6. PILOTS' REMUNERATION AND TARIFF

(1) PILOTS' REMUNERATION

The amount of the actual remuneration paid to the pilots in a District is an item of major importance when the tariff is determined and the working conditions of the pilots are established. The absence of a legislative definition of the term has given rise to a number of different interpretations. Unless one meaning is adopted and used consistently in statistics, discussions and negotiations, a basic misunderstanding ensues and the service as a whole suffers.

The Canada Shipping Act contains no statutory definition of the term "pilots' remuneration" although it is used twice in sec. 329. As seen in Part I of the Report (Part I, C.6, p. 182), from the context of the Act, "pilots' remuneration" and "pilots' earnings" (which are also not defined) have the same meaning in Part VI where they are contrasted with "pilotage dues". This expression refers to the price a ship has to pay for a given pilotage service, while the former terms refer to the consideration of the pilotage contract from the pilot's point of view after the two deductions authorized by the Act have been effected, i.e., pilot vessel earnings and assessments pursuant to sec. 328 to meet District operating expenses. A clear distinction has to be made between District operating expenses and the pilots' own expenses (vide Part I, C.5, pp. 107-109).

These distinctions, which would be clear enough in the free enterprise system to which the provisions of Part VI apply, are very difficult to make in a system where, in spite of the law, the provision of pilotage services is fully controlled by the Authority. The individual pilot is no longer a party to the pilotage contract and the operation of the service has become part of the operation of the District. Hence, most of the pilots' operating expenses are now District expenses and the pilots have become, in fact if not in law, employees whose remuneration means net earnings and not gross earnings as before. On account of the important bearing of this question on such vital matters as establishing the pilots' target income, tariffs and working conditions, the term must be clearly defined.

VARIOUS CONCEPTS OF PILOTS' REMUNERATION

The analysis hereunder of the figures for 1962 shows that there are different concepts of what is meant by pilots' remuneration as well as substantial variations in the statistics. Although the figure quoted in para. (*c*) is considered the most meaningful, the pilots' "take home pay" shown in para. (*a*) is used (unless otherwise indicated) as the basis for studying the evolution of the pilots' remuneration.

(a) *Income Reported for Income Tax Purposes ("Take Home Pay"): $14,554.90*

The pilots consider their individual pilot's income as reported for income tax purposes their remuneration or their "take home pay". Since the pilots in this District are considered employees of the Authority for income tax purposes, the Authority effects deductions at source, prepares their *T4* returns as if it was the employer, and ensures that no deductions applicable to self-employed persons are included. The B.C. pilots do not have the problems that exist in some other Districts (e.g., having to seek a deduction for travelling expenses in Quebec) because in B.C. the pilots are reimbursed and their expenses are charged to the pool. Nor does the figure include such items as the expenses of the pilots as a group or their contributions to the pension fund.

This sum was arrived at by calculating the pilot's share of the pilots' net earnings ($934,661.06) reported in the 1962 statement of revenues and expenses for the British Columbia Pilotage District. In 1962, there were sixty licensed pilots and six probationary pilots. The share of each of the former group was $14,554.90 and of the latter $10,916.16 (vide Appendix F). For ready reckoning, the probationary pilots are treated here and in the next set of figures as licensed pilots, making the resulting average figure slightly less than it would have been otherwise for the full-fledged pilot. In this instance it is $14,161.53.

It is a misnomer to call this share of the pool "take home pay" as the pilots themselves do. The exact meaning of the term is the amount which is taken home after all deductions have been made at source, such as income tax, union dues, contributions to the Canada Pension Plan, group medical and hospitalization plans. In the case of the pilots, only the disbursements chargeable against the group are paid out of the pool prior to sharing; the others, which vary with each individual, are effected afterward. Hence, the individual pilot's actual take home pay is less than the amount in question here and varies from one pilot to another. When the expression "take home pay" is used later in the Report, it is subject to this reservation.

(b) *Pilot's Share of District Net Revenue Less Pension Fund Contribution: $14,838.88*

This figure is the share per pilot of the net revenue of the District, derived from the pilotage dues minus the approved deductions, shown in Appendix F as $953,403.88 "paid to or for the pilots". The net revenue consists of the net earnings shown in (*a*) above plus the pilots' group expenses, i.e., insurance $18,508.32, and telephone expenses $234.50, or an increase of $283.98 per pilot.

(c) *Pilot's Share of District Net Revenue: $16,725.31*

This figure is the amount in (*b*) above plus the pilots' share of the contribution paid out of pilotage revenues to the pilots' pension fund. From Appendix F, *Liability Toward Pension Fund* $124,504.12, each pilot's share was $1,886.43.

(d) *Gross Earnings per Pilot on Strength: $19,523.82*

This figure is quoted in two statistical tabulations prepared by the Department of Transport for those Districts where the Minister is the Pilotage Authority:

(i) In the table entitled *Pilots' Earnings—1962,* this amount is quoted under the heading *Earnings per Pilot on Strength* (*Ex. 1297*).

(ii) In the table entitled *Comparative Statement of Pilots' Earnings & Workload,* the amount is quoted under the heading *Gross Earnings per Pilot on Strength* (Ex. 1299).

This figure is calculated by dividing the gross pilotage revenue $1,288,572.16 by 66, the number of pilots on strength in 1962.

Gross pilotage revenue consists of the following items shown in Appendix F:

Pilotage dues belonging to pilots	$1,288,499.55
U.S. exchange	2.70
Audit adjustment	69.91
	$1,288,572.16

It comprises all District earnings, except those paid into the Consolidated Revenue Fund of Canada, i.e., pilot vessel service earnings, and three small items of revenue: fines collected from pilots, examination fees, and licence fees. It differs from the aggregate amount from which (*c*) is calculated in that no deduction is made of the pilots' travelling expenses incurred in the performance of their assignments ($209,467.32) for which they are reimbursed by the Authority (in contrast with the District of Quebec, for instance, where they are not), and one small extraordinary item of District operating expense: stamps and stationery ($1,196.27).

This concept of a pilot's remuneration would be correct if he were an independent contractor since his own operating expenses would be included, but it becomes misleading when applied to pilots whose status is *de facto* employees and whose remuneration is in the nature of a salary and, therefore, a net revenue.

(e) *Gross Earnings per Effective Pilot: $19,859.32*

This figure is quoted in two statistical tabulations prepared by D.O.T. for Districts where the Minister is the Pilotage Authority:

(i) In the table *Pilots' Earnings—1962* under the heading *Earnings per Effective Pilot* (Ex. 1297), referred to in (*d*) (*i*) above.

(ii) In the table *Comparative Statement of Pilots' Earnings & Workload* under the heading *Gross Earnings per Eff.* [sic.] *Pilot* (Ex. 1301).

This figure is the same as (*d*) except that the gross revenue shown is divided by the number of effective pilots, 64.885, rather than the 66 pilots on strength.

(f) *Share of Total Cost of District: $23,433.86*

Under the free enterprise system and scheme of organization provided by Part VI C.S.A., each District is expected to be financially self-supporting with the pilots meeting both their own and the Pilotage Authority's operating expenses out of their gross revenues. In such a system, the total revenues of the pilots are synonymous with the total cost of pilotage for the District, i.e., whatever is received from the Crown in direct or indirect subsidies in addition to pilotage dues. In the B.C. District in 1962, these subsidies amounted to $191,640 (not taking into account a share of the cost of the Ottawa headquarters, bringing its total cost to $1,546,635 [vide Part I, *Appendix IX, p. 655*]). The average share per pilot is $23,433.86.

To complicate matters further, D.O.T. has quoted net figures for items (*d*) and (*e*):

(i) $16,350.07 is quoted in the table *Comparative Statement of Pilots' Earnings & Workload* under the heading *Net Earnings per Pilot on Strength* (Ex. 1299).

(ii) $15,973.41 is quoted in the table *Comparative Statement of Pilots* [sic] *Earnings & Workload* under the heading *Net Earnings per Eff.* [sic] *Pilot* (Ex. 1301).

These amounts were arrived at by deducting for the figures (*d*) and (*e*) the share of the aggregate pilots' travelling expenses per pilot on strength, or per effective pilot, i.e., $3,173.75 or $3,885.91 respectively.

RELATION BETWEEN PILOTS' REMUNERATION AND TARIFF

The pilots' income is derived entirely from pilotage dues as established by the tariff. They receive what remains after certain deductions are made and expenses paid. Because all District operating expenses and services are paid by the Crown (except one small item for stamps and stationery), the actual situation is that all pilotage dues, except charges for pilot boats and radiotelephones, belong to the pilots. Because their earnings are pooled and

shared equally, they object to any internal arrangements for providing services that would reduce their income, e.g., creating pilot stations that would not yield per pilot revenue comparable to the revenue earned by a station where the pilots are kept fully occupied (vide p. 98). Since there is no ceiling on the pilots' income and no minimum, a direct relation exists between tariff and pilots' earnings and their income is directly affected by the amount of work done and the dues charged for that work. Hence, the pilots consider that any change either in tariff or in arrangements for the provision of services affects their personal income. It is this interrelationship between tariff and pilots' income which makes it necessary to study them together.

The shipping interests consider tariff a sort of tax levied to maintain a public service and base their position on the effect of tariff on their business; in other words, what pilotage costs a ship.

While the present representative of shipping in the B.C. District—the Chamber of Shipping of British Columbia—is of the opinion that the B.C. pilots are better paid than they should be, it maintains shipowners are not interested in the actual amount of pilots' earnings but merely in what the pilotage service costs ships. They state that it is the responsibility of the Pilotage Authority to work out with the pilots what their remuneration and working conditions should be and that the shipping interests should not be involved in such discussions. The Chamber objects to being forced into an argument over pilots' earnings, particularly since they regard the pilots as a qualified, co-operative group who provide good service.

On the other hand, they consider that determining the tariff is a matter that concerns only themselves and the Pilotage Authority—not the pilots. In such deliberations, it is their responsibility that all the factors affecting shipping interests are considered. For instance, if any group connected with shipping is underpaid or overpaid, they claim repercussions will be felt throughout the industry and, hence, an increase in the tariff may cause an increase in the cost of the various services involved in shipping. Therefore, they feel that the pilots' remuneration should be comparable to the cost of similar services in similar fields. The difficulty here is that there is no service similar to pilotage in other localities and, even then, the basic differences between pilotage services makes any comparison of questionable value, unless all the governing factors of each of the services being compared are fully appraised (vide Report, Part I, C. 6, pp. 146 and ff.).

PROCEDURE FOR ESTABLISHING THE TARIFF

In theory, according to subsec. 329(h) C.S.A. and sec. 6 of the General By-law of the District, the tariff is set by the Pilotage Authority by regulation, subject to the Governor in Council's approval. In the British Columbia Pilotage District, however, the tariff is, in practice, established through a process resembling a labour collective agreement between the party

providing the labour (the pilots) and the party using the labour (the shipping interests). The meetings of the Advisory Committee (vide p. 64) have developed into negotiation forums with the local representative of the Pilotage Authority acting as mediator.

The Vancouver Chamber of Shipping had three complaints about these meetings. First, they objected to an official of the Canadian Merchant Service Guild being allowed to attend as the pilots' representative. They reported that, in 1962, a Guild representative tried to be admitted but this right was denied after the Chamber had objected. The Chamber feared (as they claimed experience had shown elsewhere) that discussions with the Guild might degenerate into a trade-union type of negotiation. Second, they pointed out that negotiations with the pilots on tariff are fruitless because the shipping interests have no authority to negotiate. The resultant deadlocks are likely to cause ill feeling and disrupt the service. Third, they complained of the absence of basic principles and a procedure for dealing with tariff. Agreement is difficult to achieve because the two sides are not talking about the same thing: the pilots are thinking of the effect of tariff on their income, and the shipping interests of its effect on their industry.

Recently, events took a turn that could not have been unexpected in view of the negotiation type of procedure the parties were obliged to follow and the passive attitude adopted by the Pilotage Authority which appeared to consider fixing the tariff merely a private labour agreement rather than a matter of public concern.

During January, 1967, the pilots made a request for tariff changes which would have resulted in a substantial increase amounting to approximately thirty per cent. Negotiations broke down when the Chamber of Shipping of British Columbia refused to agree to an increase exceeding five per cent. The dead-lock was solved by the Pilotage Authority which granted a six per cent general increase (P.C. 1967-1177 dated June 8, 1967). The B.C. pilots felt aggrieved because "proper discussions" had not taken place prior to the decision made by the Pilotage Authority. They then made representations to the Pilotage Authority to make a form of bargaining procedure between themselves and the Chamber of Shipping obligatory before any change in the rates could be made by the Authority. Because assurance that their suggestion would be followed was not forthcoming from the Pilotage Authority, they resorted to strike action on November 15, 1967. This took the form of a general meeting of the Pilots' Corporation. On the evening of that day, the Chamber of Shipping gave its consent to the proposed procedure and the pilots returned to duty. Subsequently on November 29, 1967, a memorandum of understanding defining the rules for discussing tariff rates was signed by both parties (Ex. 1493(f)). It recognizes as sole negotiators the "Chamber of Shipping of British Columbia", as shipping representative, and "The Corporation of British Columbia Coast Pilots" as the pilots' representative, under the chairmanship of the Regional Superintendent of Pilots.

It is a compulsory procedure of negotiation wherein dead-locks or failure to negotiate are resolved by binding compulsory arbitration decided by an arbitrator appointed by the "Minister of Transport". Although it is not explicitly mentioned in the document, it is obvious that it is expected the Pilotage Authority will not modify the tariff unless the proposed changes have been debated according to the agreed negotiation procedure and that the result of such negotiations will be binding on the Authority whose rate-fixing power is thereby reduced to the perfunctory process of drawing up regulations to express the decision so reached. If the Pilotage Authority is to continue to enjoy any discretion on the matter, the whole process becomes meaningless.

Unless the pilotage service in a District is strictly a private service to shipping and public interest is not concerned except very remotely, it is considered that fixing the tariff, just like determining the qualifications and working conditions of the pilots, should not be left to the parties directly involved who are primarily motivated by their private interests. Reference is made to the Commission's General Recommendations 18, 19, 20, 21 and 24.

(2) Tariff

Since the tariff provides the basis on which the price for given pilotage services to ships is calculated, its computation becomes a very complex process in a coastal District where the distance factor is essentially variable. On one hand, the distance run must be taken into consideration so that charges for various trips remain consistent and equitable; on the other hand, in the absence of a regular run which provides the majority of pilotage trips in the District (such as occurs in a harbour or river type District), a different common denominator for calculations has to be found so that the tariff will yield the revenues needed to cover District expenses, including the pilots' target income. (Vide Report, Part I, C. 6).

The present rate structure in B.C. was adopted in 1958. The pre-1958 tariff was built up over the years item by item, doubtless as a carry-over from the pre-1920 period when pilotage was organized, not on a coastal basis but on a port basis, with separate Districts for each major port and tariffs based on pilotage trips to or from these ports. Therefore, the tariff was a list of *ad hoc* prices for specific pilotage runs. Reduced rates were provided when a ship called at more than one port and mileage became a factor only with regard to the occasional trips to the Northern Region. The changes whose aim was to adjust the pilots' income took the form of a general increase or decrease of the tariff as a whole. For instance, during World War II, the pilots' request for a surcharge of 25% on all rates was approved in order to keep the pilots' remuneration at a reasonable level but, when the War ended, the surcharge was reduced to 10% at the request of the Vancouver Chamber of Shipping which claimed that the original surcharge was

a war-time measure which was no longer justified. However, in February, 1958, the surcharge was increased to 14.4% and in April, 1958, to 21%. The pilots explained that the purpose of the last two tariff increases was to maintain individual pilot incomes despite the two increases in their numbers. The changing pattern of maritime trade combined with the pilots' requests for improvements in their working conditions resulted in numerous specific additions and amendments, e.g., detention charges.

The resultant accumulation of items made the pre-1958 tariff structure cumbersome and difficult to interpret. The tariff was rewritten in 1958:

(a) to provide a simpler way to compute rates;

(b) to make tariff charges more uniform throughout the District;

(c) to reduce the charges for ports in the Northern Region by spreading the cost;

(d) "to give the pilots a fair remuneration, about $12,000 per year without excessive hours of work and proper leave" (Ex. 1156).

The pilots understood clearly why a target income of $12,000 was adopted at that time. The preamble of a memorandum they addressed to the Department on March 12, 1957, reads as follows (Ex. 1156):

> "The B.C. Pilots Committee understand that a complete revision of our Pilotage rates is underway at the present time and we also understand that the department is trying to simplify the rate structure by having a rate in to each Port and also out of each Port plus a mileage charge between Ports. If this is properly calculated to give the Pilots a fair remuneration, about $12,000 per year without excessive hours of work and proper leave time, then the Pilots will be quite satisfied."

At that time, the total cost of operating the service had been assumed by the Government. When the Minister became the Pilotage Authority in 1929, the remuneration of the Regional Superintendent and his staff and the cost of their office accommodation were assumed by the Department. On January 25, 1951, the Department assumed the cost of operation, maintenance and replacement of pilot stations, purchase, charter, hire and/or replacement of pilot vessels (P.C. 120-422 (Ex. 52)). At that time, pilot vessels in British Columbia were smaller than in other Districts, and this service was provided for the pilots by a boatman who was paid out of pilotage revenues. Under the 1951 arrangements, the Department of Transport reimbursed the pilotage fund for all expenses connected with pilot vessel service. In 1960, the Department of Transport took over this service (P.C. 1959/19-1093 dated August 27, 1959 (Ex. 52)). The crews of the British Columbia pilot vessels became employees of the Government and the pilot vessels were transferred to the Department of Transport. The transfer took the form of a mere transfer of title without any compensation being paid the pilots. The Department of Transport reasoned that, since these

vessels had been bought out of pilotage revenues, they were not the property of the pilots but of the District and, hence, the property of the Crown. The Government had assumed all their operating costs in order to guarantee the pilots adequate remuneration without being obliged to increase pilotage rates and, hence, the cost of shipping operations, a step which was not considered desirable when the Government was providing assistance to shipowners in other ways. Failure to do so would have meant decreasing the pilots' remuneration (Ex. 52). (Vide Report, Part I, C. 5, pp. 116 and ff.).

The new tariff structure was sanctioned Oct. 16, 1958 by P.C. 1958-1435. The most substantial change consisted in adopting uniform rules for computing charges for pilotage trips by using factors which took into consideration distance run and the added work of entering port, berthing and unberthing, and leaving port:

(a) the mileage rate was fixed at 88¢ per mile of distance piloted regardless of the size of the ship;

(b) the port rate was based on both ship dimensions and laden situation, i.e., the tariff provided a fixed charge of ½¢ per ton and $1.00 per foot draught; at the same time gross tonnage replaced net.

For this purpose a vessel changing pilots at Sand Heads was considered to be entering or leaving a port (1958 amendment to By-law, Schedule "A", subsec. 9(3) (P.C. 1958-1435)). In addition, a sort of surcharge was made by charging ships the pilots' travelling expenses on assignments outside the Southern Region. These expenses for assignments inside the Southern Region were considered when the tariff was drawn up and included in the basic dues. This requirement on northern assignments became, in fact, a surcharge considering that no deduction is given for the part of the basic rates covering the pilots' travelling expenses in the Southern Region. For the year 1965, it appears from the table on page 96 that this surcharge amounts, on the average, to 35.6% over the basic charge.

It was generally recognized that the main advantage sought by the tariff review had been achieved, i.e., simplicity.

After a few months' experience it was found that charges from the new structure were only 3.89% higher than those from the former tariff. These figures were arrived at by calculating all pilotage charges under both the old and the new rates and making an exact comparison. Considering the number of factors involved in computing the tariff, this was considered a satisfactory result.

Under the new tariff, the target income was not only attained but quickly surpassed as ships grew larger and traffic increased. The full fledged pilot's take-home pay (income reported for income tax purposes, vide p. 133) was $13,542.04 in 1957; it decreased slightly in 1958 to $13,298.17 when the new tariff applied only to the last quarter but increased to $14,921.91 in 1959 (Ex. 209).

The Vancouver Chamber of Shipping had agreed to the proposed tariff on the understanding that the pilots' remuneration would remain at the same level, i.e., that periodical revisions would be made to keep the pilots' annual income in line with target income. On December 3, 1959, the Vancouver Chamber of Shipping wrote to the Department of Transport recalling the understanding to review the tariff if pilotage charges proved higher than planned. Negotiations in Vancouver between the pilots and the Chamber of Shipping were broken off because the pilots insisted on having a representative of the Canadian Merchant Service Guild accompany them to any meeting and the Chamber refused to attend if the Guild's representative came. (p. 137). Although negotiations were broken off, the Pilotage Authority decided that the target income agreement should be respected. Hence, it lowered the tariff by 3.89% by decreasing the mileage charge to 82¢ per mile of distance piloted (P.C. 1960-841 dated June 17, 1960, Ex. 195(27)). Since this reduction affected only the last months of the year 1960, the pilots' average take home pay for that year was $16,315.18.

From 1960 to 1965 the rates were not changed. New negotiations had commenced in 1961 when the pilots asked for a general increase of some 15% which would have resulted in an annual income of $21,000. These discussions broke down when the Puget Sound dispute occurred (vide pp. 31-32). As a result, the pilots' take-home pay went down to $15,614.58 for the year 1961 and to $14,554.90 in 1962.

As a result of a Treasury Board recommendation, the Deputy Minister, Department of Transport, wrote a letter dated September 12, 1961 (Ex. 1157), to all Pilotage Districts where the Minister was the Pilotage Authority stating that, in view of the level of the pilots' income, it was considered they should make a contribution to administration and other pilotage costs which the Government had assumed in order to ensure they received appropriate remuneration. The amount the pilots were receiving showed that Government assistance was no longer required. The Department proposed setting a ceiling on the pilots' income in each District and applying any excess to meet pilotage expenses. Strong objections were received from all pilots' groups. The St. Lawrence pilots went on strike in April, 1962, and the B.C. and Saint John, N.B., pilots threatened to join. No further action was taken by the Pilotage Authority since it was felt that many additional changes were needed in the pilotage organization which was to be investigated by the present Royal Commission created as part of the settlement of the St. Lawrence pilots' strike. (Vide Part IV, Quebec District, *The 1962 Strike.*)

At the time of the Commission's hearing in Vancouver in March, 1963, the pilots and the shipping interests were again negotiating about the pilots'

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proposal to add 7 pilots to their number and to increase the tariff proportionately to maintain their earnings at the same level (vide p. 120). Agreement had been reached on only a few small items of tariff. Both sides took the opportunity to debate the issue before the Commission.

The Chairman of the Pilots' Committee stated that the pilots would not object to being paid a salary provided it was commensurate with the services they provided. He could not suggest the right amount but he claimed that the $15,000 the pilots were receiving at that time was not a good salary because, in his opinion, they were working excessive hours.

He agreed to the suggestion that the average number of hours worked daily by the British Columbia pilots was 4½ to 5 hours, but he added that they were on duty 24 hours a day every day of the month except when they were on leave. He expressed the opinion that a 40-hour week plus holidays, accompanied by good working conditions, might be considered as a basis. (On the workload question, vide pp. 119-131). He added that the pilots would like to have a guaranteed income, but were not asking for such an income and did not know how it could be provided.

He was against the proposal to impose a ceiling on pilots' income. In his opinion it would interfere with the pilotage service because, normally, the pilots accept more work knowing that they make more money as a result. If a ceiling were imposed, their incentive would be removed and they would not be so willing to work. Furthermore, he added that the pilots' income should not be limited because there is no guarantee their earnings will be maintained if traffic decreases. In that event, with the present system they have to accept a reduced income as they have done in the past. They are also affected by economic conditions and labour disputes. He pointed out that there are also fluctuations in pay between winter and summer. He remarked that, although the number of ships arriving had gradually increased since the war, the pilots were always reluctant to add to their number to meet the growing requirements of the service because they share pilotage revenues among themselves and, hence, their remuneration is directly affected by their strength. They felt that a decrease in maritime traffic was always possible with the resultant adverse effect on their income. He added that when traffic increases they should receive higher remuneration because they work harder. He concluded speciously by saying that any demand they make for an increase in pilots' strength is, therefore, always a minimum and that, at the same time, they propose an upward revision in the tariff to avoid a possible loss of income. In other words, while they request more pilots in order to be relieved of the extra work imposed by increased traffic, they consider their remuneration should remain at the higher level attained on account of the same overwork.

The next tariff change occurred when the General By-law was consolidated in 1965. The main changes were as follows:

(a) A port charge was made for piloting a ship merely in transit.
(b) The mileage fee was raised to $1.00 per mile piloted.
(c) A uniform scale based on tonnage was provided for movages.

Thereafter the changes were as follows:[15]

(a) In May 1966 (P.C. 1966-980 dated May 26, 1966)
  (i) the mileage rate was increased to $1.10 per mile;
  (ii) pleasure yacht rates were raised from $37.80 per day to $75 per day plus the pilot's expenses as before;
  (iii) the detention charge was raised from a maximum of $36.30 per day to $60.
(b) In June, 1967 (P.C. 1967-1177 dated June 8, 1967), a general surcharge of 6% payable on all pilotage dues was imposed.

The 6% increase in 1967 was a result of a request that the pilots made in January of that year for increases in tariff amounting to approximately 30% (vide p. 137).

Year	Pilot Establishment	"Take Home Pay"[a] Average per Pilot on Establishment	Actual[e] Full-Fledged Pilot	Actual[e] Probationary Pilot	Share per Pilot on Establishment: Net District Earnings[b]	Gross District Earnings[c]	Total District Pilotage Cost[d]
		$	$	$	$	$	$
1957	48	12,341.68	13,542.04	n/a[f]			
1958	50	12,242.79	13,298.17	n/a			
1959	53	14,532.30	14,921.91	n/a	n/a	n/a	n/a
1960	58	15,819.88	16,315.18	n/a			
1961	61	15,236.46	15,614.58	11,711.23	17,394.06	20,787.44	24,378.25
1962	66	14,161.53	14,554.90	10,916.16	16,725.31	19,523.82	23,433.86
1963	66	14,899.48	15,060.50	11,295.36	17,149.12	20,791.75	25,050.42
1964	69.8	15,046.52	15,364.01	11,522.98	17,301.74	20,936.86	25,089.79
1965	72.6	16,891.62	15,724.47	10,849.71	17,836.39	21,470.31	25,802.70
1966	74	15,797.07	15,984.12	10,971.83	18,191.24	22,163.64	n/a
1967	74	17,511.53	17,772.95	13,329.69	20,251.36	24,585.67	n/a

[a] Vide p. 133.
[b] Vide p. 133.
[c] Vide p. 134.
[d] Vide p. 134. The consultant accountants' study on which these figures are based covers only the five-year period 1961–1965 (vide Part I, *Appendix IX*, pp. 654–656).
[e] Figures taken from monthly breakdown of revenues and expenditures (Ex. 205) and comparative tabulation (Ex. 209).
[f] The figures for the years 1957–1960 are not readily available due to the change in accounting year in 1960 from fiscal year to calendar year.

The table above shows the amounts of the pilots' earnings from 1957 to 1967 calculated according to the main concepts given to this expression as defined earlier.

[15] A further 6% increase was granted by Order in Council 1968–1059 dated May 29, 1968. Instead of raising the surcharge to 12%, all the rates in the Schedule (except the boat charge and the radiotelephone charge) were individually raised by 12% and the provision dealing with the surcharge was deleted (Ex. 195).

COMPARATIVE SALARIES OF MASTERS IN B.C. COASTAL TRADE

As seen earlier (vide pp. 120-121), the B.C. pilots attending the Commission's hearing contrasted their workload with a class of employees receiving a fixed salary, i.e., the Masters of tugboats. When the Vancouver Chamber of Shipping learned in 1959 for the first time the amount of the individual pilot's remuneration, they expressed their concern that this amount was unreasonable and in excess of what management and departmental officials received. While agreeing that pilots should receive more than Masters (since Masters are the source from which pilots are recruited), the Chamber did not agree that a pilot should be paid twice as much as the highest paid Master and urged that a "target income" be established.

It is considered that such a comparison is highly misleading, both because pilotage involves much greater responsibility and risk than office work and because the pilots' working conditions can not be compared with those of any group of salaried people connected with the waterfront (vide p. 130). However, because both pilots and shipowners referred to the remuneration of Masters, it is considered pertinent to sum up briefly the evidence received on this subject as well as their working conditions. The average earnings of the B.C. pilots in 1962 which can be compared to the salary of an employed person were the average share of the District net earnings, i.e., $16,725.31 (vide p. 134). The 1962 level of pilotage earnings was the lowest since 1959 on account of the loss resulting from the Puget Sound dispute which the pilots themselves had caused.

As of January 1, 1962, the monthly salaries of Masters in the B.C. coastal trade plus fringe benefits detailed in various labour agreements were as follows:

(a) *Tugboat Class 1 Master—$619.*

An agreement filed as Ex. 88, contains under 7.—*Hours on duty:*

"(a) The parties to this Agreement subscribe to the principle of the eight (8) hour day in industry, but recognizing the impracticability of the eight (8) hour day in the B.C. Towboat Industry, agree that equitable compensation for any time worked over and above eight (8) hours per day shall be made by time off . . .".

The work day is twelve hours, in fact. In tugs other than harbour tugs, it is divided into a two-watch system of six hours on and six hours off. For harbour tugs, there are 2 classes:

"(1) Eight Hour Shift Tugs:

(a) Hours on Duty:
The regular working day shall be eight (8) hours per day, forty (40) hours per week; all work in excess of eight (8) hours per day and/or forty (40) hours per week shall be considered and paid for as overtime at the regular overtime rates."

"(2) Twelve Hour Shift:

(a) On tugs working a twelve hour shift 12 consecutive hours shall constitute a shift. Leave will be calculated on the basis of one day off for each day worked."

(b) *Westward Shipping Ltd.—Senior Master $770, Second Master $745, Junior Master $730, plus Room and Board for Approximately 22 days per Month.*

These rates had been in effect since January 1, 1962. An overall increase of about 3% was anticipated according to a letter from Westward Shipping Ltd. dated March 13, 1963.

Westward Shipping Ltd. Masters actually work a 7-day week but to compensate for weekends they are given .4 of a day off for each day worked (thus aggregating a 40-hour week) plus one extra day per month.

Their Masters are on full pay for every day of the month although they work only 21 or 22 days. There is no pay or time off for overtime although the Masters often have to work overtime.

A three-watch system is kept, 4 hours on and 8 off. The Masters do their own piloting since these ships are exempted.

Each Master and the Company both contribute an amount equal to 5% of the Master's salary into a pension fund.

The total monthly pay of a Senior Master, including basic wage benefits and the Company's pension contribution but excluding value for board and lodging and the Company's contribution of 73¢ per month for Workmen's Compensation, amounted to $842 in January, 1962.

Westward Shipping Ltd. has two tankers: *Standard Service,* 1,324 GRT, and *B.C. Standard,* 818 GRT, which are on regular runs as far south as the Columbia River, along the B.C. coast and up to Alaska. Tanker companies generally pay slightly higher wages than most passenger and freight companies on the Coast but Westward Shipping Ltd. pays only average salaries.

(c) *C.P.R. B.C. Coast Steamships Service*
Masters—$600-$685 per month effective September 1, 1962.

This salary is for an 8-hour day and a 5-day week. Overtime is paid at $4.34 to $4.95 an hour (Ex. 110). There are three Masters attached to the *Princess of Vancouver* which runs from Nanaimo to Vancouver with approximate wages of $700 to $800 per month. One Master works one day and then he is off two days; he works 24 hours a day in the ship making three round trips Vancouver—Nanaimo—Vancouver daily, each one-way trip taking two hours, 45 minutes (Ex. 1432(c)). They have other leave and other benefits, such as health plan and pension plan, to which their employer is contributing.

TREND IN THE COST OF THE VARIOUS SERVICES CONNECTED WITH SHIPPING

The pilots pointed out that, with regard to other costs in the shipping industry (Ex. 121), towboat charges were increased by some 15% in

March, 1956, bringing the charge for standard tugs to $55 per hour, for powerful tugs to $115 per hour and for line boats $17 per hour.

On March 16, 1959, there was a 10% increase bringing the rates to $60, $125 and $19 respectively, and standby charges to $25 for tugs and $10 for line boats. On February 3, 1965, the B.C. Towboat Owners' Association recommended a further increase to $63 per hour for standard tugs and $146 per hour for large tugs.

Stevedores' hourly rates increased from a basic rate of $2.57 as of May 1, 1957, to $2.94 as of May 1, 1961, i.e., an increase of about 15%. To that has to be added another 5 to 10 per cent for various restrictions. Take-home pay would be in the neighbourhood of $3 an hour for an eight-hour day, time and a half for overtime after 5:00 p.m. up to midnight. There is no work after midnight under any circumstances. For stevedores, fringe benefits might approximate 20 to 25 cents an hour. Increases in the wages of longshoremen have been as follows:

(Ex. 121): "August 1st, 1963 15¢ per hour
February 1st, 1964 10¢ per hour
August 1st, 1964 8¢ per hour
August 1st, 1965 11¢ per hour"

(3) Pilotage Dues[16]

PREAMBLE

Despite the fact that the tariff refers to pilotage services rendered to "vessels", it can not apply to vessels that are not ships. The statutory provisions of Part VI of the Canada Shipping Act apply only to ships and, therefore, the regulations (including pilotage rates) made thereunder can not have a wider scope of application than their governing statutory provisions (vide Report, Part I, C. 7, pp. 213 and ff.). Hence, a vessel or craft which is not a ship does not come under the application of pilotage legislation, a situation which is of particular significance in the British Columbia District.

To remedy the confusion that has resulted from the provisions of sec. 357 C.S.A. (vide Report, Part I, C. 7, pp. 217 and ff. and 220), the By-law Interpretation section contains legislative definitions of the terms "pilotage" and "movage", in order to differentiate for tariff purposes between piloting from one place to another and ships' movements within a harbour.

Tariff items may be grouped as follows:

(a) pilotage voyage or trip;
(b) other pilotage services;
(c) indemnity charges;
(d) surcharge;
(e) accessory services.

[16] Re the rates in effect from May 29, 1968, vide footnote[15], p. 143.

The table hereunder shows the various items contained in each group, the yield of each in the years 1962 and 1967 and the relative importance of each shown as a percentage of the total earnings derived from the tariff. For complete financial statement for the years 1962 and 1967, vide *Appendix F.*

	1962		1967	
	$	%	$	%[f]
(A) VOYAGES	1,082,670.62	84.03	1,454,839.88	79.99
Basic Rates	*965,003.75*	*74.90*	*1,269,995.34*	*69.83*
Draft	195,755.55	15.20	208,094.50	11.44
Tonnage	368,483.06	28.60	458,130.84	25.19
Mileage	400,765.14	31.10	603,770.00	33.20
Additional Charges	*117,666.87*	*9.13*	*184,844.54*	*10.16*
Second pilot	39,628.10	3.08	72,624.05	3.99
Travel expenses	42,985.07	3.33	68,287.24	3.75
Dead ships[a]	—	—	—	—
Second Narrows	5,687.00	0.44	9,589.25	0.53
Quarantine	29,366.70	2.28	34,344.00	1.89
(B) OTHER SERVICES	65,989.10	5.12	91,165.20	5.01
Movages	61,772.85	4.79	88,842.00	4.89
Compass and D/F adjusting	1,524.00	0.12	435.60	0.02
Trial trips[a]	2,692.25	0.21	1,887.60	0.10
Gun trials	—	—	—	—
Pleasure yachts	—	—	—	—
(C) INDEMNITY CHARGES	139,839.83	10.85	216,878.50	11.92
Detention	117,577.23	9.12	168,825.50	9.28
Cancellation	1,180.20	0.09	1,560.90	0.09
Boarding off	762.30	0.06	2,432.10	0.13
Puget Sound	20,320.10	1.58	44,060.00	2.42
Other outside District charges[b]	—	—	—	—
Overcarriage (sec. 359 C.S.A.)	—	—	—	—
Quarantine (sec. 360 C.S.A.)	—	—	—	—
(D) SURCHARGE[c]	Nil	—	55,942.99	3.08
TOTAL DUES BELONGING TO PILOTS	1,288,499.55	100	1,818,826.57	100
Accessory Services[d]	66,422.50		90,717.75	
Pilot boat	36,660.00		48,490.00	
Launch hire	29,762.50		27,076.25	
Radiotelephone[e]	Nil		15,151.50	
GRAND TOTAL	1,354,922.05		1,909,544.32	

[a] The items *Dead ships* and *Trial trips* are not segregated in the financial statement.
[b] No record kept.
[c] Surcharge of 6% "on all pilotage dues" imposed June 8, 1967 (P.C. 1967-1177).
[d] Accessory service charges do not form part of the pool of the pilots' earnings.
[e] The radiotelephone charge was introduced January 12, 1966 (P.C. 1966-79).
[f] These percentages should be greater because of the surcharge but, since separate figures were not kept, the exact distribution of the 3.08% yielded by the surcharge is not known.

(A) *Pilotage Voyage Charges*

The definition of a pilotage voyage for the purpose of pilotage dues is contained in Part I of the Report, C. 6, p. 135. Pilotage voyage charges account for the major part of pilotage revenue in the British Columbia District (79.99% in 1967, of which 69.83% was derived from the basic rates, vide table). The revenue obtained from the basic rates is divided almost equally between port charges and mileage charges.

Under the British Columbia District pilotage structure, there are three types of charges (not counting the general surcharge) that may apply to the computation of dues for pilotage performed during a voyage: basic rates, additional charges and specific rates for special cases.

(a) *Basic Rates*

As seen earlier, since 1958 the basic rates have had three components: draught and tonnage, which are charged each time a ship enters a port or proceeds out of a port, and mileage, which is computed on the distance piloted between a boarding station and a port or between ports. No minimum or maximum is set for the basic rate.

The *port charge* has not been altered since the present rate structure was adopted in 1958, i.e., ½¢ per ton and $1 per foot draught. Boarding or disembarking points not located in a B.C. District harbour are not considered ports for the purpose of this charge with the notable exception of ships proceeding to or from the New Westminster District and changing pilots off Sand Heads at the entrance to the Fraser River. This exception, which dates back to 1958, has not been explained and appears to be illogical as well as discriminatory against the New Westminster District. There is no obvious reason for levying two port charges against a ship bound to a B.C. District port from sea or from an American port.

This port charge is made even though the port entered is not the port of destination but a Port of Entry where a ship must call for pratique etc., e.g., a foreign ship entering the District north of the Queen Charlotte Islands and bound for a northern port other than Prince Rupert is required to pay three port charges, i.e., on the inward trip, two in and out of Prince Rupert, which is the Port of Entry, and one for entering a port of destination. It is considered that this is undesirable discrimination in favour of certain ports which, on account of governmental administrative requirements, happen to have been designated Ports of Entry. This is a peculiarity of coastal Districts which should be taken into consideration when the tariff is devised. It is considered that no port charge should be made for entering or leaving any port which is not a port of destination. A pilotage trip should be considered as a whole and the port charge should apply only to the port where the trip originated and/or the port of destination, if in B.C. District waters.

Prior to 1965, no port charge was levied against a ship merely in transit but only the mileage charge, which is unaffected by a ship's characteristics. This situation was corrected in 1965 by making a port charge applicable to ships in transit in addition to the mileage charge. This arbitrary rule seems to be reasonably equitable short of establishing a mileage rate based on tonnage.

Nor was the reason explained to the Commission for the draught component in the port charge. It seems to be taken for granted that it ought to be one of the components. There appears to be no logical ground for such a charge in a District where water under-keel clearance is never a problem and, therefore, the deeper the draught the easier and safer the navigation of a ship. It is obviously a relic of the past, observing it was in use prior to the abolition of the District in 1920. (Reference is made to the Commission's comments on the value of draught as a factor in computing the dues in Part I of the Report, C.6, p. 164 and p. 177). It is the least important of the three components of the basic rate.

The inclusion of draught as a factor in the circumstances of navigation in British Columbia is an indication that the ensuing dues are a form of tax to support the District and not the pecuniary consideration of a pilotage contract, i.e., a fair price for services rendered. If the tax concept is accepted, both the value of a ship and her cargo should contribute and, hence, a loaded ship should pay more irresptive of the actual effect on pilotage. Although the tariff should be based on either of these methods but not on both at the same time, it is considered that in British Columbia draught is, in fact, a negligible factor. For a given ship the difference in pilotage dues when light and loaded is very small. The table on page 96 shows that for the Japanese ore carrier *Harriet Maru,* which sails between Japan and Harriet Harbour *via* Prince Rupert, the difference in the port charge on an inward voyage when the ship is light and on an outward voyage when loaded is $6.75 per port charge, making an overall difference of $20.25 between an inward trip and an outward trip.

The other component of the port charge is gross tonnage. The British Columbia District was the first Pilotage District to use gross tonnage in the computation of the dues. Formerly, net tonnage was the basis but the pilots complained that they were losing money because of some specially constructed ships which had very low tonnage in comparison with their size, and asserted that gross tonnage would be a more appropriate standard. The change was made in 1958. They have since recommended that it be changed to maximum gross tonnage to meet the problems created by open/closed shelter deck vessels. This question is studied in the Report, Part I, C. 6, pp. 165 and ff. As stated in Part I, C. 6, on page 181, it is

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considered that maximum gross tonnage should always be used and pilotage legislation should foresee cases where certificates of registry do not show such a measurement.

Mileage is computed from the limit of pilotage waters to the port concerned and vice versa. If a vessel sails from one port to another in the District, there are two draught and tonnage charges, but total mileage is charged only once. If a ship goes outside pilotage waters on a continuous trip between B.C. ports or between a boarding station and a port, the mileage run outside pilotage waters is not charged (but since 1966, this time has been charged as detention, vide pp. 157 and ff.).

Mileage is a special feature of coastal pilotage because, contrary to harbour pilotage or river pilotage, distance is an essential factor which varies with assignments. In the B.C. District, mileage ranges from a few miles to 600 miles, and the pilots claim the District covers "eleven thousand miles of coastline". This explains why the variable distance component is the essential factor in the tariff structure (vide Part I, C. 6, pp. 159 and 160). It is of interest to note that the U.S. coastal Pilotage District of Puget Sound computes its dues on mileage alone.

When the new tariff structure was adopted in 1958, the phraseology previously used to cover the mileage factor was retained, i.e., "per mile of distance piloted". This wording created a problem when, to meet a ship's convenience, the pilot disembarked *en route* elsewhere than at a boarding station (vide p. 104) to spare the ship the necessity of proceeding to Cape Beale for the purpose. Furthermore, such wording was not consistent with the compulsory payment obligation, in that, if the regulation was taken literally, the mileage charge could not be applied when a ship proceeded without a pilot. This phrase was amended in 1961 to read "per mile of distance" and again in 1965 to read merely "per mile".

While neither component of the port charge has been altered since the rate structure was adopted in 1958, the mileage charge, as seen earlier, changed from 88¢ as it was originally, to 82¢ in 1960, to $1 in 1965 and, finally, to $1.10 May 26, 1966.

(b) *Additional Charges*

When certain conditions occur, the tariff provides for supplementary charges:

(a) the two-pilot requirement;

(b) the travelling expenses of the pilot(s) on northern assignments;

(c) the navigation of dead ships;

(d) navigation through the Second Narrows, Vancouver Harbour;

(e) quarantine service.

The question of the *requirement for two pilots* was studied earlier on pages 113 and ff., to which reference is made. All the tariff says is that

where this occurs "the pilotage dues shall be 1½ times the dues for 1 pilot". This was the wording originally adopted in 1958. However, in 1961 the words "for one pilot" were deleted and replaced by "prescribed in sec. 1 of the Schedule". In the 1965 By-law the old wording was reinstated. This expression renders the special charge incompatible with the provisions of Part VI C.S.A. which is to the effect that the dues belong to the pilot who performed the service (vide Part I, C. 5, pp. 107 and ff.). With the regulation drafted as it is but not stating which part of these 1½ dues belong to the first pilot and which to the second pilot, neither can claim any part of the dues. Such wording is consistent only with fully controlled pilotage where the individual pilot's remuneration is not the dues earned by his services but a salary or a share of District earnings.

The tariff provides for a *pilot's travelling expenses* to be charged to a ship in addition to the other voyage charges when boarding and/or disembarking occurs in the Northern Region. Such a charge is doubled if the assignment happens to involve the assignment of two pilots jointly. The Northern Region includes the whole area outside the Strait of Juan de Fuca and the Gulf of Georgia from Race Rocks to latitude 50° North. Thus, it comprises the area north of latitude 50° and the waters south of latitude 50° on the west coast of Vancouver Island. This means that the pilot's travelling expenses have to be paid by a ship whenever he boards or disembarks off Cape Beale or at Port Alberni (Ex. 1493(h)). In view of the proximity of these two places to the Nanaimo pilot station, the charge for the pilot's expenses appears to be not only unwarranted but abusive.

As shown in the table on page 126, travelling expenses alone amount to an average surcharge of 35.6% for pilotage voyages fully performed outside the Southern Region. (Re the legality of this charge see Report, Part I, C. 6, pp. 152 and 186.)

Section 5 of the tariff provides that the pilotage dues for the navigation of a *dead ship* shall be 1½ times the basic rates. The Interpretation section contains a legislative definition of the term "dead ship" as a vessel normally self-propelled which is being navigated without the use of its propelling power. This excludes, *inter alia,* all vessels that are not self-propelled such as barges and scows. It is considered that the rule is equitable on account of the added difficulty the navigation of such navigation units entails (vide Report, Part I, C. 6, pp. 154 and 155).

The tariff also provides for an additional charge when a ship has to be navigated through the *Second Narrows* in Vancouver Harbour. It is quite normal to provide special rates for navigation at a particular location within a District which presents more difficulties and dangers than are normally encountered elsewhere in the District, so long as the waters in question are not part of the route regularly followed by the great majority of vessels and the necessity arises only occasionally, as is the case here.

Because the additional charge is small, the flat rate method is indicated (vide Report, Part I, C. 6, pp. 155 and 156).

The term *quarantine service charge* does not refer here to the case where a pilot is detained on board because a ship is actually placed in quarantine by the medical authorities on the ground of public health: this situation is covered in sec. 360 C.S.A. which provides for a statutory indemnity to the pilot at the rate of $15 per day. The reference here is to detention resulting from uncontrollable natural forces (acts of God) which, therefore, can not reasonably be a ground for an indemnity for a breach of contract but which may be covered by a clause in the contract. Sec. 360 becomes such a statutory clause which forms part of every pilotage contract and, since the provision is contained in the Act, any regulation made on the subject would be ultra vires.

The quarantine charge referred to in the By-law is not a detention charge because it does not cover time when the pilots are idle but time when they are on active duty rendering pilotage services. Quarantine time is the period when a ship must remain in the boarding area while medical inspection is carried out. Sec. 7 of the Schedule to the By-law describes the service as follows:

> "... when a pilot is required to stand by on a vessel at a quarantine station and tend the vessel while quarantine officials are on board".

When a ship arrives off Brotchie Ledge from a foreign port, a port Medical Officer embarks with the pilot from the pilot vessel. At that time, the ship is under temporary quarantine until pratique is granted after the Medical Officer has verified the ship's medical certificate from her last port of call and satisfied himself that the state of health on board meets the regulations. When the inspection is terminated, the Medical Officer returns in a pilot vessel and the ship proceeds[17]. If the ship is healthy, the procedure takes perhaps fifteen minutes. During that time, the ship is not anchored but waits and manoeuvres as required in the boarding area. There is no doubt that it is dangerous for a ship to remain practically immobilized in a congested area relatively close to shore especially when fog or gales prevail. This service resembles the "stand by" service that used to be covered in the regulations when, either on account of a precarious mooring or threatening weather, a pilot was required to remain on board to be available to take charge in case of emergency. Sec. 7 of the tariff now provides a flat $36 charge for such quarantine service. Therefore, the quarantine charge does not automatically apply whenever a ship goes through the quarantine procedure.

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[17] The procedure is not uniform for all Ports of Entry but varies with local circumstances. For instance, the Medical Officer may embark with the pilot and then carry out the medical inspection *en route*.

Up to March 5, 1959, the quarantine station for the Southern Region was located at William Head, some five miles from Brotchie Ledge. The pilot boarded at Brotchie Ledge and the vessel had to proceed to William Head for pratique. At that time, the By-law provided a flat charge for piloting a ship to and from the quarantine station, including entering and leaving the station. In addition, a detention quarantine charge was levied after twenty-four hours. This last charge appears to have been illegal because it conflicted with sec. 360 C.S.A.

The William Head quarantine station was discontinued on March 5, 1959 (P.C. 1959-263). In anticipation of this move, the quarantine charge was not included in the new tariff in 1958. Since the service was still being performed at that time, the Superintendent was instructed by a letter from the Ottawa Headquarters dated November 12, 1958, to apply a movage charge in such a case.

When the By-law was revised on June 17, 1960, the William Head station had been discontinued and the provision for the quarantine charge was deliberately omitted. Following the pilots' protestations, the Ottawa Headquarters wrote to the Regional Superintendent on December 5, 1960, as follows:

> "In the matter of quarantine charges, we refer to our letter of November 12, 1958, wherein we concurred that quarantine services should be charged under section 5, subsection 4(c) of the By-laws, which were then in force, until such time as the station at Williams [sic.] Head was discontinued. The station was discontinued by Order-in-Council, P.C. 1959-263, dated March 5, 1959, and, therefore, in compliance, quarantine services should no longer have been charged.
>
> Unless there are other considerations of which we are unaware, there would appear to be no practical or legal grounds for your present practice, which if continued could result in our receiving a demand to correct the billing or, in the case of charges already paid, a demand for a refund. If necessary the revision of the By-laws, now being prepared, should cover this item."

The pilots advanced two arguments in favour of a quarantine charge. First, they claimed that, unless such a charge continued to be made, their remuneration would decrease. Their second argument, however, was more serious: they claimed that they were, in fact, performing a pilotage service which was necessary for the safety of ships while pratique was being granted and that extra service should be specifically remunerated. Since the ships concerned travelled a very short distance, if any, during inspection, mileage could not be claimed and there was no other way of paying for the service.

The shipping interests agreed that service was being performed and that the charge was warranted. The Pilotage Authority then agreed to reinstate the quarantine charge and include it in the By-law at the next revision. This was done in 1965. In the meantime, despite the fact that the service was not provided for in the By-law, a charge was made using the movage tariff for the purpose.

COMMENTS

It is considered that the additional charges resulting from despatching a second pilot or from pilots' travelling expenses within the District are discriminatory and should be abolished. When pilotage is a public service, the District should be treated as a whole and no area or vessel should be discriminated against simply because of the internal arrangements adopted by the Pilotage Authority. (Reference is made to the Comments on pp. 97 and 98.)

It is considered the quarantine charge should be abolished. Sec. 49 of the Quarantine Regulations (Order in Council of December 8, 1954, P.C. 1954-1914 as amended, Ex. 91) stipulates that vessels affected shall not pay for quarantine inspection. It is considered this intention should not be defeated by obliging a vessel to pay a charge that it would not have had to pay if quarantine inspection had not been obligatory, especially when such an accessory charge is imposed for services whose provision has become a Government responsibility. Furthermore, quarantine inspection is an event over which the vessel concerned has no control and, therefore, should be considered one of the various hazards the pilotage service has to contend with like any other uncontrollable delay for which there should not be an extra pilotage charge.

On the other hand, the number of quarantine inspections off Brotchie Ledge seems abnormally high. It is considered that the arrangements there should be carefully studied.

Under the present regulations, a physical inspection (as opposed to radio pratique) by a Medical Officer at an "organized quarantine station" should be a very exceptional occurrence, but at Brotchie Ledge it has become the rule. For instance, in 1967, 954 such physical inspections in cases involving pilotage were carried out off Brotchie Ledge. When allowance is made for coast-wise vessels and the other exempt vessels, it would appear that most, if not all, of the non-exempt vessels which pass through Juan de Fuca Strait are subject to a physical examination and little or no use is made of radio pratique.

On the west coast of Canada the only "organized quarantine station" is Victoria; the three sub-stations are Esquimalt, Vancouver and New Westminster.

All the other ports on the British Columbia coast are considered "unorganized maritime quarantine stations". If one of these is a vessel's port of destination, the Quarantine Regulations state that it may obtain pratique from the local Customs officer who by sec. 55, and subsec. 2(n), is made "the quarantine officer thereof".

However, some such ports are not provided with a Customs officer, in which case the vessel shall proceed to the nearest port *en route* to its destination at which there is a Customs officer and there make application

for quarantine clearance and customs entry. This explains why vessels sailing between sea and Harriet Harbour, for instance, have to detour through Prince Rupert *en route.*

Vessels proceeding to an unorganized quarantine station but passing an organized quarantine station *en route* are not obliged to stop unless they come from an infected port. This rule, however, does not apply if non-exempt vessels enter Canadian waters through Juan de Fuca Strait, in which case they "shall obtain pratique at Victoria" (Q.R., sec. 26). This may be obtained by wireless between 9 a.m. and 5 p.m. except if "coming from an Asiatic port that is not in Japan".

Therefore, when a vessel enters Canadian waters by any other route than Juan de Fuca Strait, in all cases it may proceed direct to its port of destination, but if the southern route is used it must obtain pratique from Victoria, even if its port of destination is one of the sub-stations.

It is considered that as far as possible, if a physical quarantine examination is required, it should be effected when vessels arrive at their port of destination. The fact that one route or another has been used should have no effect on the procedure. It is also considered that to carry out physical pratique off Victoria *en route* to a B.C. port creates a danger to navigation because manoeuvring at low speed in a congested area relatively close to shore for a period of 20-30 minutes increases the risk of accidents. The danger is compounded when adverse weather conditions prevail. Such a procedure should not be resorted to except in very unusual circumstances.

(c) *Special Cases*

Only one special type of pilotage voyage is foreseen, i.e., those involving pleasure yachts. The tariff realistically provides that the rates are to be based on the time factor. (For comments vide Report, Part I, C. 6, p. 160.) For some years the rate was $37.80 per day or portion thereof calculated from the time the pilot left his base until his return, in addition to all his travelling expenses. In 1966, the per diem charge was raised to $75 (P.C. 1966-980 dated May 26, 1966).

This item of tariff is seldom applied. In some years, the pilots are not requested to render such service, e.g., 1962 and 1967 whose tariff items are analyzed in the table on page 147. However, in 1961, 1963 and 1965 there were eleven such charges, three exceeding $1,000. In 1965, there were three charges: two one-day charges of $75 each and one extensive trip costing $1,096.20 which must have kept the pilot away from his base for 12 to 14 days.

Inclusion of such an item in the tariff by the British Columbia Pilotage Authority is realistic since it is always a possible occurrence in any District and more so in the British Columbia District because the special features of the coast and the sheltered waters of the inside passage are particular attractions for such traffic.

(B) *Other Services*

Besides pilotage voyages, the tariff provides rates for other navigational services that may be performed by the pilots:

(a) movages;

(b) compass adjustments and direction finder calibrations;

(c) trial trips;

(d) gun trials and other exercises under Royal Canadian Navy control.

In all these cases, distance is not a factor and *ad hoc* rates adapted to the nature of each have to be provided.

Movages require little comment. Up to 1965, they were covered by a list of *ad hoc* flat charges varying between a low of $30.25 and a maximum of $48.40. One special feature was that in Vancouver Harbour there was a higher charge for night movages. In 1965, a new rate structure that applied to all cases was adopted, i.e., a scale based on tonnage, with a minimum charge of $34 for ships up to 7,000 tons plus an additional $2 for each additional 2,000 tons or part thereof with no maximum. Movage dues account for a little less than 5% of the pilotage earnings in the District. All the additional charges that apply to pilotage voyages also apply to movages, including the double assignment of pilots if the Superintendent is of the opinion that the intended movement of a vessel so requires (subsec. 23(5)(b) of the By-law). The charge would then be one and a half times movage rates, which, under the present wording, applies to all types of pilotage dues. A Second Narrows charge is made if the Second Narrows is transited during a movage and one and a half times the dues are charged if a ship is moved as a dead ship. A pilot's travelling expenses apply anywhere in the District if he is ordered from his base solely for a movage but, if a pilot happens to be in the locality where a movage is to take place, there is no such charge. Here again, it is considered this charge is discriminatory as well as illogical because it leaves the amount of the charge to chance. This also is strictly an internal arrangement for the provision of pilotage services. No port should be placed at a disadvantage because it does not happen to be a District pilot station. These travelling expenses should be part of the operational expenses of the service even if it means a net loss for the District. This is an occurrence which should be considered together with all other pertinent factors when the scale of the basic rate is fixed.

Doubtless because the time element is always approximately the same for *adjusting a ship's compasses or calibrating a direction finder,* and also because the amount is not large enough to warrant a scale, flat rates are provided. For adjustment and calibration the rate is $24.20 and for pilotage from Sand Heads to English Bay, where these operations are performed, $30.25. These rates have not changed since the new tariff was set in 1958.

The rates for *trial trips and gun trials or other exercises under Royal Canadian Navy control* are realistically based on the time factor, e.g., a minimum charge for a trial trip is $90.75 for the first 8 hours and $6.05 for each additional hour, and for gun trials $36.30 for the first 4 hours and $6.05 for each additional hour.

These special services represent a very small percentage of the District earnings (vide table).

(c) *Indemnity Charges*

On account of the peculiarities of a coastal District and more especially of British Columbia where transportation is difficult in certain areas, indemnity charges are significant items of revenue especially when no opportunity to change them has been neglected, with the result they have reached the point of abuse. Their aggregate yield accounts for about 14% of the District pilotage earnings, the most important being detention which amounts to over 9%.

In addition to the two indemnity charges provided in the C.S.A. for overcarriage of pilots and quarantine detention (sec. 360), the British Columbia District By-law also contains the following provisions:

(a) detention;

(b) cancellation;

(c) boarding off;

(d) Puget Sound charge;

(e) other outside-District charges.

The statutory indemnity charges are studied in the Report, Part I, C. 6, pp. 201-203. As therein pointed out, under the present legislation, it is ultra vires on the part of the Pilotage Authority to deal through regulations with the cases contemplated in secs. 359 and 360 C.S.A., either to alter the indemnity or to modify the personal right of the pilot to these indemnities. To provide for these situations would require an amendment to the Act (vide Part I, Recommendation 11, pp. 490 and 491 re overcarriage indemnity).

(a) *Detention Charges*

The basic consideration of a pilotage contract is the navigation of a ship between two points situated within a Pilotage District at a price fixed in the tariff. The time factor enters into such a contract only in those specific instances where, as shown earlier, it is justified by the type of service performed. Although time is not a stated consideration when a pilotage contract is concluded, there are two implied guarantees: the pilot will report for duty at the appointed time and place in a fit condition to perform his duty and will effect the transit without undue loss of time; the ship will not unduly delay the pilot in the performance of his services.

The actual duration of any trip may be affected by various factors; some of these are within the control of either or both parties to the contract, others are not. Any event beyond the contracting parties' control and not caused by the fault of either must be accepted as a normal hazard which can not give rise to any claim for indemnity against the ship or the pilot. If the delay is attributable to a third party, the only permissible claim is against that third party. If a pilot's absence takes longer than usual because of an agreement between the Master and the pilot, this is the result of an additional, specific contract in which the pecuniary consideration becomes a charge and not an indemnity, e.g., the special arangements for boarding or disembarking outside the District in a Puget Sound, California, or Alaska port.

When the loss of time is due to the act or fault of one party against the will or consent of the other, it becomes a breach of contract which gives rise to a claim for damages. These damages may be liquidated through a clause contained in the contract but it is not the custom to provide such a clause to cover the contractual damages claimable against a pilot. However, such a clause is usually found in the tariff to cover some of the various types of breach of contract on the part of a ship, including detention provisions. In those cases not so covered, recourse is not lost but damages must be liquidated by a court unless the claim is accepted by the ship or a compromise is reached.

Although the foregoing is trite law, it was considered necessary to state these basic principles in order to facilitate consideration of the legality and merit of the various charges made in the B.C. District under the heading *Detention.*

The B.C. tariff as a whole (especially its detention provisions) is a fair example of what may happen when some functions a Pilotage Authority is required to discharge in the public interest are left to the fate of negotiations between the directly interested parties whose main motivation is the betterment of their personal situation. On one hand, the pilots quite naturally miss no opportunity to improve their working conditions or increase their income; on the other hand, the shipping representatives are guided by the interests of the majority of their firms and, therefore, yield to the pilots' pressure on items that have little overall importance for the group as a whole, even if some members suffer or the public in general is prejudiced thereby.

It is because there can be no indemnity when the loss of time is due to events over which a ship has no control that the detention clause in the tariff normally contains a proviso to the effect that delays caused by stress of weather or other causes beyond a ship's control do not count as detention time. The B.C. District By-law does not contain such a proviso.

On May 26, 1966 (P.C. 1966-980), the detention provision of the By-law was redrafted and changed substantially. Apart from the question of presentation and style, there were four basic changes:

(i) the daily maximum was raised from $36.30 to $60;

(ii) the day was changed to a consecutive twenty-four hour period;

(iii) idle time on board was reinstated as a type of chargeable detention;

(iv) a rate in the form of a scale based on time was introduced, i.e., $7.50 for the first hour, $10 for the second hour, and $15 for each subsequent hour to a maximum of $60 per twenty-four hours.

The change from the calendar day to a twenty-four hour period for calculating maximum delay has corrected a point of contention. Under the previous wording, for instance, a consecutive period of twelve hours could have meant two days' detention if the detention commenced at 6:00 p.m.

With the new wording of the two-pilot rate provision, the one-and-a-half times rate applies because a detention charge is a pilotage due.

There are five types of time that are treated as detention in the British Columbia regulations:

(i) time awaiting departure;

(ii) time awaiting ship's arrival at a Northern Region boarding station;

(iii) time spent at outports at the Master's request after a ship's arrival;

(iv) idle time on board while a ship is under way;

(v) idle time spent for a ship's convenience south or north of the Canadian territorial sea.

Time Awaiting Departure

This detention is reckoned from "ordered time" to "sailing time" from a berth or an anchorage, providing the pilot reported for duty at the requested time and at the appointed place.

This is the type of detention that normally appears in the tariff. It is a penalty clause rather than an indemnity clause because the actual damages suffered by a pilot as a result of a few hours' delay would be minimal. In fact, it is used as a deterrent to prevent Masters, agents or supercargoes from wasting the pilots' time. This is shown by the fact that, as a rule, the first period of detention is free of charge and the amount of the charge is far below the average worth of a pilot's working time.

The regulations allow for this type of detention a deductible period of:

(i) three hours for departure from a northern port north of latitude 52°

(ii) one hour elsewhere.

The longer deductible period for northern ports is doubtless a concession to account for the larger margin of error that results from the longer

advance notice of requirement ships must give in northern ports in order to allow the despatcher sufficient time to send a pilot from a southern pilot station. Under these circumstances, forecasting the exact time of departure is a practical impossibility.

It is the duty of the pilots to be ready and available at normal notice anywhere in the District where their services may be requested. Vessels should not be required under pain of a pecuniary penalty to give firm notice of requirement so far in advance that the time of departure can not be forecast with any degree of certainty. It seems that three hours prior to departure should be a reasonable rule for a firm order for a pilot. Such advance notice should be sufficient for a port where a pilot station is situated. When longer advance notice is required on account of the distance from the nearest pilot station of the port where the service is requested, the time free of detention charge should be increased proportionately to compensate for the margin of error which increases with the length of advance notice. If a ship is placed at a disadvantage on account of the way the service is organized, the resultant inconvenience should be borne by the District and not by the ship.

Delay Awaiting Ship at Cape Beale or Triple Island

This is another charge that applies exclusively to the Northern Region.

As a rule, this is a type of charge which should not be made. It is the duty of the pilots to be in a state of readiness at the boarding area in order to be available at the moment a ship enters the boarding area on her inward voyage. At sea, a long advance notice can be very unreliable. A minimum time of arrival can be easily established, i.e., if ideal conditions exist, but on account of factors over which the ship has no control, such as adverse weather, a ship may be considerably delayed for a period that can not be established in advance. This is a service hazard which the pilots must accept. A pilot must be at the boarding station at the appointed time and wait for his assigned ship to arrive; no charge should be made for waiting time. The E.T.A. has served its purpose in that it has helped the Pilotage Authority to arrange for a pilot or pilots to be available. It should be borne in mind that an E.T.A. is not a condition for obtaining a pilot. The first ship to arrive at the boarding station has the right to have whichever pilot happens to be available at the time, even though he was despatched to meet another ship which has not yet arrived. Since this is the state of pilotage legislation as it now exists, an E.T.A. can not serve as the basis for computing a detention charge, thereby punishing a ship that has co-operated within the timits of feasibility. Furthermore, the Pilotage Authority has no power to define what should be a reasonable E.T.A. in local circumstances (vide Part I, C. 7, pp. 230-232).

It is on account of the foregoing principle that there is no detention charge at the only southern boarding station, Brotchie Ledge, no matter how

late a ship may be. The fact that no place is provided at Triple Island and Cape Beale, either on adjacent land or afloat, for a pilot to wait for the arrival of a ship does not change the situation. If it is impossible or impractical to provide a waiting place for the pilots on land, there is always the possibility of providing a floating boarding station as it is done the world over where similar situations are met. When, for reasons of internal organization or of economy, it is decided not to provide either type of accommodation, any inconvenience the pilots may suffer should not affect ships either directly or indirectly.

Time Spent in an Outport at a Master's Request

This situation occurs only in the Northern Region for the simple reason that it is more economical to pay detention than to dismiss a pilot and pay his travelling expenses back to his base station, plus the travelling expenses of the pilot who is sent to conduct the ship on her outward voyage. In this case, there is no deductible period and detention time counts from the moment the ship is berthed.

If a pilot is dismissed when a ship arrives in port, there can be no question of a detention charge even if the despatcher orders the pilot to remain in order to pilot the same ship on her outward voyage.

Since this is considered another situation arising from the organizational structure of the District, ships should not be inconvenienced thereby. As said earlier (p. 154), it is felt that travelling expenses for pilots on assignments to the Northern Region should be abolished because they amount to a discriminatory charge. Except in the interest of safety, Masters should have no greater privileges of retaining a pilot in Northern Region ports than they enjoy elsewhere in the District. Upon arrival at an outport, a pilotage assignment should be terminated and the problem of supplying a pilot for the outward voyage should be for the despatcher to solve. If it is considered advisable to require a pilot to remain at the outport to take charge of an outward voyage, this service should be free of charge to the ship. If, on the other hand, it is deemed advisable to assign another pilot, the travelling expenses of both pilots should be paid by the District.

Idle Time when Travelling On Board but not Piloting

Despite the generality of the wording of the governing By-law provision (*Schedule,* subsec. 9(1)(c)), this also is a situation that is met only in the Northern Region unless the text of the provision is taken literally, thus imposing a preposterous interpretation.

The meaning of this provision was quite clear under the previous wording (sec. 6 of the Schedule, 1960 General By-law). A detention charge was applicable for the period a pilot was detained on board "when outside pilotage waters between ports in the District". This wording clearly referred to a special feature of a coastal District where, on a given pilotage voyage,

a ship has to go beyond District waters. For example, on the run between Kitimat and Cape Beale, the pilot ceases to pilot after leaving the territorial sea off McInnes Island and resumes piloting some seventeen hours later on re-entering the territorial sea off Cape Beale.

The 1965 General By-law did not contain this charge. It was reinstated in 1966 (P.C. 1966-980) in the following ambiguous terms (By-law, *Schedule,* subsec. 9(1)(c)):

"where a pilot is travelling on a vessel but not piloting the vessel".

This wording has a much wider meaning than the 1960 provision. Because it contains no further qualification, it may mean, *inter alia,* any of the following additional situations:

(i) On a two-pilot assignment, the full time of one pilot would count as detention because he is idle while the other is piloting, with the result that 1½ pilotage dues should be paid for the two-pilot assignment and one detention charge for one pilot for the full duration of the trip.

(ii) When, for any reason, a Master does not let a pilot take charge of navigation but merely asks advice or information when he sees fit, the pilot is not piloting and, furthermore, is not the pilot of the ship in accordance with the statutory definition (subsec. 2(64)(vide Part I, C. 2, p. 25). Therefore, if the provision is taken literally, the pilot is entitled to a detention charge for the full duration of the trip in addition to the pilotage voyage dues that are owing nevertheless.

(iii) When a pilot travels in a ship north or south of the Canadian territorial sea, either because he has embarked or will disembark at an American port, in addition to the special fee provided for Puget Sound boarding or the fee arrived at through agreement for California and Alaska boarding, there should be a detention charge for time spent on board (not travelling time by land or air transport) until the ship arrives in or off the Canadian territorial sea.

(iv) When a pilot is overcarried through circumstances beyond the control of both the ship and the pilot; the By-law provision in such a case would conflict with the statutory provision of sec. 359, C.S.A.

In practice, the detention provision is implemented only "when a pilot is travelling on a vessel between ports in the district or between such places as Cape Beale boarding station and McInnes Island where active piloting commences on vessels proceeding to Kitimat and for time spent on a vessel between Race Rocks and Cape Beale. On the other hand no charge is made for

time spent on board vessels while on passages to or from Puget Sound and to or from California ports when the vessel is not in waters of the British Columbia Pilotage District." (D.O.T. letter, April 30, 1968, Ex. 1493(*l*)).

This detention item does not include time on board when a ship is not moving, whether she is anchored, moored, or temporarily berthed, moving at slow speed on account of weather conditions, waiting for a change in the tide, or for any other reason beyond the control of both ship and pilot. Such instances are normal hazards of navigation which do not justify compensation of any kind.

For pilots to be idle *en route* when a ship is outside the District is a special and important feature of coastal pilotage which should be covered in legislation. At present, the tariff can not cover such situations because each Pilotage Authority's regulation-making powers (including fixing the rates) are restricted to its territorial jurisdiction. Therefore, such a detention charge is illegal at present.

This situation may occur in one of two ways:

(i) outside District waters during a trip between two ports in the District, or between a boarding station and a port in a District;

(ii) beyond a boarding station, i.e., in the B.C. District when a pilot is on board south or north of the Canadian territorial sea after embarking or about to disembark in an American port (vide pp. 100 and ff.).

The latter case is covered in General Recommendation 11 (vide Part I, C. 11, pp. 489-491).

At present, this service is not considered a pilotage service because it is performed outside District limits and, therefore, the tariff for it is not fixed by the Pilotage Authority but is negotiated by the pilots and the shipping interests—after which, the Authority merely approves what they have agreed upon. The Authority has taken a mixed attitude toward the resultant indemnities. On one hand, the Puget Sound charges are treated as if they were pilotage dues, are listed in the tariff and, when collected, become part of the common pool administered by the Pilotage Authority. On the other hand, charges for similar services in Alaska or California ports are segregated and paid directly to the pilot concerned.

In the former case, the choice of routes is the Master's prerogative when alternative routes are possible. The pilot may, and should, inform the Master of the advantages and inconveniences of the various alternatives but he must not impose his point of view unless he considers this is warranted by consideration of the ship's safety or he is aware of legislation prohibiting one possible course. For instance, for a voyage to or from the Northern Region, the Master may have a choice between the inside passage—all of which lies inside the District—or the outside passage, most of which is

situated outside the District. At other times, the only practical route necessarily runs partly through international waters, e.g., Prince Rupert—Harriet Harbour or Kitimat—Cape Beale. In either case, idle time on board while *en route* is part of the pilotage trip and, hence, should be taken into consideration when the rate structure is devised. As stated earlier, this can not be done at present but should be covered in future legislation.

However, for reasons stated earlier (p. 157), it is considered that the time factor is the wrong criterion. Instead, the distance factor should be adopted and the same method should be used as when the basic dues are computed, i.e., a fixed rate per mile, e.g., ten cents or other appropriate amount per mile outside District waters, or ten such miles or other appropriate number to equal one pilotage mile, for tariff purposes.

(b) *Cancellation*

The cancellation provision of the tariff is another indemnity clause. It is realistic because it recognizes the service nature of pilotage and authorizes a Master to cancel a pilotage contract unilaterally. Indirectly, it provides that no indemnity is called for if cancellation is ordered before the pilot has commenced to act on the request and, even so, the indemnity is not payable if the cancellation is due to unforeseen stress of weather. In other circumstances, cancellation becomes a breach of contract and the ship is required to pay the prescribed indemnity which, in B.C., is now $18.15, plus the pilot's travelling expenses if the boarding point is a port other than his base station.

The only comment here is that travelling expenses should not be charged. The charge should be uniform throughout the District; the aggregate travelling expenses should be a factor to be considered when the rate is fixed.

(D) *Surcharge*[18]

A surcharge and its counterpart, a general percentage reduction, are ways of making general adjustments to the tariff without altering the basic tariff structure or any of its individual components. It is, *inter alia,* the indicated method of adjustment when the aggregate revenues fall short of, or exceed, the prescribed target income (vide Part I, C. 6, pp. 143 and ff.). In the British Columbia District, this method is currently employed. A first surcharge of six per cent was granted as of June 8, 1967 (General By-law, *Schedule,* sec. 15) to meet the pilots' demand for a higher annual income (vide pp. 136-138 and 142).

(E) *Accessory Services*

In British Columbia, these comprise the pilot vessel service (pp. 106-109) and the provision of radiotelephone equipment (p. 131).

[18] Vide footnote [15], p. 143.

The charges for accessory services are essentially part of pilotage dues. They are segregated when the pilots do not personally provide those services (if they had, their cost would have been part of their operating expenses) or when such accessory services are not regular components of a pilotage voyage. (For comments on the nature and legality of such charges, vide Part I, C. 6, pp. 182-184.)

(4) Complaints About Tariff

When the Commission sat in British Columbia in March, 1963, the pilots and the Vancouver Chamber of Shipping were in the midst of negotiations over tariff charges. They took advantage of the Commission's hearing to voice their arguments and air their grievances. Some of the complaints made at that time have since been corrected.

(a) *Pilots' Complaints*

The pilots complained that the tariff rates had not kept pace with charges in maritime traffic. Ships are now larger and carry two or three times as much cargo as Liberty ships but they claimed that basic pilotage rates had not been changed since 1945.

Pilotage dues in the Southern Region were formerly based on net tonnage and draught but not on mileage while, in the Northern Region, they were based on all three. The pilots complained that the Department of Transport had changed the tariff structure to gross tonnage, draught and mileage in order to prevent them from deriving increased remuneration from the changing pattern of traffic.

This complaint on the part of the pilots underlines their basic misconception of the nature of the tariff in a fully controlled pilotage service. Their argument is not sound. A tariff which varies according to ships' characteristics is not intended to provide the pilots with greater remuneration as the shipping pattern changes but merely to spread the total cost of the service as equitably as possible among the users. The amount of the charge for any given service should not be a concern of the pilots either as individuals or as a group now that free enterprise has disappeared and the District earnings are pooled. Their interest in that field should be limited to fixing an adequate target income and the Authority should be left with the responsibility of devising a tariff whose yield will produce the necessary aggregate revenue to meet the total cost of the service, including the pilots' remuneration. If, at the expiration of a prescribed trial period, the actual income of the pilots either fails to attain, or exceeds, the agreed target income by a substantial margin, the Pilotage Authority—after studying all the factors involved and eliminating those of a non-recurring nature—should correct the situation by an appropriate general increase or decrease. (Vide Part I, C. 6, and General Recommendations 20, 21 and 24.)

In fully controlled pilotage, the obvious and ideal status of a pilot is Crown employee (vide Part I, pp. 140 and 141).

The pilots also complained about the flat invariable rate for movages which was retained although ships had increased in size and movages had become more difficult. They recommended a movage surcharge for certain ships. As seen earlier, this was corrected in 1965 when a rate of scale based on tonnage was adopted.

As for the two-pilot requirement, they protested against the insinuation that their insistence on that point was merely a way of increasing their revenue. They argued that this could not be so because the second pilot could usually be more profitably employed elsewhere; they insisted that they continued to make the recommendation simply as a safety measure to ensure that there is always a rested pilot available during a long assignment. As seen earlier, this argument may be accepted for extended assignments but not for marginal cases such as the Kitimat-Cape Beale run where their prime concern was to improve their working conditions. However, they were not indifferent to the financial aspect because they asked payment of full dues for each pilot, claiming they are losing money under the present tariff. They pointed out that additional revenue would make it possible to increase the number of pilots on strength. (Vide the comments already made on this subject, pp. 118-121.)

(b) *Vancouver Chamber of Shipping Complaints*

The Vancouver Chamber of Shipping was satisfied that the tariff structure in 1963 bore a valid relation to the value of the services provided by the pilots and compared favourably with rates in other Districts. It believed, however, that some changes should be made, particularly to reduce the discriminatory charges which endangered the future of the communities and industries in the Northern Region.

The Chamber did not complain about the basic method of assessing pilotage dues by tonnage, draught, and mileage, but about the organization of the service—mainly the location of the pilot station—which results in considerable charges for travelling and detention and, in some cases, necessitates the assignment of two pilots, thus almost doubling the total bill.

The Chamber pointed out that the pilotage service at the scattered ports along the vast British Columbia coastline can not be self-supporting and recommended, therefore, that the less fortunate areas be subsidized by the more remunerative areas as is commonly done in industry. However, the Chamber expressed the opinion that the pilots would never agree as long as the net earnings of their District determined the amount of their income.

Detention charges also concerned the Chamber. In the Southern Region, ship operators are allowed a leeway of one hour and, in the Northern Region,

three hours; but the Chamber pointed out that it is extremely difficult to forecast the exact time a vessel will arrive from sea or longshoremen will complete loading. They stated that the pilots had been helpful in their attempts to reach a compromise but detention remained a serious problem in the Northern Region. As seen earlier, detention charges have been substantially increased since 1963.

The Chamber stated that it did not wish to acquire the reputation of being against the pilots but, at the same time, it emphasized its responsibility to exercise control over operating costs, most of which are for labour and personnel services. If increases are granted to one group, there will be similar demands by other groups. All costs are eventually reflected in freight rates which, in turn, affect Canadian exporters. A difference of as little as fifty cents a ton may enable a Canadian company to sell abroad. For example, the Aluminum Company of Canada can not compete with the United States Aluminum Company if the differential is too high. Such economic considerations force the shipping interests to control costs of all kind and they urge that reasonable remuneration for pilots be established either

(i) by setting a minimum or maximum income, or

(ii) by making the pilots civil servants,

and eliminating the fixed relationship between tariff and pilots' remuneration which is a continuing source of friction. (For the economic impact of pilotage rates, reference is made to Part I, C. 5, pp. 129 and ff., and *Appendix X* to Part I.)

The Vancouver Chamber of Shipping also complained about the increase in pilot boat charges. They pointed out that a few years ago there was no charge, but now the pilot boats from Victoria and Sand Heads pilot stations cost ten dollars. In addition, the cost of privately-owned pilot boats had increased greatly.

It is considered that the ten dollar pilot boat charge is far from excessive. Re the charges for hiring private launches, it should not be forgotten that the British Columbia District is the only District where shipping receives direct subsidies from the Crown which bear half the cost of hiring such launches. (On this subject and other types of subsidies, vide General Recommendations 20 and 21 contained in Part I of the Report.)

(c) *Complaints by the Aluminum Company of Canada Limited*

Saguenay Shipping Limited, the shipping subsidiary of the Aluminum Company of Canada, is a member of the Vancouver Chamber of Shipping but its representative stated that its views about operations at Kitimat do not always coincide with those of the Chamber

When Kitimat was first opened, maritime traffic was generally confined to the Company's ships bringing in material for construction and alumina.

At that time, no one except the Company was particularly interested in pilotage costs to and from Kitimat. Cargoes into Kitimat are still carried by ships controlled by Saguenay Shipping except for one firm that brings in pitch in bulk.

When the finished product was ready to ship, several lines operating in areas where aluminum is sold were given the opportunity to participate and, consequently, the ships of these lines now call at Kitimat. Their operators are conscious of pilotage costs and take a particular interest in them because their cargoes from Kitimat consist of parcels of aluminum only. It is unusual to ship a full cargo of aluminum, since aluminum is normally purchased in partial cargoes from 500 to 1000 tons.

For example, in 1962, there were forty-six shipments of aluminum from Kitimat in deep-sea vessels; of these, nineteen were under 1000 tons, ten between 1000 and 1500 tons, five between 1500 and 2000 tons, one between 2000 and 3000 tons, and eleven over 3000 tons. The largest cargo, 8988.7 tons, was carried by S.S. *Megara.* In addition, some 11,000 tons were carried by coastal vessels and an unstated amount went by rail (Ex. 138). Between July, 1957, and May, 1962, there were fifteen large cargoes out of Kitimat. These ranged from 7,146 tons to 12,262 tons, but only three were full cargoes.

The primary rôle of the ships operated by Saguenay Shipping is to bring in alumina. They bring a full cargo inbound and, if any aluminum is available for outward shipping, they take it; if possible, they complete their cargo with other shipments which they load at ports *en route* to their destination.

In 1962, seventy-one deep-sea vessels called at Kitimat (Ex. 133). Of the 142 pilotage assignments, there were only eight inward and seven outward *via* Triple Island.

In 1962, with the exception of the alumina ships and four others, all other deep-sea ships arriving at Kitimat carried no cargo on their inward voyage. Only four Saguenay Shipping Limited ships loaded aluminum at Kitimat while all other aluminum shipments were made in ships belonging to various lines. In December, 1962, M.S. *Sunek* brought 17,692.6 tons of alumina to Kitimat and sailed empty. In January, 1963, M.S. *Carina* entered with 13,530.6 tons of alumina and sailed with 5,202.7 tons of aluminum ingot.

Aluminum is sold in the export market at prices ranging within a fraction of a cent per pound and management must be very careful about costs. The world price of aluminum in 1963 was 22½ cents U.S. and 24 cents Canadian per pound. (In April, 1968, the price of unalloyed aluminum ingots was 25 cents Canadian delivered.) Canadian exporters are selling their product to countries where labour costs are vastly different and competition is

keen. Pilotage costs averaging $1,100 per round trip add to the cost per ton of aluminum and are, therefore, of great concern to the Company. It was claimed that increased aluminum sales in 1962 were partially due to the devaluation of the Canadian dollar.

All expenses which a ship incurs in a port determine whether a call at that port is desirable or not. An operator will consider carefully which ports are offering cargo and what their operating costs are. Saguenay Shipping, for instance, does not use certain ports because of their high charges. The choice lies between lowering port charges or increasing freight rates.

Port charges are not the handling charges which are absorbed by the shipper or recipient of the cargo, nor wharfage, nor the three-cent cargo rate formerly charged in Vancouver, but those incurred by the ship as opposed to cargo expenses, charges which the shipowner is expected to pay, i.e., pilotage, tugs, side wharfage, customs, immigration, and similar charges which a ship pays whether or not she discharges or loads cargo.

From 1958 to 1962, agents' fees and charges for stevedores and linesmen did not change at Kitimat. All these services are provided by the Aluminum Company of Canada Limited.

In 1963, the average operating expenses of Saguenay Shipping Ltd. ships serving Kitimat varied between $50 per hour and $100 per hour depending on the ship.

When computing the incidence of pilotage costs on the finished product, it was pointed out that freight and pilotage enter into the cost of both bringing in raw material and shipping out the finished product, but the cost of pilotage only for shipping out aluminum by water amounted to between sixty-eight cents and seventy cents per ton in 1963.

The Aluminum Company of Canada Limited and Saguenay Shipping Limited do not complain about the pilotage service. On the contrary, they consider that the British Columbia pilots are well qualified professionally and the Saguenay Shipping Masters speak very highly of them. The problem is economic. The cost of transportation by water is particularly significant because of the location of Kitimat and the nature of their export product.

Before the smelter was built at Kitimat, the Aluminum Company of Canada Limited was aware of pilotage costs and of the requirement to carry two pilots but it was unexpected that these costs would increase as they did on account of the various By-law amendments affecting the basic rates, changing the time from twelve hours to eight hours when determining whether two pilots should be assigned, and the specification of the calendar day for computing detention. As seen earlier, this last point has now been corrected.

They are very much concerned about the safety of their ships but they consider that, on trips to and from Kitimat, one pilot instead of two would be a reasonable calculated risk.

They pointed out that the requirement to carry two pilots added about one-third to their pilotage costs. The table on p. 96 indicates that, in 1965, the average additional cost for northern voyages resulting from additional charges for travelling expenses and detention—not counting the second pilot requirement—amounted to approximately fifty per cent.

The Company's principal complaint concerns the second pilot for whom they now pay half pilotage dues plus full detention and travelling expenses. They point out that, if they were also required to pay full dues for the second pilot as the pilots are requesting, the additional cost would be very harmful to their industry. The main object of their brief is to reduce their costs by arranging to use only one pilot between McInnes Island and Kitimat.

There are three possible routes to Kitimat but, unless a vessel is calling at a port on the Strait of Georgia, the shortest and most economical route is west of Vancouver Island *via* the unofficial boarding station off Cape Beale. To proceed *via* Triple Island would mean an expensive detour for ships coming from the south and, even if pilots were stationed at Prince Rupert, the savings in detention and travelling expenses would be more than offset by the cost of extra mileage and extra time. They estimated that ninety per cent of the seventy to eighty deep-sea vessels that were expected to call at Kitimat during the year 1963 would use the Cape Beale route.

(5) Examples of Pilotage Charges

In order to show that their pilotage charges compared advantageously with the charges made in Puget Sound and on the Columbia River, as well as in a number of Pilotage Districts in Canada, the pilots prepared a comparative table which was filed as Exhibit 82. As in the case of all statistics, these should not be taken at face value but should be carefully analysed. For instance, their selection of pilotage dues for a B.C. trip is not necessarily characteristic of B.C. pilotage charges because they took a trip where the aggregate amount was at its minimum, i.e., there were no additional charges and only one port charge. No comparison is possible between pilotage charges in Puget Sound and the B.C. District because the components of the rates are dissimilar. For instance, an eighty-mile trip involving two B.C. ports costs approximately fifty per cent more than the trip quoted as an example. If the trip happens to be in the Northern Region, another fifty per cent has to be added, and even more if the trip entails a call at Prince Rupert for pratique or clearance because, on such a trip, three port charges are made instead of the one in the example.

Here are typical examples of the aggregate pilotage charges incurred by a ship during her full stay in the District, i.e., from the time she enters from sea to the time she returns to sea. These are actual charges incurred in 1963. As seen earlier, the tariff has increased substantially since then.

(a) *S.S. Harpalycus*

The pilotage charges for S.S. *Harpalycus* in January and February, 1963, were filed (Ex. 111 and Ex. 1432(d)) as a typical example of a lumber charter (except for the D/F calibration) which loads from six to eight berths in different ports of B.C. The charges are as follows:

Date	Description	Amount
Jan. 22	From sea through Brotchie Ledge to Vancouver	$ 139.91
Jan. 24	One movage (D/F calibration)	54.45
Jan. 26	Vancouver to Victoria	192.87
Jan. 30	Victoria to Sand Heads	175.65
Jan. 30	Inward pilotage, New Westminster	123.05
Feb. 2	Outward pilotage, New Westminster	130.85
Feb. 2	Sand Heads to Nanaimo anchorage	151.13
Feb. 4	Nanaimo anchorage to Nanaimo	54.45
Feb. 6	Nanaimo to Vancouver	165.15
Feb. 12	Vancouver to Sand Heads	158.03
Feb. 12	Inward pilotage, New Westminster	145.15
Feb. 13	Outward voyage from New Westminster	146.45
Feb. 13	Sand Heads to Victoria	210.80
Feb. 18	Victoria to sea	85.45
		$1,933.39

In loading a ship, the cargo that is to be discharged last has to be loaded first. There are many trips of this kind (between ten and twelve per month) carried out by the three companies doing this type of chartering.

(b) *Other Lumber Charters*

The Regional Superintendent reported on March 12, 1965, that it is difficult to select a typical lumber charter because the number of loading ports varies from one to five or six. Large bulk carriers load full cargoes in Vancouver Harbour and it is assumed that the lumber arrives by scow from local mills with no deep-sea dock facilities, e.g., M.V. *Pharos* loaded a record 11.2 million feet at Western Waterways, Vancouver. The Regional Superintendent furnished four examples of such lumber charters (Ex. 1432(d)):

(i) between February 4 and March 1, 1965, S.S. *Maritihi* called at six berths in Alberni, Crofton, Victoria, Chemainus, and back to Alberni, at a total pilotage cost of $1,308.57;

(ii) from January 28 to February 22, 1965, S.S. *Alfa* berthed four times in three ports, Crofton, Chemainus and Alberni, at a total pilotage cost of $962.48;

(iii) between January 16 and February 10, 1965, S.S. *Erna Stathotos* [changed to S.S. *Albadoro* in 1965] visited five ports and incurred pilotage charges of $1,293.98;

(iv) from November 2 to December 14, 1964, S.S. *Polegate* loaded at five berths in four ports, with pilotage charges of $1,303.32.

There were also four cases where there was only one berthing with charges varying between $339.67 and $403.62 (Ex. 1432(d)).

(c) *Large Grain Ship*

On November 30, 1962, a large grain ship arrived at the National Harbours Board elevators in Vancouver and sailed December 11—her gross tonnage was 28,390, net tonnage 17,809. Her draught on arrival was 27½ feet and, on her departure, was 36½ feet. She reached Vancouver at 6:30 p.m., anchored and did not berth until 8:00 the next morning. The pilot stayed on board at the Master's request, thus causing a detention charge of $72.60. Pilotage charges on the inward trip were $347.90 including the movage and detention. On the departure day, the pilot was ordered for 3:00 p.m. but the ship did not sail until 5:00 p.m., thus causing a detention charge of $24.20 since the pilot remained on board at the Master's request. The total bill for the outward trip was $278.25; the total pilotage bill was $626.15.

7. FINANCIAL ADMINISTRATION

As described in Part I of the Report, C. 5, all pilotage revenues and other money received by the Pilotage Authority are treated as if they were not public monies and the District was not a Crown organization. The small number of financial requirements listed in the Canada Shipping Act (mainly sec. 328) are disregarded.

The financial administration of the District and of the service, including handling these monies, is the sole responsibility of the Regional Superintendent. His principal guidance in the discharge of these duties comes from the various financial provisions contained in the District General By-law, most of which are ultra vires as will be shown during detailed study of the District financial procedure.

He makes out invoices for pilotage dues and collects dues or any other sums owed to the Pilotage Authority or which the Pilotage Authority is required, or has undertaken, to collect. As a service to the pilots and the private operators of pilot vessels, he also includes anything owed by ships to them personally when he makes out the bills for pilotage dues. As a further service to the pilots, he undertakes payment of their group expenses, assists them to compile claims and reports regarding their group insurance, and collects their indemnities and benefits. For income tax, the Canada Pension Plan, saving bonds, subscriptions, donations, etc., he makes the necessary deductions at source, none of which appear in the annual financial report.

The Regional Superintendent stated that he had never had any difficulty collecting pilotage dues. As of March 1963, there were only two debts outstanding. In one case, the debtor was a firm in liquidation from which a partial payment was expected. The other outstanding bill was being processed by the appropriate naval authorities and he expected the amount to be paid. He occasionally is forced to have recourse to the power conferred upon the Pilotage Authority by sec. 344 C.S.A., i.e., to have a ship detained by requiring a Customs officer to withhold clearance until the pilotage dues are paid (vide Part I, C. 6, pp. 196 and ff.).

As of 1963, there were three types of funds being kept by the Regional Superintendent:

(a) British Columbia Pilotage Fund;

(b) the Pilot Fund;

(c) the Pilots' Reserve Fund.

While the pilots' earnings are pooled in the British Columbia District and the individual pilot's remuneration is a share of the resulting common fund, this fund is not kept segregated. In fact, the pilots' pool or common fund is merely the net revenues of the British Columbia Pilotage Fund.

The Pilot Fund was the British Columbia pilots' pension fund created pursuant to the provisions of subsec. 319(*1*), 1934 C.S.A. It has since ceased to be a responsibility of the Pilotage Authority. This will be studied in the next chapter.

The Reserve Fund, which is unique to the B.C. District, is a device to facilitate sharing the pilotage earnings among the pilots. It is not kept segregated from the Pilotage Fund, except as a bookkeeping entry showing money on loan from the pilots. It will be studied at the end of this chapter.

(1) British Columbia Pilotage Fund

The British Columbia Pilotage Fund is, in effect, the bank account into which all receipts that come into the hands of the Regional Superintendent are deposited, whatever their origin, nature or purpose. Sec. 9 of the General By-law requires the Regional Superintendent to deposit to the credit of the Authority in a chartered bank designated by the Authority in an account to be known as the British Columbia Pilotage Fund all monies received by or on behalf of the Authority. All expenditures are by cheque signed by the Superintendent on behalf of the Authority. While the By-law does not contain a specific delegation of power authorizing the Superintendent to effect the necessary withdrawals, such power is implied in the provisions of sec. 10 of the By-law which require the Superintendent to liquidate the fund each month by making payments as directed by that section.

The Regional Superintendent considers that secs. 9 to 12 inclusive of the By-law define his authority to dispose of all money in the Pilotage

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Fund. However, at times, he acts on his own initiative and, occasionally, he applies the letter of the By-law. This is a sensitive area for him because whatever he spends means less remaining for actual distribution to the pilots. In addition, he may become personally liable.

Appendix F is a comparative table for the years 1962 and 1967 re-arranged to follow the analysis hereunder of that part of the Pilotage Fund consisting of pilotage earnings and other items entering into the pilots' pool without, however, any mention being made of such items of the Pilotage Fund as the Reserve Fund, the money collected which belongs personally to individual pilots, and direct Crown subsidies for launch hire (D.O.T. letter May 9, 1968, Ex. 1493(m)).

The financial statement does not carry the item "accounts receivable" nor its converse "accounts payable" because the simplest possible form of bookkeeping is employed, i.e., the receipts and expenditures system. In fact, there are receivable accounts at all times, i.e., bills for pilotage dues that have been sent out but not yet paid. As seen later, for the purpose of this statement these accounts are considered collected as soon as they are earned.

Because the aggregate pilots' remuneration is the net pilotage earnings of the District and because the pilots' share must be paid out every month, all unpaid bills or liabilities have to be paid before the net pilotage earnings can be arrived at, and, therefore, there can not be any outstanding payable accounts.

(A) *Assets and Items of Revenue*

Under the present legislation, a Pilotage Authority is not supposed to own any assets except those necessary for the discharge of its limited functions, i.e., an office, either owned or rented, to accommodate its clerical staff, and equipment. It has no power to accumulate any reserve fund and most money received is collected for others and, therefore, can not be retained for an undue length of time (vide Part I, C. 6, and C. 8, pp. 318 and ff.).

The British Columbia Pilotage Authority has no assets of its own. The premises it occupies are rented and the rent paid by the Department of Transport, all its office equipment is furnished free of charge by the Government and all its operating expenses are also met by the Government.

All these expenses paid by the Crown and these services received free of charge from the Crown are, in effect, subsidies (vide Part I, C. 5, pp. 116 and ff.). Because the amount of these subsidies is not reflected in the District's own financial operations, the annual financial report gives a distorted picture of the real cost of the pilotage service in the District. For instance, for the year 1962, Government financial assistance to the District of British Columbia amounted to $191,640; in 1965, it had increased to $237,000.

For a complete summary of the total cost of pilotage reference is made to Part I, *Appendix IX,* Schedule 1, pp. 654-656 for the years 1961 to 1965.

The part of the Pilotage Fund which is covered in the annual financial statement of the British Columbia District is composed of the following receipts:

(a) Pilotage dues, i.e., all items listed and defined in the tariff which were studied earlier (pp. 146 and ff.) including dues paid on account of the compulsory payment system, charges for accessory services, indemnity charges payable for embarking and disembarking outside District limits and the surcharge. These items account for the quasi-totality of District earnings. In 1962 and 1967 they amounted to 99.98% and 99.65% respectively of the total receipts for those years (not counting the direct and indirect subsidies received which, from 1961 to 1965, accounted for 12-13% of the total cost of the District) (vide Part I, *Appendix IX,* pp. 654-656).

(b) Miscellaneous revenues which comprise the remaining receipts. In British Columbia, these are:

(i) overcarriage and quarantine indemnities (sec. 359 and sec. 360 C.S.A.);

Pursuant to sec. 12 of the British Columbia By-law, these are to be collected by the Regional Superintendent and form part of the pilots' pool. (Re legality, vide p. 157.) It would appear that this is a very rare occurrence.

(ii) examination fees and licence fees;

Subsec. 17(2) of the By-law fixes an examination fee of $25 payable by each candidate attending an examination for pilots. As stated in Part I of the Report, it is considered this By-law provision is illegal and unwarranted (vide Part I, C. 5, p. 106 and C. 8, pp. 259 and 260). Subsec. 18(4) fixes a fee of $15 for a permanent licence but there is no charge for a probationary licence. Because an examination for pilots is held only when the list of accepted candidates is exhausted (vide p. 68), this item of revenue does not appear every year. For instance, an examination was held in 1961 which yielded a revenue of $110, the examination fee at the time being $5. On the other hand, in any given year, a few permanent licences are always issued either because replacements are required or the complement was increased the year before. In 1962 and 1967, this item amounted to $60 and $30 respectively.

(iii) fines imposed on pilots after conviction for an offence created by the Act or by regulation made under the Act;

This again is a very rare occurrence: there was none in 1962 and only one in 1967, in the amount of forty-five dollars.

(iv) pilotage dues belonging to other Pilotage Authorities;

In such cases, the Regional Superintendent acts as collecting agent, presumably for the application of subsec. 344(2) C.S.A. when a ship owing pilotage dues appears in a B.C. port. This again is a very infrequent occurrence, e.g., there was no such collection in 1962; in 1967 it amounted to $54 collected for the Pilotage District of Kingston. The 1963 financial statement indicates receipts of this kind in the amount of $1,251.44.

(v) non-pilotage dues, i.e., receipts for the Crown in connection with the organization of pilotage;

These may include various types of receipts connected with the various kinds of assistance provided by the Crown to the pilotage organization, e.g., the 1967 financial return shows a receipt of $35 for damage to furniture and $214.42 received in cash as the first payment on the purchase by instalments of Canada Savings Bonds from a pilot who had been late completing his application to purchase (Ex. 1493(a)).

(vi) monies collected for the pilots as a personal service to them, without any legislative obligation;

Because these receipts are received by the Superintendent, they are deposited in the Pilotage Fund. In 1962, there was no item of revenue under that heading. In 1967, however, insurance claims by pilots pursuant to their group insurance concerning loss of earnings during incapacitation brought in $5,716.28.

(vii) other miscellaneous revenues such as exchange profits on foreign currency, bank interest, etc.;

These items are so minimal that they can not be considered a source of income but are listed simply to comply with bookkeeping requirements.

(viii) items which are not true receipts but are entered as such for bookkeeping purposes only;

Such are the 1962 item—audit adjustment $69.91—and the 1967 item—refund advance from the Pilots'

Committee $512.75. In this last case, the Pilots' Committee returned to the pool the unexpended part of the advance they had drawn for their travelling expenses (Ex. 1493(a)).

(B) *Liabilities and Items of Expenditure*

Items of expenditure may be grouped as follows:

(a) monies collected for third parties;

(b) District and service operating expenses;

(c) monies paid to or on behalf of the pilots.

(a) *Monies Collected for Third Parties*

Sec. 10 of the By-law implicitly requires that monies belonging to third parties that are received by the Pilotage Authority must be kept segregated, at least as far as bookkeeping is concerned. Its provisions contain directions solely for the disposal of pilotage earnings properly speaking, i.e., pilotage dues. Subsec. 2 stipulates that the net revenue of the District to be shared among the pilots is what remains of "the amounts paid as pilotage dues" after deducting "all amounts payable pursuant to subsec. 1". Therefore, the By-law does not contain any direction as to the disposal of money that is not pilotage dues and belongs to third parties. This direction, however, was not necessary because of the basic principle that what has been collected for others must be remitted to them and because it is also a requirement of the Financial Administration Act.

These third parties comprise other Pilotage Authorities, the Crown, or other person, including the pilots either individually or as a group when the Superintendent has collected for them monies that are not pilotage dues, and also a separate fund such as the Pilot Fund. This point therefore does not present much difficulty. This explains why miscellaneous items of expenditure include the remittance of dues collected by the Regional Superintendent as an agent for another Pilotage Authority and items payable to the Receiver General of Canada, e.g., in 1967, the item "damage to furniture, $35". Since the cash receipt of $214.42 for *saving bonds* had been entered as *revenue,* it had to be shown as an expenditure. It is obvious here that the financial statement is not a true account of the financial transactions of the Pilotage Fund because deductions made at source for this purpose are not indicated. They are included in the general item "distribution to pilots".

At first sight, the payment of licence fees to the Crown is legal because they form part of the Pilotage Authority's expense fund (sec. 328). (Vide Part I, C. 5, pp. 100 and ff.) It would appear, however, that such a credit is merely a bookkeeping procedure since all District expenses are paid by the Crown as a subsidy. It is normal that what belongs directly to the Pilotage Authority's expense fund should be expended first. As for examination fees,

they are similarly paid to the Crown, but, since they themselves are illegal, their only legal disposition is to refund them to the candidates.

Money collected by the Regional Superintendent as a service to the pilots should also be included, i.e., indemnities for overcarriage and quarantine and benefits derived from the group insurance coverage taken out by the pilots for loss of earnings during a period of temporary incapacitation while a pilot is still on active service. Normally, as soon as these monies are received, they should be paid over to the individual pilots concerned. Instead, because of the existence of the common fund and the rules for its operation that have been adopted by the pilots (which at times are not even included in the By-law), these monies are made part of the pool for the purpose of sharing among all the pilots. This will be studied later when analyzing the operation of the pool.

There is also inconsistency regarding indemnities and expenses connected with boarding and disembarking outside the District. While expenses and indemnities collected for boarding or disembarking in a Puget Sound port are fully accounted for in the financial statement, no mention is made of expenses and indemnities collected for embarking and disembarking in California, Oregon or Alaska ports. Although Puget Sound earnings are considered pilotage dues for pooling purposes, earnings and expenses in the other ports are paid directly to the pilots concerned with no mention in the financial statement. There is no valid reason for such inconsistency in procedure. It is immaterial whether the latter receipts should or should not form part of the pool. Their disposal should be reflected in the financial statement.

(b) *District and Service Operating Expenses*

There are two items that come under this heading—pilots' travelling expenses and the cost of accessory services.

As seen earlier, the pilots are treated as employees in the British Columbia District. They are not required to bear their own operating expenses, a requirement which is only compatible with the status of free and independent contractors. Therefore, the pilotage dues are deemed to be the property of the employer (the Pilotage Authority) and one of his first obligations is to reimburse each individual pilot for any expenses he incurs in order to provide his services. Hence, subsec. 10(1)(b) of the By-law requires the Superintendent to reimburse the pilots their out-of-pocket expenses incurred for that purpose.

On returning from an assignment, the pilots are expected to file a detailed account of their travel claim together with their source form. These expense accounts are checked by the Pilots' Committee and, if necessary, corrected. In 1963, it was the practice of the Committee to allow each pilot to include $50 per month for incidentals without supporting detail. In this field, the Superintendent's office frequently limits its verification to arithmetical accuracy. This practice can only be frowned upon because it is first,

contrary to the By-law and second, it makes the figures quoted as the individual earnings of pilots incorrect.

B.C. is an extended coastal District with all its pilot stations in the Southern Region. As a result, the B.C. pilots are required to travel extensively by public transportation to and from assignments.

As might be expected, this item of operating expense is always very large. Rising travelling expenses allied to an increased number of assignments, especially in the Northern Region, have forced up the aggregate amount of these expenditures from $209,467.32 in 1962 to $329,692.80 in 1967.

The second item of service operating expenses is the cost of accessory services which also normally forms part of the pilot's own operating expenses when he is an independent contractor, i.e., the cost of pilot boat service and, since 1966 in the B.C. District, rental of radiotelephone equipment. As pointed out in Part I, C. 5, pp. 107 to 109, and C. 6, p. 183, the pilotage dues charged according to the tariff must not be confused with the price a pilot has to pay for obtaining these accessory services. The tariff charge for such services is merely one of the components that enter into the computation of the total pilotage dues for a given assignment, i.e., the total price a ship has to pay for the pilotage service she has received from a pilot. However, the two generally coincide. This is the case in the B.C. District for the pilot vessel service provided by the Government and the radiotelephone charge laid down in the tariff. Because of Government subsidies, it is also the case when pilot vessel service is provided by private operators since the ship pays only half the hire charge (which is also the cost to the pilot) and the Government pays the operator the other half. Therefore, when these pilotage dues are collected, they must be paid to the Government for the services provided by D.O.T. and to the various private operators concerned for half the cost of launch hire collected from the ships concerned. The practice with regard to the last item is for the Regional Superintendent to pay directly to the operators one-half the total fees collected and to give the Ottawa headquarters details and instructions about the payment from there of the other half to the operators concerned (Ex. 1493(m)). The half share paid by the Crown is not reflected in the District financial statement.

(c) *Monies Paid to or on Behalf of the Pilots*

Sec. 10 of the By-law requires that, before the pilotage dues can be shared among the pilots, the following deductions should be made:

(i) the pilots' compulsory contribution to their pension plan, the amount of which is to be administratively determined annually by the Pilots' Committee but which shall not be less than ten per cent of the revenue received from pilotage dues (subsec. 12(2)); the

monies received on account of the pilot boat charge and radiotelephone charge for this purpose are not counted as pilotage dues (subsec. 12(5)); this distinction is in conformity with the provisions of subsec. 319(*1*) 1934 C.S.A. which makes the contribution deductible from the pilots' earnings and not pilotage dues (vide Part I, C. 5, pp. 107 and ff.);

(ii) the pilots' travelling expenses;

(iii) the money received in payment for charges made for pilot boat services and rental of portable radiotelephone equipment;

(iv) the pension benefits owing pursuant to rights acquired prior to the abolition of the Pilot Fund (subsec. 10(1)(e), secs. 38-49, and sec. 50). (Vide pp. 192 & ff.).

Sec. 10 does not make a distinction between pilotage dues earned by the pilots' services and those collected merely on account of the compulsory payment system. The result is that the latter remain in the pool for eventual distribution among the pilots as part of their remuneration. This is not permissible under the Act (vide Part I, C. 5, pp. 98-100 and pp. 104 and 105). Up to 1960, the By-law provisions required that these pilotage dues be paid into the Pension Fund. This was not altogether correct but was a logical result of the situation following the assumption of responsibility by the Department of Transport of all the District operating expenses, thereby rendering the Pilotage Authority's expense fund unnecessary (vide Part I, C. 5, p. 100). As a consequence, the receipts that belong to that expense fund should have been paid to the Receiver General in partial reimbursement for the direct subsidies received, a procedure which, as seen earlier, was adopted with respect to licence fees. Instead, the Pilotage Authority had decided to extend the application of subsec. 351(2) C.S.A. to all pilotage dues paid as a result of the compulsory payment system. This was a reasonable step in the circumstances although it was illegal, since an amendment to the Act would have been necessary to deal with the new situation. However, in 1960 (P.C. 1960-841 dated June 17, 1960), this By-law provision was deleted at the request of the pilots (Ex. 1290) who claimed that the compulsory payment system had been imposed in order to increase their earnings; as a result, these dues thereafter formed part of the pool. Although the resulting text of the regulation is in conflict with the pertinent provision of the Act, the Superintendent took the By-law as his authority for ceasing to segregate these dues and, in fact, has since paid them every month to the pilots as part of their share of the pool. The result is that he has been misapplying public money. As seen on page 61, this item of revenue has increased many times over in recent years from $314.47 in 1960 to the considerable sum of $44,116.99 in 1967.

Deductions for pilots' expenses and the cost of auxiliary services have been dealt with above. The amount paid into the Pension Fund includes fines collected from pilots pursuant to sec. 708 C.S.A. (vide Ex. 1493(a)). The situation created by the surrender of the Pension Fund to the Pilots' Corporation, the abolition of the Pilot Fund, the legality of compulsory contributions and payment from the Pilotage Fund of the pension benefits payable from the defunct Pilot Fund will be studied later.

The sum remaining from the amounts paid as pilotage dues after these deductions (whether they are legal or not) is termed in the By-law the "net revenue of the District". It forms the pilots' common fund or pool. Subsec. 10(2) requires the Regional Superintendent to share all the money in the fund among the pilots on the basis of their availability for duty. However, the probationary pilots receive only "compensation in an amount to be fixed by the Authority after consultation with the Pilots' Committee" (subsec. 18(3)), which is currently fixed by administrative decision at seventy-five per cent of a full-fledged pilot's share. (Re the legality of this restriction, vide Part I, C. 8, pp. 262 and 263.)

In practice, the situation is different because the Superintendent, acting upon the request of the Pilots' Committee, makes other deductions unauthorized by legislation from the common fund prior to computing shares. These deductions can be divided in two groups:

(a) fixed group expenditures of a recurrent nature incurred for the direct benefit of the individual pilot, i.e., premiums for the various group insurances they have obtained to cover, *inter alia,* loss of earnings due to illness, disability, suspension, or cancellation of licence;

(b) expenses incurred in the promotion of professional or group interests.

By making these deductions that are not authorized by legislation, the Regional Superintendent involves his own financial responsibility because he could be required by any pilot to reimburse his share of expenses which he has not personally authorized. Neither the Pilots' Committee, nor the majority of the pilots, nor the Pilots' Corporation, has the right to dispose of any part of an individual pilot's revenue without his consent (vide Part I, C. 4, pp. 90 and 91). At present, the only possible way for the Regional Superintendent to protect himself would be to obtain the individual consent of all the pilots on each of these items and such consent is always liable to be cancelled at any time by any pilot. It is considered, however, that provision should be made in new legislation to legalize the present situation as is recommended in the Commission's Recommendation 25 (vide Part I, C. 11, pp. 549 and ff.).

The Department of Transport pointed out that it is only in British Columbia that the Pilotage Authority renders the pilots this assistance. In

the St. Lawrence River Districts, the pilots have their own association which handles all their business transactions, and in the other Districts where the Minister is the Pilotage Authority, the relatively small number of pilots do not warrant such assistance (Ex. 1493(i)).

It is quite logical to pay the first group of deductions out of the pool, i.e., out of the pilots' own remuneration, because as fringe benefits they form part of the actual remuneration of each pilot. This item is fairly constant from year to year, e.g., $18,508.32 in 1962 and $19,117.55 in 1967.

The "Pilots' Licence Insurance" which was in force in 1964-65 provides a maximum indemnity of $1,000 per month plus $8 per day subsistence allowance for a maximum of fifteen months in the event of the loss or restriction of wages or salary resulting from a shipping casualty, provided the ground for the suspension or cancellation of licence was not wilful misconduct, lack of sobriety or conviction for a criminal offence. The insurer also assumed the legal costs. (Ex. 1372).

However, it is unwarranted to pay any expenses in the second group out of the pool because this amounts to a devious way of assessing membership dues and, hence, concealing the true financial picture of the cost of the Pilots' Corporation to its members. Such a procedure might have been acceptable when the pilots had not grouped themselves into any form of professional association and payment out of the common fund was the easiest way to share these expenses equitably. There is no valid reason for perpetuating the practice now that all the pilots without exception are members of the British Columbia Coast Pilots' Corporation whose main function is to promote the professional and group interests of the pilots (p. 75). Any such expenses incurred must now be met out of the Corporation's own revenues and assets, i.e., through membership dues and special assessments. The Corporation's own financial statements would then be truly representative of the Corporation's activities. At present, some are paid as pool expenses, others as Corporation expenses.

In the District financial statements, except for the item *telephone* (pilots' own telephone), this second group of expenditures is not itemized and is entered under the misleading title "Stamps, Stationery and Miscellaneous" (Ex. 1493(i)). In 1967, relations between the pilots and the shipping interests and also the Pilotage Authority were strained and some members of the Pilots' Committee had to travel at least twice to Ottawa to make verbal representations to the Department of Transport. This is no doubt the reason for the increase in this item of group expenditures to $4,598.53. However, to present the correct total, the refund of $512.75 unexpended travelling expense advance should be deducted (Ex. 1493(a)).

The factual situation differs further from that foreseen in the By-law because, at the pilots' request, money not derived from pilotage dues is

entered into the pool, e.g., statutory indemnities for overcarriage and quarantine, and indemnities received from the pilots' group insurance for loss of earnings during the temporary incapacitation of active pilots.

Subsec. 12(1) of the By-law states that the indemnities payable under secs. 359 and 360 C.S.A. must be paid to the Pilotage Authority to form part of the District Pilotage Fund. There is no objection if the Pilotage Authority assists the pilots concerned to collect these personal indemnities but, under Part VI of the Act, the Pilotage Authority has no power to make any regulation on the matter and, therefore, can not impose a procedure for their collection or, even less, change the beneficiary. Hence, this provision is illegal (vide C. 5, pp. 101 and 105, and C. 6, pp. 201-203). The wording of subsec. 12(1) does not, however, make these indemnities pilotage dues and, therefore, they should not form part of the pool although it appears this is both the intention and the practice. Despite the fact this procedure is at present illegal, it is both reasonable and a logical consequence of the pooling system, since the pilots are considered on duty for the purpose of pooling when overcarried or detained in quarantine. Because they have not lost any earnings, they should not be entitled to retain the statutory indemnities but should pay them into the pool as partial compensation for the earnings they would have normally brought in if they had not been so detained.

The same situation obtains with respect to group insurance benefits. This again is a modern situation created by the institution of pooling. If periods of absence due to illness or injury are counted as active time for pooling purposes, the common fund fulfils one of the aims of the statutory Pilot Fund, i.e., to provide financial assistance to active pilots during periods of incapacitation. It is considered that this is a realistic attitude and a very logical procedure which should be made possible if, and when, pooling is made legal (vide Part I, Recommendation 39, pp. 583 and 584). It is quite reasonable for the pilots to take out group insurance coverage against the possibility of an excessive drain on the common fund and it is logical for the ensuing indemnities to form part of the pool as long as remuneration is being drawn without contribution. However, this arrangement should cease whenever a pilot no longer participates in the pool. If he does not receive a full share, the pool should receive on his behalf only the amount of the aggregate pool contribution and insurance benefit that exceeds a full share.

In 1962, there was no revenue from either of these sources but, in 1967, insurance claims brought in $5,716.28.

The total sum remaining after all these deductions is distributed among the pilots in equal shares (three-quarter shares for the probationary pilots) calculated on the basis of availability for duty. These shares are what the pilots call their "take-home pay" (vide p. 133).

The pool is shared on the basis of availability for duty irrespective of the number or nature of assignments each pilot may have been given or the number of hours actually spent piloting.

Sec. 11 establishes what time should be counted as time on duty:

(a) In addition to the actual time a pilot is on duty or available for duty, the following shall be counted as duty time for the purpose of computing shares: regular annual leave of absence and sick leave with full rights of participation, with the proviso that time on sick leave with half pay is to be counted as half time only.

(b) On the other hand, leave without pay (obviously including absence without leave) as well as time during which a pilot's licence is suspended, do not count. Time off the assignment list pursuant to an order made by the Superintendent under sec. 31, i.e., when the Superintendent has reason to believe that the pilot about to go on duty is impaired and, therefore, removes his name from the assignment list, is also not counted. (Re the legality of this last requirement, reference is made to Part I, C. 9, p. 401.)

Here, again, as seen earlier (pp. 77-78), the actual situation is quite different from that provided for in the By-law:

(a) According to sec. 34, the only official leave of absence with pay is sixty days per year but the pilots take an additional seventy days, i.e., seven days each month when they are not on annual leave. In practice, both official and unofficial regular leave is counted as active duty for pooling purposes.

(b) Sec. 35 provides for sick leave to be granted at the discretion of the Superintendent for a maximum period of twelve consecutive months, the first three counting as active time for pooling purposes and the rest being without remuneration. If a pilot is injured on duty, the first six months are calculated as full active time, while the rest counts for half time. In 1963, despite these By-law provisions, sick leave without limitation was considered active time for pooling purposes, presumably on account of the insurance benefits paid into the pool. However, it would appear that the By-law provisions are now more strictly followed on this point as is shown by the $43.26 item of miscellaneous revenue. This represents a pilot's payment to the pool of his share of the premium of group insurance for loss of earnings during incapacitation which he paid (through the pool because the contract is in the name of the group) in order to continue his coverage after he was no longer entitled to participate in the pool on account of the length of his absence due to a prolonged illness (Ex. 1493(a)).

(c) As indicated earlier, a number of deductions are made from the individual shares of the pilots before disbursement to them. These are made as a service to the pilots. They include at source deduc-

tions for income tax, Canada Pension Plan, Canada Savings Bonds, donations, etc. These are not reflected in the annual financial statement.

(2) Pilots' Reserve Fund

The British Columbia Pilots' Reserve Fund is unique to their District. It was set up to provide a means of financing their common fund or pool (Ex. 1424).

To comply with the By-law, it is essential that shares be distributed to the pilots entitled to the benefits of the pool within the extent of their rights at the time the dues were earned. Normally, the dues should be paid immediately, in which case there would be no problem. The situation is not altered on account of the billing procedure adopted even though it results in unavoidable delays between the time services are rendered and payment is received, varying from a few days to a few months.

There are two ways to deal with the situation. One is to distribute the shares as the dues are collected. This method requires the complicated accounting procedure of making a separate distribution for each payment of dues since, in fairness, the money should be divided among the pilots who were on strength when the dues were earned rather than among those on strength when they were collected. The other method is to treat earned dues as if they had been paid immediately; in other words, to share them before they are collected. Aside from the problem of financing, the only possible complication arises from bills that turn out to be uncollectable. Experience has proved that the incidence of these is so small they can be disregarded. On the other hand, this method has definite and substantial advantages in simplicity and ease of sharing.

A prerequisite for adopting this second method is financial backing, i.e., a source of funds from which the Pilotage Authority can draw the money needed to cover outstanding bills making repayment as dues are collected. When the District was reinstated in 1929, the Pilotage Authority was faced with the problem. The Chief Accountant of the former Department of Marine and Fisheries adopted this method and directed a monthly distribution of dues earned during the month, whether or not they had been collected.

Since the Pilotage Authority had no assets and no reserve funds, a means of financing had to be devised. There were two ways of finding the money: borrow from a bank, with resultant fees and interest, or create a reserve fund. The British Columbia pilots voted in favour of a reserve fund.

The fund was kept up haphazardly by not distributing the full amount of monthly earnings and holding sufficient money in the pool to meet expected requirements. This method was abandoned in 1953 when the then accumulated fund was distributed among the pilots active at that time. In 1954, the pilots chose to create a separate Reserve Fund by means of individual contributions on loan. On retirement or death, each pilot or his estate is entitled to

full repayment of his loan. These were originally fixed at $150 per pilot but, in 1963, were increased to $300 with the concurrence of the Pilots' Committee. From 1954 to 1960, in addition to the pilots' contributions, the small undistributed monthly balance in the pool was added to the Reserve Fund. On October 31, 1961, following the Treasury Board auditors' instructions, the Superintendent segregated the accumulated undistributed monthly balances of the pool from the Reserve Fund and distributed this surplus to the pilots. Since that time, the fund has consisted of pilots' contributions only. In 1963, it contained $19,650 ($300 each from sixty-four pilots, and $225 each from two probationary pilots). The contributions are collected in $50 monthly instalments which the Superintendent deducts monthly from the remuneration of the newly licensed pilots until the full amount is paid (Ex. 1493(m)).

(3) Pilots' Corporation Finance

As stated on page 75, since 1963, the pilots of British Columbia have grouped themselves in a professional corporation under the name of "The Corporation of British Columbia Coast Pilots" (Ex. 1166) to which they all belong.

Appendix G is a comparative table of the Corporation's financial statements of receipts and disbursements for the calendar years 1963, 1964 and 1965. At the bottom of each is a paragraph headed "Bank Account". It shows, *inter alia,* as of January 1, 1963, a credit balance of $683.78 and, as of December 31, 1965, $17,902.45.

Although for the purpose of the Commission's inquiry it was not deemed necessary to investigate fully the financial operations of the Pilots' Corporation, an analysis is made of the statements furnished (Ex. 1458) in order to indicate the nature of the activities of the Corporation, bearing in mind the study contained in Part I of the Report (C. 4, pp. 84 and ff.) and the Commission's General Recommendation 25 (vide Part I, C. 11, pp. 549 and ff.).

The Corporation's 1963 financial statement is obviously not correct. It covers the full calendar year and begins with a bank balance of $683.78 on January 1, 1963, when the Corporation was not in existence. The application for incorporation was signed February 21, 1963, and a letter from the Secretary of State, dated March 4, 1963, acknowledged receipt of the application and stated that the letters patent would be dated February 22, 1963. On March 8, 1963, the Department of the Secretary of State acknowledged receipt of a cheque in the amount of $110 in that connection (Ex. 93). The 1963 statement makes no mention of this expenditure nor of the other expenditures connected with incorporation. Surprisingly, the only remark made by the chartered accountants who prepared the report dealt with the Canadian Merchant Service Guild dues, the payment of which does not appear as an expenditure for the year 1963. It was explained that

these dues had been paid in advance in 1962 while those for 1964 were paid in January, 1964. A partial explanation for the foregoing discrepancies might be that the pilots' "Club Fund" became part of the Corporation Fund on incorporation. The "Club Fund" belonged exclusively to the pilots and the Pilotage Authority was not involved in any way. This fund consisted of monthly contributions which the pilots as a group had agreed to make in order to enable their Pilots' Committee to meet certain group expenses. Prior to incorporation, the monthly fee was $7.50. The Guild dues were the main expenditure of the fund and what little was left was used for such group expenses as floral tributes and Christmas gifts. This would explain the bank balance as of January 1, 1963, and the accountants' remarks about the Guild dues, but not the absence in the report of the cost of incorporation, unless this was paid by the Superintendent of the District and entered with other group expenses in 1963.

(a) *Receipts*

The main sources of revenue of the Corporation are membership dues and special assessments that may be levied from time to time as authorized by the members. As pointed out earlier, another important method of financing the Corporation's activities and taxing its members indirectly is to pay part of the Corporation's expenses out of the pool. Since 1963, the amounts indirectly obtained in this way have been:

Year	Telephone	Stamps, Stationery, Miscellaneous
1963	$ 216.20	$ 3,733.14
1964	213.65	2,011.95
1965	206.80	726.91
1966	503.39	2,689.46
1967	790.65	4,598.53

With incorporation, the pilots obtained a means of control over the amounts their Committee or their Board of Directors could obtain from the first two sources, i.e., voting membership dues at a general meeting of the Corporation and, when required, special assessments on members (Corporation By-laws, sec. 56 (Ex. 93)). This control is nullified if the Board of Directors is permitted to draw from the pool without the pilots' expressed consent. Furthermore, as stated earlier (p. 182), such a practice should no longer be tolerated.

A fourth source of revenue is the profit made since 1964 from the sale of charts. This profit must be made on a commission basis because there is

no item of expenditure for the purchase of charts. Relatively speaking, it is a small item. The final source is merely a bookkeeping adjustment, i.e., refunds on certain expenditures.

(b) *Expenditures*

The main item of expenditure is the Canadian Merchant Service Guild dues which must have been $95 per pilot in 1964. The other items recorded are relatively small, i.e., allowance in the form of pension to retired members, Christmas gratuities, and very small miscellaneous items of stationery, postage and exchange.

The expenditure item "Guild dues" is obviously illegal. Since the charter of the Corporation was granted under Part II of the Canada Corporations Act, it is a non-profit organization whose activities must be "without pecuniary gain to its members". Pilots, like any other persons belonging to the Canadian Merchant Service Guild, are members on an individual basis and their membership dues are owed personally. To pay Guild dues with Corporation money amounts to a direct financial benefit to the Corporation members, not to mention that the procedure has the effect of enforcing compulsory Guild membership on them.

This Commission knows neither the nature nor conditions of entitlement for pension benefits to ex-members. At first sight, such a disbursement also appears to be illegal for the same reason.

It is extraordinary to find such irregularities revealed in a financial statement prepared by chartered accountants without pertinent observations to inform and warn the membership. This would indicate that the audit was carried out in a most perfunctory way without verifying, *inter alia,* the charter and By-laws of the Corporation.

These statements obviously do not show a true picture of the activities of the Corporation because, *inter alia,* the large expenditure to cover the cost of representation is not shown since it was paid from the pool.

The revenues of the Corporation, including the amounts indirectly obtained from the pool belonging to the pilots, are far in excess of its current expenditures and have resulted in a reserve fund that is increasing from year to year. At the end of 1965, it stood at $17,902.45, of which $10,542.50 came from special assessments to meet expected expenses in connection with this Commission.

The foregoing indicates the necessity for official surveillance over the activities of Pilots' Corporations whose membership is, in fact or in law, compulsory, as recommended in General Recommendation 25 (vide Part I, C. 11, p. 549). Such surveillance should in no way deprive a Corporation of its powers or interfere with its necessary freedom of action in its field of activities, but should be an effective way of preventing a Corporation from

acting illegally and abusing its powers to the prejudice of some members. Since the activities of such Corporations form part of the working conditions of licensed pilots, Pilotage Authorities must take an interest in them.

8. PILOT FUND

The legality of pension funds and the merits of setting up either a pilot fund or a pension fund under existing legislation are discussed in Part I of the Report, C. 10, to which reference is made. The study hereunder will concentrate on the history and present state of the B.C. District Pension Fund.

A pilot fund derives its revenue from compulsory deductions from pilots' earnings—pursuant to sec. 319 (*1*) 1934 C.S.A.—fines, pilotage dues—governed by secs. 348-351 C.S.A.—and interest on invested surplus (vide Part I, C. 10, pp. 441 and 442). In the B.C. District, fines have always been paid into the Pension Fund. As seen earlier, revenue from this source has always been comparatively small and, as noted on p. 180, dues collected from ships not employing pilots are not segregated and subsec. 351(1)(b) C.S.A. is not applied.

It appears that no pilot fund existed in any west coast District prior to 1929. In the financial statements studied in the Robb Commission Report of 1919, no mention is made of any item of expenditure for either a pilot fund or a pension fund. Furthermore, Recommendation 21 of the Robb Commission is to the effect that the Pilotage Authority

> "should create a pilots' pension fund for this district, deducting 7 per cent from the gross earnings for this purpose".

However, the Report does not recommend an amendment to the Act to permit a pension fund. Apparently, the Commission was under the impression that the term "pilot fund" in the Act meant, or at least included, "pension fund" (vide Part I, C. 10).

The new Pilotage Authority for the amalgamated B.C. District created such a Pension Fund in its first By-law (approved by Orders in Council dated September 10, 1919, and December 20, 1919 (Ex. 195)). Its only provision on the whole subject is a single mention contained in subsec. 25(a) which requires that out of the Pilotage Fund an

> "amount to be determined by the Minister after consultation with the Pilots' Committee shall be set aside each month for superannuation of pilots".

This Fund was shortlived because the District was abolished shortly afterwards.

When the British Columbia Pilotage District was re-established in 1929, a Pension Fund was created as recommended by the Morrison Royal Commission. It is reported that at first the serving pilots had to buy annuities for the older pilots who were pensioned. Later, the annual contribution was

fixed at seven per cent of the gross revenue. The Fund grew slowly until just before World War II when it was sufficient to pay a few pensions. The maximum pension was then fixed at $1,500 per annum. Except for the amount of contributions and benefits, the Pension Fund regulations remained substantially the same until 1962.

In 1952 (P.C. 2440), the basis for calculating pension benefits was changed by providing a pension of $90 per annum for every year of service to a maximum of $2,250 per annum.

In 1955 (P.C. 1955-707), the yearly credit for service was raised to $100 with a maximum of $2,500 per annum.

Then, beginning with the 1960 General By-law (P.C. 1960-841), the annual maximum was deleted and the annual credit was raised. For instance, as of January 1, 1961, the years of service for pension purposes were to be credited as follows:

(a) $100 per year prior to March 31, 1950;

(b) $110 for the following years up to March 31, 1957;

(c) $120 for the years following up to December 31, 1960.

As of December 31, 1960, an actuarial valuation conducted by the Department of Insurance, using an interest rate of 3½ per cent, showed the British Columbia Pension Fund had an actuarial deficit of $14,446 with total assets of $951,554 against total liabilities of $966,000 (vide Part I, p. 773).

Steps had to be taken to remedy the situation. The difficulty lay in the fact that guaranteed fixed benefits were provided in return for variable and unpredictable contributions (vide Audette Committee Report, Part I, C. 10, p. 449).

The remedy first adopted did not alter the nature of the pension scheme but merely provided larger contributions which could be varied from year to year according to need. A By-law amendment dated August 16, 1961 (P.C. 1961-1183) established that the minimum compulsory contribution could be fixed by administrative decision of the Pilotage Authority but was not to be less than ten per cent of the gross pilotage dues collected. The By-law further provided that an actuarial investigation was to be carried out whenever the annual contribution of a pilot at the end of a three-year period varied markedly from $1,476 per year.

A few months later, a different approach was adopted. The nature of the Pension Fund was basically altered so that, on one hand, the desired actuarial valuation would be attained and, on the other, the annual deficit would be liquidated by diverting part of the contributions to offset the accrued deficit.

By a By-law amendment dated December 13, 1962 (P.C. 1962-1782):

(a) A procedure was established to make the pilots meet the annual actuarial deficit out of their contributions by deducting from the

total annual contributions $14,445.62, i.e., the amount of the existing actuarial deficit and merely paying this sum into the Fund without providing the contributors with any future benefits.

(b) Guaranteed fixed benefits were abandoned. Instead, each pilot was credited at the end of each year with the amount of pension benefits his net share of the aggregate contribution could buy at that time. The net earnings of the Fund were arrived at by deducting from the total earnings the above-mentioned amount of $14,445.62, and the guaranteed fixed pension benefits that remained, i.e., $900 pensions for widows.

This was the situation when the Commission sat in British Columbia in 1963. The pilots complained that the Fund had grown from nothing in 1929 to be actuarially sound in 1960 because their large contributions had been out of all proportion to the benefits they received. The pilots were not satisfied with the investment policy. They criticized the Government, which managed the Fund through the Minister of Transport and the Minister of Finance, for having invested a substantial amount in bonds which were currently worth only sixty cents on the dollar and which yielded little interest. They further complained that the Pilotage Authority would not allow them to increase benefits and place their Fund in deficit as it had been up to 1960. They felt that at this rate the benefits were not worth while.

The pilots had come to the conclusion that they would be better off financially if a trust company managed the Pension Fund.

They felt that a trust company would have more incentive to look for more lucrative investments in order to keep the pilots as clients, while the Department of Transport has no such motivation.

The pilots informed the Commission that they had been negotiating a pension plan with a trust company. They filed a comparative summary of the existing pension plan and the proposed one (Ex. 85) according to which the same contributions would provide the following benefits:

(a) $140 for each year of service prior to December, 1960, instead of $100 and $110.

(b) $260 for each year of service during 1961 and 1962, instead of $120, and whatever pension this acutal contribution would purchase thereafter.

(c) Upon earlier retirement, a pilot would receive in a single payment full refund of the total amount paid into the fund on his behalf, instead of 60% as per the By-law provision.

(d) A widow would receive a pension benefit: the greater of $900 or 50% of her husband's accrued pension, instead of the fixed pension of $900 provided in the By-law.

(e) A full refund, instead of a 60% refund, would be paid to the estate of a pilot who died a widower without a pensionable child or children.

This information, together with the evidence received, led the Commission to believe that the pilots' aim was to purchase pension benefits in a money-purchase plan as the New Westminster pilots had done in 1958. The situation, as the Commission later found out (D.O.T. letter dated May 3, 1968 and accompanying documents, Ex. 1493(n)), was altogether different.[19] It was a return, with retroactive effect, to the system of fixed guaranteed benefits for variable contributions which had caused the various pilot pension funds to become seriously deficient. Under the proposed plan, the risk was increased in that the fixed benefits were substantially increased.

During the 1963 hearings, the Commission was told that the Pilotage Authority had agreed to the pilots' proposal and had drafted an amendment to the District By-law to implement it. However, no further action was taken because the Department of Justice had ruled that under the existing Act it would be ultra vires for the Pilotage Authority to dispose of its responsibility in this manner.

On September 23, 1963, the Corporation of the British Columbia Coast Pilots entered into a conditional trust agreement with the Investors Trust Company whereby the company agreed to act as trustee for a fund to be created by the Pilots' Corporation for the purpose of providing pension benefits to Corporation members. It stipulated that the trustee would have the custody and administration of the fund together with full power to invest in its own name in bonds, stocks and other investments allowed for registered pension funds. The pension benefits were to be fixed by the Pilots' Corporation at its sole discretion. For the time being, these were listed in a schedule appended to the trust agreement (they correspond to the 1963 proposal detailed earlier) but were liable to be changed at any time, provided the change would not result in a reduction of benefits already accrued prior to such amendment. The trust company would merely act as a paying agent for the Pilots' Corporation, the latter being solely responsible for determining the right to benefits. The first contribution to the proposed trust fund was to be the accumulated assets of the existing fund which were to be transferred by the Government. Thereafter, further contributions would consist of whatever sums were necessary to cover the benefits and were to be paid by the Regional Superintendent out of the British Columbia Pilotage Fund. The Pilots' Corporation could terminate the fund

[19] The statement of fact contained in Part I, p. 453, subpara (a) is, therefore, incorrect and should be corrected by deleting the last part of the first sentence from the fifth line after the word "company" and adding a cross-reference to this page and the following pages of Part II for details of the nature and procedure of the present B.C. pension plan.

at any time and all money accumulated up to that time would be used to pay outstanding pension liabilities according to a scale of priorities listed therein. Either the Pilots' Corporation or the Investors Trust Company could terminate the trust agreement unilaterally at any time. In that event, the Pilots' Corporation would have to appoint a new trustee to whom the fund would be transferred. The document contained no prerequisite for the qualifications of such a trustee and, therefore, the Pilots' Corporation could appoint any one at its own discretion.

Except for already acquired benefits the plan applies only to "members of the Corporation" (Plan sec. 6) and, therefore, excludes any licensed pilot of the British Columbia Pilotage District who for any reason is not a member. The term "member of the Corporation" is not to be confused with "Member" used alone as indicated by the definition given in the Plan of the term "Member" (Plan, subsec. 2(6))" 'Member' means—a licensed pilot and a member of the Corporation". Furthermore, it stipulates that the pilots are the employees of the Corporation (Plan, sec. 7, last para.) and that the normal retirement age from pilotage service is 65 years, unless this is postponed with the prior approval of the Corporation (Plan, sec. 7).

The terms and conditions listed in the previous paragraph as well as the whole proposal are directly contradictory to the Canada Shipping Act and, therefore, can not be acted upon unless the Act is amended. This was done in an indirect way by the device of employing appropriation legislation. When Parliament authorizes spending a sum of money for a stated purpose, it is assumed to have also approved the purpose which then becomes law, thereby automatically amending any provision of any existing statute with which it conflicts.

By the Appropriation Act No. 2, 1966 (14/15 Eliz. II, c. 3, assented to March 9, 1966) a sum of $1 was voted for the purpose of giving effect to the pilots' proposal. Vote 8b of the Department of Transport of the said Act reads as follows:

> "8b To authorize in accordance with such terms and conditions as the Governor in Council may prescribe, the transfer of the assets and administration of the Pension Fund of the British Columbia Pilotage District established under the Canada Shipping Act, 1934, to such person as the Governor in Council may approve, and to authorize the investment of the assets of the Pension Fund, subject to the terms and conditions of the transfer, in such manner as may be determined by agreement between the person to whom the transfer is made and the Corporation of the British Columbia Coast Pilots."

On July 21, 1966, the trust agreement and the pension scheme were amended to give a guarantee to acquired rights. The trustee was specifically required to pay out of the fund the pension benefits that had accrued under the existing pension scheme and the maximum age requirement would not apply to "a member of the Corporation who was a member of any pension plan for which this pension plan is substituted".

On September 22, 1966, the Government gave effect to the pilots' proposal and by Order in Council P.C. 1966-1830 (Ex. 1493 (n)) authorized the Minister of Transport and the Minister of Finance (the statutory trustees of the existing fund) to hand over its assets[20] and transfer its administration to the Investors Trust Company. The Order in Council reads as follows:

> "The Committee of the Privy Council, on the recommendation of the Acting Minister of Transport and the Acting Minister of Finance, advise that Your Excellency, pursuant to Vote 8b of the Department of Transport in Schedule B of the Appropriation Act No. 2, 1966, may be pleased to authorize in accordance with the terms and conditions as prescribed in the attached Trust Agreement concluded on the 23rd day of September, 1963, as amended, between the Corporation of the British Columbia Coast Pilots and the Investors Trust Company the transfer of the assets and the administration of the Pension Fund of the British Columbia Pilotage District established under the Canada Shipping Act 1934 to the Investors Trust Company and to authorize the investment of the assets of the Pension Fund, subject to the terms and conditions of the aforesaid Trust Agreement."

On the same day, the Governor in Council gave approval to an amendment to the pension provisions of the District By-law (P.C. 1966-1812) to comply with the new situation thus created. The main features of this amendment are:

(a) The pension scheme continues to be governed by the statutory provision of the Canadian Shipping Act in so far as it is necessary to make the payment of the pilots' contributions compulsory.

(b) The contribution which, according to the By-law, must not be less than 10% of the revenue received from pilotage dues is to be determined at the end of each year by the Pilots' Committee alone.

(c) The District Superintendent is to act as collecting agent of the contributions which are to be paid over to the Investors Trust Company.

(d) The By-law enumerates the pension benefits that apply up to the date of the amendment but is silent on future benefits that accrue under the new scheme.

(e) Any payment made by the Investors Trust Company in respect of liability incurred under the former pension plan operates to discharge such obligation on the part of the defunct pension fund.

(f) Payment of benefits acquired under the former pension plan out of the District Pilotage Fund is authorized.

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[20] According to the actuarial valuation carried out by the Wyatt Co. at the Commission's request, as of December 31, 1963, the assets of the British Columbia Pension Fund, not including accrued interest, amounted to $1,307,277, with $1,227,018 in actuarial liabilities and an actuarial surplus of $80,259 (vide Part I, Appendix XII, p. 774).

COMMENTS

The Commission can not but agree with the Government's decision to terminate its responsibilities toward the B.C. District Pension Fund and to let it become the responsibility of the pilots. This is the course of action the Commission has recommended where the pilots are not Crown employees (Commission's General Recommendation 39, vide Report, Part I, pp. 581 and ff.). The Commission is, however, concerned whether proper safeguards have been provided to guarantee the payment of pension benefits acquired under the defunct pension scheme.

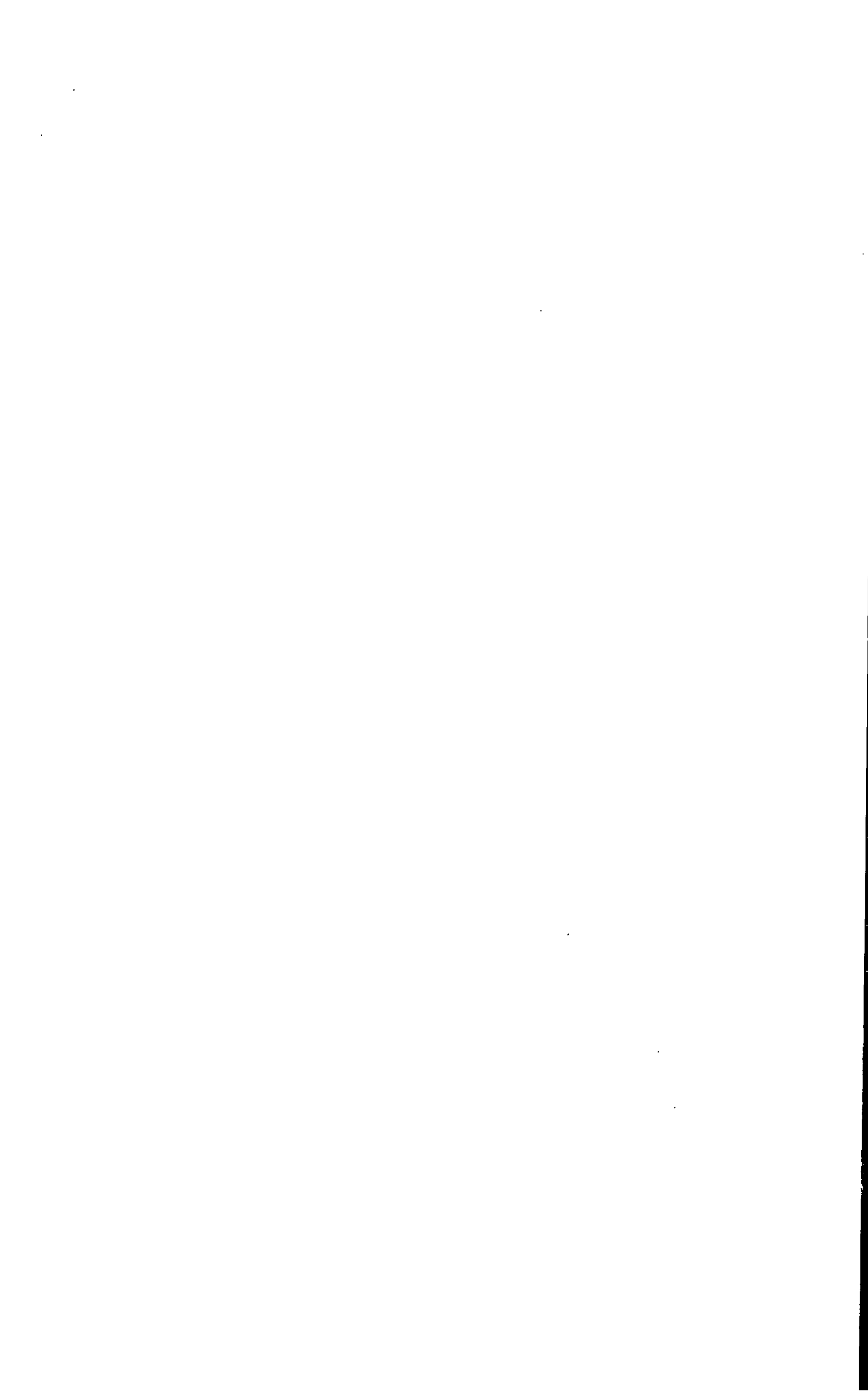
The Commission is also concerned about the extent of the ensuing legislation because by virtue of the terms of the Order in Council made to give effect to the provision of the Appropriation Act, the trust agreement and its appendix as amended also became law. This raises three major questions:

(a) Was the Pilots' Corporation given control of the pilotage service (assignments and pilotage earnings) since it is mentioned in the agreement and the plan annexed to it states that the pilots are the Corporation's employees?

(b) Were sec. 338 and subsec. 329(i) C.S.A. amended thereby so as to make the approval of the Pilots' Corporation, together with physical fitness, a prerequisite to granting a licence to pilots aged 65 and over?

(c) Would it have the effect of denying a licensed pilot who does not happen to be a member of the Corporation (either because he did not join or because he was expelled) the benefits of the new pension scheme to which he is forced to contribute because, according to the terms of the agreement, "Membership in the Plan" is afforded only to "Members of the Corporation"?

In any case, the Commission considers that this legislative method should be considered merely a temporary measure to take care of an emergency and that the situation should be corrected in due course by a direct, clear, straightforward amendment to the statutory provision. To insert in the Appropriation Act a provision which substantially amends the Canada Shipping Act can not but result in compounding the confusion which now surrounds pilotage legislation.



Chapter D

RECOMMENDATIONS

SPECIFIC RECOMMENDATIONS AFFECTING THE BRITISH COLUMBIA PILOTAGE DISTRICT

PREAMBLE

This chapter contains the Commission's recommendations of a local character which apply exclusively to the British Columbia Pilotage District. According to the practice adopted in Part I of the Report many other proposals in the form of comments, remarks and conclusions are contained in the previous chapters of Section One; they have not been listed here to avoid repetition and also because they should be read in their context for better comprehension.

When drafting the Report the Commission gave careful consideration to all recommendations received. Those made during the public hearings of the Commission in British Columbia are listed in Chapter B., Briefs, pp. 25-30, and after each recommendation so received a reference is given to the place(s) in the Report where the subject-matter of each is dealt with.

RECOMMENDATION NO. 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

The present uncertainty about the exact location of the seaward limit of pilotage waters on the B.C. coast must be corrected (vide pp. 31 and ff.)

However, this seaward limit should not be defined arbitrarily. The same criteria that apply when determining the seaward limit of any other type of District should also apply to coastal Districts (vide General Recommendation 8 [Part I, pp. 478 and 479]). Internal waters and the territorial sea should not be made part of a coastal District merely because they are Canadian waters, nor should pilotage waters be restricted seaward to the limit of the territorial sea. The limits of a Pilotage District, seaward as well as elsewhere, should be determined by the requirements of navigation and the pilotage service. Therefore, where waters are not confined and there are no unusual navigational problems, such areas should not be included unless

they are required to fit into the planned organization of the District. For instance, the territorial sea bordering the west coast of Vancouver Island should not *per se* be included in pilotage waters, the reason being that it does not consist of confined waters. Normally, the only part of the territorial sea that should become pilotage waters comprises those waters that are necessary to organize pilotage in the confined approaches on the west coast of Vancouver Island where ships may call.

On the other hand, if, on account of shallow waters, reefs or other obstacles or circumstances, confined waters extend beyond the territorial sea, the seaward pilotage limit should include the full extent of those confined waters beyond the territorial sea. It is a recognized principle of international law that the extent of sovereignty of a country over the sea bordering its coast may vary depending upon the nature of the right to be exercised or the service involved. For instance, the Territorial Sea and Fishing Zones Act of 1964 recognizes that for the protection of the fishing rights of Canada its sovereignty extends to "those areas of the sea contiguous to the territorial sea of Canada" for a distance seaward of 9 nautical miles (sec. 4). In 1937, special baselines were established for the purpose of applying the Customs Act in order to calculate the nine-mile zone of "territorial waters" where that Act would apply. (Vide Canadian Year Book of International Law 1963, *Les Eaux territoriales du Canada au regard du Droit International,* by Jacques-Yvan Morin).

The Supreme Court of Canada in the "Reference re ownership of off-shore mineral rights" (1967, 65, D.L.R. (2d) 353, p. 375) states that Canada now has full constitutional capacity to acquire new areas of territory and new jurisdictional rights which may be available under international law.

Therefore, it is considered that means should be provided in the new Pilotage Act whereby the seaward limit of a Pilotage District could be established separately and independently of any other legislation concerning territorial waters.

It is further considered that the actual fixing of the seaward limits should be a subject-matter of legislation by regulations so that such limits could be modified from time to time as required by the changing exigencies of navigation, shipping and other factors. This is a function within the province of the Central Authority (vide General Recommendation 17, Part I, C.11, p. 507) which should be authorized to enact the full extent of the required legislation defining pilotage waters, i.e., it should be specifically authorized to establish the limits of a District without consideration for any other legislation concerning the extent of Canadian sovereignty over the high seas.

Because these limits, as well as the other limits of a District, must be clearly and accurately defined, the Act should require the Minister responsible for surveying and mapping in Canada to indicate the limits so defined on all large-scale nautical charts of the area concerned.

RECOMMENDATION NO. 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

There are two main problems in this field:

(a) the territorial competency of Canadian and American pilots when the navigable channel runs irregularly along and over a boundary line;

(b) the changeover of pilots where a boundary line crosses a channel.

On the Canadian west coast, the first problem occurs all along the boundary line from the Strait of Juan de Fuca up to the 49th parallel in the Strait of Georgia and in the north mainly in Pearse Canal and its approaches, and in Portland Canal.

A number of treaties, the oldest being the Oregon Treaty of 1846, grant freedom of navigation to both Canadian and American vessels in the boundary waters between the United States and Canada lying south of the 49th parallel, including Haro Strait and Juan de Fuca Strait, but, as far as pilotage is concerned, Canadian and American pilots navigating these waters are without territorial competency whenever they cross over the boundary line into the waters of the other country. This becomes a special practical problem in Haro Strait because, to ensure safety of navigation, a vessel must cross the boundary line many times *en route*. This problem has been unofficially resolved by a gentlemen's agreement between all those locally concerned. This, however, is only a makeshift arrangement which is workable in practice but is very unsatisfactory from a legal point of view as was demonstrated at the time of the Puget Sound dispute (vide pp. 31-33).

The question can only be legally settled through an international agreement between the Federal Governments of Canada and the United States such as covers pilotage on the Great Lakes and their connecting waters.

Many solutions are possible but the most practical would be to give legal effect to the prevailing unofficial agreement which experience has proved to be satisfactory in practice (vide p. 32). It is considered that it would be unwise either to place the pilotage area concerned under joint control or to divide it into two zones, each under the exclusive jurisdiction of one country. A great percentage of the vessels using these waters enter American waters only by accident, i.e., during a transit of Haro Strait when not bound to or from a Puget Sound or State of Washington port. On the other hand, all vessels transiting Haro Strait are bound either to or from the internal Canadian waters of the Gulf of Georgia. Although it would be

feasible in theory, this route is, in fact, not used by vessels bound to or from an American port south of the 49th parallel either from or to sea *via* Juan de Fuca Strait or from or to another American port south of the 49th parallel.

The second problem is the same that arises at the common border of all contiguous Districts (vide General Recommendation 9, Part I, C. 11, p. 480). The fact that in this case the common limit is the boundary line of two countries does not alter pilotage requirements and the only difference is that the necessary arrangements (such as a common boarding zone, pilot vessel service, pilot accommodation and despatching facilities) must be sanctioned by international agreement.

This is not a problem for the moment at the northern boundary, partly because there is little requirement for pilotage and also because there is no government-controlled pilotage service in Alaska. However, if an intergovernmental agreement is reached, it would be preferable to have this boundary included in order to cover all possible eventualities.

The problem occurs at two places on the southern boundary depending upon the route adopted: at the 49th parallel, if the Rosario Strait route is taken, and at the agreed changeover point, if the Haro Strait route is used. It is considered that for the present the simplest solution in Rosario Strait is to make full use of the Sand Heads boarding station for both the Canadian pilots (B.C. and New Westminster Districts) and the American (Puget Sound) pilots. To achieve this goal, the area in the Gulf of Georgia which is now part of the District of New Westminster should become a common boarding area where the transfer of pilots, i.e., Puget Sound, B.C. and New Westminster District pilots, could be effected. In this zone, the pilots of both countries should have competency to pilot for the purpose of commencing or terminating an assignment.

It will not be necessary to alter these arrangements basically, if and when the proposed Roberts Bank port becomes a reality, other than to make port pilotage at Roberts Bank the exclusive jurisdiction of the B.C. pilots and arrange for pilot vessels to effect the changeover of American and B.C. pilots closer to the boundary line when vessels are bound to or from that port.

Canadian pilots should not be authorized to board or disembark outside the District when a transit is made through Rosario Strait since, in the circumstances, this would entail an unnecessary waste of pilots' time.

On the Haro Strait route, a boarding station should be established at the agreed changeover point in the open waters of the entrance to the Strait. In fact, there seems to be no reason why the present boarding station off Brotchie Ledge should not be moved to the vicinity of Lime Kiln. Up to that point, it is open water which should not be included in a Pilotage District except for the purpose of providing a boarding area. There are adequate land communications on the west side of the Strait. Moving the boarding area into the entrance to Haro Strait may prove as beneficial as the move of the Quebec District seaward boarding station from Father Point to Les Escoumains.

There is no reason why the quarantine procedure could not be carried out at that point and the small percentage of the overall pilotage traffic that calls at Victoria and Esquimalt should not be a serious obstacle. For vessels arriving at, or departing from, Esquimalt or Victoria *via* Canadian internal waters in the Gulf of Georgia, either port would be the point of origin or destination of pilotage trips while, for those sailing from Esquimalt or Victoria directly to sea, or vice versa, it would be a simple case of port pilotage with boarding facilities provided by private vessels, if necessary.

This proposal would have the substantial advantage of solving the problem of boarding vessels which are trading between a Puget Sound port and the Canadian internal waters of the Gulf of Georgia. It would end the practical necessity for American and Canadian pilots to board and disembark outside their District in these instances, thereby resulting in a substantial saving in pilots' time and reducing the aggregate cost to shipping.

This seems to be another situation that has been allowed to exist mostly for historical reasons. The situation was not reassessed when the pattern of navigation changed and when land communications improved. The result is the awkward situation that prevails today.

RECOMMENDATION NO. 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

The British Columbia Pilotage District is unlike any other District in Canada and is most unusual when considered in the light of the general principles that govern pilotage organization. In this accepted sense, pilotage can be considered to conform to the organizational principles of a Pilotage District only within the Gulf of Georgia where most of the traffic occurs. Throughout the remainder of the District, services are provided at additional cost by pilots who only occasionally perform them and who, therefore, can not be expected to acquire and maintain the *expertise* which only up-to-date local knowledge and constant experience provide and which their licence purports they possess. Misrepresentation is involved when a Pilotage Authority assigns pilots automatically through a roster system on the ground that they all hold an unlimited licence because there can be no doubt that it is not feasible for them to be local experts at every port and place throughout the whole extent of the District (vide pp. 61, 73-74). The gravity of this situation is compounded when pilotage is made compulsory, directly or indirectly.

As previously stated (Part I, p. 477):

> "The establishment of a large District suggests either that navigation within its limits offers few serious difficulties or, if this is not the case, that its pilots obtain only general qualifications because, for practical reasons, it is not feasible to train the specialists the term "pilot" essentially connotes."

The vast extent of the British Columbia District can be compared with only one other area, i.e., Queensland's coastal pilotage inside the Great Barrier Reef which extends for about 1,250 miles at distances from the mainland ranging from 10 to 150 miles. But the comparison ends there. In Australia, pilotage consists mainly of navigating the channels inside the Reef which resembles, to a certain extent, navigating Canadian west coast waters through the inside passage. If this were the only pilotage requirement, there would be little objection to an extended District because the same route would always be used and actual experience of the whole area would readily be gained. This, however, is not the case in the British Columbia District. Although the distance between the south and north international boundary lines is about 600 miles, according to the pilots, the District, for navigation and pilotage purposes, covers some 11,000 miles along the coast through various rivers, channels, bays and inlets. Pilots are required to navigate vessels over a great number of different routes to bring ships to ports situated at various points along the coast and often far inland at the head of a long inlet, e.g., Port Alberni, Tahsis, Port Alice, Ocean Falls, Kitimat and Stewart. As the Northern Region develops, new ports become established, e.g., in 1967, Tasu Harbour in Tasu Sound on the west coast of the Queen Charlotte Islands, and Gold River in Nootka Sound on the west coast of Vancouver Island. The number of such ports and the relatively few assignments to them plus the large number of pilots required to meet the overall demand make it impossible for an individual pilot assigned through a normal tour de rôle to become thoroughly conversant with local conditions at all these ports or to acquire the necessary competence and, even less, to maintain his knowledge and competence by experience.

The solution lies in reorganizing the whole pilotage service to ensure that every pilot assigned to every vessel is truly expert in the assignment given him by the Pilotage Authority. To achieve this, licences must be limited as to territory (Part I, pp. 261-262) and the tour de rôle system applied only to pilots qualified for each given assignment.

In an ideal situation two conditions would be met:

(a) All Pilotage Districts would be small enough for each of their pilots to acquire and maintain local *expertise*. It follows that the greater the problems the smaller the District should be.

(b) The maximum time involved in any assignment under normal conditions would not require unusual working hours. If this condition could not be met, the pilotage area should be divided into

separate, contiguous Districts and pilotage performed by different groups of pilots (vide General Recommendation 8, Part I, pp. 477-479).

In practice, it is often impossible to apply these criteria literally. The main governing factors are the importance of the pilotage requirement and economics. It should be remembered, however, that the pilots' time is valuable and should never be wasted unnecessarily. The constant wastage of their time is detrimental to their competency because it separates their assignments and thus decreases their opportunities to maintain and improve their qualifications by experience. Every effort should be made to improve the pilots' working conditions and create the best possible environment for them to provide their services. In particular, extensive travelling and unduly long hours of duty should be avoided.

Ideally, there would be a separate District for each distinct pilotage service (as is now the case on the Atlantic coast) and a series of contiguous Districts along the continuous pilotage route of the inside passage, e.g., the St. Lawrence Seaway route. For practical reasons, however, it may be necessary to accept less. Furthermore, since most of the governing factors are essentially variable, the organization should be sufficiently flexible to permit alterations as required.

The creation of the Northern District is one recommendation of the 1928 Morrison Commission that was not implemented (p. 20). The experience of the intervening years—particularly the notable increase in traffic—has proved that without this change it is increasingly difficult to organize the whole District and provide efficient service in the north.

Where west coast waters should be divided for the purpose of creating Pilotage Districts, how many of these there should be, and how each of them should be organized, must be carefully studied in the light of the foregoing criteria as well as demands for service and the nature of these demands, as they may vary from time to time. This Commission is not in possession of the statistical data or of all the pertinent information required to draw up a final, detailed plan of organization, but the evidence furnished at its hearings and the additional information since acquired (filed as Exhibits) strongly support its conclusions that drastic changes are imperative to meet existing conditions and future developments. The first step in these main guidelines would be for the Central Authority, or the Authority charged with reorganization, to obtain the exact data needed to determine the required details.

For organizational purposes, it is considered that the waters off the west coast of British Columbia should be divided into three zones:

(a) the Gulf of Georgia, hereafter called the Gulf of Georgia District;

(b) the inside passage north of the Gulf of Georgia including all its rivers, channels, bays, inlets and ports, hereafter called the B.C. Northern District;

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(c) all the ports where only port pilotage is required, i.e., where entry is from, and exit to, the high seas or other open waters, hereafter called the Vancouver Island West Coast District.

Gulf of Georgia District

The table on page 121 (an analysis of pilotage in November and December 1962) shows that pilotage in the Gulf accounted for 86.7% of all District assignments, 75.4% performed completely within the Gulf and only 11.3% between the Gulf and the Northern Region.

Therefore, it is considered that the Gulf of Georgia, with all its channels, inlets and ports should form a separate District with sufficient pilots to meet its requirements. There will be substantially fewer pilots than the present establishment because they will be relieved of all time-consuming northern assignments as well as boarding or disembarking in Puget Sound or elsewhere outside the District, provided the Commission's recommendation is approved to reactivate the Sand Heads boarding station and move the Brotchie Ledge station to the entrance to Haro Strait. Travelling time may be further curtailed if the despatching rules are altered to make it a rule that pilots return to their home station on a return assignment. In order to prevent a long period of waiting for a return assignment, the pilots who belong to another station should be given precedence on the tour de rôle to enable them to return to their station as soon as possible after they have had sufficient time for rest. In other words, the tour de rôle should be designed to work on a round trip basis, i.e., on the basis of two assignments, out and in. Travelling should be resorted to only when an abnormal number of pilots have gathered at a boarding station or boarding point, or when a shortage must be met by pilots from other stations in the District.

The southern limit of the District should be the Canada/United States boundary line from the mainland at the 49th parallel to the entrance to Haro Strait where the new pilot boarding station should be located (vide B.C. Recommendation 2) including the harbours of Victoria and Esquimalt and their approaches. Furthermore, as recommended in Recommendation 2, an international agreement should be reached to extend the territorial competency of pilots (and hence of the Pilotage Authority over its pilots) beyond the Canadian/American boundary line between the Haro Strait boarding station and the 49th parallel. No part of Juan de Fuca Strait, except the approaches to Esquimalt Harbour and Victoria Harbour, should form part of the District. In the north, the limit should be located in the neighborhood of the 50th parallel at a point where a suitable boarding area for the changeover of pilots could be established. At the present time, it would appear that the entrance to Discovery Passage, probably at Duncan Bay, would be the best choice. However, there are many factors that enter into the actual determination of a boarding area which it would be the duty of the Central Authority and of the District Authority to analyse and assess. According to the evi-

dence received, the route to the north is through Discovery Passage and there appears to be no pilotage traffic using adjacent channels. As the region northeast of the Strait of Georgia develops and vessels employing pilots use other channels, different arrangements may have to be made.

It is considered that, although much of the Gulf of Georgia is open water, it all should be included in the District because of the volume of maritime traffic crisscrossing in many directions. As seen earlier, there is the ever-present danger created by tugs (vide pp. 37-38) and fishing vessels (vide p. 39).

A District of this kind extending from the proposed boarding station in Haro Strait up to Duncan Bay would involve a maximum pilotage route of some 145 miles to which should be added some 15 miles when a vessel is bound to or from Esquimalt or Victoria. It is realized that length alone is not fully indicative of the difficulties of a pilotage assignment, including the pilots' workload, for when vessels transit very confined waters in certain channels and inlets they must do so at reduced speed. On the other hand, it will be the exception rather than the rule for a vessel to transit the whole Gulf of Georgia without calling at a port *en route,* e.g., it was stated in evidence that 90% of the Puget Sound traffic is with Vancouver. For exceptional cases, it would be the Pilotage Authority's responsibility to provide for a changeover of pilots at the most convenient place *en route.*

Vancouver Island West Coast District

The third zone, i.e., where only port pilotage is required, comprises the whole west side of Vancouver Island from Race Rocks up to the entrance to Queen Charlotte Strait, the west side of all the islands bordering Queen Charlotte Sound and Hecate Strait and, finally, the whole coast of the Queen Charlotte Islands. The main ports in this area are Port Alberni, Toquart Bay, Head Bay, Tahsis, Gold River, Zeballos and Port Alice on the west coast of Vancouver Island; Jedway and Tasu, on the east and west coasts of Moresby Island respectively.

There is no valid reason for including in pilotage waters the Canadian internal waters of Juan de Fuca Strait, or the territorial sea bordering the west coast of Vancouver Island and the Queen Charlotte Islands, or the waters of Queen Charlotte Sound and Hecate Strait, because all are open waters which present no particular navigational problems. From the pilots' own evidence, this is true even when negotiating Scott Channel at the northwest end of Vancouver Island. Since no expert knowledge is required to navigate these waters, there is no need for pilotage services, and, therefore, these waters should not be included in a Pilotage District.

It is considered that in this zone, pilotage should be organized on a port basis comprising the confined waters of each port and its approaches, i.e., the channels and inlets leading to it. The ideal situation would be to establish a separate District for each of these ports, each provided with its own pilots

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with territorial competency limited to the trip to and from open water. However, the relative importance of these ports and the limited demand for pilotage service for them preclude implementing such an ideal solution and alternatives must be found. (Vide General Recommendation 8, Part I, pp. 478 and 479).

It is considered that the "attachment" (vide General Recommendation 8, Part I, p. 479) of any of these ports to the proposed Gulf of Georgia District is not warranted. The many tasks and responsibilities that will devolve upon the Gulf District Authority will preclude giving to such attached ports the necessary time and attention for regulation-making, licensing and the accompanying surveillance and reappraisal duties. The only other District to which they might be attached would be the one the Commission proposes for the north part of the inside passage and its connecting channels. At present, since there is no such port in the vicinity of the proposed Northern District and most of these ports are located on the west side of Vancouver Island, it is considered that such attachment is not indicated at the present time.

The solution lies in the establishment of a separate District of the merger type (vide General Recommendation 8, Part I, p. 478). Ideally, such a District should comprise only ports in the same geographical area and relatively close together. This would mean that this zone should comprise three separate Districts, one for the ports on the west side of Vancouver Island, a second for the ports in the Queen Charlotte Islands, and a third for the ports on the west side of the islands bordering Hecate Strait and Queen Charlotte Sound. It is considered that there are enough important ports on the west coast of Vancouver Island to merge them into one separate District. However, the present level of development in the other two regions precludes a District organization there, for the time being. Until future developments in these two regions warrant a change of organization, the isolated pilotage operations in the Queen Charlotte Islands should form part of, or be attached to, the proposed Vancouver Island West Coast District.

The decision whether the Pilotage Authority should consist of a three-man board or only a single member should be taken by the Central Authority after weighing all the pertinent factors (vide Part I, p. 511).

Whether the pilots' licences should be limited to one port, or extended to a number of ports, is a question that should be determined by appraising such factors as the navigational difficulty of each pilotage trip, the availability of competent pilots, the adequacy of transportation between ports or groups of ports, and whether there is sufficient financial incentive to attract competent pilots. Such an incentive might well be additional employment with the commercial enterprise operating the port, or with the Government as in Churchill.

B.C. Northern District

The inside passage from Duncan Bay up to Pearse Canal is a pilotage route extending over approximately 450 miles and, therefore, in theory, should be divided into a series of two or three separate Pilotage Districts. This would be further warranted because of the extensive pilotage routes through the adjacent inlets, passages and channels, leading to the various ports *en route* with which the pilots must have intimate and up-to-date knowledge. This ideal situation might be achieved in the future but at the present time it would result in unnecessary overorganization since the pilotage requirements in that area are relatively limited. Therefore, it is considered that only one Pilotage District should be established for this area. It should comprise the whole inside passage and its connected channels, passages, inlets and ports *en route* to include all the confined waters of the area except those sounds and inlets facing the open waters of Hecate Strait and Queen Charlotte Sound.

As stated earlier, it is not too difficult to acquire and maintain the necessary expert knowledge for transiting the full length of the inside passage because the same route is always followed. However, its very length precludes only one pilot serving the whole route. The approach channels to the small number of ports and the ports themselves that the pilots must be qualified to service do not present serious navigational difficulties.

As far as the pilots' competency is concerned, the Northern District should be divided, for the time being, into two zones:

(a) Zone I, extending from the southern limit of the proposed District i.e., from the entrance to Discovery Passage as far as the northern end of Queen Charlotte Strait where a boarding area should be provided for the changeover of pilots for vessels proceeding through the inside passage, or arriving from sea bound for the inside passage either south or north, or bound to sea from the inside passage. *En route*, the pilots in this zone would have to serve Broughton and Beaver Cove, and possibly Duncan Bay, if it is not included in the Strait of Georgia District.

(b) Zone II, extending from the Queen Charlotte Strait boarding area up to the northern limit of the District. At present the pilots in this zone would have to serve Ocean Falls, Kitimat and the four ports in the Prince Rupert area, i.e., Port Simpson, Tuck Inlet, Porpoise Harbour and Prince Rupert. Changeover points should be created wherever possible and to the extent they are warranted economically in order to obviate the necessity of despatching two pilots on such extensive assignments. Vessels in transit or from Alaska should be required to embark or disembark their pilots at the Triple Island boarding station or in the open waters of Chatham Sound using the existing pilot vessel service operated by D.O.T.

There remains the problem of a boarding station for vessels proceeding to and from Kitimat through the open waters of Queen Charlotte Sound off McInnes Island. If the traffic warrants, such a station should be created in the neighborhood of McInnes Island or Laredo Sound. One possible alternative would be to create a boarding station in Milbanke Sound where it could also serve as a changeover point for vessels transiting the inside passage. This would require a detour of some 30 to 40 miles for the Kitimat traffic but, on the other hand, these vessels would no longer be obliged to go out of their way to the Cape Beale boarding area which, in this event, should be discontinued except for strictly local requirements. This solution would also have the advantage of sparing the pilots much idle time on board travelling to or from the Cape Beale station and the considerable cost involved. Another possibility would be to make use of the proposed Queen Charlotte Strait boarding station.

This Commission is not convinced that it is impractical to establish boarding stations and changeover points in the Northern Region. From the evidence, it is obvious that the main objections are economics and the pilots' concern about being stranded, even for a relatively short time, in the undeveloped Northern Region. The fact that few land communications exist should not be an insuperable obstacle. There will always be some vessels in the area and normally the pilots can go back to the northern base while performing a return assignment. When, on occasion, the demand is greater at one end of the Region, it will be comparatively easy for the Pilotage Authority to make the necessary arrangements with a vessel to carry one or more pilots as passengers. In case of extreme urgency, transportation can be arranged to the nearest base by aircraft or other means. The cost thereby incurred should form part of the operating cost of the District.

As for establishing boarding stations, it is a common practice the world over to have floating boarding stations (vessels) even in the exposed open waters at the entrance to harbours. This is the case, for instance, in New York Harbour and all the main Netherlands and West German ports along the North Sea, (vide Part I, p. 822). Furthermore, modern technology makes it possible for pilots on land to guide vessels from open water into sheltered waters using radar and other electronic devices. When a pilot vessel can not come alongside on account of rough seas, the "follow me" procedure can be adopted until the pilot can embark, as is often done at the Triple Island boarding station. This procedure is now facilitated because the pilot aboard the pilot vessel can give the necessary instructions by radio. Therefore, it is considered that boarding stations can be established in most areas, the governing factors being practicability and economics.

The establishment of suitable boarding areas near the normal Ports of Entry in the Northern District would also enable its Pilotage Authority to prevent a serious waste of pilots' time by not allowing them to board and disembark in Oregon or Washington State ports.

RECOMMENDATION NO. 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

In General Recommendation 17 the Commission recommended that the Central Authority be required to classify the various pilotage services in each District, or part thereof, according to their importance to the national interest, and listed the proposed classifications and governing criteria (vide Part I, pp. 507 and 509).

From the evidence submitted and a study of the B.C. Pilotage District records, the Commission considers that, in the present circumstances, pilotage on the whole of the west coast can not be classified as an "essential public service". There is no likelihood that any maritime disaster anywhere in west coast waters could seriously affect the overall national interest or that it could cause a significant disruption of maritime traffic.

On the other hand, pilotage should be classified as a "public service" in most of the present B.C. District because an adequate, efficient pilotage service is in the interest of the state. However, under existing circumstances, in some areas, pilotage should be considered merely a private service with all the ensuing consequences.

Pilotage should be classified as a "public service" in the proposed Gulf of Georgia District because maritime traffic there is heavy and the safety of navigation could be seriously affected without a first-class service. Most of the maritime activity on the B.C. coast is in this area and the public in general would suffer if the Crown did not take reasonable steps to assist vessels to make speedy, safe transits, to manoeuvre in harbour and berth and unberth without undue delay.

The same classification should apply to the Northern District because its main feature, the northern part of the inside passage, is a shipping route of prime importance, not only to the west coast but to Canada as a whole. In the circumstances, it is considered that its safety should be enhanced by all reasonable means. Vessels should be encouraged to make full use of its sheltered waters, *inter alia,* by the availability of fully qualified, experienced pilots who by their local knowledge save time and enhance safety both for the vessels they conduct and other traffic. As long as the few pilotage services provided in connecting inlets and passages for the inland ports in the District remain an integral part of the pilotage service viewed as a whole, they should be included in the same classification, even though the ports served may only concern a private interest. The safety of navigation on the main route should not be endangered by traffic going and coming from these connecting routes. However, the situation should be reviewed when and where it becomes possible and practicable to provide any of these secondary routes

with pilot changeover points where they intersect the main route. The classification "private service" will then be indicated for pilotage on such connecting routes if the public interest is not directly involved.

For the various existing port services in the proposed Vancouver Island West Coast District, the classification should be "private service", except possibly for Port Alberni and its approaches. The other existing ports merely serve local private interests, generally a single commercial organization which also owns the berthing facilities.

The main consequences of such a classification are:

(a) Compulsory pilotage will not apply automatically to any of the proposed Districts and in no circumstances will it apply to an area where the service is classified as private. Elsewhere, it should be made to apply only through a specific Pilotage Order and then only to the extent warranted by local circumstances and public interest (vide Part I, pp. 532 and 533, General Recommendation 22, for criteria and procedure).

(b) Services classified as private must be financially self-supporting and will not be entitled to benefit from the proposed Central Pilotage Equalization Trust Fund. (Vide General Recommendation 21, Part I, p. 524). If there is to be a pilotage service it should be the responsibility of the private interests in the port to attract pilot candidates who meet the Pilotage Authority's competency requirements and to retain them when they are licensed.

(c) The Pilotage Authorities of the proposed Gulf of Georgia and B.C. Northern Districts will be required to operate the service but the Pilotage Authority of the Vancouver Island West Coast District will have to limit its activities to regulation-making and licensing (vide Part I, General Recommendation 14, pp. 495 and ff.).

(d) The status of the pilots may be affected. Classification as a private service will preclude its pilots from becoming either employees or *de facto* employees of the Crown, because neither the Pilotage Authority nor any other agent of the Crown should assume the responsibility of providing a service so classified. However, if classified as a public service, the only permissible status of the pilots should be Crown employees or *de facto* employees (vide Part I, General Recommendation 14, pp. 495 and ff.).

While the status of Crown employees is not as imperative here as when the service is classified as essential (vide General Recommendation 24, Part I, pp. 545 and ff.), it appears to be indicated and even necessary during the long period of reorganization and adjustment the implementation of these Recommendations will require. It is to be expected that the pilots will probably resist, as they have done in the past, any change that will, or might possibly, affect their earnings. Therefore, until reorganization is complete

there should be no direct relationship between District revenues and the pilots' earnings. While on one hand it will facilitate the task of those responsible for reorganization, on the other hand, it would be the simplest and most equitable way to protect the pilots during that period. When the reorganization is complete, it is believed that it would be in the best interests of the pilots of the proposed Gulf of Georgia District and the B.C. Northern District to retain this status, provided the Crown agrees to accept the financial responsibility implied (as it did in the case of the Sydney pilots).

The record shows no requirement for imposing compulsory pilotage in the present B.C. District. From 1920 to 1928 anyone could act as pilot, provided he could find a ship to employ him. Competition was keen and one may surmise that the quality of the service was adversely affected. However, a poor safety record was not the reason the Pilotage District was re-established in 1928. The main reason was that the service was not available to non-regular traders because the pilots first provided their services to their regular customers.

One of the recommendations of the Morrison Commission was the re-establishment of the District but that Commission recommended against the establishment of compulsory pilotage or the compulsory payment of dues. Significantly, none of the arguments that had been advanced in favour of a compulsory system concerned safety of navigation.

From 1928 to 1948 the service was provided on a non-compulsory basis and when the compulsory payment system was purportedly established in 1948, safety of naviation was not even considered. (Vide p. 48).

All the parties directly concerned, i.e., the pilots and local shipping interests, have been dealing unofficially with exemptions without consideration for the safety of navigation. Although the various unofficial exemptions so made (pp. 52-58) applied to vessels of any category under certain governing circumstances, it does not appear that the safety record of the west coast has suffered thereby and none of the parties who appeared before the Commission (not even the pilots) ever suggested that these arrangements should no longer be implemented. Despite the fact that Crown Zellerbach Canada Ltd. and the Aluminum Co. of Canada Ltd. urged abolishing the compulsory payment system, and although the Vancouver Chamber of Shipping recommended the exemption of all regular traders as a group, no witnesses, including the pilots, objected on the ground of safety of navigation.

96465—16

RECOMMENDATION NO. 5

The Principal Components of Pilotage Rates to Be Based on Maximum Gross Tonnage

As stated in Chapter 6 of Part I of the Report, rate-fixing is essentially a local matter because local factors are paramount. The rates are the prices charged for the services the pilots of a given District are required to render and, since these services differ from District to District, both the rate structure and the amounts involved are bound to vary.

Because of the various kinds of service rendered in a coastal District where pilotage is not restricted to ports and their approaches, the required tariff must consist of a combination of rates for voyages and port services. As now applied in the B.C. District these are incompatible and inequitable.

In a fully controlled pilotage service the main consideration in fixing the rates is to provide a structure which, in the particular circumstances of a given District, distributes equitably the total cost of the service, or that part thereof which is to be borne by its users.

At present, throughout the B.C. District (with the possible exception of the Second Narrows in Vancouver) there are no local factors, such as a narrow, winding channel or limited depth of water, which seriously increases the difficulty of navigation in relation to the length or draught of a vessel. This situation greatly facilitates and simplifies the rate-fixing process because, in addition to the nature and duration of assignments, the only other ingredient is to establish a tariff which distributes the total cost of the service *pari passu* among all the vessels involved. For the main items, the simplest possible rate structure can be adopted, i.e., one based solely on tonnage—the readily available comprehensive ship unit. In this regard, for the reasons given in Part I, C.6, especially pp. 180 and 181, maximum gross tonnage should be used.

Taking into consideration the nature of pilotage voyages in the proposed Gulf of Georgia and Northern B.C. Districts and the diversity of possible trips, it is considered that an adequate structure for the voyage charge (vide pp. 148-150) should be based on the following components:

(a) a substantial mileage charge based on maximum gross tonnage;

(b) a berthing charge, when applicable, also based on maximum gross tonnage, i.e., one for unberthing at the port of departure and one for berthing at the port of destination;

(c) a pilot vessel charge, whenever use is made of that service, which normally should be on a flat rate because of the relatively small amount involved. However, when this amount is substantial, as is now the case at Prince Rupert, consideration should be given to distributing such costs *pro rata* among the users.

The present overall rate structure is far from equitable. Since the flat rate mileage charge—a most important component of the basic charge—is invariable, the main objective of rate-fixing is not met, i.e., to share pilotage costs *pari passu* among the vessels concerned. Although the "port charge" varies with each ship's tonnage and draught, it does not correct the mileage discrimination. It is not related to the value of the services rendered at a port but is merely a component of the voyage charge, whose main function is to vary the aggregate voyage charge according to a ship's size and loaded state. However, this aim is not attained on account of the random, and at times arbitrary, manner in which the charge is applied (vide pp. 148-150). Such a structure is a holdover from the distant past when pilotage on the B.C. Coast was organized on a port basis, generally with a separate District for each main port. Then the port charge was separate from the voyage charge; it was the price for pilotage services rendered at a given port and was never applied when pilotage services were not rendered within a port. Compulsory payment applied only to the port charge. Dues for navigation outside a port—whether to sea or to another port—were payable only if a pilot had been hired (vide Yale and New Westminster By-law 1894 analyzed on p. 253).

It is considered that, in view of the various types of pilotage voyages that occur in the present B.C. District, and will be met in the proposed Gulf of Georgia District and the B.C. Northern District, there should be separate rates for pilotage voyages, or parts of voyages, outside ports, and for services rendered within ports, and that both should vary according to the size of the vessels to which such services are rendered.

With the proposed new rate structure, the cost of the service would be equitably shared among the users and the cost to each vessel would vary in relation to the nature of the pilotage services or accessory services rendered. For instance, a vessel merely transiting the District would be called upon to pay the applicable mileage charge, plus two pilot vessel charges for embarking and disembarking a pilot at the District limit boarding stations. For other voyages within the District, a berthing charge would replace one or both pilot vessel charges whenever the pilot was required to berth or unberth the ship at the port of destination or the port of departure.

The berthing or unberthing charge would not apply when, for reasons over which a vessel had no control, it was obliged to accept temporarily a berth which was not its berth of destination. Such an event is comparable to going to an anchorage or passing time by manoeuvring at low speed. All such occurrences should be considered normal pilotage hazards for which there is no extra charge.

Distance or mileage for tariff purposes should terminate when a vessel passes the seaward harbour limits.

As stated on pages 154 and 155, the present additional charges for the second pilot and travelling expenses as well as the quarantine charge should be eliminated.

96465—16½

In the proposed Gulf of Georgia District, the additional charge for transiting the Second Narrows should be retained. If such a charge is to remain comparatively small, a flat rate is adequate. However, a scale based on tonnage (as now adopted for movages) appears preferable because it takes account both of the varying dimensions of vessels and any resultant pilotage problems.

The same process used to compute the voyage charge should be followed for other services. Even when a charge is based on the time factor (p. 154), the charge per hour for a given vessel should depend on its tonnage. It is believed, however, that this process should not be followed for indemnity charges, but that they should be either fixed penal charges or true indemnities based on the average value of the pilots' time. Therefore, both would take the form of fixed amounts determined in the regulations.

The movage charge as such should be discontinued and replaced by the berthing charge, one such charge only being made when the movement is between a berth and anchorage while two such charges would apply when the movement is between two wharves or piers.

For vessels of more than one component, special methods should be devised to cover each type of such composite units of navigation. For instance, the 50% surcharge for a ship being navigated as a dead ship appears adequate; in this case, only the tonnage of the ship being towed should enter into the computation of the charge. In fixing the rates, care should be taken to avoid any possible conflict between pecuniary and safety considerations. Those concerned should never be induced to sacrifice safety in order to pay smaller pilotage dues, e.g., to employ fewer tugs than a movage requires. Suitable arbitrary tonnage equivalents should be devised in the regulations for barges and other components of navigation units.

With regard to the proposed Vancouver Island West Coast District, because only port pilotage is met and because it is a merger type District, a distinct rate structure will have to be devised to meet the particular rate requirements of each of the ports in the District. On account of the *situs* of most of these ports at the head of a long inlet, it is considered that the distinction between the services rendered within and without the port proper should be retained and the method suggested above should apply *mutatis mutandis*. The main difference would be a further simplification in the voyage charge in that, since the distance of the voyage to a given port is constant, i.e., the transiting of its approaches, the price should not be made on a mile basis but on a transit basis, variable solely with regard to the ship's tonnage.

Where tonnage is the determining factor, a minimum should be set in the regulations for the purpose of calculating each charge so that a pilot's time is not wasted on small vessels which have little need for pilots and normally would not take one. If they do, however, they should be required to pay a basic minimum charge. For instance, the minimum tonnage might be

fixed at 2,000 gross tons or some other amount if, after due consideration of all the pertinent data and circumstances, the suggested minimum is felt to be either too high or too low.

While there are an unlimited number of ways to apply the tonnage factor, it is believed that the method adopted should be as simple as possible. The simplest ways to express the rates are:

(a) a rate which varies according to a scale;

(b) an invariable price for a fixed unit expressed in the form of a mathematical factor.

The first method is indicated when the resulting charge is small; the minimum charge is then part of the scale. It is the method now followed for the movage charge (p. 155). It is considered that it could be retained for the proposed berthing charge.

The price-unit system is indicated when there is no uniformity in the actual services that are of the same nature. In such a case, the rate should be fixed on the basis of a practical common denominator, the price unit. For voyages whose only essential difference is distance run, the mile is the simplest and most practical common denominator. To avoid any possible ambiguity, the nautical mile should be used and clearly shown in the regulations. Therefore, the voyage rate would take the form of an invariable mileage price for one mile per gross ton, in other words a mile-ton price unit. The actual charge for a given vessel for a given run could then be easily ascertained by multiplying the vessel's maximum gross tonnage by the price so fixed and the result by the number of miles piloted. This mile-ton factor will, perforce, be very small but this should present no difficulty of application now that calculating machines are available.

Chapter E

APPENDICES

APPENDIX A

Map—British Columbia Pilotage District and Vancouver Harbour.

APPENDIX B

(1) Graph—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.

(2) Table—1948–1967 Figures and Percentages on which the above Graph is based, together with their Source of Information.

APPENDIX C

(1) Graph—1956–1967 Total and Average Number of Jobs per Month, Emphasizing *Peaks* and *Lows* as compared to Annual Monthly Average.

(2) Table—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.

APPENDIX D

Shipping Casualties, Accidents and Incidents Involving Pilots:

Table—1956–1961
Table—1962–1967
Summary—1965
Summary—1966

APPENDIX E

Workload of Pilot R. McLeese, showing Daily Hours Piloting, On Detention, At Home Available, On Leave, Travelling, and Away From Home Awaiting Assignment:

Graph—November 1962
Graph—December 1962.
Graph—January 1963.

APPENDIX F

Table—Comparative Analysis of Annual Financial Statement of the B.C. Pilotage District's Revenues and Expenditures—1962 and 1967.

APPENDIX G

Table—1963, 1964 and 1965 Comparative Table of Annual Financial Statements of Receipts and Disbursements of The Corporation of the British Columbia Coast Pilots.

Appendix A

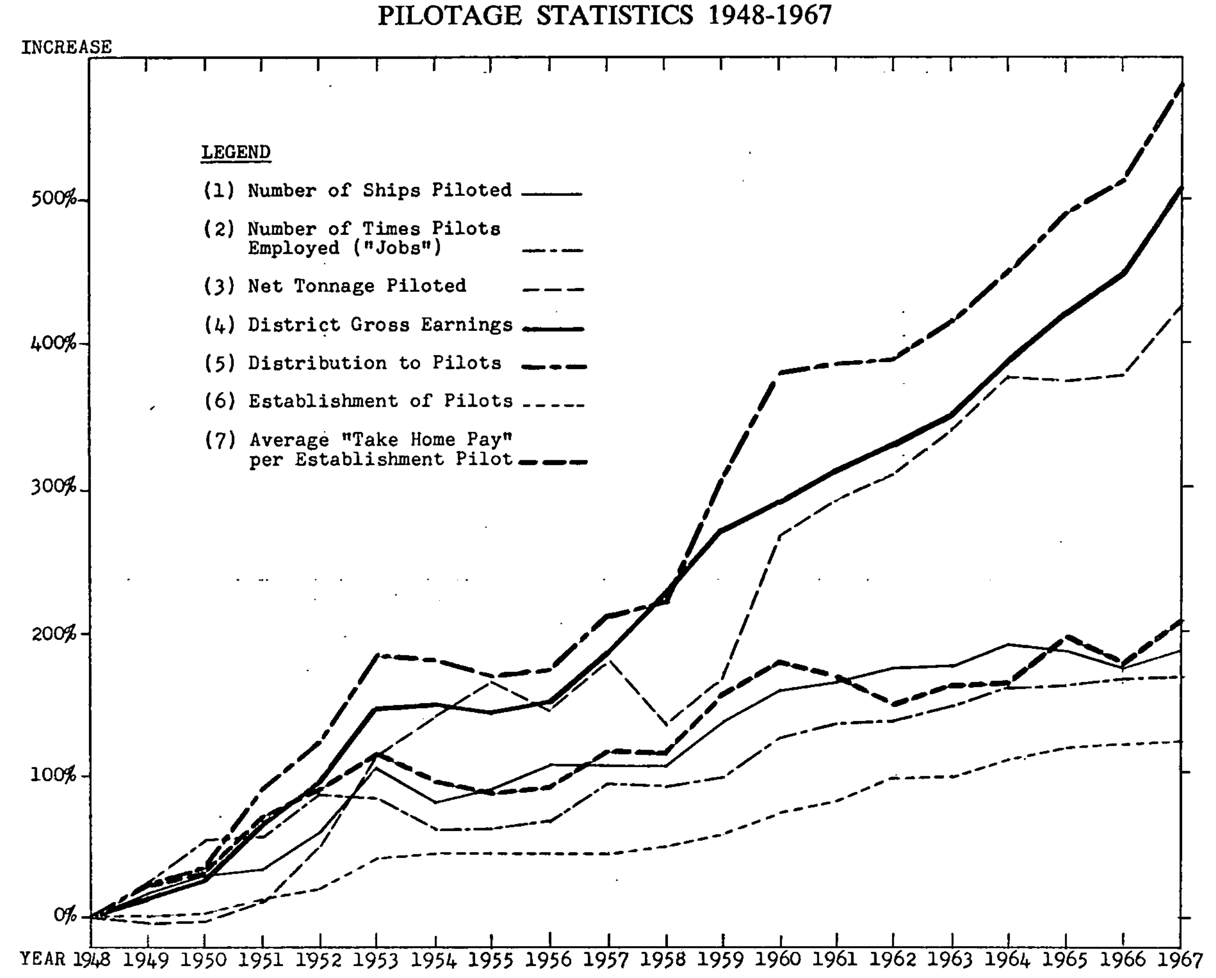
Appendix A to Part One of the Report shows the outline of all existing Pilotage Districts and pilotage areas in Canada.

When the general plan of the Report was drawn up, it was hoped to present detailed maps or charts of each District but it became apparent that they would exceed the reasonable scope of the individual Parts.

Observing that the basic material is already available, reference is invited to the catalogue published by the Canadian Hydrographic Service for detailed information.

Appendix B (1)

PILOTAGE STATISTICS 1948-1967



Appendix B (2)

PILOTAGE STATISTICS 1948-1967

Year	(1) Number of Ships Piloted	(2) Number of Times Pilots Employed ("Jobs")	(3) Net Tonnage Piloted	(4) District Gross Earnings	(5) Distribution to Pilots	(6) Establishment of Pilots	(7) Average "Take Home Pay" per Establishment Pilot
1948	2,510	3,461	7,886,473	$ 315,173.07	$ 190,801.00	33.4	$ 5,712.60
1949	2,944	4,333	7,715,229	363,572.35	237,831.95	34.0	6,995.06
1950	3,210	5,385	7,750,099	399,630.38	259,109.10	34.4	7,532.24
1951	3,365	5,432	8,838,804	522,748.63	363,207.50	37.3	9,737.47
1952	3,993	6,428	11,893,990	617,045.49	424,857.59	40.1	10,594.95
1953	5,157	6,357	16,769,914	777,178.51	539,108.79	44.1	12,224.69
1954	4,526	5,617	18,974,565	783,589.35	534,992.84	48.0	11,145.68
1955	4,754	5,613	20,788,890	765,842.26	513,578.78	48.0	10,699.56
1956	5,188	5,779	19,263,243	791,103.36	521,427.20	48.0	10,863.07
1957	5,133	6,693	21,983,302	897,778.32	592,400.52	48.0	12,341.68
1958	5,153	6,614	18,550,605	1,027,235.45	612,139.37	50.0	12,242.79
1959	5,925	6,855	21,070,615	1,167,955.27	770,212.00	53.0	14,532.30
1960	6,468	7,782	28,971,088	1,226,137.74	917,553.20	58.0	15,819.88
1961	6,629	8,171	30,914,494	1,297,572.34	929,423.81	61.0	15,236.46
1962	6,866	8,191	32,217,850	1,355,164.66	934,661.06	66.0	14,161.53
1963	6,873	8,569	34,657,721	1,449,628.96	983,365.91	66.0	14,899.48
1964	7,303	9,058	37,618,095	1,539,338.46	1,050,247.32	69.8	15,046.52
1965	7,147	9,115	37,410,635	1,636,965.47	1,126,331.86	72.6	16,891.62
1966	6,885	9,122	37,740,585	1,725,566.90	1,168,983.43	74.0	15,797.07
1967	7,137	9,208	41,558,348	1,916,202.99	1,295,852.97	74.0	17,511.53

Percentage Increase

Year							
1948	0	0	0	0	0	0	0
1949	17.3	25.2	(2.2)	15.4	24.7	1.7	22.5
1950	27.9	55.6	(1.7)	26.8	35.8	2.9	31.9
1951	34.1	57.0	12.1	65.9	90.4	11.5	70.5
1952	59.1	85.7	50.8	95.8	122.7	19.9	85.5
1953	105.5	83.7	112.6	146.6	182.6	31.9	114.0
1954	80.3	62.3	140.6	148.6	180.4	43.5	95.1
1955	89.4	62.2	163.6	143.0	169.2	43.5	87.3
1956	106.7	67.0	144.3	151.0	173.3	43.5	90.2
1957	104.5	93.4	178.7	184.9	210.5	43.5	116.0
1958	105.3	91.1	135.2	225.9	220.8	49.5	114.3
1959	136.1	98.1	167.2	270.6	303.7	58.5	154.4
1960	157.7	124.9	267.4	289.0	380.9	73.4	176.9
1961	164.1	136.1	292.0	311.7	387.1	82.4	166.7
1962	173.5	136.7	308.5	330.0	389.9	97.3	147.9
1963	173.8	147.6	339.5	360.0	415.4	97.3	160.8
1964	191.0	161.7	377.0	388.4	450.4	108.7	163.4
1965	184.7	163.4	374.4	419.4	490.3	117.1	195.7
1966	174.3	163.6	378.6	447.5	512.7	121.3	176.5
1967	184.3	166.1	427.0	508.0	579.2	121.3	206.5

SOURCE OF INFORMATION:

(1) Ex. 205; vide p. 120.

(2) Ex. 205; vide pp. 120 and 122.

(3) Ex. 205; as Gross Tonnage information was not available prior to 1958, Net Tonnage information was used.

(4) Ex. 205 (1948–1959), Ex. 199 (1960), Ex. 198 (1961), Ex. 197 (1962–1967).

(5) Ex. 209 (1948–1962), Ex. 197 (1963–1967); in 1948, figures were available for the nine-month period April–December only, so a forced figure was calculated as follows: 9/12 = $143,100.75; 1/12 = $15,900.0833; 12/12 = $190,801.00 as shown above; vide p. 133.

(6) Vide pp. 123, 124 and 143.

(7) Vide pp. 133, 143 and 183.

Appendix C (1)

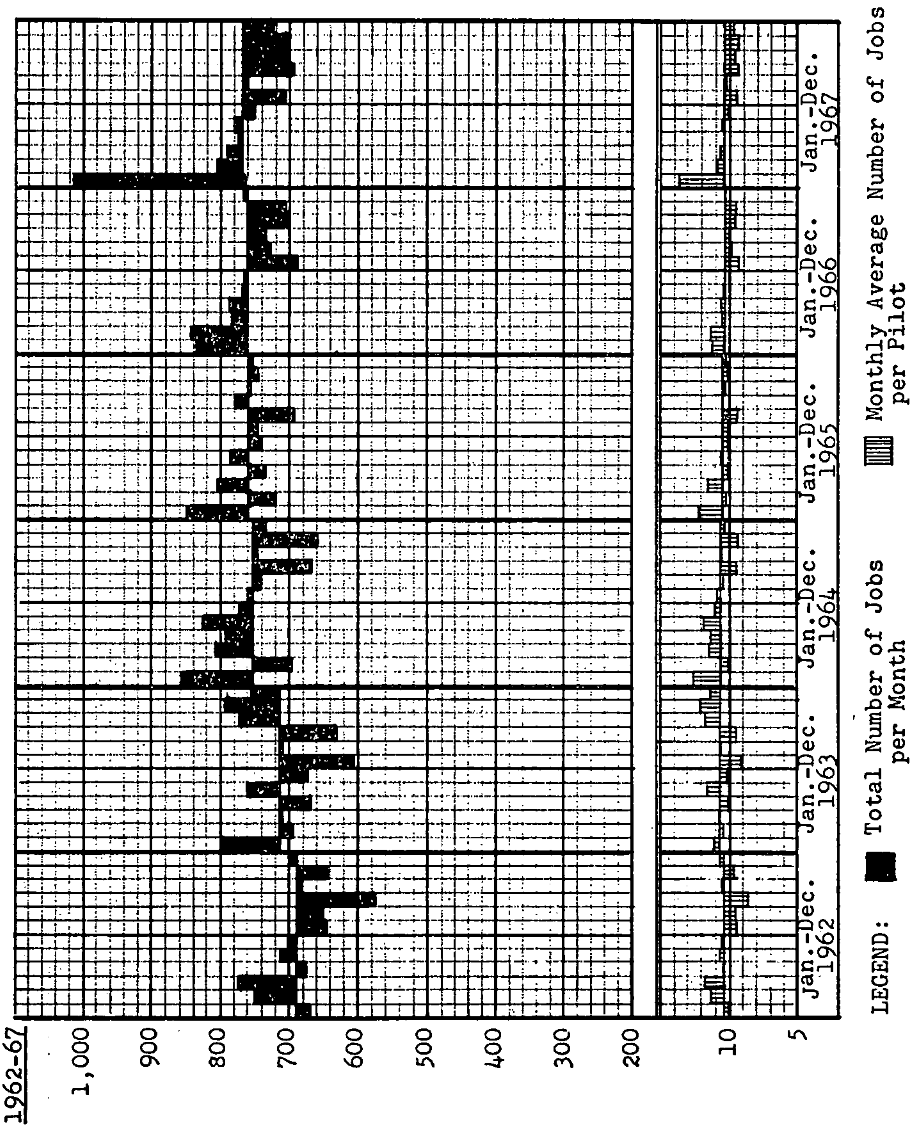
TOTAL AND AVERAGE NUMBER OF JOBS PER MONTH

Emphasizing *Peaks* and *Lows* as Compared to Annual Monthly Average

JOBS 1956-61

1,000
900
800
700
600
500
400
300
200
10
5

Jan.-Dec. 1956
Jan.-Dec. 1957
Jan.-Dec. 1958
Jan.-Dec. 1959
Jan.-Dec. 1960
Jan.-Dec. 1961


JOBS
1962-67
1,000
900
800
700
600
500
400
300
200
10
5
Jan.-Dec. 1962
Jan.-Dec. 1963
Jan.-Dec. 1964
Jan.-Dec. 1965
Jan.-Dec. 1966
Jan.-Dec. 1967
LEGEND:
Total Number of Jobs per Month
Monthly Average Number of Jobs per Pilot

Appendix C (2)

NUMBER OF JOBS PER MONTH, YEAR, AND AVERAGE PER PILOT

Month	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967
	*Total Number of Jobs per Month**											
January	574	625	587	639	727	664	668	799	856	849	838	1012
February	431	489	522	585	661	728	748	695	698	721	843	803
March	518	479	641	584	725	716	776	714	806	802	786	788
April	431	523	602	634	634	672	678	668	792	736	788	769
May	522	569	643	637	633	693	715	759	824	785	766	777
June	483	490	533	638	679	698	702	673	769	742	764	750
July	415	530	624	504	612	607	646	603	760	744	690	708
August	420	555	395	418	605	691	652	712	743	694	732	764
September	472	535	278	439	661	622	578	628	669	780	736	694
October	466	625	629	579	570	749	685	771	746	759	704	702
November	478	648	554	597	615	653	646	794	660	747	704	702
December	569	625	606	601	660	678	697	753	735	756	763	727
Yearly Total	5,779	6,693	6,614	6,855	7,782	8,171	8,191	8,569	9,058	9,115	9,122	9,208
Monthly Average	481.6	557.8	551.2	571.3	648.5	680.9	692.6	714.1	754.8	759.6	760.2	767.3
	*Actual Number of Pilots per Month***											
January	48	48	48	51	55	61	66	66	68	70	74	74
February	48	48	48	51	55	61	66	66	70	70	74	74
March	48	48	50	51	55	60	66	66	71	70	74	74
April	48	48	49	51	56	60	66	66	70	74	74	74
May	48	48	53	51	57	60	66	66	70	74	74	74

June	47	48	53	53	61	60	67	66	70	74	74	74
July	48	48	53	53	60	60	68	66	70	74	74	74
August	48	48	53	54	60	60	68	66	70	74	74	74
September	48	48	53	54	60	61	67	66	70	74	74	74
October	48	48	53	55	60	60	66	66	70	74	74	74
November	49	48	51	55	60	64	66	66	70	74	74	74
December	48	48	51	55	60	66	66	66	70	74	74	74
Establishment†	48	48	50	53	58	61	66	66	69.8	72.6	74	74
Average Number of Jobs per Actual Number of Pilots per Month												
January	12.0	13.0	12.2	12.5	13.2	10.9	10.1	12.1	12.6	12.1	11.3	13.7
February	9.0	10.2	10.9	11.5	12.0	11.9	11.3	10.5	10.0	10.3	11.4	10.9
March	10.8	10.0	12.8	11.5	13.2	11.9	11.8	10.8	11.4	11.5	10.6	10.7
April	9.0	10.9	12.3	12.4	11.3	11.2	10.3	10.1	11.3	10.0	10.7	10.4
May	10.9	11.9	12.1	12.5	11.1	11.6	10.8	11.5	11.8	10.6	10.4	10.5
June	10.3	10.2	10.1	12.0	11.1	11.6	10.5	10.2	11.0	10.0	10.3	10.1
July	8.7	11.0	11.8	9.5	10.2	10.1	9.5	9.1	10.9	10.1	9.3	9.6
August	8.8	11.6	7.5	7.7	10.1	11.5	9.6	10.8	10.6	9.4	9.9	10.3
September	9.8	11.2	5.3	8.1	11.0	10.2	8.6	9.5	9.6	10.5	10.0	9.4
October	9.7	13.0	11.9	10.5	9.5	12.5	10.4	11.7	10.7	10.3	9.6	9.7
November	9.8	13.5	10.9	10.9	10.3	10.2	9.8	12.0	9.4	10.1	9.5	9.5
December	11.9	13.0	11.9	10.9	11.0	10.3	10.6	11.4	10.5	10.2	10.3	9.8
Yearly Average‡	120.4	139.4	132.3	129.3	134.2	133.9	124.1	129.8	129.8	125.6	123.3	124.4
Monthly Average‡	10.0	11.6	11.0	10.8	11.2	11.2	10.3	10.8	10.8	10.5	10.3	10.4

*Ex. 205 (vide pp. 120 and 122).

**Exs. 209 and 211.

†Vide pp. 123, 124 and 143.

‡Per establishment pilot.

Appendix D

SHIPPING CASUALTIES

	1956	1957	1958	1959	1960	1961
TOTAL SHIPPING CASUALTIES	27	21	14	21	24	26
A. Events presumably* happening in the course of navigation:	9	9	3	4	7	2
(a) Collision	4	6	3	2	1	0
(b) Grounded	4	3	0	1	3	0
(c) Struck buoy	0	0	0	0	0	1
(d) Struck log	0	0	0	0	1	0
(e) Struck submerged log	0	0	0	0	1	0
(f) Struck submerged object	1	0	0	0	1	0
(g) Touched boom logs	0	0	0	0	0	1
(h) Vessel caught in log boom	0	0	0	1	0	0
B. Events happening while berthing or unberthing:	18	12	11	17	17	24
(a) Collision at pier or wharf	1	0	0	0	0	4
(b) Grounded at pier or wharf	0	0	1	0	0	1
(c) Touched pier or wharf	17	10	10	16	17	18
(d) Touched pier or wharf crane	0	1	0	0	0	1
(e) Touched pier or wharf equipment	0	1	0	1	0	0

*As the available information did not state the location of the shipping casualties, for the purposes of this table it was merely presumed that all casualties not stated to have occurred at pier or wharf possibly occurred in the course of navigation.

SOURCE OF INFORMATION: Exhibit 1467; vide pp. 87–91.

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING PILOTS

	1962	1963	1964	1965	1966	1967
TOTAL SHIPPING CASUALTIES, ACCIDEMTS AND INCIDENTS INVOLVING PILOTS	29	16	15	17	9	42
A. Events happening in the course of navigation	4	5	6	4	1	5
I. Major casualties (with or without loss of life)	0	2	1	2	1	3
(a) Loss or abandonment of ship	0	0	1	0	0	0
(b) Major strandings	0	1	0	1	1	2
(c) Heavy damage to ship (other than above)	0	1	0	1	0	1
II. Minor casualties	3	2	5	1	0	1
(a) Minor strandings	2	2	2	1	0	0
(b) Minor damage to ship	1	0	3	0	0	1
III. Accidents (other than shipping casualties)	1	0	0	0	0	0
IV. Incidents	0	1	0	1	0	1
(a) Touching bottom in channel	0	1	0	0	0	0
(b) Others	0	0	0	1	0	1
B. Events happening while berthing, unberthing, or at port anchorage	25	11	9	13	8	37
I. Major casualties (with or without loss of life)	0	0	0	0	0	0
II. Minor casualties	10	5	3	8	3	18
(a) Minor strandings	0	0	0	0	1	1
(b) Minor damage to ships	10	5	3	8	2	17
(i) Striking pier	8	3	2	5	2	11
(ii) Striking other vessels while berthing or unberthing	1	2	1	1	0	3
(iii) Striking vessels at anchorage	0	0	0	0	0	0
(iv) Others	1	0	0	2	0	3
III. Accidents (other than above)	15	4	6	4	4	14
(a) Damage to pier	15	4	6	3	3	9
(b) Damage to buoys	0	0	0	0	0	4
(c) Others	0	0	0	1	1	1
IV. Incidents	0	2	0	1	1	5
(a) Striking pier	0	0	0	0	0	1
(b) Striking other vessels while berthing or unberthing	0	0	0	0	0	1
(c) Striking vessels at anchorage	0	0	0	0	0	0
(d) Striking buoys	0	0	0	0	0	0
(e) Others	0	2	0	1	1	3

SOURCE OF INFORMATION: Ex. 1467; vide pp. 87–91.

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING PILOTS DURING THE YEAR 1965

A. EVENTS HAPPENING IN THE COURSE OF NAVIGATION

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

(a) Loss or abandonment of ship—Nil

(b) Major strandings:

1. April 1—*Olympic Palm* grounded at Orcas Island causing considerable bottom damage. Cause: pilot fell asleep on duty. (Preliminary inquiry—suspended four months) (Pilotage trip from Nanaimo to Brotchie Ledge)

(c) Heavy damage to ship (other than above):

1. January 16—*Hoyanger* collided with U.S. Destroyer USS *Whitehurst* in First Narrows, Vancouver Harbour. Cause: during dense fog, *Whitehurst* caught in tide, swung across channel; minor damage to *Hoyanger*, serious damage to *Whitehurst*. (Fact finding; no blame attached to *Hoyanger*)

II. MINOR CASUALTIES

(a) Minor strandings:

1. January 4—*Gerina* grounded in Tsowwin Narrows; vessel freed immediately, damage of very minor nature. Cause: heavy snowstorm.

(b) Minor damage to ship—Nil

III. ACCIDENTS (other than shipping casualties)—Nil

IV. INCIDENTS

(a) Touching bottom in channel—Nil

(b) Others:

1. November 18—*Oriental Argosy* collided with tow of logs West of First Narrows, Vancouver; no damage other than some logs spilled from boom. Cause: poorly lit tow. (No action)

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

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

II. MINOR CASUALTIES

(a) Minor strandings—Nil

(b) Minor damage to ships:

(i) Striking pier:

1. February 13—*Suchan* struck pier while berthing at La Pointe Pier, Vancouver, resulting in indentation in one plate. Cause: wind. (Pilot reprimanded for poor tug boat handling)
2. February 25—*Inverewe* struck pier while berthing at La Pointe Pier, Vancouver, resulting in indentation to shell plating and possible crack in stem post. Cause: slow engine response; difficult conditions.
3. June 16—*Villanger* struck corner of quay while berthing at Pier 20B Vancouver, causing minor dent in shell plating. Cause: Wind and tide.
4. June 21—*Theofano Levanos*' accommodation ladder caught on pier while unberthing at Pier 26A Vancouver, causing minor damage to gangway and bulwark in gangway area. Cause: windlass failure.
5. September 23—*Seizan Maru* landed somewhat heavily on corner of quay when berthing at Pier 30A Vancouver resulting in about ten feet of plating indented. Cause: Fog and unexpected strong flood.

(ii) Striking other vessels while berthing or unberthing:

1. September 10—*Panaghia* struck bow of S.S. *King Theseus* at berth 30D when proceeding to berth 30E, Vancouver Harbour, causing very minor damage to bulwarks of both ships. Cause: engine failure.

(iii) Striking vessels at anchorage—Nil

(iv) Others:

1. June 1—*Madison Friendship* landed heavily on bearing dolphin while berthing at Duncan Bay, causing slight indentation to plating. Cause: current and strong tidal eddies. (Pilot reprimanded)
2. July 5—*Canadian Star* landed on solid dolphin at Duncan Bay, causing slight damage to one plate and frame. Cause: current.

III. Accidents (other than above)

(a) Damage to pier:

1. September 11—*Olympic Pegasus* struck pier while berthing at Pier 26A, Vancouver Harbour. No damage to ship; slight damage to pier planking. Cause: current.
2. November 26—*Jarabella* struck Crofton Lumber wharf. No damage to ship; slight damage to wharf. Cause: pilot error—vessel coming in a little too fast and astern movement canted bow into wharf.
3. December 16—*Benedicte* struck end of IOCO wharf at Port Moody a glancing blow. No damage to ship; damaged end of wharf and pipelines. Cause: forced into shallow water by log booms obstructing dredged channel when leaving Port Moody. Vessel refused to answer her helm. Pilot unable to use anchor.

(b) Damage to buoys—Nil

(c) Others:

1. November 27—*Mareileen* proceeding into Vancouver Harbour collided with sailing yacht *Doxy* off Point Grey Buoy. No damage to vessel and no injuries on yacht although yacht dismasted. Cause: unlighted sailing yacht.

IV. Incidents

(a) Striking pier—Nil

(b) Striking other vessels while berthing or unberthing—Nil

(c) Striking vessels at anchorage—Nil

(d) Striking buoys—Nil

(e) Others:

1. June 1—*Doris* grounded on shoal area berthing stern first at Pier 26A Vancouver Harbour. No damage. Cause: pilot's misjudgment. (Pilot reprimanded for poor judgment in berthing)

Source of Information: Ex. 1467.

SHIPPING CASUALTIES, ACCIDENTS, AND INCIDENTS INVOLVING PILOTS DURING THE YEAR 1966

A. EVENTS HAPPENING IN THE COURSE OF NAVIGATION:

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

(a) Loss or abandonment of ship—Nil

(b) Major standings

1. August 16—*Rondeggen* struck the bluff at Wearing Point when entering Ocean Falls, and suffered severe bow damage of approximately $150,000. Cause: failure of the vessel's steering equipment. (Preliminary inquiry conducted.)

(c) Heavy damage to ship (other than above)—Nil

II. MINOR CASUALTIES—Nil

III. ACCIDENTS (other than shipping casualties)—Nil

IV. INCIDENTS—Nil

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

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

II. MINOR CASUALTIES

(a) Minor strandings

1. April 4—*Lefkipos* (an under-powered, thirty-year old vessel) grounded on rocky point between Assembly and A.P.D. wharf at Port Alberni, but came off immediately with minor damage to stem and forefoot. Cause: endeavouring to berth at A.P.D. wharf at Port Alberni.

(b) Minor damage to ships

(i) Striking pier

1. February 28—*Canberra* landed heavily on pier corner of Pier 12D, Vancouver, during berthing, with indentation to two plates of shell and frames set in, but no apparent damage to pier. Cause: pilot error.

2. December 12—*Martha Bakke* landed heavily on corner during berthing at Pier 12B, Vancouver, with slight indentation to plating. Cause: vessel's stern was caught in a back eddy.

(ii) Striking other vessels while berthing or unberthing—Nil

(iii) Striking vessels at anchorage—Nil

(iv) Others—Nil

III. ACCIDENTS (other than above)

(a) Damage to pier

1. February 6—*Katherine* struck pier corner while berthing at Pier 25, Vancouver, causing damage to fender but no apparent damage to ship. Cause: tug error.

2. May 22—*Ritsuyo Maru* set down heavily on scow moored at pulp wharf, Watson Island, during landing and pressure on scow caused considerable damage to wharf but no damage to ship. Cause: current.

3. August 18—*Pacific Princess*' bow cut into wharf at Cowichan between Berths 1 and 2 during berthing. Cause: pilot's negligence in relying on radar to berth vessel. (Preliminary inquiry conducted; pilot severely reprimanded.)

(b) Damage to buoys—Nil

(c) Others

1. December 31—*Mekambo's* bow set down by tide leaving Pier 93, Vancouver, causing damage to grain chute. Cause: tide; pilot's error.

IV. Incidents

(a) Striking pier—Nil

(b) Striking other vessels while berthing or unberthing—Nil

(c) Striking vessels at anchorage—Nil

(d) Striking buoys—Nil

(e) Others

1. April 16—*Virginia Maru*, when turning after leaving Kitimat wharf grounded on sandbar. Vessel pulled off with aid of tug and no damage found after survey. Cause: evasive action to avoid collision with unlighted fishboat.

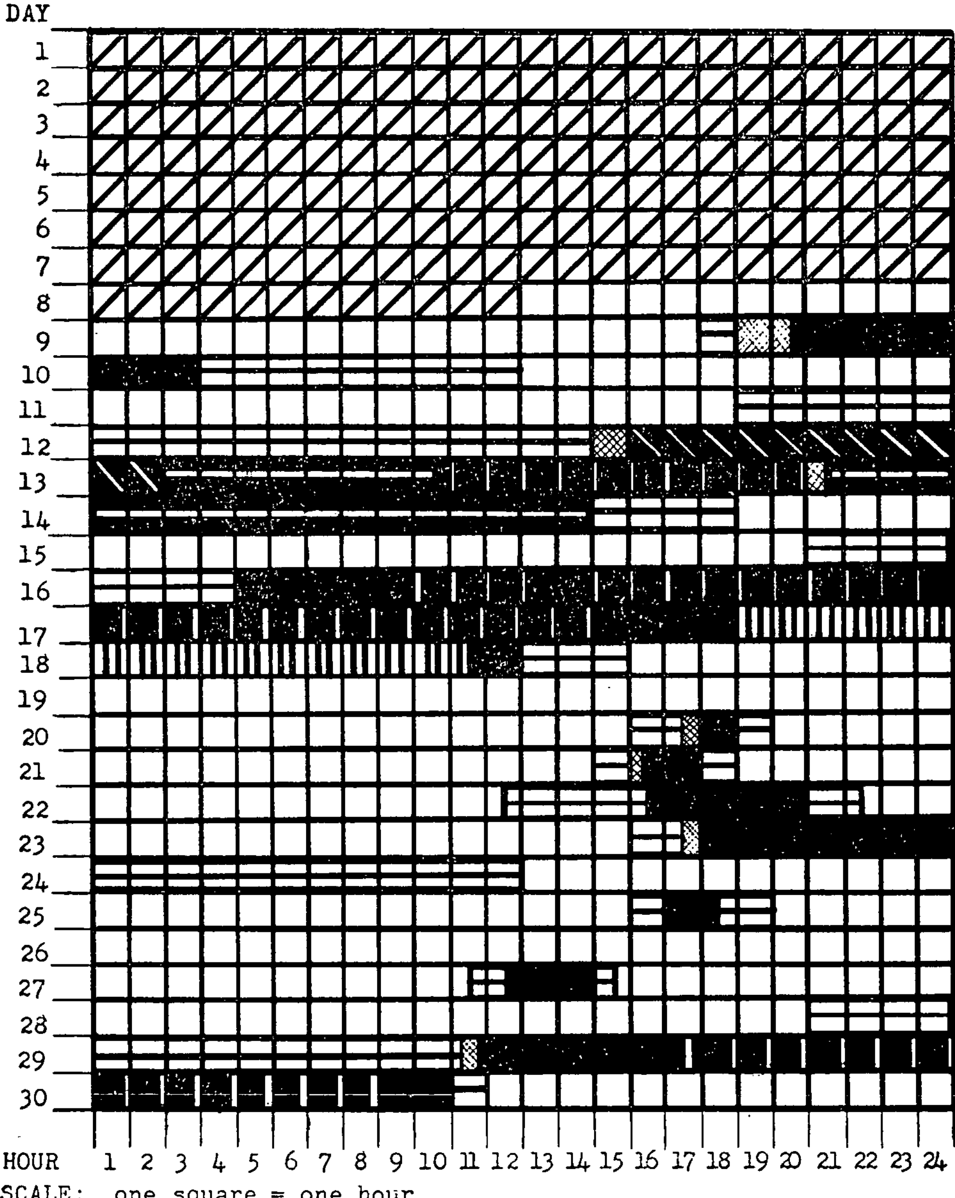
Source of Information: Ex. 1467.

LEGEND:

- Piloting, single assignment
- Piloting, two-pilot assignment
- Detention, awaiting departure after "ordered time"
- Detention on board ship <u>en route</u>
- Detention at outport, awaiting ship at agent's request
- At home, available
- On leave
- Travelling, including waiting time before "ordered time"
- Away from home awaiting assignment

Appendix E

WORKLOAD OF PILOT R. McLEESE*—NOVEMBER 1962



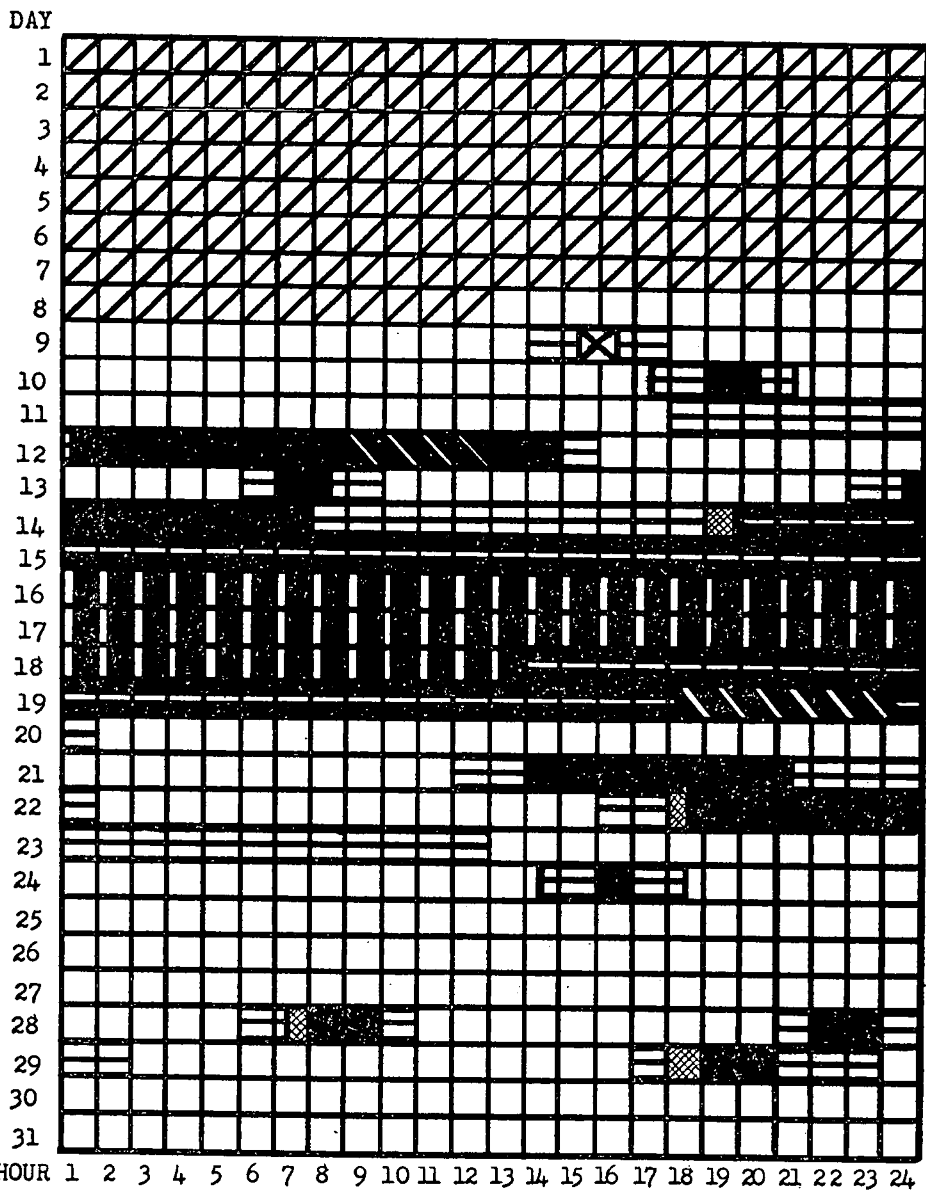
SOURCE OF INFORMATION: Ex. 214.

*For detailed analysis of graph, vide pp. 126–129.

LEGEND:

- Piloting, single assignment
- Piloting, two-pilot assignment
- Detention, awaiting departure after "ordered time"
- Detention on board ship <u>en route</u>
- Detention at outport awaiting ship at agent's request
- At home, available
- On leave
- Travelling, including waiting time before "ordered time"
- Cancellation

WORKLOAD OF PILOT R. McLEESE*—DECEMBER 1962



SCALE: one square = one hour

SOURCE OF INFORMATION: Ex. 214.

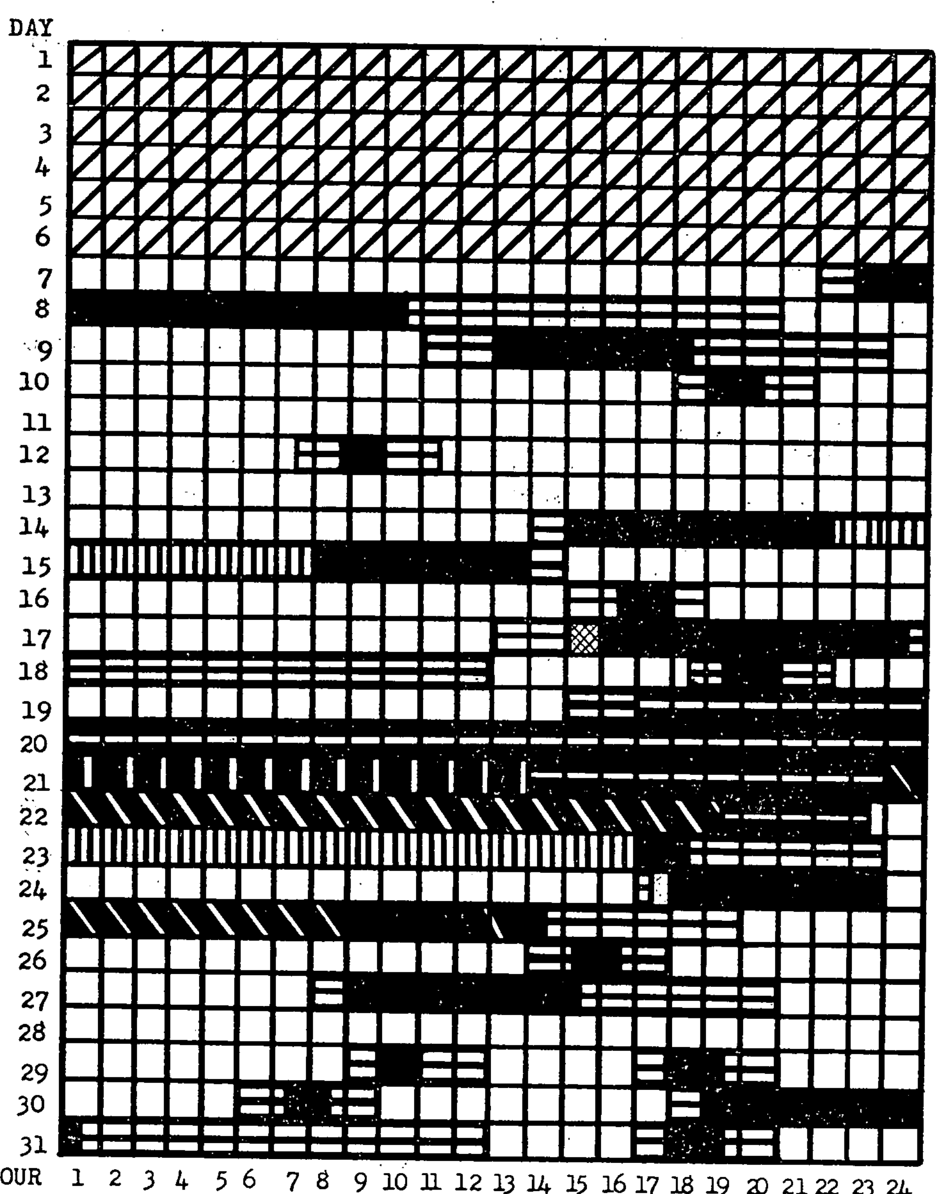
*For detailed analysis of graph, vide pp. 127–128.

96465—17

LEGEND:

- Piloting, single assignment
- Piloting, two-pilot assignment
- Detention, awaiting departure after "ordered time"
- Detention on board ship <u>en route</u>
- Detention at outport, awaiting ship at agent's request
- At home, available
- On leave
- Travelling, including waiting time before "ordered time"
- Away from home awaiting assignment

WORKLOAD OF PILOT R. McLEESE*—JANUARY 1963



SCALE: one square = one hour

SOURCE OF INFORMATION: Ex. 214.

*For detailed analysis of graph, vide p. 128.

96465—17½

Appendix F

COMPARATIVE ANALYSIS OF ANNUAL FINANCIAL STATEMENT OF REVENUES AND EXPENDITURES[1]

	1962		1967	
REVENUES[2]				
Pilotage dues[3]				
Belonging to pilots	$1,288,499.55		$1,818,826.57	
Accessory services	66,422.50		90,717.75	
		1,354,922.05		1,909,544.32
Miscellaneous[4]				
Overcarriage and quarantine indemnities[5]	—		—	
Examination fees	110.00		—	
Licence fees	60.00		30.00	
Fines	—		45.00	
Dues collected for other Districts	—		54.00	
Damage to furniture	—		35.00	
Savings Bonds deduction	—		214.42	
Insurance claims[6]	—		5,716.28	
Exchange	2.70		.04	
Audit adjustment	69.91		—	
Refund advance from the Pilots' Committee[7]	—		512.75	
Insurance premium from pilots	—		43.26	
		242.61		6,650.75
Not distributed		—		7.92
		$1,355,164.66		$1,916,202.99
EXPENDITURES[8]				
Monies collected for third parties[9]				
Dues for other Districts	—		54.00	
Damage to furniture claims	—		35.00	
Savings Bonds	—		214.42	
Licence fees	60.00		30.00	
Examination fees	110.00		—	
		170.00		333.42
District and service operating expenses[10]				
Pilots' expenses	209.467.32		329,692.80	
D.O.T. boat fees[11]	36,660.00		48,490.00	
Ship's half of launch fees[11]	29,762.50		27,076.25	
Radiotelephone rental[11]	—		15,151.50	
		275,889.82		420,410.55

	1962		1967	
Monies paid to, or on behalf of, pilots[12]				
Pension fund[13]	124,504.12		175,098.92	
Distribution to pilots[14]	934,661.06		1,295,852.97	
Pilots' own insurance	18,508.32		19,117.55	
Pilots' own telephone	234.50		790.65	
Stamps, stationery and miscellaneous[7]	1,196.27		4,598.53	
		1,079,104.27		1,495,458.62
Not distributed		.57		.40
		$1,355,164.66		$1,916,202.99

SOURCE OF INFORMATION: Exs. 197, 202 and 205.

[1]Vide pp. 174–186 for analysis.

[2]Vide pp. 174–177.

[3]Vide p. 175; for breakdown of pilotage dues, vide table at p. 147.

[4]Vide pp. 175–176.

[5]Vide pp. 175, 178 and 183.

[6]Vide pp. 176, 178 and 183.

[7]Miscellaneous expenditures include the Pilots' Committee's and other pilots' delegate's expenses; the item of $512.75 of miscellaneous revenues is the refund of unexpended advance on such expenses. Vide pp. 176, 182.

[8]Vide pp. 177–185.

[9]Vide pp. 177–178.

[10]Vide pp. 178–179.

[11]Vide pp. 179–180.

[12]Vide pp. 179–185.

[13]Vide pp. 179–181 (compulsory contributions).

[14]The share of which is his "Take Home Pay" (vide pp. 133, 180, 183, 184–185).

Appendix G

COMPARATIVE TABLE OF ANNUAL FINANCIAL STATEMENTS OF RECEIPTS AND DISBURSEMENTS OF THE CORPORATION OF THE BRITISH COLUMBIA COAST PILOTS

	1963	1964	1965
RECEIPTS			
Members Dues	$ 5,544.00	$ 7,365.00	$ 9,345.00
Special Assessments re Royal Commission[1]	4,900.00	450.00	5,192.50
Interest on Bank Deposits	73.24	144.71	191.26[2]
Refund of Expenses	71.45	14.68	500.00
Sale of Charts	—	44.00	70.20
	$10,588.69	$ 8,018.39	$ 15,298.96
DISBURSEMENTS			
Allowance in Form of Pension to Retired Members	$ 650.00	$ 700.00	$ 600.00
Christmas Gratuities	791.15	757.50	612.22
Stationery, Postage and Exchange	2.50	—	4.00
C.M.S. Guild Dues	—	6,270.00	6,300.00
	1,443.65	7,727.50	7,516.22
Surplus	9,145.04	290.89	7,782.74
	$10,588.69	$ 8,018.39	$ 15,298.96
BANK ACCOUNT			
Balance at January 1st	$ 683.78	$ 9,828.82	$ 10,119.71
Surplus for the year	9,145.04	290.89	7,782.74
Balance at December 31st	$ 9,828.82	$ 10,119.71	$ 17,902.45

SOURCES OF INFORMATION: Ex. 1458 (vide pp. 185–188 for analysis).

[1]Special assessments on members for Royal Commission expenses. There being no item of disbursement on this account, it is assumed it is a reserve for future disbursements. The reserve as of 1965 amounted to $10,542.50.

[2]Contributions received from the Canadian Merchant Service Guild toward expenses incurred in connection with this Royal Commission.