to the Cape Beale-Kitimat route for their fast ships. Characteristically, following the policy of the Pilotage Authority to consult the pilots, the question was turned over to the Pilots' Committee who dealt directly with Saguenay Terminals Ltd. As was to be expected, the Committee's reaction was unfavourable. The Chairman of the Pilots' Committee replied to the Company by letter dated December 8, 1953, explaining that since it was "impossible to foretell the hours of duty on the Kitimat run", two pilots still had to be employed, adding:

"At a later date when all the aids to navigation in this area are complete and there are faster ships on the run, we can review this matter" (Ex. 128).

A few months later, however, the Superintendent approved a request that only one pilot be allocated to a 14-knot vessel for the Cape Beale-Kitimat run but added that this should not be considered a precedent until further discussions were held between himself and the Pilots' Committee (Ex. 130). On June 28, 1954, the Superintendent wrote further to Saguenay Terminals Limited to inform them that, since they now employed faster ships on this run, the pilots were in general agreement that "one Pilot will be sufficient on vessels of 13½ knots speed and over during summer months" (Ex. 129). However, the arrangement was discontinued for no apparent reason after about a month. The average duration of the trip on the Kitimat run was then nine to ten hours.

The question of the two-pilot requirement on the Cape Beale-Kitimat run was again discussed at meetings between the shipping interests and the Pilots' Committee in March and April 1955. These meetings resulted in an agreement to change the twelve-hour period to eight hours. The agreement was ratified shortly thereafter by a By-law amendment which also contained an additional provision giving the Pilotage Authority discretion to assign two pilots whenever it considered circumstances warranted, including the Southern Region (P.C. 1955-1441, September 21, 1955, Ex. 195-22). It was not until 1965, when the new General By-law was sanctioned, that this discretionary power was delegated to the Superintendent.

PRESENT SITUATION

The 1955 agreement merely postponed the solution to the problem as is demonstrated by the fact that the time period selected proved to be a continuous source of contention. The point was fully debated at the Commission's hearing by Saguenay Shipping Limited and the pilots. Saguenay Shipping Limited filed information on the time taken by their ships between Cape Beale and Kitimat during an eighteen-month period in 1959-1960. Analysis shows the following averages:

Inbound

Cape Beale to McInnes Island (detention)	21 hrs. 36 mins.
McInnes Island to Kitimat (pilotage)	9 hrs. 29 mins.
Time at Kitimat (detention)	1 day 22 hrs. 4 mins.

Outbound

Kitimat to McInnes Island (pilotage)	8 hrs. 37 mins.
McInnes Island to Cape Beale (detention)	18 hrs. 28 mins.

Round Trip (pilotage and detention) 4 days 8 hrs. 14 mins.

Thus, as the Company pointed out, the duration of the trip on the McInnes Island-Kitimat run, which formerly took twelve hours or more with the original 10-knot Park type vessel, was reduced a few years later to an average duration of about nine hours. The inward voyage is generally longer

on account of the time taken at Kitimat to berth because ships are usually turned before securing alongside. The average time to turn a ship at the Kitimat pier is forty-five to sixty minutes, but it may take longer due to the wind. Formerly, the only available berth was often occupied and ships had to anchor and wait; at other times, because the approach channel silted, it was necessary to wait for high tide. These inconveniences have now been corrected, the port can berth more than one ship at a time and the approach channel has been dredged. The Company urged that with still faster ships the eight-hour criterion should no longer apply.

Testifying on behalf of the Aluminum Company of Canada on this point, Captain K. J. Loder, Marine Superintendent of Saguenay Shipping Limited, stated that, in his opinion, the coastal waters of British Columbia presented no particular hazards to navigation except those common to restricted waters throughout the world. He did not believe that a period of eight to ten hours continuous duty on the bridge for a pilot going into or leaving Kitimat under reasonable conditions was excessive because the pilot is well rested both on the inward and outward trip. He added that it was not unusual for a pilot to be on duty ten hours or more. One example given was the 152-mile trip from Port Alfred to Quebec on which only one pilot is employed, even in a slow ship which may take up to twenty hours. A second example is the Panama Canal where each transit, involving six separate dockings and undockings and requiring an average of eight to ten hours, is carried out by one pilot on a compulsory pilotage basis.

The Aluminum Company of Canada Limited brought evidence to demonstrate that the two-pilot requirement is unnecessarily costly for shipping. The economic consequences as far as ALCAN is concerned are reviewed later (vide pp. 169-170).

In their brief, Crown Zellerbach protested against this requirement, especially for their operations in Duncan Bay which is barely north of latitude 50°.

The pilots argue that the two-pilot requirement should be retained in border-line cases pointing out that even an eight-hour period on the bridge is too long, especially in bad weather, and there is no guarantee that any trip will not take much longer than usual on account of many unforeseen causes of delay. They stressed that the main reason for their stand is safety and that a pilot who has been on the bridge for more than eight hours would not be in good condition to pilot and berth a ship. The purpose is to avoid "mental fatigue" for the pilot. When two pilots are aboard, they relieve one another periodically so that they are not over-worked if the trip lasts more than eight hours.

However, the main reason for the pilots' request was to improve their working conditions, an argument which is consistent with the type of time criterion that was devised. This was openly and repeatedly admitted by the

then president of the Pilots' Committee (the late Capt. W. A. Gosse) that the trend in all industries and labour is for shorter hours of duty. When he came to explain the change in the pilots' position since 1954, i.e., the reduction in the time criterion from twelve hours to eight hours, the only explanation he gave was "there has been a change in conditions in practically all trades. Conditions are getting better in all trades." He added quite frankly that, at any season, nine or ten hours' continuous pilotage duty is not excessive for a well-rested pilot but delays in berthing are to be expected and particularly "in this day" a continuous watch of over eight hours is "not acceptable". The pilotage time on the McInnes Island-Kitimat run having become a bone of contention, some pilots kept a record of their time. Capt. Gosse reported that some pilots had made the transit in nine hours and, he added, that "they felt a little guilty about it but others came along who took much longer".

Except for northern trips where it is mandatory, the eight-hour criterion is not used, although the Superintendent is given full discretion by the By-law to impose a double assignment whenever he believes it warranted. The most frequent run in the Southern Region is between Brotchie Ledge and Vancouver; a double assignment is never imposed, although this is also a border-line case because it frequently takes more than eight hours.

The Regional Superintendent considers that in the Northern Region a period of eight consecutive hours is generally the maximum time a pilot should be on duty because bad weather is often encountered. His main reason for not applying the eight-hour limit in the Southern Region is that finer weather usually prevails there.

From the point of view of the importance of trips involving such double assignments in relation to the total workload and earnings of pilots, an analysis provided by the Superintendent (Ex. 205) shows the following annual percentages:

Year	Percentage of Trips with Two Pilots	Percentage of Second Pilot Charge in Relation to Gross Earnings
	%	%
1961.....	5.2	3.5
1962.....	3.7	3.2
1963.....	5.4	3.5
1964.....	5.9	3.6
1965.....	5.4	3.6
1966.....	6.1	3.7
1967.....	6.5	3.8

The Regional Superintendent found that the time factor is very difficult to apply because it is a variable governed by a number of unforeseeable events. The difficulty of judging in advance the duration of a trip was shown by the fact that the slowest and fastest trips outbound from Kitimat to McInnes Island by Saguenay Shipping Ltd. vessels that called at Kitimat in 1962 were made by the same vessel. S.S. *Sunek* (GRT 12,576, speed 15 knots), outbound October 21, made the trip in six hours and forty minutes while, outbound July 16, it took ten hours and fifteen minutes (Ex. 135). What used to take more than twelve hours now takes, with faster ships, a little more than eight hours and may soon take less. The nine and ten-knot ships have almost disappeared. Today, the slowest make twelve to fourteen knots and some are being built with a guaranteed ocean speed of twenty knots. For this reason, the Superintendent does not believe that his problem would be resolved by reducing the time limit to seven hours continuous pilotage duty. As an alternative, he suggested that either one of the following measures might be instituted:

- (a) to revert to the system of allocating only one pilot during the summer months (i.e., when *Daylight Saving Time* is in force), and two pilots during the remaining months of the year, it being generally agreed that it is easier to navigate in daylight than in the dark, particularly in northern latitudes;
- (b) to assign only one pilot at all times with extra pay for periods of duty in excess of eight consecutive hours.

COMMENTS

This last suggestion on the part of the Superintendent is a further indication that the main preoccupation is not the safety of ships but working conditions and remuneration.

If a time criterion has to be retained, it should be a theoretical one that could be readily calculated from the regulations so that, on the average, on a given route, a pilot would be required to be on duty for a normal reasonable period. The average would be derived from calculations which would include the occasional abnormally long trip caused by unforeseeable events and, also, the fastest trips under the best conditions. The relief of a pilot after a given period of duty during a voyage requires a system whereby a changeover of pilots can be effected anywhere *en route*; this is possible only by despatching a number of pilots simultaneously on every assignment, observing that the actual duration of any trip can never be precisely ascertained beforehand. One of the hazards peculiar to pilotage is that occasionally an assignment lasts much longer than expected because of circumstances beyond control. The maximum speed at which a ship can travel on the run concerned should be included in the data for computing theoretical transit time so that faster ships can be given the benefit of their speed. For instance, it might be prescribed that on the McInnes Island-Kitimat run, the two-

pilot requirement applies only to ships under fifteen knots, irrespective of the time any one ship actually takes. It is the responsibility of the pilot (unless he is requested to do otherwise by the Master) to effect a transit in the shortest possible time, safety permitting. A pilot should never be placed in the position of gaining any advantage, financial or otherwise, by delaying a ship.

Despatching two pilots is a matter of internal organization. If the necessity arises regularly on certain runs, it is the result of service arrangements, i.e., the lack of intermediate changeover facilities for pilots. For instance, the problem does not arise on the extensive St. Lawrence Seaway route, despite its length, because the route is divided into sectors and at each limit the pilot is relieved by another pilot. Thus only one pilot remains on board and unnecessary waste of pilot time is avoided. However, the problem persists in winter but for an altogether different reason.

Certain ships or certain parts of a District are discriminated against if, on account of the arrangements made by the Pilotage Authority for the provision of service, vessels have to pay extra for a second pilot who is assigned without the Master's concurrence. When a Master or an agent contracts for pilotage, it is for the provision of service over a given route and, therefore, it should be immaterial to him whether one or two pilots are required. If Pilotage Authorities are given the responsibility of the provision of service as recommended by the Commission (vide Part I, Recommendation 14, p. 495), it will be their responsibility to provide an efficient, safe service and the detailed arrangements they adopt should be no concern of shipping. Pilotage charges should remain uniform whatever the number of pilots jointly assigned. The incidence of double assignments is a factor that should be taken into consideration when pilotage rates are established in order to ensure that the extra costs thereby incurred are reflected in the tariff, that the aggregate yearly income of the pilots is not affected, and that Pilotage Authorities feel free to assign two pilots whenever they consider it is in the interest of safety to do so. However, when two pilots are despatched at the request of a Master or because of unusual circumstances attributable to a ship, e.g., damage, double dues should be charged.

(6) WORKLOAD

BASIC CONSIDERATIONS

For many years the B.C. pilots complained they were overworked but the Pilotage Authority disagreed. It is a matter of record that this subject has long been a bone of contention. The Pilotage Authority stated that the pilots had never brought evidence to support their claim and had even refused to co-operate when it tried to survey the situation. Although the Authority was not convinced, it went part way to meet their request and increased their strength from time to time as the number of assignments rose.

The only statistical information available is the actual time on board as shown on source forms. The Authority admits that this information does not reflect the true workload of the B.C. pilots and recognizes that travelling time and detention time are important factors that must be considered on account of the peculiarity and abnormality of the B.C. District. The Pilotage Authority once tried to make a survey, but found it difficult to obtain the facts. The Regional Superintendent was requested to calculate the pilots' workload but realized that he and his already overworked staff of three were unable to carry out such a survey unless the pilots gave him their full co-operation. He supplied them with work-sheet forms, which he had arranged, with the request that they be completed and returned to him. The pilots refused to give this information, contending that, because they considered themselves free entrepreneurs, their hours of work were no one else's concern.

The pilots' attitude was a vindication of the Pilotage Authority's stand. If they had been constantly overworked so as to cause them mental fatigue to the extent of affecting their efficiency and their health, they would have spared no effort to put the hard facts before the Authority. Well knowing that their claim was exaggerated, they feared that by furnishing the required statistics they would lose their main argument.

When the pilots again raised the question of workload before this Commission, they recommended their number be increased by seven. As they tried to substantiate their request, it became clear that the term "over-work" was not to be taken in its absolute meaning but in a relative sense, i.e., they considered they were at a disadvantage when they compared their conditions of work with those of other trades connected with the waterfront. At the Commission's hearing in March, 1963, the Chairman of the Pilots' Committee expressed the view that, in order to give adequate pilotage service in the B.C. District and, at the same time, provide each pilot with a reasonable workload and proper leave and rest periods, twenty-five more pilots would have to be added to the sixty-six then on strength. He pointed out that on the basis of the Pilotage Authority's statistics for the years 1948-1962 (Ex. 205), the number of ships piloted had increased during that period by 173.5% and the number of assignments by 136.7%, but the number of pilots by only 94.1%. He then added that, during the same period, there has been an increase in professional fees and an improvement in working conditions of all trades connected with the waterfront. Realizing that such an increase would be difficult to obtain because the tariff would have to be increased proportionately to maintain their earnings at the same level, the pilots agreed at that time to limit their request to an increase of seven. In other words, the pilots felt that their remuneration was adequate and should not be lowered, but their working conditions should be improved. In this connection, they contrasted their workload with a class of employees receiving a fixed salary, i.e., the Masters

of tugboats who, pursuant to their collective agreement at that time, were required to stand only six-hour watches for fifteen days and then were off duty for fifteen days.

Their request was subsequently granted in part, four additional pilots being licensed in January, 1964. In April, 1965, the pilots' establishment was again increased by four in response to a further request from the Pilots' Committee, bringing their number to seventy-four.

The pilots pointed out that, despite their increased workload, they have been able to give excellent service; a ship very seldom had to wait for a pilot and their accident rate was well below the national average. The excellence of their service was acknowledged by the Minister of Transport in a letter written August 31, 1961, to the Chairman of the Pilots' Committee complimenting him for the high quality of the pilotage service and quoting the Vancouver Chamber of Shipping as informing him of their complete satisfaction (Ex. 83). The Saguenay Terminals representatives added that, in their experience, the pilots were very co-operative.

This Commission was more fortunate than the Pilotage Authority. Some pilots had kept work-sheet records for their personal information and made them available to the Commission (Ex. 214).

With these records, together with other statistical information that was available or has been prepared at the Commission's request, a sufficiently accurate appraisal of the workload and working conditions of the B.C. pilots could be made.

GEOGRAPHICAL DISTRIBUTION OF ASSIGNMENTS

An idea of the geographical distribution of the pilots' work in the District was given in a statistical report (Ex. 221) showing percentages of assignments in November and December 1962, and January 1963. The percentage distribution remained substantially the same for the three months; their averages are as follows:

Assignments	Percentage of Total
In Gulf of Georgia Area.....	75.4
On West Coast of Vancouver Island.....	6.5
Between West Coast of Vancouver Island and Gulf Ports	5.4
Between North of 50° and Gulf Ports.....	5.9
Between North of 50° and West Coast of Vancouver Island.....	0.5
North of 50°.....	6.3
	100.0

Similar statistical information is not available for the other years but it can safely be surmised from other statistical information available that the pattern has changed little except for a slight increase in northern assignments. For instance, from the statistical data covering embarking and disembarking pilots (vide table, 1961-1967, p. 105), activities at Cape Beale and Triple Island increased somewhat more markedly but, when compared with the total increase in the District, differed from the previous pattern in favour of northern assignments in the order of 2.3 per cent.

The pattern in percentage of total number of assignments has remained relatively the same for trips involving boarding or disembarking outside the District:

	1961	1962	1963	1964	1965	1966	1967
	%	%	%	%	%	%	%
Trips to and from ports in California, Oregon and Alaska (Ex. 1160).....	0.02	0.06	0.03	0.03	0.02	0.03	0.03
Trips to or from ports in the State of Washington, mainly Puget Sound (Ex. 205)....	9.8	4.9*	1.5*	8.2	10.7	9.5	10.2

* The decrease in 1962 and 1963 is due to the Puget Sound dispute (vide pp. 31-33).

Statistics indicate that, in the decade 1957-1966, the workload in number of assignments per pilot has clearly remained the same (for actual details, vide *Appendix B(2)*). During that period, the total number of times pilots were employed increased by 38.7 per cent while the pilots' establishment increased by 45 per cent. The average number of annual assignments per pilot as per establishment was 131.2 in 1957 and 125.5 in 1966. In terms of assignments per month, taking into consideration the fact that pilots, whether officially or unofficially, have regularly taken two periods of thirty days annual leave, the monthly average for the ten months they were on duty was 13.1 assignments in 1957 as compared to 13.3 in 1966. During those ten years, the lowest monthly average occurred in 1961 with 12.4 assignments and the highest in 1964 with 13.7 assignments.

These monthly averages are confirmed by pilot McLeese's workload analysis (*Appendix E*). In November and December, 1962, which were average months, he did 14 and 12 assignments respectively per month; his number of assignments for the month of January, 1963, i.e., 20 (10 of which were of short duration), serves as a reminder that average figures do not necessarily convey the complete picture. The number of "jobs" may differ in a given month from one pilot to another, depending how assignments are arranged. The nine other pilots who submitted records for January, 1963, all worked

almost the same number of days, i.e., 24 to 26 days. One had 13 assignments, three 14, two 15, one 16, one 17, and one 18 (vide summary, p. 129) and the monthly average was 15.1 per available pilot. January, 1963, was also the highest peak in the number of assignments ever undertaken in B.C. up to that time. A sharp decrease immediately followed (vide graph, *Appendix C*).

The foregoing figures indicate that the pilots' workload in number of assignments per pilot per year has remained constant during the last decade and that, therefore, the increase in the pilots' strength has been proportionate to the increase in the pilotage load. If it is considered that the new ships that have come into service during that period are much faster and that, in general, ships are better equipped with aids to navigation (thus permitting speedier transits), it can be safely surmised that the B.C. pilots' working conditions have, in fact, improved somewhat as has been the experience in other Districts.

DISTRIBUTION OF ASSIGNMENTS THROUGHOUT THE YEAR

The pilot's total monthly assignments during the period 1956-1967 (Ex. 205) are recorded in graph form in *Appendix C*. This indicates a fairly regular pattern throughout the year although the pilots are somewhat busier during the fall and winter months¹². Except for a record low in September, 1958, which was a result of the longshoremen's strike (August 21 to September 14) and another substantial decrease in pilotage assignments during July-September, 1959, caused by the woodworkers' strike (July 6 to September 14), there have been no pronounced peaks or lows. When these variations are considered in terms of average workload at the individual pilot level, there is very little difference from month to month. For instance, except for the two lows previously mentioned, the largest difference between the maximum peak and maximum low in a given year occurred in 1962 with a difference of 200 assignments between the high of March and the low of September, which, when divided among the fifty-five pilots who were not on annual leave, indicate that, while the average for the year was 12.4 per month, in the March peak the average was 14.1; in the September low, the average was 10.5¹³.

The foregoing averages are based on the assumption that the pilots were always up to strength and that all pilots, except those on annual leave, were

¹² It was explained that the contracts for shipping grain from Vancouver usually expire in August and the new contracts are sometimes not concluded before October. Hence, there is a tendency to a downward trend in shipping at that time of the year (Ex. 1422).

¹³ The low in the summer of 1962 coincided with a threatened strike by the longshoremen. After prolonged negotiations, they had taken a vote which favoured strike action. The longshoremen did not actually go on strike but they carried out a "slowdown". It is believed that many ships stayed away from the port until the new labour contract was signed (Ex. 1422).

available for duty, i.e., $\frac{5}{8}$ of the establishment. The record indicates that vacancies are always filled shortly after they occur because a number of approved candidates are always available and waiting for a vacancy to occur. Illness, suspension and special leave are additional factors contributing to the non-availability of pilots. The Commission does not have sufficient data to compute the full incidence of these three factors but it would appear to be minimal. This conclusion is demonstrated by the very small discrepancy between the establishment figure and the effective pilot figure quoted in the annual report. The effective pilot statistic in the B.C. District is the

“number of pilots [that are] 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 reason” (Ex. 1307).

The following table shows the slight effect of the four foregoing factors on the availability of pilots. The term “average establishment” means the establishment on a yearly basis taking into consideration any increase that occurred during the year:

Year	Average Establishment	Effective Pilots
1962.....	66	64.9
1963.....	66	64.1
1964.....	69.8	68.7
1965.....	72.6	70.4

AVERAGE TIME SPENT ON ASSIGNMENTS

Statistical figures about the average time on assignments, i.e., on pilotage duty not counting detention, travelling time or time waiting at outports, shed little light on the workload of the individual pilots in a coastal District for two reasons:

- (a) the great difference between the mileage involved in various assignments;
- (b) contrasted with a port-type District where the incidence of travelling and detention is minimal, the pilots in a coastal District (especially as extensive as the B.C. District) spend considerably more time in this way than actually piloting.

Therefore, care should be taken not to assume such statistics are representative of the workload of the B.C. pilot, particularly in comparison with the workload of the pilot in other Districts (vide Part I, pp. 148 and 149).

However, such information—as well as the averages derived from these statistics—has a certain meaning for the District concerned in view of the fact that on a yearly basis the workload is averaged among the pilots of the same District through the tour de rôle system.

In Districts where the Minister is the Pilotage Authority, an annual record is kept of the total hours spent by pilots on assignments as derived from individual pilot source forms. The following tabulation is calculated from the aggregate figure “Total Time on Assignments” appearing on these records (Exs. 1298, 1299 and 1300). The rest of the table is an analysis of time spent on assignments per pilot as per establishment on the basis of the year, the month, and the day, while not on official or unofficial leave, i.e., ten months per year and, on an average, twenty-three days per month of duty:

Year	Aggregate Hours on Assignment	Average Pilot Establishment	Yearly Average Hours Per Pilot	Monthly Average Hours Per Pilot	Daily Average Hours Per Pilot
1962.....	92,794	66	1,406	140.6	6.11
1963.....	96,004	66	1,454.6	145.5	6.33
1964.....	100,898	69.8	1,445.5	144.6	6.29
1965.....	100,134.1	72.6	1,379.3	137.9	6.00
1966.....	98,679	74	1,333.5	133.4	5.80
1967.....	96,288.8	74	1,301.2	130.1	5.66

As for the other elements that comprise the B.C. pilots' workload, there are no official statistics. Hence, there is a danger that some aspects will be over or under emphasized for lack of data to establish their proper place in the general picture.

As already stated, fortunately some pilots provided the Commission with work-sheets that they kept from time to time. Pilot R. McLeese's work-sheets for the month of November and December, 1962, and January, 1963, were checked with the source forms and completed where necessary. The information contained therein has been reproduced in graph form to illustrate the situation. Each graph is accompanied by a short analysis of the contents. In addition, there is a tabulation of the monthly totals of other work-sheets filed by other pilots which indicates that pilot McLeese's workload during these months was above average. Many of these are not as informative as those of Pilot McLeese because the time when the despatcher reached the pilot by telephone, or by other means, to give him his assignment was entered on the work-sheet as “ordered time”. This expression is meant to refer to the time when the pilot must report on board; in other words, the ship's

scheduled departure either from her berth or from the boarding station. This results in an exaggerated figure on the item "travelling time".

The work-sheets and graphs which show the details of the time spent on assignments, travelling time, waiting at outports, etc. give a fair demonstration how the B.C. pilots employ their time and also how the despatching system operates in the District. The analysis of how pilot R. McLeese spent his time during November, 1962 (*Appendix E*) shows:

- (a) He was on monthly leave the first $7\frac{1}{2}$ days of the month.
- (b) After he came available for duty, twenty-nine hours lapsed before he proceeded on an assignment.
- (c) On the 9th, he departed from Vancouver, his home station. Travelling time from his Vancouver residence to the Vancouver harbour berth where the ship lay is counted as one fixed hour. He proceeded at night after a delay of $1\frac{1}{2}$ hours. The run between Vancouver and Brotchie Ledge took $7\frac{1}{2}$ hours. He returned immediately by plane to Vancouver, no doubt because there were enough pilots at the Victoria station to take care of all expected assignments in the area. Since the return trip is shown as 9 hours travelling time, obviously most of it was spent waiting for air transportation.
- (d) On the 11th, 30 hours after his return, he departed for his next assignment which was to take three days altogether. This was a two-pilot assignment from Port Alberni to Cape Beale and Ocean Falls. Travelling time from Vancouver to Port Alberni by ferry and bus, including waiting time before "ordered time", took 20 hours. After 1 hour's detention awaiting departure and 11 hours' detention on board *en route* while the ship navigated outside District waters, the two pilots shared the $7\frac{1}{2}$ hour run to Ocean Falls. There they waited $10\frac{1}{2}$ hours until the ship was ready to proceed to Duncan Bay. Departure was delayed $\frac{1}{2}$ hour, after which the two pilots shared the $17\frac{1}{2}$ hour pilotage run up to Duncan Bay. From there, pilot R. McLeese returned by plane to his Vancouver station which he reached in 4 hours.
- (e) Twenty-six hours later, on the 15th, he proceeded on his third assignment (fourth "job") which was also to be an extensive tour of duty in which he would perform three "jobs". This was a round trip in the northern part of the Gulf of Georgia. Presumably, there was a shortage of pilots at that time at Nanaimo because such an assignment should be taken by a pilot from the Nanaimo pilot station. The complete duration of this assignment was 2 days and 19 hours. The pilotage run from Nanaimo to Texada Island took 5 hours but he had to wait there for 29 hours until the ship was ready to return. The pilotage trip back

to Nanaimo took 4 hours. Presumably because there was still a shortage of pilots at Nanaimo, he remained there for 16½ hours in order to perform a move in Nanaimo harbour the day after his arrival. After this, he returned to his Vancouver station.

- (f) Two days elapsed before the next assignment—a move in Vancouver which he performed on the 20th.
- (g) The next assignment on the 21st was also a move in Vancouver.
- (h) On the 22nd, he took a ship from Nanaimo to the limit of the New Westminster District; pilotage time 4½ hours.
- (i) In the late afternoon of the following day, the 23rd, he took a ship from Vancouver to Brotchie Ledge; pilotage time 7 hours. Travelling time for the return trip *via* ferry and bus took 12 hours.
- (j) Twenty-seven hours later on the 25th, he performed a move in Vancouver.
- (k) On the 27th, 39½ hours later, he did a short assignment of approximately 2½ hours piloting between Vancouver and Port Moody.
- (l) On the 28th, 29½ hours later, he proceeded on another extensive assignment which kept him away one day and fifteen hours while he performed pilotage twice. Travelling time from Vancouver to Brotchie Ledge, where he boarded the ship, was 14 hours and 20 minutes. Since he proceeded by plane, most of that time he was resting and waiting at Victoria. The pilotage trip took 5 hours and 50 minutes but the ship had to wait off Vancouver 15½ hours waiting for a berth. Pilotage from the anchorage to the berth, including berthing, took 2 hours. Although two pilotages were done, it was only one “job” which had been interrupted.

The highlights of the December and January assignments (*Appendix E*) are as follows:

In December, pilot McLeese had a stretch of duty which lasted 6 days and 3 hours: during the night of the 13th-14th, he took a ship from Vancouver to Brotchie Ledge, 7½ pilotage hours; from there he proceeded by land transportation to Harmac for a two-pilot assignment to Ocean Falls and return to Vancouver, lasting 29¼ hours; both pilots remained at Ocean Falls 2 days and 13 hours waiting for the ship to prepare for the return trip to Vancouver; on the return trip, pilotage was also shared by the two pilots; it took 28¼ hours pilotage to reach the approaches of Vancouver harbour where they had to wait 6 hours for a berth; berthing took 45 minutes.

In December, he also had three Gulf assignments: one from Powell River to Vancouver, 7 hours and 45 minutes, to reach Vancouver where he had to wait 4 hours before berthing which took 2 hours; on the 21st and 22nd, two trips from New Westminster District to the Brotchie Ledge area. His six other assignments were either movages or trips of not over 2 hours' duration in the vicinity of Vancouver.

January was a very busy month for pilot McLeese but, of his 20 assignments, 10 were movages or trips of less than 2 hours each in the vicinity of Vancouver.

On the 14th and 15th of January, he did two assignments in 25 hours—a round trip, Vancouver-Brotchie Ledge. On the 14th, he proceeded to Brotchie Ledge where, rather than being sent back by plane or ferry to his Vancouver station, he was retained at the Victoria station overnight to take another trip from Brotchie Ledge to Vancouver on the 15th.

In January, he also had one extensive tour of duty which lasted 4 days and 9 hours. On the 19th, he proceeded with another pilot from Vancouver on a northern assignment to Kitimat *via* the inside passage; the pilotage trip lasted 32 hours. They were detained at Kitimat for 13 hours while the ship was loading and unloading. The return trip was to Port Alberni. The pilotage run from Kitimat to McInnes Island took 10 hours which he also shared with the other pilot. Both were then detained on board for 19½ hours while the ship travelled outside District waters. They resumed pilotage when the ship entered pilotage waters at Cape Beale; this shared turn of duty took 4 hours. At Port Alberni, the two pilots left the ship. The other pilot returned to his base but pilot McLeese was ordered by the Vancouver despatcher to remain at Port Alberni to wait for a further assignment which was to take the same ship from Port Alberni to sea the day after. Waiting time was 17½ hours and the trip to sea 1½ hours, after which he returned by bus and ferry to Vancouver. No doubt pilots were not available in Nanaimo and the despatcher in Vancouver considered it preferable to keep pilot McLeese at Port Alberni rather than have him return to Vancouver and send another pilot from there.

On January 24th-25th, he had one job which took him in all 27 hours. This was a trip from Vancouver to Port Alberni *via* the Strait of Juan de Fuca. The pilotage trip from Vancouver to Race Rocks took 6 hours, after which he was detained on board for 9 hours until the ship reached pilotage waters off Cape Beale. From there to Port Alberni, pilotage took 5½ hours during which the ship had to wait 45 minutes for a berth.

The table hereunder is a comparative summary of the breakdown into its elements of the time away from home of pilot McLeese during these three months (Appendix E).

WORKLOAD OF PILOT R. McLEESE

Analysis of Time Away from Home	November 1962	December 1962	January 1963
Time piloting.....	56.5	70.4	99.3
Rest time on two-pilot assign- ments.....	12.5	29.1	23.0
Travelling time including waiting time before "ordered time".....	88.0	63.5	92.0
Detention:			
—awaiting departure after "ordered time".....	4.5	3.0	1.5
—aboard ship <i>en route</i>	11.0	10.0	29.2
—at outport awaiting ship at agent's request.....	55.0	61.0	43.7
Cancellation.....	0.0	1.0	0.0
Time away from home awaiting assignments at despatcher's re- quest.....	16.5	0.0	26.7
Total Time Away From Home....	244.0	238.5	284.7
Number of "jobs" excluding can- cellation:			
—assignments over two hours..	9.0	6.0	10.0
—movages and assignments of less than two hours.....	4.0	6.0	10.0
Total Number of Assignments.....	13.0	12.0	20.0

SOURCE OF INFORMATION: EX. 214.

COMMENTS

This table and the information contained in Appendix E prompt the following remarks:

- (a) Each item shows wide variations from month to month for two reasons:
 - (i) Assignments in a coastal District like B.C. are of many kinds.
 - (ii) A special despatching system has been adopted to provide proper rest and leave before reassignment and, at the same time, to take advantage of the pilots' location throughout the District before assignments are made.
- (b) In a coastal District, travelling time (including waiting time before "ordered time") and detention are both as important as time spent piloting. This is in sharp contrast with port and river pilotage where trips are generally uniform and boarding facilities are available at the beginning and end of assignments.

- (c) The B.C. pilots have stated that ninety per cent of their pilotage work is at night, i.e., between 5:00 p.m. and 8:00 a.m. This statement may be true, but it is not borne out by analysis of pilot McLeese's work for three months. Presumably, the explanation is that pilot McLeese had more than his share of northern assignments which, according to evidence received, normally occur only every four months. However, this illustrates how irregular assignments are as far as the pilot's working day is concerned. The basic reason is that, since pilotage is a service, requirements must be met when and where they occur. Provided a pilot is well-rested, he must be prepared to proceed on duty at any time of the night or day, which makes his working hours very irregular.
- (d) It is apparent that, from the point of view of safety, the pilots are not overworked. In addition to their sixty days of official annual leave and seven and a half days of unofficial monthly leave, they have time to take adequate rest between assignments. During protracted assignments, the situation is ideal because one pilot relieves the other after a certain number of hours on duty.
- (e) When the total time away from home is considered, time on duty reduced to a weekly basis would have meant for pilot McLeese—for the three months reported on—57, 53.7 and 64.1 hours weekly. This, however, can not be compared with the working hours of any other group of professionals or employees because the irregular hours of work place the pilot at a disadvantage in a comparison but, on the other hand, give a false picture when compared to mariners whose time on board between turns of duty is not counted in their workload and whose working hours do not contain such items as travelling time between residence and boarding point. However, in order to fix a proper remuneration, all these items have to be taken into consideration although their individual relative value must vary. Reference is made in this respect to the solution adopted in the State of Queensland, Australia, to define the working conditions of the civil servant pilots where, *inter alia*, the pilots' time is divided between "active time" and "passive time", one hour of duty being credited for each three hours' passive time (vide Part I, *Appendix XIII*, p. 779).
- (f) The foregoing statistics give only an incomplete picture. For instance, while pilot McLeese had an extraordinary number of northern assignments, during those three months he neither boarded nor disembarked outside the District, situations which occur much more frequently than northern assignments. When such instances occur, a considerable increase in travelling time and detention on board will be recorded. Therefore, in order to have a more com-

plete picture and to discuss and determine the working conditions of pilots in the B.C. District, detailed and complete statistics of all assignments would have to be compiled.

(7) VANCOUVER HARBOUR MOVEMENTS

In Vancouver, the Harbour Master allocates berths or anchorages to ships and also controls all harbour movements. However, the pilots perform their pilotage duties without direction from the Harbour Master; they have frequent meetings with him and their common problems are usually solved by a discussion. Similarly, the pilots are regularly consulted regarding the best location of piers, harbour installations and aids to navigation throughout the District.

Tidal currents do not normally interfere with ship movements in the harbour of Vancouver but sometimes pilots recommend when movements should be made, particularly in the vicinity of the Second Narrows bridge when there is a strong flood tide. In fact, the despatchers are well aware of this problem and inform the shipping agents accordingly.

The pilots feel that there should not be any traffic control system operated in Vancouver harbour by an outside authority. They maintain that, if they were supplied with compact, portable radiotelephone sets, they could do the work themselves. At the time of the Commission's hearing, they had been supplied with a number of radiotelephones which were seldom used because of their bulk and weight. However, this situation has since been corrected. The pilots have been issued light portable VHF sets for short distance ship-to-ship or ship-to-shore communications. By an amendment dated January 12, 1966 (P.C. 1966-79), the General By-law was amended for that purpose; it provides for a radiotelephone charge of \$1.75 for every assignment (Exs. 195 and 1493 (g))¹⁴.

With regard to harbour traffic control in Vancouver, it was noted that the radar station situated in the centre of the Lion's Gate Bridge (First Narrows) is used for traffic information and as an aid to navigation but not for traffic control. This station has been in operation for quite some time and has proved its usefulness. It is equipped with two radar screens to give the bridge observer coverage both upstream and downstream. An observer is on watch at all times. Upon request, he also counts into a loud speaker and, by the sound of his voice, a pilot can judge whether he is heading for the centre of the bridge. The pilots stated that this procedure was helpful to them in foggy weather when piloting a ship not equipped with radar.

¹⁴ The B.C. pilots have been supplied with seventy-seven sets of *Motorola* "Handie-Talkie" portable radiotelephones with a normal range of 15 miles or "line of sight". They operate on VHF Channel 6, Intership (156.5 m/cs.) and Channel 11, Pilotage (156.55 m/cs.). Many ships fitted with VHF do not have these channels. A ship's VHF set is often fitted in the chartroom or at the rear of the wheelhouse, which makes it impractical for use when coming alongside, or in radioroom where it is not readily available. Hence, the pilots must carry their own portable sets at all times—the radiotelephone charge is levied on this understanding.