

Subsection II

PILOTAGE DISTRICT OF BRAS D'OR LAKES

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

PREAMBLE

Apart from the provisions of the Canada Shipping Act which are generally applicable to the pilotage service and its organization, the specific legislation that applies to this District is now contained in two regulations: the order creating the District and the District General By-law.

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

The Bras d'Or Lakes Pilotage District was created on September 9, 1943, by an Order from the Governor General in Council (P.C. 7087) through the amalgamation of the former Pilotage Districts of Bras d'Or and Richmond County, which were thereby rescinded (Ex. 1536(a)).

The limits of the new District are defined as follows:

"The limits of the Bras d'Or Lakes Pilotage District shall extend from Point Tupper in the Strait of Canso, eastward to Red Point, embracing all navigable waters in and adjoining the County of Richmond, including St. Peter's Canal, and shall include the waters of Bras d'Or Lake, Great Bras d'Or and East and West Bay, all adjacent waters, ports and harbours, as far northward as an imaginary line drawn from Cape Dauphin to Point Aconi and to the highway bridge over Little Bras d'Or at Little Bras d'Or".

The Order in Council also provides for the payment of dues to be compulsory and appoints the Minister of Transport Pilotage Authority.

The only provision in this Order in Council which is not clear is that part which describes the southern limits of the District in that its seaward extent is described in the most vague way completely inconsistent with the imposition of the compulsory payment of pilotage dues. One important question is whether that part of the waters of the Strait of Canso that are "adjoining the County of Richmond", i.e., up to Point Tupper, are fully included in the Pilotage District and, therefore, whether all ships merely in transit through the strait are subject to the compulsory payment of dues unless they enjoy an exemption. As far as the Strait of Canso is concerned, even if the expression "adjoining" is interpreted to mean up to the mid-stream line, the problem is not solved since it would be a preposterous

situation if ships were obliged to navigate on the west side of the Strait in order to avoid paying pilotage dues.

For the reasons already mentioned (Part II, pp. 243 and ff.), reference to an electoral division such as the County of Richmond should never appear in the description of the limits of a Pilotage District.

(2) REGULATIONS ENACTED BY THE PILOTAGE AUTHORITY

Such regulations are contained in the General By-law sanctioned by Order in Council P.C. 1960-1450 of October 20, 1960, as amended by P.C. 1963-1571 of October 24, 1963, and by P.C. 1965-686 of April 13, 1965 (Ex. 377).

The main features of the General By-law are:

- (a) It provides for full control over the provision of pilotage services by the Pilotage Authority through its local representative, the Superintendent.
- (b) The pilots' status is *de facto* employees of the Authority; they are not allowed to render any pilotage service except as approved by the Authority. Their earnings are pooled and their remuneration is a share of the pool based on availability for duty.
- (c) The pilot boat charge of \$20 is part of the pool, as are other pilotage dues (pilot vessel service is not provided by the Department of Transport). The only permissible deductions from the pool are "the current expenses of the District" and "accounts rendered by the pilots for expenses incurred in the course of their duties".
- (d) The relative statutory exemptions to coastal vessels registered in any part of Her Majesty's dominions and inland traders are withdrawn to the extent of one-third of the pilotage rates and only for vessels of not more than 1,000 NRT. This creates a most extraordinary situation in that, according to the By-law, larger vessels continue to enjoy full exemption while small ones are required to contribute. This regulation is *ultra vires* for such ships enjoying an absolute statutory exemption such as those of dominion Registry of not over 250 tons register tonnage (subsec. 346(f) C.S.A.).
- (e) The first licence issued is probationary. Its duration is left to the administrative discretion of the Authority and it is subject to withdrawal whenever the Authority feels the holder is not qualified (Part I, p. 269). A permanent licence follows. There are no provisions in the By-law authorizing the Pilotage Authority to limit either probationary or permanent licences with respect to a pilot's capacity or his territorial jurisdiction.

- (f) There is no apprenticeship. Pilots are recruited from local mariners but neither a certificate of marine competency nor navigational experience is required to be eligible for a permanent licence. However, the requirement for navigational experience is achieved indirectly by making service as Master or deck officer in vessels trading regularly in the District for two of the five years immediately preceding the date of examination a prerequisite for a probationary licence. No doubt the requirement was stated in this unusual way in order to protect the rights already acquired by the pilots who held a licence when the By-law provision was enacted. On the other hand, in view of the wording of secs. 10 and 12 it could be maintained that the Authority has power to issue three types of licence:
- (i) a licence valid for an undetermined period to any one, including a candidate lacking the prerequisite(s) to qualify for a probationary licence (subsec. 12(1)), noting in this connection that titles and subtitles do not form part of the legislation and that the use of different expressions is an indication that different meanings are intended;
 - (ii) a probationary licence (the second type referred to in subsec. 12(1));
 - (iii) a permanent licence (subsec. 12(3)).

The drafting is obviously faulty and should be corrected. No certificate of competency is required even for a probationary licence (General Recommendation No. 13, Part I, p. 494). The requirement for actual experience is vague in that it has to be acquired "on vessels", which, according to the By-law definition, would include any barge which is not a scow, or fishing vessel regardless of size.

- (g) Rates are provided for pilotage voyages, movages, cancellations and pilot boat charges but detention is not covered. There is a flat rate, in all cases. The distance factor in voyages is compensated by a different rate for each fixed type of voyage in the District.
- (h) There is no provision for leave of absence or a Pilot Fund.

2. HISTORY OF LEGISLATION

The present District is the result of the amalgamation in 1943 of two separate Districts which were brought together under the Minister of Transport as Pilotage Authority because of wartime considerations. Their only common characteristic was their contiguity.

- (a) The former District of Bras d'Or was confined to inland waters comprising all the navigable waters of the large inlet on the

northeast coast of Cape Breton Island called Great Bras d'Or and its extensions: St. Andrew Channel, St. Patrick Channel and Bras d'Or Lake.

- (b) The former Pilotage District of the County of Richmond was by contrast a coastal District embracing all the navigable waters within a 60-mile stretch of the southwest coast of Cape Breton Island from Point Tupper in the Strait of Canso eastward to Cape Fourchu, including St. Peters Canal, the man-made access to Bras d'Or lake from St. Peters Bay.

The extent of the pilotage waters in the Bras d'Or section of the District which are governed by legislation has varied considerably over the years:

- (a) In 1855, *Bras d'Or* was added to those ports and areas where the Nova Scotia Pilotage Statute applied (vide pp. 169-170). The seaward limit was the entrance to the inlet, a short distance inside the present limit, i.e., a line extending from Inner Table Island to Cape Dauphin (1855, 18 Vic. c. 123 (N.S.)).
- (b) After the enactment of the federal Pilotage Act of 1873 the Governor in Council, in accordance with the then prevailing policy, enlarged the pilotage waters to embrace a large sector of the Cape Breton Island coast from Cape Smoky in the north to Point Aconi in the south, including, *inter alia*, St. Anns Bay and all the inland waters to which the Great Bras d'Or inlet gives access with the exception of Little Bras d'Or. The name of the District was "the Pilotage District of Brass d'Or Lake and Great and Little Brass d'Or". A commission of five members composed the Pilotage Authority; three were from "Big Brass d'Or" and two from St. Anns (Order in Council dated May 7, 1874, Ex. 1536(b)).
- (c) In 1883 (Order in Council dated May 4, 1883), the 1874 coastal District was abolished and replaced by a much smaller District named the "Pilotage district of Bras D'Or" confined to the inland waters within the limits of the County of Victoria. St. Anns Bay, most of Bras d'Or Lake and part of St. Andrew and St. Patrick channels were no longer part of the District (Ex. 1532).
- (d) In 1931 (P.C. 1640 of July 1931), because there were no pilots for St. Andrew channel or Little Bras d'Or, the inland limits of the Bras d'Or District were extended to include all the inland waters to which the Great Bras d'Or inlet gave access, including Bras d'Or Lake, and the seaward limit, which was a line running from Point Dauphin to Point Aconi, was further extended to Alder Point in order to include the small channel of Little Bras d'Or.

- (e) On July 6, 1938, the limits were again altered in order to exclude the inlet of Little Bras d'Or.

The pilotage waters of the southern part of the present District have also varied from time to time:

- (a) Before Confederation there was only one small port pilotage operation in that region, i.e., the port of Arichat situated on the south side of Madame Island, one of the ten ports to which the Nova Scotia 1851 pilotage legislation applied (vide p. 170). The pilotage waters were limited to the limits of the port itself.
- (b) By an Order in Council dated April 3, 1875 (amended June 11, 1879) the Governor in Council also created a coastal District under the name "a pilotage district in Richmond County", extending over some 60 miles from Point Tupper in the Strait of Canso to Cape Fourchu on the Atlantic Ocean and embracing all the navigable waters of the County of Richmond, including the part of Bras d'Or Lake contained therein. On May 11, 1889, the description of the District was amended "to include St. Peters Bay, Lennox Passage, St. Peters Canal and the southern portion of Bras d'Or Lake" (Ex. 1532).
- (c) By Order in Council P.C. 548 of February 23, 1894, the 1879 Pilotage District was abolished and the Pilotage District of Richmond County was established. Its limits remained the same.
- (d) Shortly before the amalgamation of the two Districts, the limits were amended on April 12, 1943 (P.C. 2935) to extend farther into the inland waters to embrace the whole of Bras d'Or Lake and part of Great Bras d'Or up to Baddeck.

On September 9, 1943, by Order in Council P.C. 7087 (Ex. 1536(a)) the two Districts of Bras d'Or and Richmond County were amalgamated to form the present District and their respective pilotage commissions were replaced as Pilotage Authority by the Minister of Transport. This was a wartime measure. During the war, ships carried coal through these inland waters as an emergency security measure against the submarine threat. Two Pilotage Districts did not function well under these circumstances and a single District was established. The Minister exercised control of pilotage activities and administered the District and the service through the Superintendent of Pilots of the adjacent Pilotage District of Sydney. The limits of the new District were those that still exist today (vide p. 308). They are the same as the seaward limits of the two former Districts except that the southern limit was restricted to Red Point (rather than Cape Fourchu) reducing its southern coastal front to some 35 miles. The governing legislation has not been amended since. Although the emergency situation no longer

exists and traffic through the inland waters has diminished considerably, coastal traffic bound to Port Hawkesbury, situated just outside the District limits, has grown in size and importance. For these reasons, a pilotage reorganization was contemplated but no action has been taken to date.

Two possible solutions have been considered by pilotage officials in the Department of Transport:

- (a) Determine the extent to which pilotage services are required in the Strait of Canso and whether a separate District should be established for this area.
- (b) Either abolish the Bras d'Or Lakes District as such or extend it to include the Strait of Canso, if necessary.

The first by-laws for the northern District were enacted in 1878 (P.C. of April 12, 1878) and superseded from time to time. However, the only by-laws for the southern District were enacted in 1894. They provided for a pilotage service operating under the free enterprise system. The number of pilots in Bras d'Or was limited to 12, reduced to 10 in 1922, but in Richmond it was left to be fixed by discretionary administrative decision of the Pilotage Authority.

When the Districts were amalgamated the Minister as Pilotage Authority established new by-laws (Order in Council P.C. 7520 of September 30, 1943) which were quite similar to the existing By-law which superseded them in 1960.

From 1951 to 1964, the District received direct subsidies from the Crown by way of financial assistance toward the cost of maintaining, operating and repairing pilot vessels. The amount was originally \$200 per annum (P.C. 164/1166 of March 9, 1951), which was raised to \$500 in 1954 (P.C. 1954/590 of April 22, 1954) and to \$750 in 1960 (P.C. 1960-36/257 of March 3, 1960). This subsidy was discontinued in 1964 (P.C. 1964-24/336 of March 5, 1964) (Ex. 1497 (a)) after the rates had been increased, effective October 24, 1963, by the inclusion in the tariff of a \$20 pilot boat charge. This was one of the recommendations the pilots submitted to this Commission.

Chapter B

BRIEFS

Only one brief (B.20, Ex. 406) was presented in the form of a joint submission by the three pilots of the District. In essence, it outlines the limits of the District, its navigational hazards and the operation of the pilotage service, including the hired pilot boats, and submits the four following recommendations (the added notations indicate the page(s) of the Report which deal with them):

- (a) The size and hazards of the District are such that three licensed pilots are required. (Vide p. 344.)
- (b) The nature and extent of the District require the services of three pilot boats. (Vide pp. 290-291 and p. 344.)
- (c) A pilot boat charge should be added to the tariff. (Vide p. 327.)
- (d) The rate structure should be modified so that the dues will vary "in line with time and service given by pilots".

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

(1) DISTRICT LIMITS

The seaward northwestern limit of the District corresponds in practice to its legal definition (p. 308) bearing in mind that boarding area and pilotage waters are frequently confused. The pilots consider this limit to extend from Table Head to Cape Dauphin, which is well within the legal limit, but on rare occasions they are called upon to board a vessel further seaward up to the legal limit off Point Aconi.

The southwestern seaward limit no longer corresponds to modern pilotage requirements. While originally the pilotage services in this area were for Port Arichat and passage through St. Peters Canal, a pilotage demand developed at Port Hawkesbury just outside and west of the District limit in the Strait of Canso, which the District pilots meet in competition with an unlicensed local pilot. The reason Point Tupper was made the western limit was that the Strait of Canso was always navigated without pilots before the causeway was built and Point Tupper was a convenient boarding area for ships bound to or from Arichat and St. Peters or through St. Peters Canal. Since the Canso causeway was completed in 1957, Masters unfamiliar with its canal and locks have sought the services of a pilot. As a result, the District pilots engage in such piloting, which frequently extends to about 4 miles northeast of the causeway to the area off North Canso Light and vice versa. The Pilotage Authority is aware of the fact and the pilots are authorized to do so by the Supervisor of Pilots in Sydney. When they pilot outside the District they are no longer considered licensed pilots nor are they governed by the District By-law. They fix their own price for their services and the income so earned does not form part of the District Pilotage Fund but belongs to each pilot personally.

The pilots have not requested the extension of the District limits north of the causeway and in their brief they made no mention of their activities outside the District. Apparently they are satisfied with the present arrangements.

Consideration was given in Ottawa to extending the District from Point Tupper to include the causeway and at the time of the Commission's hearings in Sydney the Superintendent had submitted to Ottawa three alternative solutions which in brief are:

- (a) Extend the Bras d'Or District northwest to include the causeway locks and its approaches and southeast to Mulgrave. Since only a few of the many ships transiting the causeway canal employ a pilot, it was considered that the pilotage demand could readily be handled by the three District pilots.
- (b) Establish a new District for the Strait of Canso area including Mulgrave and the southwest part of the present Bras d'Or District. This proposal would have local support, but it was pointed out that the then pilotage traffic did not warrant it and could not be self-supporting unless a high tariff was fixed or compulsory payment established. Although approximately 2,000 vessels transit the causeway canal annually, the majority are small craft not requiring a pilot. While the ships that transited the canal in 1962 represented over one million NRT, the Bras d'Or pilots piloted only 27. In 1963, they piloted 20 ships and the local pilot 14.
- (c) Continue the present arrangements by permitting the Bras d'Or pilots to perform services outside the District limits in competition with local pilots. This solution was favoured by the Superintendent because it has worked well, but he cautioned that, if traffic increases, the situation would have to be reviewed.

Solution (c) has been adopted to date. The Department of Transport has hesitated to establish the compulsory payment of pilotage dues in the Strait of Canso since there has never been such a requirement in the past.

For a number of years the Point Tupper/Port Hawkesbury area has ceased to be merely a boarding point and has become the busiest section of the southern part of the District, with considerable effect on the pattern and nature of the pilotage service. Most of the District pilotage traffic in that area is bound to or from points where industries have been established since the war. (Vide analysis of the *Workload* pp. 330 and ff.) Pilotage requirements are bound to be drastically affected by the creation of the deepwater port in the Point Tupper area which will accommodate supertankers up to 312,000 D.W.T. and other large cargo ships. These developments will require a new assesment of pilotage requirements and organization.

(2) PHYSICAL FEATURES

The Bras d'Or Lakes Pilotage District is entered from the north by two channels: Little Bras d'Or (a tortuous shallow passage limited by a highway bridge with a vertical clearance of 22 feet leading to St. Andrew

Channel used by local traders and small craft) and Great Bras d'Or, 4 miles northwest, through which larger vessels proceed. The funnel shaped approach crosses the northern limits of the District, which are defined by a 5-mile line between Point Aconi and Cape Dauphin. For 3½ miles the area of approach narrows to 2 cables between Carey Point and Noir Point. The pilot embarks from a hired pilot boat about 1 mile south of the District limit between Table Head and Berry Head in the vicinity of the channel fairway buoy off Carey Beach.

The channel to Noir Point is 2 miles long and 600 feet wide with a least depth of 27 feet through which the tidal stream reaches a velocity of 4 to 6 knots and which continues for a further five miles to Seal Island Bridge. The bridge span is 500 feet (clearance 119 feet) through which a strong set prevails when the tide is running. However, passage through the channel and the span is generally timed for slack tide. The sailing directions in *St. Lawrence Pilot, 2nd Ed., 1963* (Ex. 16) warn that it is very dangerous to attempt passage without local knowledge, except under favourable circumstances of weather, wind and tide. The very small volume of traffic plying Great Bras d'Or is usually destined for Baddeck, 20 miles from the boarding area, through St. Patrick Channel to Little Narrows (30 miles), and very occasionally to Whycocomagh (38 miles).

Baddeck and Whycocomagh export pulpwood and Little Narrows, gypsum. All have berthing facilities to accommodate the vessels which call and berth and unberth under their own power. Tugboats are not available. Except under extremely adverse weather conditions, their approaches present no unusual navigational difficulties. On rare occasions a vessel may enter the Lake through the southern entrance *via* St. Peters Canal to load gypsum at Little Narrows and exit through the northern entrance.

The distance on a through course from the fairway buoy at the northern entrance to the exit at St. Peters Cannal at the southern entrance is approximately 50 miles. *En route* a Canadian National Railway swing bridge crosses Barra Strait at Grand Narrows with a span of 80 feet. The tidal current there reaches 3 knots at mid flood and mid ebb tide, but safe passage can be made during periods of slack water. The channel through St. Peters Inlet to St. Peters Canal, a distance of about 5 miles, is narrow with several curves but presents no difficulties in fine weather.

Construction of the first St. Peters Canal and lock was commenced in 1854 and completed in 1869 to provide a southerly access to Bras d'Or Lake and accommodate vessels drawing 13 feet of water. In 1881, it was deepened to 18 feet. In 1917, the lock was enlarged from 200 feet by 48 feet to 300 feet by 48 to provide passage for vessels with a normal draught of 17 feet and has remained unchanged since. The length of the canal is 2,640 feet.

At Point Tupper in the Strait of Canso vessels secure at seven dolphins positioned off the Point, three of which are actually west of the District limit. Here gypsum is loaded by escalators.

The Canso Canal, three miles west of the District limits, was built to permit the passage of shipping through the Strait of Canso after the completion of the causeway, which connects Cape Breton Island with the mainland. Construction was completed in December 1956. The canal is crossed by a railway and highway bridge with a swing span. The length of the canal is 0.78 miles from the southerly end of the south mooring berth to the northerly end of the north mooring berth which contains the tidal lock with two pairs of sector type gates. The lock is 820 feet in length and 80 feet wide and will accommodate vessels with a normal draught of 28 feet.

The season of navigation in the inland waters extends from roughly the middle of May to the end of December, depending on the severity of winter, but in the southern part of the District in the Strait of Canso area it extends throughout the year.

(3) AIDS TO NAVIGATION

A black light buoy marked "Carey Beach" showing a flashing white light and fitted with a radar reflector marks the entrance to the Great Bras d'Or channel, which is well defined by light and bell buoys, and leading lights situated at Noir Point give onward guidance. Shore based lights and light, bell and spar buoys are located at points of danger throughout the inland traffic routes and well defined leading lights and marks give guidance to Baddeck, Little Narrows and Whycocomagh. The channels leading to and from St. Peters Canal are also well defined. The District Marine Agent testified that a malfunction of a navigational aid is attended to immediately after being reported.

Aids to navigation along the southern portion of the District are reported adequate as well as those leading to and from the Canso causeway canal. There were no complaints or submissions for improvements in aids to navigation within the District.

(4) MARITIME TRAFFIC

In past and recent years, maritime traffic has ranged from fishing vessels to coastal and ocean-going freighters. Small craft, including fishing vessels, ferry boats, cruising yachts and coastal traders, ply the District inland waters but larger vessels are restricted by the dimensions of St. Peters Canal to about 10,000 gross tons and by the physical features of the ports

at which they call. Traffic is more extensive in the southern area of the District, where fishing vessels, coastal traders and medium sized ocean-going freighters appear in good numbers off Isle Madame, in Petit de Grat Inlet and the harbour of Arichat. There are also larger vessels bound through or from the Strait of Canso, some transiting the Canso Causeway Canal, while others are bound to or from Point Tupper, Port Hawkesbury, or other ports in the area. In the course of the next few years, the traffic pattern will change as the Point Tupper industrial development progresses and its superport is constructed. Then safe navigation will, no doubt, become a matter of pilotage concern.

The pilots stated in their brief:

"Major industries within the Pilotage District of Bras d'Or Lakes are the shipping of gypsum from Little Narrows and Point Tupper, pulpwood from Baddeck, Point Tupper and other sections of the Lakes, processed fish from West Arichat and, in addition, British American Oil Company have storage tanks at Point Tupper which their tankers service."

The following shipping statistical tables provided by the Dominion Bureau of Statistics (Ex. 1483) show the total number of vessels of 250 net tons and over that arrived at the ports or places named, including their aggregate net tonnage and the amount of foreign and coastwise cargo handled for each of the years indicated.

BRAS D'OR LAKE

BADDECK

| Year | No. of Ships | Net Tons | Cargo Handled (Tons) | |
|-----------|-----------------|----------|----------------------|-----------|
| | | | Foreign | Coastwise |
| 1965..... | 21 | 50,640 | 61,161 | 30,320 |
| 1966..... | 19 | 43,123 | 40,698 | 32,482 |
| 1967..... | 13 | 17,717 | 22,260 | 3,314 |

The average size of vessels in 1967 was 1363 net tons.

LITTLE NARROWS

| | | | | |
|-----------|----|---------|---------|---------|
| 1965..... | 46 | 162,804 | 184,309 | 225,995 |
| 1966..... | 37 | 123,042 | 119,830 | 195,655 |
| 1967..... | 36 | 141,266 | 136,772 | 202,195 |

The average size of vessels in 1967 was 3924 net tons.

Study of Bras d'Or Lakes Pilotage District

VESSEL TRANSITS, ST. PETERS CANAL

| Year | UP | | Total |
|-----------|---------------------|-------------------|-------|
| | From St. Peters Bay | To St. Peters Bay | |
| 1958..... | 198 | 199 | 397 |
| 1959..... | 198 | 184 | 382 |
| 1960..... | 275 | 280 | 555 |
| 1961..... | 273 | 274 | 547 |
| 1962..... | 238 | 217 | 455 |
| 1963..... | 185 | 168 | 353 |
| 1964..... | 188 | 198 | 386 |
| 1965..... | 163 | 166 | 329 |
| 1966..... | 153 | 150 | 303 |
| 1967..... | 135 | 115 | 250 |

NOTE: In 1966 the total net tonnage of vessels upbound was 5,755 tons; an average of 38 net tons per vessel. In the same year the total net tonnage of vessels downbound was 3,352 tons, giving an average of 22.4 tons per vessel, thus indicating that the vast majority of vessels transiting the Canal are small craft.

PORT HAWKESBURY (INCLUDING POINT TUPPER)

| Year | No. of Ships | Net Tons | Cargo Handled (Tons) | |
|-----------|--------------|----------|----------------------|-----------|
| | | | Foreign | Coastwise |
| 1965..... | 111 | 422,066 | 708,508 | 45,165 |
| 1966..... | 119 | 397,932 | 754,457 | 47,268 |
| 1967..... | 85 | 350,789 | 575,595 | 62,722 |

Average size of vessels in 1967 was 4127 net tons.

ARICHAT

No vessels of 250 net tons or over are recorded calling at this port.

VESSEL TRANSITS, CANSO CAUSEWAY CANAL

| Year | UP (N.W.) | DOWN (S.E.) | Total |
|-----------|-----------|-------------|-------|
| 1958..... | 616 | 626 | 1,242 |
| 1959..... | 625 | 621 | 1,246 |
| 1960..... | 609 | 619 | 1,228 |
| 1961..... | 589 | 591 | 1,180 |
| 1962..... | 574 | 565 | 1,139 |
| 1963..... | 518 | 562 | 1,080 |
| 1964..... | 672 | 695 | 1,367 |
| 1965..... | 629 | 829 | 1,458 |
| 1966..... | 639 | 703 | 1,342 |
| 1967..... | 557 | 614 | 1,171 |

NOTE: In 1966, the total net tonnage of vessels upbound was 485,143 tons; an average of 759.2 tons per vessel. In the same year the total net tonnage of vessels downbound was 588,582 tons; an average of 837.2 tons per vessel, indicating that the majority of vessels transiting the Canal were coastal traders and ocean-going vessels of medium size.

2. NATURE OF PILOTAGE SERVICE

To assess the nature and importance of the pilotage service, it is necessary to distinguish between the District proper, i.e., the inland waters and their two access channels, and the southern coastal area and the Strait of Canso.

Navigation in the inland waters is restricted by certain physical features, such as narrow channels at certain places, the available depth of water, the restricted size of St. Peters Canal which limits vessels to 17 feet of draught, and the swing bridge at Grand Narrows with its span 80 feet wide. No pilotage traffic uses the Little Bras d'Or access channel. Although tides and currents do not cause difficult problems, local knowledge is necessary to effect speedy and safe voyages through these confined waters especially since the size of most vessels that employ pilots has reached the maximum permissible limit.

On other hand, the great majority of the vessels plying these waters are regular traders servicing the few local industries situated in this area. The limitation of St. Peters Canal prevents present day larger vessels using the inland waterway for mere transit purposes as was done during the war. Traffic in Bras d'Or Lake is negligible. In 1967, only four pilotage charges were made for either the canal or the bridge transit, which could mean that only two ships employing a pilot transited the area that year. The aggregate number of such charges for the years 1964, 1965 and 1966 was 6, 5 and 3 respectively. Almost all vessels using the services of pilots that ply the inland waters proceed in and out through the Great Bras d'Or channel and do not enter Bras d'Or Lake.

In the south coastal part of the District, pilotage traffic is light and consists of a few small vessels calling at St. Peters and an occasional one using St. Peters Canal.

The construction of the Canso causeway and recent industrial developments in the Port Hawkesbury and Point Tupper area have created a pilotage demand for which the organization of the Pilotage District and its services were never intended, i.e., piloting vessels through and beyond the Canso causeway lock and port pilotage at Port Hawkesbury and Point Tupper. At neither of these places is detailed local knowledge a prerequisite. Navigational conditions involve no special difficulties beyond the competence of a ship's Master. The main qualification is ship handling during near approach, berthing and unberthing.

In the near future, qualified and well-trained "Docking Masters" will no doubt be required to handle the huge supertankers and other large vessels that will use the Point Tupper deepwater port now under construction, provided the Masters of these vessels do not undertake to do so themselves. This type of professional work is beyond the scope of the pilotage service for which the District was organized and is not within the present competency of its pilots.

Despite the text of the By-law provision dealing with the withdrawal of the relative exemptions granted by subsec. 346(e) C.S.A. (p. 309), the practice followed is to apply the compulsory payment of dues as if the relative exemptions of subsec. 346(e) had been withdrawn *in toto* for vessels over 1,000 tons and in part for those under this tonnage (Ex. 1308). However, a surprisingly large number of non-exempt vessels dispense with pilots as shown by the following table.

| Year | Trips | | Movages | |
|-----------|-------|------------|---------|---------|
| 1961..... | 35 | \$1,400.00 | 6 | \$80.04 |
| 1962..... | 39 | 1,560.00 | — | — |
| 1963..... | 58 | 2,006.72 | 4 | 52.00 |
| 1964..... | 48 | 1,866.68 | — | — |
| 1965..... | 31 | 1,318.34 | 1 | 13.00 |
| 1966..... | 72 | 3,035.00 | — | — |
| 1967..... | 47 | 2,150.06 | — | — |

SOURCE: Ex. 1308.

At the time of the Commission's hearing in 1963, the pilots anticipated an increase in pilotage traffic in the Strait of Canso but not in the inland waters where trade is directly dependent on local industry. For instance, they pointed out that in the early 1960's there had been a decline in pilotage in that part of the District, owing in part to the Mersey Paper Company ceasing to employ pilots for their ships carrying pulp wood.

Larger ships that pass through the Canso Canal for the first time may use a pilot to save time. However, most vessels, and some over 12,000 tons, that regularly transit the canal do not employ pilots.

3. ORGANIZATION

The Minister of Transport has been the Pilotage Authority of the District since the amalgamation of the two former Districts of Bras d'Or and Richmond County, despite the fact that the emergency situation which warranted a direct control of pilotage by the Minister of Transport ceased at the end of the war. Consideration, however, was given to re-establishing a local commission but the pilots preferred to retain their existing organization because, among other things, they feared that their security of tenure might be jeopardized under a local commission whose members were political appointees. Another obvious reason was the indirect financial assistance derived from the Department of Transport providing administrative services free of charge through its local representative at Sydney.

The function of Superintendent of the District is discharged by the Sydney District Supervisor but otherwise the two Districts are administered separately. In fact, what was achieved is a federation type District, i.e., Districts are united for administrative purposes but the services remain separate.

4. PILOTS

At the time of the Commission's hearing in 1963, there were only three pilots and only two were fully active. On account of ill health the third, Pilot W. C. Forgeron, accepted assignments only in the vicinity of his residence at Arichat, except in an emergency. He retired August 31, 1964. The two remaining pilots, Daniel J. Campbell and Laurier Walter Kaiser, were aged 52 and 56 respectively on May 1, 1968.

The main requirement to become a pilot is a good knowledge of the whole District; a marine certificate of competency is not required. There is no apprenticeship but to ensure local knowledge and experience the By-law now requires that a candidate must have served in the District regularly as Master or deck officer for two of the five years immediately preceding the date of his examination. The type of vessel in which such service is to be performed is not defined (vide p. 310). Pilot Forgeron had a Master's Home Trade certificate and Pilot Kaiser is the holder of a Master's tugboat certificate. Pilot Campbell, the last to be licensed (Feb. 13, 1958) possesses no marine certificate of competency. He required three years intermittent experience to become sufficiently familiar with the District waters to become a pilot.

The pilots are not permitted to engage in any other occupation. They consider this a wise rule because effective pilotage services could not be provided otherwise. They must always be available and the extent of their District often requires them to travel extensively to reach their assignments on time. However, they have been allowed to pilot outside the District in the Strait of Canso.

In 1963, Pilot Campbell expressed the opinion that three pilots were sufficient to handle the then existing traffic, but he warned that, if their number were reduced, vessels might be seriously delayed. He added that three pilots would not suffice to handle the traffic if the Strait of Canso were included in the District and the payment of dues made compulsory. In 1965 and 1966, only two pilots attended efficiently to a slightly larger number of assignments, not counting their pilotage in the Strait of Canso, but in 1967, pilotage traffic was considerably reduced. (For *Workload* statistics, vide pp. 330 and ff.)

The By-law does not provide for leave of any sort.

There have been no disciplinary problems in the District. Shipping casualties have been all of a minor nature. From 1958 to 1967 there were nine, six while under way and three while berthing. In only one case was the cause attributed to the pilot's fault for giving the wrong engine order. These casualties are summarized as follows:

SUMMARY OF SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS
INVOLVING PILOTS OF THE BRAS D'OR LAKES PILOTAGE DISTRICT
DURING THE TEN-YEAR PERIOD 1958-1967

A. EVENTS HAPPENING WHILE NAVIGATING:

I. Major Casualties (with or without loss of life)—Nil.

II. Minor Casualties (without loss of life):

a. Minor strandings:

1. October 30, 1959—*Liverpool Rover* struck submerged object; cause: unknown.
2. November 21, 1959—*Saint Adresse* grounded; cause: unknown.
3. June 20, 1962—*Federal Pioneer* grounded; cause: ship not answering wheel.
4. September 23, 1962—*Nieuwe Tonge* grounded; cause: unknown.
5. June 23, 1963—*Miquelon* grounded; cause: marker out of place.

III. Accidents (other than shipping casualties)—Nil.

IV. Incidents (without any damage whatsoever):

a. Touching bottom in channel:

1. October 3, 1963—*Baltic Sea* grounded; cause: navigation.

b. Others—Nil.

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

I. Major Casualties (with or without loss of life)—Nil.

II. Minor Casualties (without loss of life):

a. Minor strandings:

1. April 13, 1962—*Nordfarer* grounded while berthing; cause: wind.

b. Minor damage to ship:

1. September 30, 1965—*Birnack* struck quay at Baddeck; cause: wrong engine movement; no action taken against pilot.

III. Accidents (without damage to ships)—Nil.

IV. Incidents (without any damage whatsoever):

1. June 23, 1965—*Lozan* struck quay, exact location not reported; cause: fender missing; no damage.

SOURCES OF REFERENCE: Exhibits 393, 394, 1451 and 1453.

5. PILOTAGE OPERATIONS

(1) BOARDING STATIONS

There are no boarding stations officially established in the regulations.

At the northern entrance to the District the pilots board and disembark off Table Head or Point Aconi depending on prevailing conditions.

In the south western coastal part of the District, a vessel may enter District waters at any point along the coast. There are a number of customary small boarding areas which are used depending upon the destination or other circumstances of each case. The normal boarding or disembarking area for a ship bound through or from the Strait of Canso or to Point Tupper is off Bear Head on the right of the entrance to the strait. The normal alternate boarding station in that area is off Cape Argos situated on the left of the approaches to the Strait of Canso. However, when Masters are not familiar with the southern approaches to the Strait the pilots are often requested to embark in Guysborough Harbour in Chedabucto Bay. The normal boarding point within the Strait is at the northwestern extremity of the District at Point Tupper but when pilots do pilotage outside the limits through the Canso Canal they board or disembark off North Canso Light.

For ships proceeding through St. Peters Canal the boarding area is in St. Peters Bay and for ships proceeding to or from Arichat the boarding area is at the immediate approach to the port.

(2) PILOT STATIONS

There is no pilot station as such and the pilots are usually reached by telephone at their residence. The two remaining pilots in the District reside at Big Bras d'Or, situated near the northern boarding area. Former Pilot W. C. Forgeron resided at West Arichat and attended to local pilotage assignments from there during his last years of service.

(3) PILOT VESSEL SERVICE

Since there was no pilot boat charge prior to 1963 and the only reimbursement of the cost of this service was a small subsidy, a deficit had to be expected, but after a \$20 boat charge was set the situation should have been the opposite. Surprisingly enough, the deficit only grew larger. Investigation has established that this deficit was the result of an erroneous practice that developed to deal with the pilots' expenses and revenues for pilotage outside the District. The situation was corrected during 1967. The result is that the financial reports have given a false impression, including the amount of pilots' remuneration.

The following table shows pilotage service expenditures and revenue for the years 1958/59 to 1967.

PILOT VESSEL SERVICE IN THE PILOTAGE DISTRICT OF BRAS D'OR LAKES, N.S.

| Year | EXPENDITURES | | | | REVENUES | | | |
|---------|--------------|------------------|-----------|------------|---------------------|------------------------|------------------|---------|
| | Table Head | | | | Total | Subsidies | Boat Fees Earned | Deficit |
| | Boatman | Fuel and Repairs | Boat Hire | | | | | |
| 1958/59 | \$1,725.00 | \$898.17 | \$ 10.00 | \$2,633.17 | \$500.00 | — | \$2,133.17 | |
| 1959/60 | 1,050.00 | 296.25 | 55.00 | 1,401.25 | 500.00 | — | 901.25 | |
| 1960 | 1,050.00 | 251.16 | 120.00 | 1,421.16 | 500.00 | — | 921.16 | |
| 1961 | 1,075.00 | 233.50 | 250.00 | 1,558.50 | 750.00 | — | 808.50 | |
| 1962 | 1,150.00 | 130.20 | 690.00 | 1,970.20 | 750.00 | — | 1,220.20 | |
| 1963 | 950.00 | 174.48 | 2,315.00 | 3,439.48 | 750.00 | \$ 800.00 ^a | 1,889.48 | |
| 1964 | — | — | 6,380.00 | 6,380.00 | 625.00 ^b | 5,580.00 | 175.00 | |
| 1965 | — | — | 8,665.00 | 8,665.00 | — | 6,680.00 | 1,985.00 | |
| 1966 | — | — | 9,350.00 | 9,350.00 | — | 5,300.00 | 4,050.00 | |
| 1967 | — | — | 4,500.00 | 4,500.00 | — | 4,100.00 | 400.00 | |

SOURCE OF INFORMATION: Exhibit 393.

^aThe pilot boat charge was introduced effective October 24, 1963.

^bThe subsidies were discontinued effective March 5, 1964.

At the time of the Commission's hearing, except for the northern entrance to the District, the pilots hired boats on a trip basis in the locality where they embarked or disembarked at whatever price they could negotiate with the various boat owners. The Superintendent assisted them as much as possible in these negotiations. In 1963, the current prices for boat hire at the various boarding areas inside and outside the District were as follows:

- (a) St. Peters Bay \$10.00
- (b) Arichat 10.00
- (c) Cape Argos 25.00
- (d) Point Tupper 20.00
- (e) Port Hawkesbury 10.00
- (f) North Canso 25.00 plus lock fees.

The Port Hawkesbury pilot vessel is used to embark and disembark pilots for vessels bound either north or south through the Canso Canal. Therefore, in both cases the pilot vessel also transits the Canal.

At the northern entrance to the District, which originally was the busiest boarding station, the pilots used Pilotage Fund money to maintain a pilot vessel service through a special arrangement with a boat owner in Table Head. The owner supplied the boat and operated it for a salary of \$150 per month during the shipping season. In busy years, they also paid him a bonus. The boatman was considered an employee of the pilots and they paid Unemployment Insurance on his behalf. In addition, the pilots paid for boat supplies and repairs. The boatman was allowed to use the boat for fishing when not required by the pilots. In the busy year of 1958/59, the boatman's remuneration and bonus amounted to \$1,725.00 and the cost of supplies and repairs to \$898.17.

From 1961 to 1964, the pilots received a direct subsidy from the Crown toward maintaining and operating their pilot vessel service at the northern entrance to the District. In 1963, this subsidy was \$750.

In their brief the pilots suggested that the subsidy could be discontinued if a pilot boat charge of \$20 at Tupper Point and \$10 elsewhere were instituted. Their suggestion was acted upon. On October 24, 1963, the tariff was amended to add a boat charge at a uniform rate of \$20 throughout the District and the subsidy was discontinued shortly afterwards (vide p. 313). This was, in effect, a marked increase in pilotage dues which should not only have made up for the subsidy and covered the annual deficit but should also have resulted in a substantial increase in the pilots' remuneration. For instance, if such a boat charge had been in effect in 1962, the \$1,220.20 deficit for the pilot boat service would have been converted into a \$2,729.80 surplus. Instead, as the financial statement shows, the deficit not only remained but increased to a peak of \$4,050 in 1966.

The two reasons for this apparently distressing state of affairs came to light after investigation with the Department of Transport:

- (a) an upward revision of most charges for boat hire;
- (b) inconsistency in the bookkeeping procedure to account for expenses and revenues connected with services rendered by pilots outside the District limits at Port Hawkesbury and in the Canso Canal.

Following the establishment of the \$20 boat charge, the pilots discontinued their arrangement with the boatman at Table Head and hired a boat on a per trip basis at an agreed price that equalled the established boat charge. At the same time, the \$10 boat fee was raised to \$20. (Re the difference between pilot boat charge and cost of hire, vide Part I, p. 183.)

With such arrangements there should have been no deficit shown for this item, except for the hire of a pilot boat to serve vessels off Cape Argos—a rare requirement, e.g., none in 1967.

However, the reason for the continuing deficit was clear when it became known that all boat hire charges for both within and outside the District were paid by the Superintendent out of the Pilotage Fund, while only the pilot boat charges earned within the District (which had become a pilotage due in accordance with the tariff) were paid into the Fund. The pilots' earnings for piloting outside the District did not form part of the pool, but were collected and retained by the pilots themselves. In this respect, the pilots set their own rates, which were competitive with local pilots, but which should also have included the expenses they incurred providing their services. In the end result, the procedure followed did not alter the pilots' aggregate revenue because the money in the Fund belonged to them. However, the practice distorted the District's annual financial reports by showing the pilots' "take home pay" as less than it actually was. This situation came to light in 1967 when the Department of Transport instructed their local representative—the Superintendent—to cease the practice. Since then the pilots have paid the expenses they incur for services they render outside the District (Ex. 1536(d)).

(4) DESPATCHING

There is no despatching as such. Whenever a pilot is needed the request is directed to the residence of either of the two pilots at Big Bras d'Or and they arrange the division of work between themselves. Requests for pilotage come from several sources. Generally, agents contact the pilots directly but information is conveyed by the Sydney pilots when ships leave the Sydney District bound for the Bras d'Or area and, at times, requests are received by the Superintendent of Pilots in Sydney who passes them on to the pilots.

SHIPS USING THE PILOTAGE DISTRICT OF BRAS D'OR LAKES WITH AND WITHOUT A PILOT

| Year | Number of Ships Paying Pilotage Dues ^a | | | | | | Average Workload per Pilot on Establishment ^d |
|--------------|---|-------|---------|------------------------------------|-------|--|--|
| | Number of Pilots on Establishment | Trips | Movages | Bridging and Canaling ^b | Total | Number of Times Pilots Not Employed ^c | |
| 1955/56..... | 2 | 192 | 19 | — | 211 | Not Available | 105. |
| 1956/57..... | 2 | 174 | 7 | — | 181 | Not Available | 90.5 |
| 1957/58..... | 2.9 ^e | 240 | 13 | — | 253 | Not Available | 87.7 |
| 1958/59..... | 3 | 302 | 34 | — | 336 | Not Available | 112. |
| 1959/60..... | 3 | 234 | 7 | — | 241 | Not Available | 80.3 |
| 1960..... | 3 | 224 | 7 | 26 | 257 | Not Available | 82.3 |
| 1961..... | 3 | 224 | 7 | 27 | 258 | 41 | 72.3 |
| 1962..... | 3 | 230 | 12 | 2 | 244 | 39 | 68.3 |
| 1963..... | 3 | 338 | 14 | 11 | 363 | 62 | 100.3 |
| 1964..... | 2.6 | 346 | 18 | 6 | 370 | 48 | 123.9 |
| 1965..... | 2 | 400 | 20 | 5 | 425 | 32 | 196.5 |
| 1966..... | 2 | 354 | 15 | 3 | 372 | 72 | 150. |
| 1967..... | 2 | 262 | 6 | 4 | 272 | 47 | 112.5 |

^aNot including pilotage performed outside the District north of Point Tupper.

^bInstances of transiting the Grand Narrows bridge and St. Peters Canal were not segregated prior to 1960.

^cInformation not available prior to 1961.

^dPilot Forgeron counted as being fully employed until September, 1964.

^eFrom 1957/58 to 1964, although Pilot Forgeron was on strength he did not share equally in the workload, due to ill health.

Study of Bras d'Or Lakes Pilotage District

Ships requiring a pilot for the Canso Canal are advised by Notices to Mariners to make their request through the Canal Lock Master by radio-telephone eight or nine hours before arrival. The Lock Master's instructions are to call a Bras d'Or Lakes pilot but this is not always done because there is local pressure to employ the local pilot. Since this area, as well as Port Hawkesbury, is outside the District, the Bras d'Or pilots have no prior rights over any person qualified or otherwise who offers his services.

No doubt, in order to reduce travelling, most assignments are on a round trip basis and the pilot inbound normally remains at the port of destination to pilot the ship out.

(5) WORKLOAD

On the evidence received, the Commission is not in a position to establish accurately the workload of each pilot in any given year, but it is sufficient to arrive at a reasonable approximation. The self-explanatory table (on p. 329) shows the aggregate workload per year from 1955/56 to 1967 and the yearly average per establishment pilot.

1965 was one of the busiest years but pilotage traffic decreased considerably in 1967.

The inland navigation season lasts only eight months, while on the coast and in Canso Strait navigation is year round. However, during the eight-month navigation season pilotage demands are fairly well distributed from month to month without appreciable peaks or lows or any recurrent pattern. From 1962 to 1967, the total workload in the busiest month and the least busy month of each year and of the busiest pilot during those months was as follows:

ASSIGNMENTS DURING BUSIEST AND LEAST BUSY MONTHS AND BY BUSIEST PILOT IN THE PILOTAGE DISTRICT OF BRAS D'OR LAKES, N.S. DURING THE YEARS 1962-1967 INCLUSIVE

BUSIEST MONTH

| Year | Month | Busiest Pilot | Total | Average per Establishment Pilot |
|-----------|-------|---------------|-------|---------------------------------|
| 1962..... | July | 15 | 31 | 10.3 |
| 1963..... | May | 17 | 42 | 14.0 |
| 1964..... | March | 21 | 45 | 15.0 |
| 1965..... | July | 29 | 56 | 28.0 |
| 1966..... | July | 24 | 57 | 28.5 |
| 1967..... | July | 20 | 35 | 17.5 |

LEAST BUSY MONTH

| Year | From May to December, inclusive | | | | During Entire Year | | | |
|------|---------------------------------|---------------|-------|---------------------------------|--------------------|---------------|-------|---------------------------------|
| | Month | Busiest Pilot | Total | Average per Establishment Pilot | Month | Busiest Pilot | Total | Average per Establishment Pilot |
| 1962 | May | 8 | 13 | 04.3 | February | 1 | 1 | 0.5 |
| 1963 | December | 6 | 11 | 03.6 | March | 2 | 5 | 01.6 |
| 1964 | December | 8 | 12 | 06.0 | February | 4 | 8 | 04.0 |
| 1965 | December | 15 | 26 | 13.0 | February | 2 | 3 | 01.5 |
| 1966 | May | 7 | 13 | 06.5 | February | 4 | 7 | 03.5 |
| 1967 | November | 10 | 18 | 09.0 | February | 1 | 1 | 0.5 |

SOURCES OF INFORMATION: Exs. 393 and 408.

The information available does not indicate how pilotage is distributed within the District. However, a sufficiently accurate picture may be obtained from the details of the workload of the busiest pilot in the busiest month of 1964 (Ex 408). He did 18 trips and one movage. The distribution of his 18 trips was as follows:

| | | |
|---|-----|---|
| (a) <i>Inland Waters:</i> | | 9 |
| (i) Through Great Bras d'Or entrance | | |
| From or to Little Narrows..... | 6 | |
| Baddeck..... | 1 | |
| Eskasoni (in Bras d'Or Lakes)..... | 2 | |
| (ii) Through St. Peters Lock..... | nil | |
| (b) <i>South Coast:</i> | | 3 |
| St. Peters-Cape Round (Madame Island)..... | 3 | |
| Arichat-sea..... | nil | |
| (c) <i>Canso Strait:</i> | | 6 |
| (i) Eddy Point (S.W. Canso Strait boarding point)—Best Wall Dock..... | 1 | |
| (ii) Bear Island (S.E. Canso Strait boarding point)—Best Wall Dock..... | 1 | |
| (iii) Best Wall Dock—Ship Point..... | 3 | |
| (iv) Point Tupper Port—Best Wall Dock..... | 1 | |

A pilotage trip from Table Head to Baddeck takes two hours plus one hour to berth, to Little Narrows three hours and one hour to berth, to Whycomagh five hours. The outward voyage usually takes a little less because unberthing takes less time than berthing. A complete crossing of the inland waters of the District from Table Head to St. Peters Bay takes about six hours.

In the Strait of Canso, from Bear Head or Eddy Point to the Best Wall Dock at Point Tupper the average time, including berthing, is two hours and a quarter and a transit of the Strait from Bear Island to North Canso Light takes about two hours.

In the case of the 19 assignments previously mentioned, the aggregate pilotage time was 62.4 hrs., plus 2.8 hrs. of detention, making a total of 65.2 hrs. on board and an average of 3.4 hrs. per assignment. The two longest assignments were from Table Head to Eskasoni, 6.6 hrs., including transiting the bridge, and 11.5 hrs. for the return trip.

Pilot Campbell stated that the longest period he had to spend on an inland waters assignment was 12 hrs. and this was due to fog. Occasionally, he was unable to disembark and was overcarried to Halifax.

Because there is no pilot resident in the vicinity of Point Tupper, the pilots have to travel long distances to or from assignments in the Strait of Canso or in the southern part of the District but from their residence at Big Bras d'Or it is only a short distance to the pilot vessel for boarding at Table Head or Point Aconi. They spent about half an hour on board the pilot vessel at Table Head and one hour at Port Aconi. Often the pilots have to wait for ships to arrive but they have found that the ETA's of regular traders in the District are quite accurate.

6. PILOTS' REMUNERATION AND TARIFF

At the time of the Commission's hearings in 1963, the pilots were satisfied with their system of remuneration but from the changes they advocated (p. 314) it appeared they were not satisfied with the net amount of their earnings. Since relative exemptions to the compulsory payment have been almost completely withdrawn (in practice if not in law), the only way to increase their earnings was to increase the pilotage rates and adopt a new tariff structure aimed at bringing in the additional revenues they recommended. As seen earlier (p. 309), the first part of their request was granted when the tariff was amended in 1963 to add a \$20 pilot boat charge. For this reason and also on account of the substantial increase in pilotage traffic between 1963 and 1966, the pilots' income has progressively recovered from the 1962 low. Another factor which helped maintain the level of their average "take home pay" was the reduction in the number of pilots from three to two when, on August 31, 1964, Pilot Forgeron retired on account of ill health.

However, the official documents do not convey a complete picture of the pilots' total pilotage earnings since the receipts from their pilotage work outside the District are not shown and are not taken into account, although the expenses then incurred were paid out of the pool. (This situation was corrected in 1967.)

The following table shows the pilots' remuneration for the period 1955/56 to 1967 according to the various meanings given to that term (for the various definitions of *pilots remuneration* see Part II, pp. 132 and ff.). For the years 1963-1967, the annual deficit incurred by the pilot vessel service (vide Table, p. 326) has been added to the shares.

| Year | Establishment of Pilots | Average "Take Home Pay" per Establishment Pilot | Share of District Pilotage Earnings per Establishment Pilot |
|--------------|-------------------------|---|---|
| 1955/56..... | 2 | \$6,900.00 | — |
| 1956/57..... | 2 | 6,145.00 | — |
| 1957/58..... | 2.9 | 5,638.14 | — |
| 1958/59..... | 3 | 6,995.05 | \$8,036.00 |
| 1959/60..... | 3 | 5,091.67 | 5,631.00 |
| 1960..... | 3 | 4,950.00 | 5,451.23 |
| 1961..... | 3 | 4,663.83 | 5,158.68 |
| 1962..... | 3 | 3,715.38 | 4,505.33 |
| 1963..... | 3 | 5,496.20 | 6,164.57 |
| 1964..... | 2.6 | 5,965.87 | 9,223.34 |
| 1965..... | 2 | 9,217.50 | 13,164.17 |
| 1966..... | 2 | 8,795.00 | 11,610.00 |
| 1967..... | 2 | 7,075.00 | 9,126.50 |

SOURCE OF INFORMATION: Exhibit 393 (calculated on earned basis and including pilot boat fees).

Contrary to similar analyses in other Districts, the pilot boat fees are entered in the pool because the pilot vessel service cost is a charge against the District and, as seen earlier, has always resulted in a deficit which is reflected in the pilots' net revenue.

The item "take home pay" is not a net earning as in the case of the pilots in most Districts. Despite the fact that subsec. 8(2)(b) of the By-law provides the pilots the right to be reimbursed their expenses incurred in the course of their duties, the practice is for the pilots to ask only for the cost of boat hire and to pay their own travelling expenses. The result is that reported administrative costs are reduced and these expenses are not shared equally, as would be the case if the By-law were followed. Because neither of the two pilots resides in the Point Tupper area (both live at Big Bras d'Or) comparatively large travelling expenses ensue. They amounted to an average of \$584.33 per pilot in 1962, which was the least busy year in the last decade, and must have reached double that amount in the peak year of 1965. If one of the pilots had been stationed in the Strait of Canso area, a great saving would have resulted and, furthermore, the District would have been divided realistically into two separate pilotage zones.

The erratic pattern of the pilots' "take home pay" is due mainly to the fact that pilotage in the inland part of the District is directly dependent upon local industries.

The tariff comprises five items of pilotage dues:

- (a) the voyage (or trip) charge;
- (b) an extra charge for transiting the bridge at the Grand Narrows or transiting St. Peters Canal;
- (c) movage;
- (d) cancellation;
- (e) pilot boat charge.

The voyage charge (except for the special \$5 charge added to the voyage charge when it includes transiting the railway bridge at the Second Narrows and/or transiting St. Peters Canal) is based solely on distance. It provides for a flat rate per zone, irrespective of a ship's size or draught. The District is divided in four zones for this purpose, three within the inland waters and one for the southwest coastal waters:

- (a) the first zone from the northern entrance of the District to Grand Narrows and Little Narrows and, therefore, includes the Great Bras d'Or, St. Andrew Channel and part of St. Patrick Channel east of McIvors Point/Cow Point;
- (b) St. Patrick Channel west of McIvors Point/Cow Point;
- (c) Bras d'Or Lake;
- (d) the southwest coastal waters of the District, i.e., from Red Point to Point Tupper.

The voyage charge in all zones is fixed at a flat rate of \$40, except for the southern coastal zone, i.e., from Point Tupper to the entrance to St. Peters Canal or vice versa, or between any intermediate points, where the flat rate has been \$45 since 1965. Therefore, a vessel transiting the District from the northern entrance and exiting from St. Peters pays three zone charges plus two extra charges of \$5 each for what is termed bridging and canaling, making a total charge of \$130. However, if the same vessel proceeds from St. Peters to Point Tupper, there is an additional charge of \$45, making a total of \$175. A pilotage trip from the northern entrance to Little Narrows or Whycomomagh calls for a charge of \$80.

A movage calls for a flat charge of \$13. In the regulations, the term voyage is defined for tariff purposes as moving a vessel within a harbour. Otherwise, the governing definition would have been that of subsec. 357(1) C.S.A., which would have made any movement completed within a District a movage, which is unrealistic except in a port type District (vide Part I, p. 220).

A cancellation calls for a \$5 charge. There is no charge for detention. The pilot boat charge has already been dealt with, pp. 326 and ff.

The tariff does not apply to services rendered outside the District at Port Hawkesbury or for transiting the Canso Canal. For such services the pilots make their own arrangements with the Master of the ship or his agent. In 1963, the normal charge for pilotage service for the Canso Canal was \$40, i.e., if the pilot disembarked or embarked at the lock. But if he embarked or disembarked north of the Canal off North Canso Light, the charge was \$75, which included the \$25 lock fee for the pilot boat.

In 1948, the rates were increased by 30 per cent, i.e., from \$30 per zone to \$39. In 1960, they were raised to \$40 and the cancellation charge was added. The next increase occurred in 1963 by the addition of the boat charge which, at \$20 each time a pilot vessel is used, amounts to a substantial increase.

In their brief in 1963, the pilots recommended that the basic structure of the rates be completely changed in order that they be "in line with time and service given by pilots". They recommended that:

- (a) The flat rate system be abandoned and the rate per zone increased with the size of the ship, \$40 being a minimum charge, plus one dollar for every 100 NRT over 3,000.
- (b) The movage charge be \$15 for vessels up to 3,000 NRT and \$25 above that tonnage.
- (c) A boat charge be instituted in the amount of \$20 at Point Tupper and \$10 elsewhere.
- (d) The cancellation charge be increased to \$7.50.
- (e) A detention charge be instituted at \$2.50 per hour after the first hour.

As seen earlier, these recommendations were met to a certain extent. Granting a uniform \$20 boat charge instead of the \$10 charge recommended elsewhere than at Point Tupper appears to have been intended to give the pilots the overall increase in earnings they sought.

The trend to larger but fewer ships has also been felt in the inland waters of the District and has worked to the disadvantage of the pilots on account of the flat rate system. Increasing the flat rate would not be the correct solution because this would make the rate inequitable for the smaller vessels still plying the District. It is considered that once again the only adequate solution is a rate based on size, i.e., a rate per ton of maximum gross tonnage.

In view of the small number of places of destination within the inland waters of the District, the zone system may be retained on account of its simplicity. However, if the number of ports of call increases, the rate should be based on mileage rather than zone, as recommended in the British Columbia District, through a mile/ton price unit (Part II, p. 212).

Pooling

The pooling procedure is the same as existed in the Sydney District. District and service operating expenses are paid out of the pool as they are incurred. At the end of each month the net balance, less a certain reserve, is shared among the pilots equally on the basis of availability. The small reserve varies from month to month even at the end of the year when it is carried over to the next year undistributed. The amount is relatively small and there appears to be no set rule except the convenience of sharing, e.g., each pilot's share in 1965 was \$8,225, leaving \$258.89 undistributed. The amount carried over from 1964 was \$107.29.

Contrary to the situation in Sydney, a reserve is necessary here because substantial expenditures, i.e., the bills for boat hire, have to be paid from the pool as they are incurred.

The By-law does not provide for leave of absence of any sort (not even sick leave) and it would appear that, except in an extreme case such as pilot Forgeron's, sharing is on an equal basis with no record kept of availability. No doubt the pilots make private arrangements for absence from duty, including illness, without affecting pooling. In the case of Pilot Forgeron, however, the situation was different because his health from 1957/58 until his retirement in 1964 did not allow him to accept pilotage assignments except in the immediate vicinity of his home in West Arichat, thus restricting his work to the southwestern part of the District. By special arrangement with the pilots he was paid only for the assignments he performed. From 1959/60 the other two pilots always received exactly equal shares.

The money earned by the pilots for their work outside the District in the Canso area is not entered officially into the pool but it appears that the same kind of sharing exists between them as are the pilotage assignments they perform in the area.

7. FINANCIAL ADMINISTRATION

The Pilotage Fund is the only one and is operated in the same way as for the Sydney District. The annual reports follow the same format.

The Superintendent of the Sydney District is responsible for billing and collecting pilotage accounts incurred in the Bras d'Or Lakes District. The pilots themselves collect their remuneration for services rendered outside the District but experience difficulty at times and would prefer to have these earnings collected by the Supervisor. However, unless the places where such services are rendered (Port Hawkesbury and the Canso Canal) are included in the District, these earnings can not be made payable by regulation to the Pilotage Authority (sec. 343 and subsec. 329(h) C.S.A.) nor would the power to have a ship's clearance withheld apply (sec. 344 C.S.A.) (vide Part I, p. 488).

**COMPARATIVE ANALYSIS OF ANNUAL FINANCIAL STATEMENTS
PILOTAGE DISTRICT OF BRAS D'OR LAKES, N.S.**

| | 1958/59 | | 1966 | | 1967 | |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|
| EARNINGS | | | | | | |
| Undistributed balance from previous year | | nil | | \$ 258.89 | | \$ 250.29 |
| Dues collected | | | | | | |
| Pilotage | | | | | | |
| —previous year | \$ 286.00 | | \$ 5,100.00 | | \$ 713.00 | |
| —current year | 23,608.00 | 23,894.00 | 17,117.00 | 22,217.00 | 13,783.00 | 14,496.00 |
| Boat charges | | | | | | |
| —previous year | n/a | | 300.00 | | 160.00 | |
| —current year | n/a | — | 813.00 | 1,113.00 | 3,980.00 | 4,140.00 |
| Subsidy | | 500.00 | | n/a | | n/a |
| | | <u>\$24,394.00</u> | | <u>\$23,588.89</u> | | <u>\$ 18,886.29</u> |
| DISBURSEMENTS | | | | | | |
| Table Head pilot vessel service | | | | | | |
| Boatman's salary | 1,725.00 | | — | | — | |
| Boatman's U.I.C. | 16.12 | | — | | — | |
| Repairs, fuel, supplies | 898.17 | 2,634.29 | — | nil | — | nil |
| Boat hire | | 10.00 | | 9,350.00 | | 4,500.00 |
| Telephone and telegraph | | 259.55 | | 259.90 | | 295.10 |
| Stationery | | nil | | 30.30 | | 12.35 |
| | | <u>2,908.84</u> | | <u>9,640.20</u> | | <u>4,807.45</u> |
| Payments on pilots' behalf | | | | | | |
| Canada Pension Plan | n/a | | 158.40 | | 158.40 | |
| Take home pay | 20,985.16 | 20,985.16 | 13,540.00 | 13,698.40 | 13,750.00 | 13,908.40 |
| Uncollectable accounts | | nil | | nil | | nil |
| Undistributed balance | | 500.00 | | 250.29 | | 170.44 |
| | | <u>\$24,394.00</u> | | <u>\$23,588.89</u> | | <u>\$ 18,886.29</u> |
| <i>Earnings during the year</i> | | | | | | |
| Pilotage | \$23,608.00 | | \$17,920.00 | | \$ 14,153.00 | |
| Boat charges | n/a | | 5,300.00 | | 4,100.00 | |
| | <u>\$23,608.00</u> | | <u>\$23,220.00</u> | | <u>\$18,253.00</u> | |
| <i>Earnings outstanding at the end of the year</i> | | | | | | |
| Pilotage | nil | | \$ 803.00 | | \$ 460.00 | |
| Boat charges | n/a | | 200.00 | | 160.00 | |
| | — | | <u>\$ 1,003.00</u> | | <u>\$ 620.00</u> | |

Since accounting, the financial statement, and sharing the pool are all based on cash on hand, neither accounts receivable nor accounts payable appear, except for information.

Entries under receipts are limited to pilotage dues. The result is that the annual report merely reflects transactions affecting the pool and not the whole Pilotage Fund.

The items of expenditure are:

- (a) The cost of pilot vessel service. This item now consists only of the aggregate bills received for boat hire (as seen earlier, those for outside services were irregularly paid from the pool up to 1967). Up to 1963 they also included the cost to the pilots of the pilot vessel service they maintained at Table Head, the boatman's monthly remuneration and the cost of repairs and fuel for his boat (p. 327).
- (b) Telephone and telegraph expenses incurred by the pilots. This item is quite large due to the fact that all pilotage arrangements are made by telephone or telegraph.
- (c) There is also a small amount for miscellaneous items. Up to 1963, they consisted exclusively of the Unemployment Insurance premiums paid by the pilots on behalf of their boatman who was considered their employee for that purpose. In the last three years, this item of expenditure has consisted only of the cost of stationery, which up to then presumably was supplied free of charge by the Department of Transport in the same way as they still provide postage. There are no group expenditures of any kind, no group insurance and no welfare plan. No doubt because the pilots are considered self-employed, they neither pay into, nor benefit from, Workmen's Compensation or Unemployment Insurance.

COMMENTS

The financial statement does not give an accurate picture of operations in the District or of the pilots' financial transactions for the pilotage services they provide outside the District: expenditures include the cost of pilot vessel services but receipts for pilotage services are not entered. In addition, the pilots' travelling and living out expenses incurred in the course of their pilotage duties are not shown.

It should be borne in mind that administrative expenses in connection with billing and collecting pilotage dues and operating the pool are borne by the Department of Transport through the cost of operating the Sydney Pilotage District and that the pilots pay no share of the operating expenses of their Pilotage Authority.

Subsection III

RECOMMENDATIONS AFFECTING THE
CAPE BRETON ISLAND AREA

RECOMMENDATIONS

SPECIFIC RECOMMENDATIONS AFFECTING THE CAPE BRETON ISLAND AREA

RECOMMENDATION No. 1

The Cape Breton Island Area to Constitute a Single Pilotage District of the Merger Type

The limited pilotage operations in any of the Cape Breton Island pilotage areas, including Sydney and North Sydney, do not warrant the creation of separate Districts for each or any of them observing the extensive organization and cost the operation of a District entails.

It is considered that the present and foreseeable future needs for public control over all the various pilotage services in the Cape Breton Island area can be economically and effectively met by a single Authority situated in the Sydney area administering a number of separate pilotage services in a Pilotage District of the merger type (vide p. 24), with *ad hoc* regulations for each separate service (Part I, General Recommendation 8, p. 478).

This would, in fact, only amount to giving legal status to a factual situation that has existed since 1943 through the device of appointing the Minister of Transport the sole Pilotage Authority for the various pilotage services involved and having all local administration performed by the same staff. Indirect control has been exercised over the service in the unorganized zone of Canso Strait by giving permission (which could be withdrawn) to the licensed pilots of the adjacent District of Bras d'Or Lakes to perform services, and by giving directives to have these pilots called when a pilot is required there.

The jurisdiction of the Pilotage Authority should reflect the factual situation and, therefore, should be limited to the areas where pilotage services exist and to the extent defined from time to time by Pilotage Orders. It should be modified from time to time to meet new or changing requirements by Pilotage Orders made by the proposed Central Authority, normally at the request of the Pilotage Authority.

RECOMMENDATION NO. 2

The Territory of the Present Bras d'Or Lakes District and the Strait of Canso Area to Be Divided into Three Separate Pilotage Zones, and the Present Sydney District to Form a Fourth Zone

The pilotage service in the present Sydney District is a homogeneous operation which should continue.

However, the service organization in the Bras d'Or Lakes District was an arrangement of convenience for a specific pilotage demand which no longer exists, i.e., the use of enclosed waters merely for transit purposes. The situation has changed completely since and pilotage has developed into three distinct, unconnected services:

- (a) inland pilotage from sea to one of the few ports along the shores of the inland waters;
- (b) coastal and port pilotage in the St. Peters-Arichat area;
- (c) lock, and port pilotage in Canso Canal-Point Tupper area.

At present, the only common factors are the relative ease of pilotage and the limited demand. On the other hand, the services are of a different nature and are performed in separate, unconnected geographic areas which demand extensive travelling on the part of the pilots who now cover the whole area.

This disparity will amount to total incompatibility when the Point Tupper superport becomes an operational fact. The pilotage services then needed will require qualifications and skill for which the two present pilots are neither qualified nor trained. Such services will be required in Canso Strait as far as Point Tupper for the supertankers and superships that are expected to reach the maximum draught the Strait of Canso channel south of Point Tupper can accommodate (up to 90 feet) and highly specialized knowledge and skill for their safe navigation or handling will be required. For example, the *Universe Ireland*, the first of the 312,000-ton tankers for which Point Tupper is being prepared, is 1135 feet long and 175 feet wide and draws 80 feet fully loaded.

In addition to the four zones where pilotage services are now provided, additional zones should be created where and when a need for pilotage service develops and can be provided.

The licences of pilots should be limited as to territory by being restricted to one zone, i.e., the zone for which the pilot has qualified and is maintaining his qualifications through constant experience. The qualifications required from a candidate over and above the basic requirements provided in the new Act (Part I, pp. 301 and ff.) should be dictated by the particular requirements and circumstances of each zone and should be separately defined in the District regulations.

If there is no candidate qualified to become a pilot, the Pilotage Authority should have power to issue in each zone "Pilotage Adviser Licences" to persons who possess the necessary local knowledge but lack the required certificate of competency. Such a licence could be issued for an area where a Master could navigate confidently and safely with the guidance of such an adviser. This solution should apply especially where there is also insufficient traffic to make pilotage an attractive profession, e.g., the present St. Peters-Archat coastal zone. (Vide Part I, General Recommendation 12, pp. 492 and 493.)

If Recommendation No. 1 is implemented, the Cape Breton area will become a District of the merger type under a single Pilotage Authority. While administration should be centralized, each zone should be treated for operational purposes as a separate District staffed with its own pilots and regulated by its own local legislation devised to meet its peculiarities and specific needs. (Vide Part I, General Recommendation 8, p. 478).

RECOMMENDATION NO. 3

The Pilotage Authority to Consist of One Individual

The ideal situation would be for the Authority to consist of a three-man Board representing Sydney and North Sydney, the Bras d'Or Lakes and the Point Tupper area.

However, in view of the small scale operations in each zone, it is considered that it would be advisable to form a one-man Pilotage Authority with headquarters at Sydney, acting as licensing authority for the various pilotage services in the District and also directing the service in the Sydney/North Sydney area (Part I, p. 511).

Because the Pilotage Authority's jurisdiction will extend over a number of separate pilotage services, this function should not be entrusted to any existing Port Authority. Such a solution is desirable only when the District is confined to the territory of one port and the pilotage service is merely a feature of the functioning of that port.

RECOMMENDATION NO. 4

Pilotage in Sydney to Be Classified as a Public Service

In accordance with the criteria established in General Recommendation No. 17 (Part I, p. 509), pilotage in the area of Sydney and North Sydney can not be classified as an essential public service. For the time being, it should be classified as a public service, but it should be reclassified as a private service if it becomes apparent that ocean-going traffic will not increase above the present level.

Any qualified Master with the information provided by charts and official publications can safely navigate the harbour's confined waters, and a major casualty anywhere in the harbour would not disrupt traffic for any length of time. Pilotage is mainly a service to shipping by expediting the safe movement of ships. However, Masters who call regularly at a port soon become sufficiently familiar with its navigation and peculiarities to dispense with the services of a pilot. This fact is demonstrated by the high percentage (28.4%) of non-exempt ships which dispensed with the services of pilots in 1967, although they had to pay full dues. It is reasonable to believe that still more ships would dispense with pilots if the compulsory system were abolished. This applies only to foreign-going vessels since coastal and inland vessels of dominion registry have enjoyed full exemption since December, 1966.

Sydney is the main port within a highly industrialized region of the Province of Nova Scotia and it is important in the interest of the regional and national economy to maintain its effectiveness. However, it remains to be established whether the constant availability of an adequate pilotage service is a necessary adjunct. The traffic trend should be carefully analyzed with the aim of determining whether the port's importance is dependent on regular coastal and inland traders who have little or no need for pilotage services. If the latter proves to be the situation, pilotage should be classified as a private service within the meaning given to the term on page 509 of Part I of the Report.

The recent decline in ocean-going shipping at Sydney may be only temporary. Shipping statistics for the first semester of 1968 indicate a slight improvement over the same period in 1967. However, in view of the commitments to the service and the acquired rights of the pilots now on strength which must be respected, there is no need for an immediate decision.

RECOMMENDATION NO. 5

**Pilotage Administration and Pilot Vessel Service in Sydney
to Be Reorganized so that Operating Expenses Are Reduced
to a Realistic Level**

The requirement for pilotage in Sydney Harbour is small and the organization for service should correspond.

The present organization is disproportionate and has resulted in large annual operational deficits that are borne by the Crown. For instance, the cost of the service for 1967 is estimated at \$153,800 and the dues collected, including pilot boat charges, yielded only \$37,000 (p. 295). These receipts are expected to decrease substantially when the compulsory payment of

Cape Breton Island Area

dues is abolished, since more than one-fourth were paid by non-exempt vessels which did not employ pilots (p. 280). This unwarranted situation should be corrected.

The service is overorganized at all levels:

- (a) The number of pilots is excessive but there is no present effective means to remedy the situation, except by the slow process of normal attrition (vide pp. 283-284). It is believed that no difficulty will be caused by the conflicting legislation re the retirement at age 65 of the pilots now on strength because of the benefits they will then be entitled to receive under the Public Service Superannuation Act. The tenure of a licence is a personal right which a pilot may abandon if he so elects.
- (b) An adequate, realistic alternative should be found for the present costly 24-hour pilot vessel service maintained by the Crown for an average of fewer than two assignments per day. For further comments, vide pp. 290-291.

RECOMMENDATION NO. 6

Pilotage in the Three Zones Situated in the Present Bras d'Or Lakes District and the Point Tupper/Canso Canal Area to Be Classified as Private Services

At present, public interest is not directly involved in the services in the three zones of the existing Bras d'Or Lakes District and its adjacent area in the Strait of Canso because they are merely for the convenience of shipping and serve only private interests. Their interruption, or even their absence, would not prejudice the superior interest of the State or the public in general. Therefore, they should be classified as "private services" as was recommended for the various port services in the proposed Vancouver Island West Coast District (Part II, p. 210) and for the various services contained in the Prince Edward Island District (p. 25).

It should be the responsibility of the industries concerned to take the necessary steps to ensure the availability of pilots who would be licensed provided they meet the standards set by the Act and by the District regulations. In the Point Tupper area the industries concerned may have to see that their pilots acquire the necessary local knowledge, skill and experience in the navigation and berthing of superships. Since such pilotage will serve the interests of one or two companies only, they should assume full responsibility, including expenses, for the availability of the service.

Section Five

COMMISSION DISTRICTS AND OTHER AREAS ALONG
THE NEW BRUNSWICK AND NOVA SCOTIA COASTS AND
PILOTAGE AREAS IN CHALEUR BAY AND GASPÉ BAY

PREAMBLE

In contrast to the existing pilotage organization along the west coast of British Columbia, large areas of the navigable waters of the Atlantic coast are not included in any Pilotage District.

When pilotage was first organized after Confederation, the whole Canadian Atlantic coast was divided into Pilotage Districts in accordance with the policy adopted at that time. This organization failed because the Act contemplated only port pilotage (it contained provisions of exception for pilotage on the St. Lawrence River) and also because the only coastal pilotage performed was a little voluntary pilotage into the Bay of Fundy by the Saint John pilots. Eventually all these coastal Districts evolved, in fact, if not in law, into a number of Districts serving only one port or a group of ports approached by a common channel.

A large number of these ports lost their initial importance for a number of reasons, but mainly because regional needs are now more adequately served by other transportation media as a result of a changed industrial environment and the limitations of the ports' physical features and facilities. These features and facilities could be improved upon but the capital involved and the recurring maintenance costs would be difficult to justify economically.

As a consequence of decreased traffic many of the small Districts fell into inactivity and the office of Pilotage Commissioner became merely an honorific appointment which was often made as a political reward. In some Districts, the Pilotage Authority ceased to exist for several years because the Commissioners died or left the locality and were not replaced. A first step toward reform was amalgamation, e.g., in 1924, five small adjacent Districts at the head of the Bay of Fundy (Sackville, Harvey and Waterside, Hillsborough and Hopewell, Amherst and Shepody Basin) were amalgamated as the Chignecto Pilotage District. Twenty small Districts in New Brunswick and Nova Scotia, including Chignecto, have been abrogated since (vide Part I, App. II). Most of the remaining small Districts have been maintained, not to meet an increased demand for pilotage but because their respective Secretary-Treasurers have been attentive to their duties and submitted annual District reports to the Department of Transport.

In some of the abrogated Districts, as well as in ports that were never included in a Pilotage District, there is a demand for pilotage which may be even greater than in some existing Districts. The following table compiled from the 1967 shipping statistics of arrivals of vessels of 250 NRT and over shows the extent and importance of maritime traffic in the main ports not included in any Pilotage District which are situated in those parts of the eastern coast of Canada covered in this Section. It does not include ports where traffic consists mainly of ferry vessel service, such as Digby, Yarmouth, Grand Manan and Black's Harbour.

N.B. and N.S. Coasts, Chaleur and Gaspé Bay Pilotage Areas

| Port | No. of Ships of 250 NRT and over | Average NRT (per ship) | Cargo Handled |
|-------------------------------|--|------------------------------|------------------|
| Hantsport, N.S..... | 154 | 4,127.4 | 99% foreign |
| Liverpool (Brooklyn) N.S..... | 107 | 2,309.9 | 76% foreign |
| Mulgrave, N.S..... | 164 | 753.7 | 86% coastwise |
| Walton, N.S..... | 55 | 1,445.1 | 100% foreign |
| Gaspé, Que..... | 74 | 2,042.5 | 95% coastwise |
| Chandler, Que..... | 21 | 1,790.6 | 51% foreign |
| Carleton, Que..... | 24 | 1,124.7 | 95% foreign |

In all the above ports, and in some smaller ones as well, pilotage is performed by local pilots. Information on this matter is generally contained in the *Pilot* publications issued by the Canadian Hydrographic Service, but in some cases it is not correct, e.g., *Nova Scotia (S.E.Coast) and Bay of Fundy Pilot*, Fourth Edition, 1966, page 228, states "pilotage is compulsory" at Parrsboro, although this District was abolished in 1960 and, even up to then, only the payment of pilotage dues was compulsory. Such errors prove that there is a failure of communication when these important publications are being prepared. Remedial action should be taken to ensure the information they contain is correct and up to date.

For the purpose of this Report, the Commission has not considered it necessary to investigate the extent and nature of the demand for pilotage at each of these ports, nor the need or otherwise for their public surveillance and control, except for the port of Gaspé (for which the establishment of a Pilotage District had been requested) and the port of Chandler (at which the Commission called during its visit to the area). The evidence obtained concerning these two ports is contained in *Subsections XI and XII*.

Subsections I to X contain studies of the nine small commission Districts still in existence as well as the former District of Richibucto which was abrogated in 1968. The new National Harbours Board port of Belledune, N.B., created in 1967, is referred to in the Restigouche and Bathurst District studies, and the port of Shippegan is mentioned briefly in *Subsection III* dealing with the District of Caraquet.

In these small Districts, as elsewhere, the financial and physical hardships of the free enterprise system forced the pilots into controlled pilotage. The change was gradual and, if a number of pilots were involved, much contention ensued. At first, the disappearance of competition among the pilots without a corresponding increase in control by the Pilotage Authorities concerned resulted in a less efficient service. In two Districts the process of change developed into a crisis serious enough to induce the Minister of Marine and Fisheries to order an official inquiry. The Miramichi District investigation (1892-1893) is discussed in *Subsection IV* p. 425. A second inquiry held in 1906 concerned complaints from pilots against the Pilot

Commissioners of the Hillsborough and Hopewell Pilotage District (one of the five Districts amalgamated in 1924 to form the Chignecto District). For the first five years after its creation in 1897 its five pilots competed with each other. They experienced the financial burden of owning and operating their own pilot vessel, and the hardship of continual cruising as far out and as long as possible in order to be the first to hail an incoming vessel. Such competition created discriminatory practices, e.g., some pilots neglected smaller vessels for more lucrative ones. Disputes multiplied among them, mainly on who had first hailed a ship and was thus entitled to her pilotage fees. After a few years, the pilots requested that they be treated as employees, i.e., their work equally divided among them by a Chief Pilot and their earnings pooled and shared equally. This arrangement worked well at first but gradually the pilots became lax. Since they were assured of their income, they failed to cruise at the seaward pilot limit to meet incoming vessels with the result that many vessels passed the boarding area without being spoken to and became exempt from pilotage dues. In addition, some vessels were unduly delayed awaiting the arrival of a pilot because pilots with other employment as well as pilotage tended to put their other occupation first. Under these circumstances the Pilotage Authority adopted a compromise solution by dividing the pilots into two competing companies. However, this did not solve their problem because one company acquired a better equipped and speedier pilot vessel and thus secured most of the clients. The investigating officer recommended that fully controlled pilotage be re-established and appropriate rules incorporated in the District regulations to provide for its orderly operation. When he communicated the result of the investigation to the Pilot Commissioners the Minister also recommended that the number of pilots be reduced when expedient in order that those retained might receive increased earnings (Ex. 1537).

The information on these ports obtained by this Commission from documentation and testimony at its public hearings is not complete, but the information available appeared sufficient to permit a general appraisal and, therefore, it was not considered necessary to make detailed investigations. The evidence reveals not only a most unsatisfactory state of affairs from the legal point of view but also the total inadequacy of the organization scheme provided by Part VI C.S.A. to deal with small pilotage services.

In none of the Districts dealt with in this Section is the pilotage demand sufficient to keep even one pilot fully employed or, with few exceptions, to assure him an adequate income. As a result, pilots must seek additional employment and pilotage becomes a secondary occupation.

In each of the Districts reviewed the compulsory payment of pilotage dues was imposed when they were first created, for no other apparent reason than to conform to the then adopted policy of the Government.

Many of the provisions of the various District By-laws are not in conformity with local requirements and, hence, are not followed. The main reason is that the By-laws were drafted by the Department of Transport on its own initiative by persons who were not fully conversant with local situations and requirements, largely with the aim of making them all uniform.

There are two other reasons why the system failed, first, partisan politics in the appointment of Pilotage Commissioners and Secretary-Treasurers (which even extended at times to the appointment of pilots), second, the absence of supervision over the activities of the Pilot Commissioners due to the Department of Transport's policy of non involvement. In most Districts this Commission found an atmosphere of goodwill and a desire to follow the proper course and there appears no reason to believe that the illegal practices being followed would not have been rectified if they had been brought to the attention of the Pilotage Authorities concerned.

Subsection I

PILOTAGE DISTRICT OF RESTIGOUCHE RIVER, N.B.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

PREAMBLE

There are not for this District nor for any other Commission District dealt with in this Section any statutory provisions of exception with specific application, and all special legislation that applies to them is contained in regulations. For the District of Restigouche River this legislation, excluding appointments, is wholly contained in the Governor General's Order, as amended, creating the District, and in the District By-law and its amendments.

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

The Pilotage District of Restigouche River was created by the Governor in Council on February 9, 1935 (Order in Council P.C. 339, Ex. 1165) by the amalgamation of the former Districts of Bonaventure and Restigouche.

In addition to abrogating the former Districts together with all regulations then existing for such Districts, including those concerning the appointment of the two Pilotage Commissions and the Secretary-Treasurers, and establishing the new District, the Order in Council:

- (a) defined the limits of the District;
- (b) appointed the five Pilotage Commissioners of the new Pilotage Authority;
- (c) appointed Mr. A. F. Carr of Campbellton as Secretary and Treasurer and fixed his remuneration at "three (3%) per centum of the gross receipts and earnings of the pilots each calendar year";
- (d) imposed the compulsory payment of pilotage dues.

Except for the creation of the District and the compulsory payment of dues, all the other provisions of this Order were subsequently modified. New Commissioners have been appointed from time to time as vacancies occurred and in 1967 Mr. J. C. MacLauchlan, who since 1965 had been Secretary and Treasurer in place of Mr. Carr, was belatedly confirmed in his function by Order in Council P.C. 1967-1670 of August 30, 1967 (Ex. 1510(c)).

The District limits were last defined by the Governor General in his Order in Council P.C. 1957-1562 of November 22, 1957. It left the seaward limit approximately where it had originally been established in 1935 but the description is in simpler language (Ex. 1510(b)):

“The Pilotage District of Restigouche River comprises the waters of the Restigouche River and estuary from the limit of navigation and extending seaward as far as a line drawn from Little Belledune Point in the County of Restigouche, N.B., in a North True direction for a distance of three miles, thence along a line drawn to Maguasha Point, Bonaventure County, P.Q.”.

(2) DISTRICT REGULATIONS

All the regulations made by the Pilotage Authority that are still in force are contained in the District General By-law which was sanctioned on March 29, 1958, by Order in Council P.C. 1958-474, as amended on March 25, 1965, by Order in Council P.C. 1965-561 (Ex. 22).

The purpose of the 1958 revision was to bring the By-law up to date in terms of form, draftsmanship and content with the By-laws of other similar Districts. This revision resulted in stereotyped regulations which, as will be seen in Chapter C, conform neither to local requirements nor local practice and, therefore, are not followed, either because they are not applicable or not practicable.

The main features of the organization provided by the General By-law are as follows (for comments *vide* references in brackets):

- (a) The service is fully controlled by the Authority (Part I, pp. 73 and ff.).
- (b) A six-hour ETA is required from ships requiring a pilot (Part I, p. 232).
- (c) Control is exercised by the Pilotage Authority through its Secretary and the Pilot Master.
 - (i) The main function of the Secretary is purely clerical, i.e., recording the minutes of the Authority's meetings, billing and collecting pilotage dues and attending to financial operations, including bookkeeping; he is also purported to possess limited disciplinary powers.
 - (ii) The Pilot Master's duties are operational. He is responsible for despatching, which is normally to follow a tour de rôle, and for exercising the necessary surveillance over the pilots. To enable him to discharge his duties, the pilots are required to report to him and keep him informed of their whereabouts as well as shipping casualties and other matters that may affect pilotage, e.g., displaced buoys and altered channels.

Although the Pilot Master is a licensed pilot and is required by regulation to take occasional assignments in case of a shortage, he is not a representative of the pilots but a servant of the Pilotage Authority who appoints him and whose orders he must carry out. His remuneration is an equal share in the pool, but he is obliged to maintain at his own expense an office with a land telephone in the vicinity of the pilot station. (Part I, C.4).

- (d) No regulations were made to cover the compulsory payment of dues, with the result that the relative statutory exemptions retain their full application, while small ships under 250 tons, such as yachts and other small craft that are not rowboats, are subjected to compulsory payment, unless they are of dominion registry (Part I, pp. 227 and 228).
- (e) The pilots' status is that of quasi-employees in that they can not perform pilotage except as directed by the Pilot Master, or other officer of the Pilotage Authority, and also because their remuneration is a salary which takes the form of a share in the pool, sharing being on the basis of availability for duty. The regulations provide for annual leave of absence and sick leave (Part I, pp. 74 and ff. and p. 249).
- (f) Pilots are recruited through an apprenticeship system or, in the absence of apprentices, from qualified mariners. The only qualifications an apprentice requires to become eligible for a licence as a probationary pilot are: physical and mental fitness, age between 18 and 35, three-year apprenticeship performed by accompanying pilots on duty and fulfilling other duties related to pilotage, successfully passing an examination as to competency before the District Board of Examiners, and at the time of licensing to be a Canadian citizen resident in the County of Bonaventure west of the Grand Cascapedia or in the County of Restigouche (Part I, p. 251). No minimum marine certificate of competency is required (Part I, p. 494). If no apprentices are available, anyone possessing a certificate of competency "not lower than that of towboat master" and meeting the conditions required of an apprentice (except apprenticeship) may be licensed as a probationary pilot. In this case, actual experience in the District waters is not a prerequisite.¹

¹ General sea experience has not been required since 1965. Until then, a candidate was required to have had not less than three months' deck service in the coasting or foreign trade of Canada. It would appear that the 1965 amendment, which also raised the age limit for apprenticeship from 30 to 35, was designed to accommodate the sole apprentice in the District and to relieve him of the prerequisite of experience at sea.

- (g) A two-year probationary licence is the first one issued and, if the holder's service is satisfactory, it is followed by a permanent licence upon payment of a \$10 fee. A probationary pilot's remuneration is left to the discretionary administrative decision of the Pilotage Authority (Part I, pp. 263-265).
- (h) Pooling is effected monthly when the net total of pilotage dues earned is shared equally between the Pilot Master and the pilots. Expenditures authorized by the General By-law consist of the salary of the Secretary, fixed at 3% of the gross receipts of the District, the remuneration of the probationary pilots as fixed by the Authority (Part I, p. 263), the reimbursement of the pilots' expenses incurred in the course of their duties, and other expenses for conducting the business of the District that are approved by the Authority (Part I, p. 112). Apprentices are not remunerated by the Authority. There is no Pilot Fund or Pension Fund nor any authority to keep a reserve for anticipated expenditures. The Pilotage Fund must be completely disbursed at the end of each month.
- (i) Although the By-law dealing with pooling does not contain the usual provision that time on annual or sick leave shall count, it is apparent that the intention is that the same rule should apply, by reason of the proviso contained in subsec. 23(2) dealing with up to six months' permissible leave of absence without pay. Since there is no similar qualification with regard to 21 days' annual leave, or sick leave up to a maximum of one year if caused by an injury incurred while on duty, the implication is that such leave shall be with pay, i.e., with pooling rights. The By-law does not provide for sick leave with half pay.
- (j) The Pilotage Authority and the Secretary are purported to possess disciplinary powers. However, an accused pilot has no right to appear personally before either of them but must make his defence before the Pilot Master or in writing to the Authority (vide Part I, C. 9).
- (k) A pilot vessel must carry a licence issued by the Authority on an annual basis for an initial fee of \$5.00 and an annual renewal fee of \$1.00, the only licensing requirement being suitability of the vessel. A certificate of seaworthiness from the Department of Transport is not required (Part I, pp. 307 and ff.).
- (l) The tariff provides rates for voyages, movages and pilot boat services. There is no indemnity charge of any kind except those provided in secs. 359 and 360 C.S.A.
- (m) The voyage rate is composed of two variable components, draught and tonnage. The basic charge, irrespective of the location of

the port or loading station of destination, is a uniform \$2.60 per foot of draught and 2¢ per N.R.T. both inward out outward. When a ship calls at one or more ports or loading stations within the District during an inward or outward trip, each part of the trip after the first one calls for a reduced charge of \$1.00 per foot of draught plus the 2¢ tonnage charge.

- (n) A movage, which is defined in the By-law as "moving of a vessel within a harbour" (Part I, p. 220), calls for a \$15 flat rate for a movage from one anchorage to another. For any other movage, the rates are expressed in the form of a scale based on tonnage for ships up to 600 tons. For ships over 600 tons, there is a flat rate for specified movages. For this purpose, Campbellton and Restigouche are considered a single port. A surcharge of 50 per cent applies to all movages "when the removal distance exceeds four miles".
- (o) There is a flat rate of \$15 each time a pilot boat is used to embark or disembark a pilot.

2. HISTORY OF LEGISLATION

Prior to Confederation the waters of the present Restigouche River District came under the jurisdiction of the province to which they belonged. On the Quebec side there was no applicable legislation but on the New Brunswick side pilotage first came under the 1786 statute "An Act for Regulating Pilots" (26 Geo. III c. 52) and its amendments. (For details, vide Section Two, pp. 34 and ff.)

After Confederation up to 1935, pilotage organization continued to be based on electoral districts. The result was a very confused state of affairs in the confined waters of the Restigouche River because, although the river afforded a common approach to the ports and harbours on both sides, each bank formed a separate district.

The first District created was the "Pilotage District for Restigouche in the Province of New Brunswick". It retained the pre-Confederation arrangement based on electoral boundaries. Its limits comprehended "all the Ports and outports within the County of Restigouche", by Order in Council P.C. 643 of July 21, 1876 (Ex. 1510(d)). The payment of dues was made compulsory.

This District was of the merger type; it comprised only the ports and outports on the New Brunswick side of the Restigouche River and on that part of the Chaleur Bay south coast within the County of Restigouche, which ports and outports were not interconnected by any pilotage waters, the waters of the Restigouche River and of the Chaleur Bay not being part of the District.

The Quebec side of the river was established as a District by Order in Council P.C. 759 of April 3, 1889 (Ex. 1510(e)) as the Pilotage District for the County of Bonaventure in the Province of Quebec. Its limits extended to the north side of the Restigouche River and to most of the north shore of Chaleur Bay, i.e., from Point Maquereau seven miles east of Port Daniel to the head of the tide at "Bourdon" (no doubt Pointe à Bourdeau) in the Restigouche River, a distance of about 90 miles of coastline. Two days later, a separate Order in Council, P.C. 760 dated April 5, 1889 (Ex. 1510(f)), appointed three persons members of the Pilotage Authority, but neither Order in Council made the payment of dues compulsory for the new District.

The District on the Quebec side was of the same nature as the New Brunswick District, i.e., a merger type of separate port pilotage services, excluding the waters of the Restigouche River.

Difficulties ensued when, in 1896, the Pilotage Authority for the District of Restigouche purported through its By-law to extend the limits of its District to include all that part of the Bonaventure District west of Black Point, a point facing the south shore limit of the District. The intended result was to create a single District out of the waters of the Restigouche River and the head of Chaleur Bay, a distance of some 35 miles. The By-law also purported to impose the compulsory payment of dues to the new territory so annexed. The new By-law, despite these obvious irregularities, was approved on April 1, 1896, by Order in Council P.C. 1031 (Ex. 1510(i)). Complaints quickly followed by inhabitants of Bonaventure that vessels entering ports within the County of Bonaventure were obliged to pay pilotage dues to pilots of the Restigouche District. The Minister of Marine and Fisheries, realizing that the complaints were well founded and that the By-law provisions interfered with the limits of the Pilotage District of the County of Bonaventure, recommended that these limits be repealed and the previous limits substituted. In P.C. 1131 of May 9, 1898, the Governor in Council cancelled *proprio motu* the District By-law provision concerned and redefined the limits of the Pilotage District of Restigouche as they had been before, i.e., to embrace all the navigable waters, harbours, bays and river in the County of Restigouche (Ex. 1510(j)). The 1896 By-law provision was obviously *ultra vires*. The procedure followed in 1898 was simply a way of rectifying the situation without having to request the Pilotage Authority to amend its By-law.

The District limits remained unchanged until the two Districts were amalgamated in 1935.

The various By-laws made by the Restigouche Pilotage Authority are particularly interesting because they contain the origin of a great number of present day regulations.

The By-law approved by the Governor in Council by P.C. 158 dated March 1, 1877, was entitled "Rules and Regulations for the Government of Pilots". Its main features were (Ex. 1510(g)):

- (a) It was clear that organized pilotage existed prior to Confederation in that continuity was provided by recognizing the right of the pilots already holding a branch to receive a licence for the new District.
- (b) The free enterprise system prevailed. There was neither despatching nor pooling, and pilots competed at the boarding station for incoming ships, collecting and retaining the dues they earned.
- (c) Pilots were recruited by an apprenticeship of not less than three years' duration to be served under a pilot, to whom the apprentice was to be indentured, and on board a licensed pilot boat with the approval of the Pilotage Authority. Pilot boat service was provided by the pilots themselves, the ownership of not less than half a pilot vessel of not less than five N.R.T. being a prerequisite to act as pilot. No doubt these regulations caused too drastic a change and by an amendment made a few months later (Order in Council P.C. 591 of June 25, 1877) (Ex. 1510(h)) they were suspended for one year.
- (d) The rates were based on draught and distance, the price per foot draught varying with the port of destination, e.g., \$1.00 per foot draught for Dalhousie and \$1.50 for Campbellton. The rates for movages were in the form of a scale based on tonnage, plus a 50 per cent surcharge if the movage extended over four miles. These provisions are still found in the present tariff.
- (e) Pilots were required to furnish to the Secretary details of the services they had rendered and the dues they had collected, but this was for the Pilotage Authority's information only.
- (f) There were provisions regarding the licensing of pilot boats. They were to be not less than five tons and it had to be demonstrated annually that they were seaworthy. A licence was for one year only for a fee of \$5.00. If at any time a pilot vessel was found to be unseaworthy, the licence would be suspended. In addition, vessels were given numbers for identification.

This By-law was amended twice before it was superseded by the 1896 By-law already quoted (Ex. 1510(i)). It is apparent that the main purpose of the new By-law was to add the north side of the Restigouche River and the opposite north coast of Chaleur Bay to the previous District limit on the New Brunswick side. In addition to describing what was purported to be the new limits, the By-law provided that residents of both Bonaventure and Restigouche Counties could become pilots. New rates

were established for the ports and loading stations situated in the territory so annexed, e.g., the dues for pilotage to Oak Bay were fixed at \$1.25 per foot of draught. It is quite possible that the Bonaventure District was somewhat inactive and that there was no longer a licensed pilot there, thus causing a demand for the Restigouche District to provide pilots. In fact, it was only realistic that the territory of a Pilotage District should correspond to the realities of navigation and, therefore, should comprise a geographical area rather than being governed by an electoral division. However, the method used was wrong—this subject-matter was beyond the jurisdiction of the Pilotage Authority to make regulations and the approval given to any of its regulations by the Governor in Council did not change the nature of the By-law and could not make it valid. The proper procedure was followed in 1935 when the two Districts were legally amalgamated (Ex. 1510(n)).

The other changes were:

- (a) Apprenticeship remained three years but two months' sea experience as seaman on board a square rigged vessel was added as a prerequisite for candidates.
- (b) The feature of reduced rates for consecutive trips within the District was introduced, the charge for trips after the first being 50¢ per foot of draught. This feature is still retained.
- (c) In case qualified apprentices were lacking, any person found competent by the Pilotage Authority could be licensed as pilot. This is another feature still retained in the present By-law.
- (d) A Secretary-Treasurer was appointed at a salary of \$25 per annum, which, together with all other District expenses, was to be paid out of licence fees. The work of the Secretary was merely clerical and, at that time, he did not have the responsibility of collecting pilotage dues which continued to be collected by the pilots themselves. The pilots, except for the renewal fees for their licences and pilot boat licences, made no payments to the Pilotage Authority.

This By-law was amended by P.C. 920 of June 15, 1903 to provide a surcharge of 1¢ per N.R.T. on steamships, a feature which is still included in the tariff (Ex. 1510(k)).

On September 1, 1903, the pilots were required to contribute out of their pilotage earnings toward the payment of District expenses. This amendment provided for the appointment of a new Secretary-Treasurer and fixed his salary at 3 per cent of the gross receipts and earnings of the pilots. The collection of the pilotage dues was made the responsibility of the Secretary who had to pay to each pilot the dues he had earned less the 3 per cent deduction. There was neither despatching nor pooling. This method of remunerating the Secretary-Treasurer is still in effect.

By order issued by the Governor in Council on February 9, 1935 (P.C. 339, Ex. 1510(a)), the two former Districts of Bonaventure County and Restigouche County were amalgamated and the territory of the new District was restricted to the Restigouche River, its seaward approaches and the various ports situated on its banks. The seaward limits were defined by the same land points that are still in force, i.e., Miguasha Point on the Quebec side and Little Belledune Lighthouse on the New Brunswick side. This reduced the length of the District by some 25 miles on the Quebec side and some 35 miles on the New Brunswick side. The payment of dues was made compulsory and the Pilotage Authority remained a local commission.

One month later, the Pilotage Authority of the new District submitted a new By-law which was approved by the Governor in Council by P.C. 586 dated March 7, 1935 (Ex. 1510(n)). This By-law was amended several times, mainly to increase the rates (Exs. 1510(o), (p) and (q)), before it was superseded in 1958 by the General By-law now in force.

The principal change introduced by this General By-law was controlled pilotage using the system that still prevails (vide pp. 353-356) and, hence, the abolition of free enterprise.

Order in Council P.C. 3718 of July 24, 1951 (Ex. 1510(r)) extended the District limit on the north shore of Chaleur Bay seaward for a distance of approximately 10 miles to Maria Cliffs to include the port of Carleton, which was not provided with pilotage service and where it was anticipated there would be sufficient shipping to justify the change. However, on November 22, 1957, by Order in Council P.C. 1957-1562, the northern limit was re-established at Miguasha Point (Ex. 1510(b)). Complaints had been received from Carleton industrial interests that the port was not efficiently served by the Restigouche District. At that time, it was suggested by the Department of Transport that the southern limit of the District also be relocated 16 miles westward from Little Belledune Point to Parant Point. While the Pilotage Authority agreed to the change on the north side, it objected to the proposed change on the south side because that section of the New Brunswick coast included a number of ports where loading was actively carried on at that time (Ex. 1510(t)). Consequently, the southern limit was left unchanged.

Chapter B

BRIEFS

While no briefs were submitted at the time of the Commission's hearing, the pilots presented a short memorandum (Ex. 301) outlining what they considered the District's major navigational problems (vide p. 366):

- "1. Several Buoys not in position.
2. Need a proper Fairway buoy established at Pilot station so that vessels arriving at entrance may safely anchor in event pilot vessel is not at the station.
3. Existing buoys are too small and especially so in view of the large vessels due in the port to handle concentrate cargoes.
4. Bon Ami light is next to impossible to locate from seaward due to mass of lights of the town directly behind lighthouse.
5. Old lighthouse on old Gov't. wharf taken out of service thus causing loss of necessary range for entering and leaving south channel. Pilots now must use small flasher type light of their own in position of old lighthouse. Request new installation.
6. Channel between Douglas Island and Middle ground too narrow for large deep draught vessels. Request dredging of north side of channel to give additional 100 feet width.
7. Ferry from Dalhousie to Maguasha is a problem in that she is a crossing vessel at all times in a restricted manœuvring area.
8. A channel across the middle ground west of International Paper Company wharf would provide safe entry and exit to both wharfs.
9. Safe draught to port of Campbellton is constantly being argued and we believe our only authority to be the latest soundings as provided by Dept. of Public Works.
10. Turing basin at Campbellton is not wide enough nor deep enough in our opinion and should be dredged to at least the same depth as that alongside the wharf.
11. East end of Campbellton wharf almost impossible to locate on dark night. Request light be established on corner.
12. Intermediate ranges on Battery Beach have been on the ground for a number of years and have no value in this state. Request they be re-erected.

Restigouche River, N.B., Pilotage District

13. Buoy's number 10G and 12G are in reverse numerical position. Request they be corrected.
14. Tide tables for these ports as issued by the Canadian Hydrographic Service now call for use of Pointe St. Pierre as Reference Port rather than Father Point as was used for many years. We find that Point St. Pierre has been out as much as one hour and ten minutes on the actual turning of the tide whereas Father Point is as close as can be expected. We have continued to use Father Point and have run into arguments with various Masters on this matter.
15. Tow boats in the river with large rafts of pulpwood are encountered during most of the season but close cooperation between the Master of these tow boats and the pilots has been the answer to this situation."

The pilots also asked what the possibilities were of their pilot boat being supplied with a V.H.F. radiotelephone.

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

(1) DISTRICT LIMITS

While the legal limits of the District on the Quebec side extend only to the mouth of the Restigouche River, on the New Brunswick side they run some 20 miles farther eastward to include the south shore of Chaleur Bay up to Little Belledune light. The port of Belledune, a National Harbours Board port created in 1967, is situated between the Districts of Restigouche and Bathurst, two and a half miles east of the southeast limit of the Restigouche District and 11 miles west of the District of Bathurst. It is not included in any Pilotage District.

The harbour of Belledune and its facilities are still in the process of completion. The new harbour will be enclosed by two breakwaters and will be open to navigation the year round. By Order in Council P.C. 1967-708 dated April 13, 1967, the new harbour was made the responsibility and property of the National Harbours Board to which the harbour assets were transferred from the Department of Public Works. The Dominion Bureau of Statistics states that in 1967 five vessels with an aggregate net tonnage of 24,264 tons called at the port, and in the first semester of 1968 there were five arrivals with an aggregate net tonnage of 20,609 tons. The main industry at present is Belledune Fertilizer Limited. It is a man-made port which does not appear to present any particular navigational difficulties. The approach is not restricted and deep-draught vessels can be accommodated readily. Large vessels going to and from Belledune at present employ pilots from the adjacent Pilotage District of Bathurst. A small privately owned tugboat is used to assist in berthing and unberthing (Ex. 1510(v)).

In practice, the District is limited to the Restigouche River and the immediate area outside the mouth of the river, about two miles east from Dalhousie between Bon Ami Rocks and Miguasha Point light buoy, which area serves as the boarding station. Between there and the legal limit at Little Belledune light, no pilotage is being performed now and there is no loading station of any importance.

The retention of this part of the Chaleur Bay coast in the District can be explained only on the basis of historical sentiment and automatic resistance to change. It is a relic of the early days when Districts in the Maritime Provinces were not defined to meet specific pilotage needs but

merely to designate the area over which the Pilotage Authority's licensing jurisdiction extended. In keeping with pre-Confederation practice they generally coincided with the limits of electoral divisions. Such Districts were somewhat of the same nature as the merger type Districts which the Commission is now recommending in certain instances (vide p 24). The difference is that no distinction was made at that time between potential and actual jurisdiction, the Pilotage Authority's function was limited to licensing and its jurisdiction extended to all the separate port pilotage services that existed, or could develop, within the District limits. This type of organization did not conform to the underlying principles of the 1873 Pilotage Act whose general provisions presupposed port pilotage only and the creation of a separate District for each service of this type (Part I, pp. 49 & ff.). Such an organization soon proved unworkable and the county type Districts were reduced, in fact (p. 158) if not in law (p. 265), to strictly port Pilotage Districts. Nor does this type of organization meet the modern criteria for the establishment of Pilotage Districts and their limits (vide Part I, Gen. Rec. No. 8). The merger type District that is now recommended in certain cases is merely a practical compromise to be applied to an area containing a number of relatively small pilotage services whose limited importance does not justify the creation and expense of a separate Pilotage District.

This section of the Chaleur Bay coast became part of the District when it was first created in 1874 on the basis of the electoral district of Restigouche. It had been retained ever since, despite the fact that there had been no pilotage. When the Department of Transport realistically recommended in 1957 that the District be limited to the Restigouche River (vide p. 360), the Pilotage Authority immediately objected on the pretext that important maritime activities were being carried out in that region. Apparently this statement was not investigated and the fact that the Pilotage Authority opposed the change was sufficient to kill the proposal.

COMMENTS

It is considered that the seaward District limits should be amended to correspond to the factual situation, i.e., should not extend further than the mouth of the river. The area between Miguasha Point light buoy and Bon Ami Rocks buoy should be defined as the boarding area.

Because there has been no constant pilotage traffic between Bon Ami Rocks and Little Belledune Point for a number of years (Ex. 1510(z)), the District pilots can not be said to have the necessary competence to pilot there. They lack the constant practice which is necessary to maintain *expertise*. The gravity of the situation is compounded by the fact that vessels are induced to employ pilots on account of the compulsory payment system which also applies to that area.

(2) PHYSICAL FEATURES

Up to the point where navigation for ocean and coastal shipping terminates, the Restigouche River varies in width from three miles to half a mile. From the entrance between Bon Ami Rocks on the south shore and Miguasha Point on the north shore, which are two miles apart, the navigable channel of the river winds westward for sixteen miles to Campbellton. A bridge, constructed for vehicular traffic, joins Campbellton with Cross Point, P.Q., on the north shore.

At the south western seaward entrance to the river lies the port of Dalhousie and from there for fourteen miles to Campbellton the channel is defined by lighted and unlighted buoys. From Oak Point to Campbellton the 75-foot channel is marked by range lights. In this shallow part the depth is reported to be maintained at 15 feet at low water, but vessels of moderate draught can proceed during periods of high water. Spring tides rise 10½ feet and neaps 8 feet. The flood and ebb of tidal streams do not exceed two knots.

During the winter months the upper reaches of the river freeze over, and the navigation season at Campbellton is from May 1 to December 20. The port of Dalhousie is kept open the year round with the occasional assistance of ice-breakers.

Miguasha Point is the quarantine station for the region. Ship-to-shore communication from vessels in Chaleur Bay is through Grindstone radio station (VCN). It is reported that communications with this station are poor in the vicinity of Campbellton.

(3) PRINCIPAL HARBOURS

Dalhousie and Campbellton are the principal ports and both are Ports of Entry. Dalhousie handles most of the ocean shipping, while coastwise shipping dominates at Campbellton (see *Maritime Traffic*).

Dalhousie and Campbellton were proclaimed Public Harbours by the same Order in Council, P.C. 640 of May 30, 1873; their limits were not defined and have not been defined since.

The Canadian International Paper Company's large pulp and paper plant is located at Dalhousie. There are two main wharves which accommodate large ships: (a) the new Department of Transport wharf with a length of 606 feet and depth alongside of 34 feet at low water; (b) the Canadian International Paper Company's wharf with a berthing length of 500 feet and a depth of 26 feet alongside at low water.

There are ample secure anchorage grounds, the best being east of Middle Ground, about one mile in distance from the port. Tugboats are not available and vessels berth and unberth under their own power.

The port of Campbellton is situated on the south bank of the river at the head of navigation about 16 miles from its junction with the Baie des Chaleurs. It is an important lumbering centre.

The only large wharf is owned by the Department of Transport. It is 1,450 feet long and lies parallel with the river. There are 580 feet of berthing space at the eastern end with 17 feet depth alongside at low water and at the western end 13 feet depth at low water. The wharf has berthing space for five medium sized vessels. Vessels load and discharge from and to railway cars as well as lighters alongside.

The anchorage ground is below the Department of Transport wharf. Although small tugs are available, they are not necessary for handling powered vessels.

(4) AIDS TO NAVIGATION

At the southwestern entrance to the Restigouche River a light is exhibited on Bon Ami Point at an elevation of 49 feet. About 13 cables due east of this light is Miguasha Spit, marked by a light buoy with a radar reflector. In between these points flows the approach channel of the Restigouche River and the near approaches to Dalhousie. About 8 cables North-west from Bon Ami Point light lies Dalhousie Island and on its northern point a light is exhibited at an elevation of 63 feet. Between this light and the southern end of Middle Ground, marked by a buoy, a short approach channel about 500 feet wide leads to the wharves at Dalhousie. At the time of the Commission's hearing the pilots expressed the view in their evidence that, because larger vessels now use the port, the approach channel should be widened and the buoys replaced by larger ones. Leading lights are exhibited on the wharves and no unusual difficulties are encountered berthing and unberthing vessels.

The navigable channel of the river between Dalhousie and Campbellton is narrow but well marked by lighted, unlighted and spar buoys. Leading lights are situated at Oak Bay, where the channel is narrow, and also at Campbellton. Distinctive land features such as Mount Escuminac rising above the bay of that name, and Sugarloaf Hill near Campbellton provide excellent marks for guidance. At the close of navigation in winter the buoys are removed and replaced in the spring.

On February 2, 1967, the Department of Transport reported that the various points regarding aids to navigation raised by the pilots in their memorandum to the Commission (p. 361) have been attended to and that they have received no complaints (Ex. 1510(s)).

(5) MARITIME TRAFFIC

Vessels that ply the District comprise mostly coasters, tankers and medium-sized ocean-going cargo vessels.

Coastwise traffic predominates at Campbellton, as shown by shipping statistics. Coastal vessels make occasional calls at Oak Bay, three miles east of Campbellton, and at Pointe à Fleurant, about two miles north of Dalhousie. Tugboats towing large rafts of pulpwood, which ply between Campbellton and Dalhousie, create an occasional navigational hazard.

Ocean-going cargo vessels predominate at Dalhousie. The ferry operating between Miguasha and Dalhousie has to be carefully watched in case she crosses dangerously close to inbound and outbound vessels in the restricted manoeuvring area off the wharf at Dalhousie.

The following shipping statistics provided by the Dominion Bureau of Statistics (Ex. 1483) show the total number of vessels of 250 net registered tonnage and over that arrived at Campbellton and Dalhousie in each of the nine years from 1959 to 1967, their aggregate net tonnage and the tonnage of foreign and coastwise cargo handled.

| Year | Port | Arrivals | Net Tons | Cargo Handled (Tons) | |
|------|------------------|----------|----------|----------------------|-----------|
| | | | | Foreign | Coastwise |
| 1959 | Campbellton..... | 26 | 43,164 | 22,013 | 26,960 |
| | Dalhousie..... | 54 | 135,780 | 165,207 | 6,776 |
| | Total..... | 80 | | | |
| 1960 | Campbellton..... | 25 | 40,411 | 33,283 | 23,903 |
| | Dalhousie..... | 68 | 185,170 | 213,361 | Nil |
| | Total..... | 93 | | | |
| 1961 | Campbellton..... | 30 | 53,300 | 41,179 | 23,492 |
| | Dalhousie..... | 79 | 239,541 | 227,096 | Nil |
| | Total..... | 109 | | | |
| 1962 | Campbellton..... | 24 | 35,885 | 20,908 | 24,702 |
| | Dalhousie..... | 71 | 214,676 | 225,422 | Nil |
| | Total..... | 95 | | | |
| 1963 | Campbellton..... | 31 | 50,876 | 20,328 | 20,125 |
| | Dalhousie..... | 94 | 252,953 | 273,505 | Nil |
| | Total..... | 125 | | | |
| 1964 | Campbellton..... | 30 | 78,049 | 14,302 | 40,425 |
| | Dalhousie..... | 113 | 417,115 | 504,404 | Nil |
| | Total..... | 143 | | | |
| 1965 | Campbellton..... | 29 | 48,669 | 18,708 | 34,952 |
| | Dalhousie..... | 91 | 404,798 | 704,716 | Nil |
| | Total..... | 120 | | | |
| 1966 | Campbellton..... | 23 | 36,542 | 16,030 | 33,492 |
| | Dalhousie..... | 88 | 431,631 | 728,150 | 4,646 |
| | Total..... | 111 | | | |
| 1967 | Campbellton..... | 24 | 59,116 | 11,891 | 43,779 |
| | Dalhousie..... | 103 | 440,774 | 673,875 | 7,196 |
| | Total..... | 127 | | | |

Whereas traffic to Campbellton is light and fairly constant, there is comparatively more traffic at Dalhousie where the bulk of foreign cargo is handled. The average net tonnage of vessels calling at Campbellton in 1959 was 1,660 tons compared with 2463 tons in 1967, whereas at Dalhousie the average was 2514 tons in 1959, 4905 in 1966 and 4279 in 1967. Although no coastwise cargo is shown at Dalhousie for the years 1960 to 1965, this does not mean that no such cargo was handled there during those years but that the vessels so engaged were under 250 NRT.

2. NATURE OF PILOTAGE SERVICE

Dalhousie is close to the boarding station and pilotage there presents no unusual navigational difficulties. However, Pilot D. H. Mealey testified that the approach channel between Dalhousie Island and Middle Ground was too narrow for the larger ore carriers in excess of 90 feet in breadth and with a draught of 31 to 32 feet. He suggested that the north side of the channel be dredged to bring it to 350 feet in width.

Vessels bound for or from Campbellton are restricted to a maximum draught of 22½ feet and proceed only at periods of high or near high water. For the 16 miles of the river from its mouth to Campbellton navigational problems common to river pilotage prevail. For deep-draught vessels the density of the water from salt to fresh and vice versa affects their draught, which is an important factor in navigating the upper reaches of the river. Such vessels endeavour to keep to the middle of the channel. River traffic, especially towboats towing rafts of pulpwood, presents difficulties. A serious accident resulting in a sinking would effectively block the channel and, hence, the port.

It was reported that all ships plying these waters (with the possible exception of small craft) take pilots, whether exempt or not. This is corroborated by the number of assignments performed by the pilots as compared to the number of ships over 250 NRT which are reported in D.B.S. statistics as having called at District ports.

COMMENTS

The pilotage requirements for Dalhousie do not compare with those of the rest of the District to the west. It is strictly port pilotage with no special problems except those created by the increasing size of ships.

In contrast, assignments to Campbellton are longer and made more difficult by the hazards of river pilotage. These hazards are increasing because larger ships are using the channel to its near maximum capacity. On

the other hand, its navigation is made less difficult by the absence of strong tides or currents.

The only common factor in the two sectors is the boarding area. Therefore, in theory there could be two separate services. However, this is not indicated in view of the present limited demand in both areas, which two pilots can easily handle. If two services were established, it would be necessary to double their number, i.e., two pilots for each area to ensure constant availability.

There is no reason for imposing any form of compulsory pilotage because classification as a public service as defined in Part I, p. 509 can not be justified. Navigation is not complicated and the interest of the public in general would not be seriously affected if a serious shipping casualty were to occur anywhere within the District.

3. ORGANIZATION

The function of Pilotage Authority is entrusted to a Commission of five members, all recruited locally. Apparently no Commissioner's tenure of office in the District has ever been troubled by partisan politics and, in practice, appointments have lasted for long periods, e.g., the late Captain R. G. Edwards had been in office 20 years when he died in 1967, and the Secretary-Treasurer, Mr. A. F. Carr, had been 51 years in office when he was replaced in 1965. The Commission does not hold regular meetings but only when occasion demands.

The actual operations of the District and of the service are the responsibility of two delegates of the Pilotage Authority, the Secretary-Treasurer, whose duties are merely clerical, and the Pilot Master, whose responsibilities are operational.

The Secretary-Treasurer keeps the minutes of the Commission's meetings, attends to the Pilotage Authority's correspondence and clerical work involved in licensing, reappraisal and discipline, maintains statistics and prepares the annual report the Authority is required by sec. 332 C.S.A. to send to the Minister of Transport. He is also purported to have limited disciplinary powers. Most of his time is occupied with financial administration, collecting dues, paying expenses and arranging the sharing of the pool. This aspect of his work will be studied later.

The Pilot Master's function is general direction of the pilots and the pilot boat; he is also expected to share the workload equitably among the pilots. This latter responsibility will also be studied later.

When controlled pilotage was instituted in 1935, the function of Pilot Master was created to avoid increasing the workload of the Secretary-

Treasurer. Apart from the question of the illegality of controlled pilotage under the present legislation (Part I, pp. 68 & ff.), this is considered an unnecessary, expensive position which should be abolished. In larger Districts, the despatching and surveillance functions are normally exercised by the person in charge of clerical work, namely, the Secretary or the Superintendent (or Supervisor). There is no reason why this could not be done in smaller Districts as well. Expenses are increased because, except in an emergency, the Pilot Master is not obliged to take any assignment himself, and still receives a full share of the pool. The solution is to combine the clerical and operational responsibilities and remunerate the incumbent accordingly.

As will be seen later, the regulations dealing with the function of Pilot Master are a dead letter. They do not meet the present requirements of the service and, in fact, are not followed. The title *Pilot Master* merely means the senior pilot. When there are only a few pilots, including the Pilot Master, such a function is not warranted. In this District he shares assignments equally with the other pilot, and the office and telephone expenses that, according to the By-law are to be borne by him, have become District operating expenses which are paid out of District earnings.

4. PILOTS

The prerequisites set out in the regulations to become a pilot are minimal. In addition, the prescribed licensing procedure is not followed, probably because it is unnecessarily involved in the local context.

According to the regulations, pilots are normally recruited through a three-year apprenticeship system. If there is no apprentice who meets the qualifications when a vacancy occurs, any mariner who holds at least a towboat Master's certificate and meets the requirements other than apprenticeship may be licensed as a probationary pilot.

Neither a minimum marine certificate of competency nor sea experience to ensure basic qualifications and skill is required of an apprentice. Up to 1965, an apprentice was required to obtain sea experience as a deck officer in the coasting or foreign trade of Canada, but this requirement was deleted (amendment sanctioned March 25, 1965) and, at the same time, the age limit for apprentices was raised from 30 to 35. These changes were undoubtedly made to legalize the acceptance on Feb. 15, 1965, of Mr. Fred Bourdage as an apprentice. He was considered a suitable candidate but was then 35 years of age and had had no opportunity to serve as a deck officer (Ex. 1510(bb)).

According to the By-law, an apprentice is expected to acquire the necessary navigational knowledge and skill merely by accompanying pilots and by performing such other duties related to pilotage as may be required by the Authority. The By-law requires that an examination on general and local knowledge be carried out by a Board of Examiners consisting of three members appointed by the Authority. The first licence is to be probationary for two years followed by a permanent one.

However, the local practice is totally different as explained by the Secretary of the Authority, Mr. J. C. MacLauchlan, in a letter dated Nov. 27, 1968 (Ex. 1510(w)). Apprentices are recruited and trained and then licensed as pilots as follows:

- (a) There are always many applicants because they believe the pilots have easy, well remunerated work. Most applicants withdraw when they learn that a three-year unpaid apprenticeship is a prerequisite. The names of those who are still interested are placed on a waiting list.
- (b) When there is a vacancy for an apprentice, the pilots recommend to the Authority the applicant on the waiting list who, in their opinion, is most likely to be successful.
- (c) If the recommended candidate is accepted, he begins his apprenticeship which is served as follows:
 - (i) The first year, he operates the pilot vessel and becomes acquainted with the District, i.e., tides, currents, buoy positions, soundings, land marks, true and magnetic courses, ice conditions, radar operation and interpretation.
 - (ii) The second year, he accompanies the pilots in as many ships as possible and gains experience in ship handling. He is gradually given opportunities to pilot ships through given sections of the river under the supervision of a pilot and is allowed to anchor ships and plot positions.
 - (iii) During his third year, he is given more responsibility and longer pilotage trips as well as experience in berthing and unberthing under supervision. He is permitted to anchor vessels and assist icebreakers. He is also required to share in maintaining and repairing the pilot vessel.
- (d) Upon completing his three years of training and demonstrating to the District pilots his competence and skill to become a pilot, he is recommended for a licence. If the recommendation is accepted by the Authority, he is granted a permanent licence without examination or other formality and takes assignments as directed by the Pilot Master.

Mr. Carr, the previous Secretary, testified to the same effect and stated that a licence was issued to an apprentice who had completed his training merely upon the favourable recommendation of the pilots. He added that on one occasion the Pilot Master was the sole examiner.

In 1963, Pilot D. H. Mealey stated that two pilots were sufficient to handle the workload 90 per cent of the time, but that a third pilot was needed during the early and late periods of the shipping season. As will be seen later, the present workload did not justify an additional pilot. However, their number was increased to three Feb. 1, 1968, when Mr. Fred Bourdage was granted a permanent licence after three years' apprenticeship. A Board of Examiners was not convened. The licence was issued by the Authority on the recommendation of the Pilot Master (Ex. 1510(bb)).

Since the three pilots are comparatively young and their workload is light, it is unlikely that it will be necessary to issue another licence for some years. Hence, there is no apprentice pilot in the District at the present time (1969). No doubt it is felt locally that an apprentice should not be taken unless it is reasonably sure that he can be licensed shortly after he completes his training, especially since apprenticeship is unpaid.

Mr. MacLauchlan added that this Pilotage Authority would hesitate to change the method of apprenticeship since it ensures that only dedicated persons seriously considering pilotage as a profession become candidates on account of the sacrifice apprenticeship entails. In addition, the need for pilots is very limited in the District.

There has been no serious casualty for the last 15 years. Four groundings occurred, caused by strong winds and unusual weather conditions, but without damage to the ships involved.

COMMENTS

The training to which an apprentice is subjected is most satisfactory. The practical difficulties so often encountered are overcome because there is more than one pilot and they take turns relieving the apprentice of his obligation to man the pilot vessel so that he may accompany pilots on board and acquire actual experience piloting. This is a realistic approach to the problem which should be adopted in other small Districts. It is considered, however, that the requirements should be detailed in the regulations in order to be binding on all concerned. Since regulations are easy to change, there would be no difficulty keeping them in line with changing local conditions and requirements.

The licensing practice, however, leaves something to be desired and may give rise to abuses. It is agreed that the formal procedure stipulated in the regulations is not warranted where there are only a few pilots but it is essential to establish a routine of disinterested appraisal. It is a most dangerous procedure to permit a candidate's competency to be appraised solely by pilots, especially when, on account of their small number, they are closely associated with the candidate during his apprenticeship and are responsible for his training. The method adopted in Caraquet appears particularly suitable for small Districts. Instead of a Board of Examiners, the Pilotage Authority ascertains the candidate's fitness by obtaining opinions both from the pilots and from one qualified independent source such as an examination carried out concurrently or independently by a group of Master Mariners, one of whom must be acquainted with local navigational conditions. The candidate is also examined for physical fitness, including eyesight and hearing, by one or more physicians who report their findings to the Pilotage Authority.

If the procedure set out in the regulations is not followed, a licence may be invalidated. Therefore, the governing provisions should be amended to provide a realistic procedure which is adhered to.

Although navigation in the District is not difficult with the navigational aids available, and the ships piloted are limited in size by the nature of the channel, many of them proceed at their maximum permissible draught. In such circumstances, which may be compounded by adverse weather conditions, skill in ship-handling is paramount. However, the service now provided does not give those guarantees Masters have the right to expect, i.e., that pilots assigned to them have the required qualifications and training to navigate and handle any ship in the waters for which they are licensed. This situation will be partly corrected if the Commission's General Recommendation No. 13 (Part I, p. 494) is implemented.

Unless a candidate is a qualified mariner who has had practical experience in the waters of the District, it is considered that, after it has been ascertained by examination that he possesses the necessary local knowledge, his skill to navigate vessels in these waters should be appraised through a grade system and that an unlimited licence should not be granted unless he has proven his competency through continued experience and a good record.

In case there is no candidate who meets these basic requirements, the Pilotage Authority should be authorized to issue Pilotage Adviser's licences (Part I, p. 492). The difficulties of navigation in the District are not beyond the competence of a Master with advice on the peculiarities of the District from a person with local knowledge.

5. PILOTAGE OPERATIONS

(1) PILOT BOARDING STATION AND PILOT STATION

Pilots board and disembark from vessels bound to or from Campbellton or Dalhousie in an area that lies about two miles from Dalhousie between Bon Ami Rocks and the Miguasha Point light buoy.

Subsec. 15(2) of the By-law speaks of an *office* with a telephone that the Pilot Master is to maintain "in a location convenient to the *pilot station*". Subsec. 16(5) requires a pilot to report to the *pilot office* the time of his departure for duty; subsecs. 16(4) and (7) require a pilot to obtain from the *pilotage office* the latest information as to the state of the District and to report to the *pilotage office* upon the conclusion of an assignment.

The use of different expressions and terms in the same piece of legislation is supposed to mean that each term has a different meaning. These terms are not defined in the regulations. It appears that the office to be kept by the Pilot Master is the "pilotage office", which is also called "pilot office". In addition, there would be a "pilot station" where the pilots available for duty are expected to remain and where they could be reached for despatching purposes. The "pilotage office" is supposed to be established by the Pilot Master near the "pilot station". No doubt, in addition, the Secretary is expected to have an office of his own.

In legislation there should be consistency in the terms used, and, furthermore, unless the meaning of the term used is clearly apparent from the context, it should be defined in the regulations.

The number of various offices and stations provided in the By-law presupposes an extensive organization which is not the case. With two or three pilots who can be reached by telephone, there is no need for any office or station except the District office where the District administration is carried out. This, in fact, is the situation which prevails. Therefore, these inoperative By-law provisions should be abrogated and replaced by provisions which reflect the actual practice or which define a new realistic procedure which is to be followed. Unnecessary and inapplicable regulations cause harm in that they belittle the importance and necessity of legislation and invite complacency toward illegality.

(2) PILOT VESSEL SERVICE

Pilot vessel service is required only at or near the boarding station.

Except for the winter months, the service is provided by the Restigouche Boating Company Ltd. through their pilot vessel, the M.V. *Rustico* of 8 registered tons, length 37.5 feet, breadth 10.5 feet, propelled by an 83 h.p. motor engine. This vessel is licensed by the Pilotage Authority as required

by the By-law. The vessel is equipped with a standard compass. She is not equipped with radar, echo sounder or radiotelephone. The vessel operates from Dalhousie, which is in the proximity of the boarding station, and is used throughout the summer and during the early and later stages of ice, but not in mid-winter. She is hauled ashore about December 25 and refloated about April 20. During the winter period, tugboats belonging to the Canadian International Paper Company at Dalhousie are used instead.

The arrangements between the Pilotage Authority and the Restigouche Boating Company Ltd. and the Canadian International Paper Company are that the cost to the District of the pilot vessel service provided by either company equals the pilot boat charge specified in the tariff that ships have to pay, i.e., \$15 for each embarkation and disembarkation. Under such an arrangement, neither the District nor the pilots sustain a deficit for the pilot vessel service.

Originally, the pilots themselves operated the pilot vessel, which was the property of the Pilotage Authority, and the cost of its operation, maintenance and insurance was deducted from District earnings. Following the loss of this vessel, the \$1,000 received in insurance was turned over to the pilots toward the purchase of a new one and, in the meantime, hired pilot vessels were employed. Instead, the two pilots and the then apprentice formed a private partnership for the operation of a boat service in the area, mainly to provide a pilot vessel service. In 1957, the venture was incorporated under the name of Restigouche Boating Company Ltd. under the New Brunswick Companies Act with a stated capital of \$20,000 divided into 2,000 common shares and head office at Dalhousie (Ex. 300). In addition to the foregoing, the charter specifies that the company is authorized to carry on the business of pilotage in Chaleur Bay and on the Restigouche River and, for that purpose, to employ pilots and apprentice pilots, if authorized to do so under the Canada Shipping Act and the regulations made thereunder.

In 1961, one of the two pilots (Pilot Mott) died and through inheritance his shares became the property of his wife who, together with the two other shareholders, both pilots by then, owned and operated the company and participated in the profits, if and when dividends were issued. This situation still prevails and Mr. F. Bourdage, the newly licensed pilot, is not a shareholder (Ex. 1510(bb)).

The company has purchased at least two vessels but M.V. *Rustico* is licensed for the service. However, this vessel does not hold a Certificate of Inspection from the Steamship Inspection Division of the Department of Transport, since such a licensing requirement is not listed in the By-law. (For comments, vide Part I, p. 313.)

Apart from pilot vessel service, the company uses its vessel for whatever tasks they may be required to perform. A principal source of revenue is handling lines for ships at the International Paper Company's wharf.

The pilots (and the apprentice, if any) operate the vessel themselves without remuneration and have no employees. When a pilot is placed on board a ship, the pilot vessel is manned by one of the other pilots. Sec. 17 of the By-law provides that "no pilot shall engage in any employment or undertaking other than his regular duties as a pilot during the season of navigation, except with the written consent of the Authority". No mention was made of such written consent having been obtained, but there is no doubt that the pilots' extra activities are known and at least tacitly approved by the Pilotage Authority. Since their workload is light, these extra activities should not conflict with their pilotage duties.

The amount collected in pilot boat charges and paid to the Restigouche Boating Company Ltd. and the Canadian International Paper Company for pilot vessel service has averaged \$3,500 annually for the years 1960-1967.

At present, the pilots derive no direct financial benefits from the company in that they give their services without remuneration and there are no dividends to shareholders, who, however, own the equity represented by their shares which increases with the value of the company's assets. All receipts are employed for the operation of the vessel and purchase of new equipment. The pilots derive an indirect benefit in that they do not have to bear an operational deficit which would be the case if the use of the vessel were restricted to pilot vessel service.

COMMENTS

The method employed to provide for pilot boat service is desirable when pilotage is conducted on a small scale, unless efficient service can be readily obtained at a reasonable price by hiring privately-owned vessels. It has the advantage of providing the pilots with an occupation closely related to their profession but unlikely to interfere with it. This method should not be resorted to if it has the unwarranted result of creating an artificial requirement for more pilots than are necessary in the circumstances.

The solution is commendable when extra revenue may be earned by using the vessel for other purposes, providing its availability for pilotage duties is assured. The present system, however, has one drawback in that there is no way to ensure that the pilot vessel will always remain in the hands of licensed pilots (a situation which is now developing). As experience with the "companies for the support of pilot vessels" has proved, the pilots gradually lose control because shares are sold, pledged, mortgaged or transmitted at death to estates. There is no guarantee, nor any mechanism to ensure, that future pilots will be able to obtain shares in the company, and there could be unwarranted speculation in the sale of shares, either on the part of the company or by individual shareholders, which would

defeat the interest and purpose of the company. This could be remedied by appropriate provisions in the company's charter and by appropriate provisions in the regulations governing the licensing of pilot vessels. Even under the present statute, such regulations could be enacted under subsec. 329(c) C.S.A. (vide also Part I, Gen. Rec. No. 25, pp. 554 and ff.).

(3) DESPATCHING

According to the By-law, despatching is the responsibility of the Pilot Master who is to maintain at his own expense, an office with a telephone at a location convenient to the pilot station where shipping agents and the radio station can communicate requests for pilots. However, this elaborate theoretical organization is far from reality and is preposterous with only two pilots on strength, which has been the case for several years. In actual practice, one of the two pilots, called the Pilot Master, receives requests for pilotage from the shipping agents and both pilots act as partners sharing the workload and earnings equally.

In addition, they share the work involved in their boat company and participate with the third shareholder in its profits.

(4) WORKLOAD

Accurate data breaking down the pilotage workload are not available. However, the information on hand is sufficient to provide a reasonable appraisal.

Since 1952, pilotage traffic has been fairly constant. The number of ships piloted² in 1967 (118) is almost the same as in 1952 (111). There were peaks in 1953 (130), 1963 (130) and 1964 (143) and a low in 1960 (93). From 1952 to 1957, assignments were shared by three pilots and since then by two. During the war years, there was very little pilotage, e.g., 18 ships in 1945 for four pilots. Assignments steadily increased from 1948 to 1951 for the same number of pilots.

During the last forty years, Restigouche has never ranked as a large District: the peak of its pilot strength was reached in 1939 when there were six who between them piloted 96 ships.

Although traffic in the District remained almost constant during the last decade, the dimensions of the ships trading there steadily increased, as is shown by the District earnings in 1967 (\$36,926.53) which are more than double those in 1958 (\$16,898.36), although the tariff remained the same and the number of vessels piloted (118 in 1967 and 115 in 1958) was approximately the same. The average net tonnage of ships piloted increased from 2,393 tons in 1960 to 4,013 tons in 1967.

² *Ships piloted* generally means two trips each, i.e., inward and outward, but occasionally an exempt ship employs a pilot inward but not outward or vice versa.

Restigouche River, N.B., Pilotage District

The following table shows the number of trips and movages performed by the two pilots from 1960 to 1967.

| Year | Trips | Movages | Total Assignments |
|-----------|-------|---------|-------------------|
| 1960..... | 190 | 50 | 240 |
| 1961..... | 212 | 37 | 249 |
| 1962..... | 202 | 36 | 238 |
| 1963..... | 260 | 42 | 302 |
| 1964..... | 280 | 76 | 356 |
| 1965..... | 244 | 38 | 282 |
| 1966..... | 228 | 30 | 258 |
| 1967..... | 236 | 33 | 269 |

The annual reports (Ex. 299) do not give a breakdown of trips by destination or origin, both of which are necessary in order to establish the workload, since the duration of a trip from sea to Dalhousie is much shorter than from sea to Campbellton.

Shipping statistics provided by the Dominion Bureau of Statistics for vessels over 250 net registered tons (Ex. 1483) provide the necessary information. The following table shows the breakdown of arrivals as shown in these statistics compared to the totals of arrivals and trips shown on the District Annual Statements.

| Year | D.B.S. Statistics Arrivals of Ships Over 250 NRT | | | Pilotage Authority Annual Reports | |
|-----------|---|-------------|-------|--------------------------------------|-------|
| | Dalhousie | Campbellton | Total | Arrivals | Trips |
| 1963..... | 94 | 31 | 125 | 130 | 260 |
| 1964..... | 113 | 30 | 143 | 143 | 280 |
| 1965..... | 91 | 29 | 120 | 122 | 244 |
| 1966..... | 88 | 23 | 111 | 114 | 228 |
| 1967..... | 103 | 24 | 127 | 118 | 236 |

This indicates that there is very little pilotage, if any, at any port or loading station in the District other than Dalhousie and Campbellton. The Pilotage Authority has reported that in the last three years there have not been any assignments elsewhere (Ex. 1510(z)). The slight discrepancies between the figures of D.B.S. statistics and those of the annual reports may be accounted for by the fact that occasionally vessels smaller than 250 tons are piloted and larger vessels enjoying an exemption do not employ a pilot.

There is another service rendered by the pilots of which no record is kept and for which no charge is made, i.e., piloting government vessels especially ice-breakers (Ex. 1510(z)).

Re the distribution of assignments during the year, there are very few during the winter months, all at Dalhousie because the river is frozen. Information furnished by the Dominion Bureau of Statistics (Ex. 1510(u)) indicates that the number of ships that called at Dalhousie between January 1 and April 30 in 1963, 1964 and 1965 amounted to 18, 18 and 21 respectively, about half of them during April.

The average for the four winter months was 4.5 ships per month in the winter of 1963 and 1964 and 5.3 ships in the winter of 1965. Since one ship means two pilotage trips, the above average figures correspond to the average workload in trips per pilot in that period, i.e., about one trip a week. Because the operations of the Restigouche Boating Company are also suspended during that period, the pilots normally take their annual leave then.

During the eight-month river season of navigation, which extends roughly from May to December inclusive, the average number of ships per month and, therefore, of trips per pilot were for the same three years 1963 to 1965 inclusive, 13.4, 15.6 and 12.4, respectively, i.e., between three or four trips per pilot per week, to which should be added occasional movages averaging 2.6, 4.8 and 2.4 respectively per month per pilot.

Estimating the duration of a trip assignment from sea to Dalhousie at two hours, including time spent in the pilot vessel, and four hours for a trip to or from Campbellton, including travelling time back to Dalhousie, the average monthly time spent on pilotage trips during the busiest year, 1964, was 43.3 hours per pilot, i.e., about ten hours per week. The pilots remarked, however, that pilotage is not evenly spread and that peak rush periods occur at the opening and close of the navigation season.

In theory, such pilotage work could be attended to by only one pilot, and, even during peak periods, any occasional delays would not be of long duration. In practice, two pilots are required to ensure service in the event of illness or injury, but there is no requirement for three. The appointment of the third pilot in 1968 can only be explained as discharging a moral obligation to the apprentice who should not have been accepted as such unless it was expected that after a reasonable period he would receive a licence, especially since he was required to serve without remuneration.

6. PILOTS' REMUNERATION AND TARIFF

The pilots made no representation about remuneration or tariff and appear satisfied with the present system.

The pilots' remuneration consists of a share in the pool. The pooling procedure set out in the regulations is only partly followed in that, contrary to the By-law, pooling is based on the amount on hand and not on dues as earned, the revenue is not fully distributed at the end of each month

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(nor even at the end of each year) and a certain amount always remains, no doubt as a reserve to meet current operational expenses. The administrative expenses that, according to the By-law, are to be met personally by the Pilot Master are paid out of the pool as general District operating expenses. The pilots used to take an equal share of the revenue, provided they had been available for duty or on leave or sick leave with pay. However, the Secretary informed the Commission that pilot Bourdage receives only 20% of the District net revenue, despite the fact he holds a permanent licence. The other two pilots receive 40% each (Ex. 1510(bb)).

The Act provides no sharing rights or remuneration for apprentices. However, in 1965, 1966 and 1967, a few hundred dollars were paid out of the pool to the apprentice (who is otherwise employed), reportedly "to assist him in overcoming loss of pay due to his apprenticeship" (Ex. 1510(w)).

A pilot's share of the pool is his full remuneration. There is no Pension Fund, travelling expenses are reimbursed and group expenses are minimal (no group insurance or protection plan and the only expenses of this nature would be for attendance at pilots' meetings). Since the District is financially self-supporting, a pilot's share in the total cost of the service can be established without difficulty but the resultant figures can not be compared with those for other self-supporting Districts because part of the pilot vessel service cost is met by the pilots through their private company out of non-pilotage revenue.

The following table indicates the average "take home pay" of each establishment pilot and the "average share of the total cost of the District" per establishment pilot. For the meaning of these expressions vide Part II, pp. 132 and ff.

| Year | Number of Establishment Pilots | Average "Take Home Pay" | Average Share of Cost of Service |
|--------------|--------------------------------------|----------------------------|-------------------------------------|
| 1945/46..... | 4 | \$ 495.36 | \$ 599.21 |
| 1955/56..... | 3 | 4,221.50 | 5,595.07 |
| 1959/60..... | 3 | 5,297.14 | 6,921.89 |
| 1960..... | 3 | 5,839.14 | 7,389.75 |
| 1961..... | 2 | 10,420.70 | 12,834.38 |
| 1962..... | 2 | 9,731.82 | 11,964.32 |
| 1963..... | 2 | 11,822.40 | 14,535.13 |
| 1964..... | 2 | 15,613.19 | 18,690.25 |
| 1965..... | 2 | 14,136.58 | 16,873.12 |
| 1966..... | 2 | 14,774.25 | 17,483.07 |
| 1967..... | 2 | 15,414.20 | 18,405.18 |

SOURCES: Exs. 299 and 1510(aa).

Although the rates have not been changed since March, 1958, and the number of assignments has remained fairly constant, the pilots' remuneration has increased considerably for two reasons:

- (a) the number of pilots sharing the pool was reduced from three to two (conversely a substantial reduction is to be expected in 1968 on account of the addition of a third pilot);
- (b) ships have steadily increased in size with the automatic result of increased revenue because the tariff is based on draught and tonnage.

The tariff structure remains unchanged from the first legislation and, following pre-Confederation practice, still provides rates for sailing ships based on draught alone. In 1903, a surcharge based on tonnage was added for steamships in addition to the rates for draught. This structure still remains and today the rates are \$2.60 per foot of draught and 2¢ per net registered ton.

Originally, the tariff realistically distinguished between a smaller charge for a pilotage voyage to Dalhousie, which is strictly port pilotage, and other pilotage voyages in the District, principally to Campbellton, which involve river piloting in addition to services rendered at the port of destination. These charges have since been combined and the tariff is now the same for all ports of destination or origin within the District.

In addition to the foregoing, the tariff provides a charge of \$1.00 per foot of draught plus 2¢ per NRT for each time after the first inward or outward trip a ship calls at a port or loading station en route within the District. The former Secretary stated that during his tenure of office there had been no occasion to impose this charge.

COMMENTS

The wording of these tariff provisions is archaic, e.g., the power-driven vessel exception has long since become the exclusive rule. Therefore, if this section is to be retained, it should be completely redrafted in order to reflect the present situation.

The difference in the nature and duration of the pilotage services rendered at Dalhousie and Campbellton should also be reflected in the tariff.

The rates for a pilotage voyage are fixed at a very high level which can not be justified either by the financial needs of the district or by the difficulty and nature of the services rendered. A 5,000 NRT ship drawing 20 feet is required to pay \$152 (not counting the pilot boat charge) for the short pilotage trip from sea to Dalhousie and berthing in the harbour. A similar service in the Sydney District, where the dues are considered high, calls for a charge of \$98; in Saint John (N.B.), where the difficulties of navigation are extreme by comparison, \$80; in Halifax, \$72.05; in the New West-

minster District, where the tariff structure is the same, and also the rate per foot of draught, while the rate per ton is 1¢ instead of 2¢, \$102; Les Escoumains to Quebec plus berthing, \$141.50. The Restigouche rates are the main reason why the remuneration of its pilots is so high in comparison with other Districts or with pilots whose workload is comparable. These higher rates might have been reasonable in order to ensure at least minimum remuneration when there was very little traffic and more pilots were on strength, but they are not now warranted. Moreover, they amount to an abuse of the compulsory payment system. The addition of a third pilot, which was not justified by the demand for service, should not be taken as an excuse to maintain the rates at the present level, and even less to increase them.

Public interest is a factor that must be taken into account by the Pilotage Authority in the exercise of its rate-fixing function, but under Part VI of the Act it is a very difficult problem in practice for a Pilotage Authority to reduce rates, as should have been done in this District.

As for the type of tariff structure that should be adopted, there seems no good reason why the ton-unit price based on maximum gross tonnage should not be adopted (p. 123). In view of the fact that all traffic proceeds either to Dalhousie or Campbellton, the easiest solution would be to adopt a ton-price unit for each port. If a pilotage demand develops elsewhere, the rates should be amended.

7. FINANCIAL ADMINISTRATION

There is no fund except the Pilotage Fund. Since the District is financially self-supporting, the annual financial statement deals with the different kinds of earnings and is not confined to the pilotage dues that comprise the pool. The statement is made on the basis of receipts and disbursements and, therefore, the items *accounts receivable* and *accounts payable* do not appear. Because current expenses must be paid as they fall due, the By-law requirement that all money in the Fund be fully disposed of at the end of each month is not followed and a small reserve is always kept so that any expenses anticipated after each sharing can be met without delay. This accounts for the item *Balance on Hand* at the beginning and end of the financial year.

(1) ITEMS OF REVENUE

The items of revenue may be divided into dues and fees. Dues have already been analyzed and fees amount to very little.

Fees comprise:

- (a) The \$10 examination fee provided by subsec. 11(5) of the By-law. Apart from its illegality (Part I, p. 259), this is a negligible item in view of the small turnover of pilots. The last time an examination was held was 1959.

- (b) The \$10 pilot's licence fee which is issued pursuant to subsec. 12(3) at the end of the probationary period. For the same reason as above, this is a negligible and rare item. However, a \$10 entry for pilot's licence fees appears every year in both assets and expenditures. At the Commission's hearing, the Secretary stated that sec. 12 of the 1935 By-law called for an annual \$5 fee to be paid by each pilot. This provision was not retained in the present By-law but the Pilotage Authority continued to charge the fee. The Secretary explained the corresponding expenditure item by saying that these fees are paid out to a separate accumulating account and are used for such purposes as travelling expenses for the local Commissioners which, since he had been in office, had occurred once. This practice is obviously illegal and should be discontinued. The travelling expenses of the members of the Pilotage Authority form part of the District operating expenses and should be paid openly as such. As for licence fees, the By-law provision should be followed and the practice of collecting annual fees should be discontinued.
- (c) The pilot vessel fee which is fixed by subsec. 25(3) at \$5 for the first licence and at \$1 for each annual renewal. This provision is only partly followed. From 1960 to 1967, there is only one such entry, i.e., \$5 for the issuance of the first licence to the pilot vessel in 1960. If it is considered that this By-law provision calling for a renewal fee is not warranted, the By-law should be amended and the charge deleted; otherwise it must be collected.

All these fees are another relic of the distant past when free enterprise prevailed and have no place in a system where the provision of service is controlled by the Pilotage Authority. The pilots are, in fact, the Authority's employees and the Authority prevents any pilot vessel service competition by granting a franchise to only one pilot vessel owner (Part I, p. 260 and pp. 313-314).

(2) EXPENDITURES

Apart from the shares of the pilots in the pool, which are the main items of expenditure, and the licence fee item previously mentioned, expenditures consist of the Secretary-Treasurer's remuneration, the cost of the pilot boat service, the pilots' travel expenses, other District operating expenses, the pilots' group expenses and the apprentice's compensation.

The salary of the Secretary-Treasurer was fixed in the regulations made by the Governor in Council when he created the District in 1935 at "three

per centum of the gross receipts and earnings of the pilots each calendar year". This is repeated with a slight difference in subsec. 3(3) of the District By-laws which fixes it at "three per cent of the gross receipts of the District". As seen above, this alteration in wording makes little difference in practice since items of revenue other than pilots' earnings are negligible. In theory, however, this poses a problem which should be corrected in legislation. The 3% is deductible from all pilotage dues, including pilot boat charges.

This item is shown in the financial report in two separate entries because of the practice adopted by the Secretary for the collection of pilotage dues. No doubt at one time the practice was for pilotage accounts to be paid immediately, which required a collector to be on location when ships arrived and were about to depart. To avoid extensive travelling, Mr. Carr, who resided at Campbellton, made a private arrangement with a resident of Dalhousie for the collection of the dues at that port, the collector's remuneration being the 3 per cent on the dues he collected that would otherwise have been paid to the Secretary.

The new Secretary-Treasurer has continued these arrangements, which no doubt work well, and the shipping agents concerned are used to them, but they are no longer warranted in view of the practice adopted elsewhere for the Secretary-Treasurer or local representative of the Pilotage Authority to collect all pilotage dues through correspondence. In view of the fact that most pilotage assignments begin or end at Dalhousie, the prevailing arrangements have the disadvantage of depriving the Secretary-Treasurer of a substantial part of his remuneration. Since this is a private arrangement, payments to the Dalhousie collector should not appear in the financial statement but the full 3 per cent should be indicated as being the Secretary's own remuneration.

The item *Pilot travel expenses* covers all expenses incurred by pilots, i.e., actual travelling expenses by taxi between Dalhousie and Campbellton (a road distance of 21 miles), expenditures made when a pilot has to wait because a ship is delayed and the cost of a telephone the pilots maintained until 1968 (Ex. 1510(x)). Expenditures for boat service require no elaboration.

The items covering other operating expenditures in the aggregate are not extensive. These comprise telephone and telegraph charges, the cost of stationery and supplies, postage and express, bank charges and other miscellaneous small items.

In 1962, 1965, 1966 and 1967, there is an expenditure entry for the apprentice pilot amounting to \$20, \$200, \$300 and \$490 (vide p. 380).

The following table shows for the years 1961 and 1967 the amount of each type of expenditure and the percentage of the total.

EXPENDITURES

| | 1961 | (%) | 1967 | (%) |
|------------------------------|-------------|-------|-------------|-------|
| Sec. and Treas. remuneration | \$ 770.17 | 3.0 | \$1,092.12 | 3.0 |
| Boat services..... | 3,210.00 | 12.5 | 3,780.00 | 10.3 |
| Pilots' travel expenses..... | 648.45 | 2.5 | 405.10 | 1.1 |
| Pilots' licence fees..... | 10.00 | 0.0 | 10.00 | 0.0 |
| Other operation expenses: | 188.61 | 0.8 | 204.74 | 0.6 |
| Tel. and telegraph..... | 170.69 | | 106.00 | |
| Stationery and supplies..... | nil | | 70.64 | |
| Provisions..... | nil | | nil | |
| Postage and express..... | 5.50 | | nil | |
| Bank charges..... | 12.42 | | 17.50 | |
| Miscellaneous..... | nil | | 10.60 | |
| Pilots' group expenses..... | nil | | nil | |
| Pilots' shares..... | 20,841.46 | 81.2 | 30,828.40 | 83.7 |
| Apprentice remuneration..... | nil | — | 490.00 | 1.3 |
| | \$25,668.69 | 100.0 | \$36,810.36 | 100.0 |

COMMENTS

At first sight, it would appear that this District is not expensive to operate but this satisfactory situation is mainly due to two factors:

- (a) The function of Secretary-Treasurer is only a part-time occupation requiring no clerical assistance.
- (b) Local arrangements guarantee that the District will not sustain a pilot vessel service deficit as is usually the case when this service is operated by the Pilotage Authority. The fact that the service is performed by a third party makes it possible for the vessel to be used for other remunerative purposes, thereby making profitable an operation which otherwise would be in deficit.

The pilots do not benefit from the Workmen's Compensation legislation or from the Unemployment Insurance Act. However, their income tax is deducted at source and, for that purpose, the Pilotage Authority is considered their employer. Moreover, for the purpose of the Canada Pension Plan, pilots are also treated as employees, half of the contribution being paid out of the general District revenues. The only pilots' group expenses are the travelling expenses incurred to attend pilot meetings. For the period 1960-1967, there were only two such entries, \$50 in 1963 and \$180.60 in 1964 for travelling to Ottawa and Saint John.

Subsection II

PILOTAGE DISTRICT OF BATHURST, N.B.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

All special legislation governing the District of Bathurst, except appointments, is contained in regulations consisting of two orders emanating from the Governor in Council and the District General By-law.

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

The District was created in 1878 by Order in Council P.C. 272 (Ex. 1511(a)) which fixed its limits, appointed the members of its Pilotage Authority and made the payment of dues compulsory¹.

The Pilotage Authority remains a commission, now composed of three members. The three present incumbents, all residents of Bathurst, were jointly appointed by the same Order in Council P.C. 1963-1529 dated October 17, 1963 (Ex. 1511(c)). The following year, one of the commissioners, Mr. Leo J. Melanson, was also appointed Secretary and Treasurer and his remuneration was fixed at 5 per cent of the pilotage dues (P.C. 1964-724 dated May 14, 1964, Ex. 1511(d)).

The District limits were last defined July 23, 1957, by Order in Council P.C. 1957-988 which restricted the Pilotage District to the harbour of Bathurst and its immediate approaches:

"The Pilotage District of Bathurst, New Brunswick, comprises the navigable waters inside a line drawn from Carron Point to Alston Point and the waters five miles to seaward of that line" (Ex. 1511 (b)).

¹The validity of the compulsory payment of dues could be disputed on account of a clerical error in the Order in Council which was never corrected. By exception, two Districts were created simultaneously by the same Order in Council. The last clause dealing with the compulsory payment of dues speaks of only one District and does not specify which one is intended. "...to make the payment of Pilotage Dues compulsory within the limits of the said District."

(2) PILOTAGE AUTHORITY'S REGULATIONS

The current General By-law was confirmed March 29, 1958, by Order in Council P.C. 1958-475. It has not been amended since.

Except for small differences, it is the Restigouche By-law verbatim. The main differences are:

- (a) The ETA requirement is not defined.
- (b) There is no Pilot Master, the Secretary combining both administrative and operational functions.
- (c) Candidates for a pilot's licence, including apprentices, must hold a certificate not lower than Master Home Trade Tug, and the age limit is 33.
- (d) Pooling is based on pilotage dues actually collected and not on "amounts due" as in the Restigouche District.
- (e) The tariff structure is the same but the rates vary. The price per foot of draught for a full trip is \$2 and a trip to the ballast ground is \$1.55. The second leg of a trip from the ballast ground to the harbour is called a movage, which calls for an extra \$1 per foot of draught. In addition, in all three cases, if a vessel is power-driven, an additional charge of 3¢ per net registered ton is payable. Other movage charges are \$10. The pilot boat charge is \$15.

2. HISTORY OF LEGISLATION

Prior to Confederation pilotage for the port of Bathurst came under a licensing authority whose jurisdiction, according to New Brunswick pilotage legislation, extended to all the navigable waters within an electoral district. This practice was continued when the Pilotage District was first defined after the adoption of the 1873 Pilotage Act.

On April 9, 1878, by Order in Council P.C. 272, two Pilotage Districts were established to cover the coast of the County of Gloucester, the District of Bathurst and the District of Caraquet, the dividing point being the Roman Catholic Church at Grande Anse (Ex. 1511(a)). Hence, the Bathurst District extended over some 40 miles of coastline including, *inter alia*, what is now the harbour of Belledune. These limits remained in force until 1957 when as aforesaid, they were reduced to the waters of the port of Bathurst and its immediate seaward approach (Order in Council P.C. 1957-988 of July 23, 1957, Ex. 1511(b)).

In addition, the Order in Council made the payment of pilotage dues compulsory and appointed a Commission of five members, all residents of "the Parish of Bathurst".

On March 17, 1879, the "By-laws, Rules and Regulations for the government of Pilots for Bathurst District" that had been drawn up by the new Pilotage Authority were given approval by the Governor in Council (P.C. 316, dated March 17, 1879, Ex. 1511(e)). Characteristically, although the Pilotage Authority repeated in the By-law the definition of the District limits stated in the 1878 Order, there was no provision to govern pilotage in the outports—only service at the "Port or Harbour of Bathurst" was covered. The pilots are referred to as possessing a branch for the "Port or Harbour of Bathurst" and the rates deal exclusively with that port.

The existence of a previous pilotage service is confirmed by a reference to the rules and regulations made by the Justices of the County of Gloucester (which were thereby superseded), and by a provision that the pilots who held a branch under the previous administration would have their licence confirmed.

These regulations were generally similar to those in the Restigouche District, but the rate structure was different. For small vessels between 0-30-50-75 and 100 NRT a single charge was fixed for each group; for those in excess of 100 NRT there were four rates per foot of draught, depending on whether the trips were inward or outward, or terminated before or past The Forks. Apprenticeship was for two years to be served on board a licensed pilot vessel. Movages were not subject to the compulsory payment system. Free enterprise prevailed and the pilots had to own or be part owners of a pilot boat of not less than 18 feet in length.

New by-laws were approved by P.C. 3144 of November 15, 1897 (Ex. 1511(j)) which were amended from time to time, *inter alia*, in 1916 by a new tariff (P.C. 1965 of August 19, 1916, Ex. 1511(f)). At this time the special rates for small vessels, that were not steamships, were dropped. The surcharge for steamships, which already existed, was raised to 2¢ from 1¢ per registered ton. In 1949 by P.C. 1884 of April 14 (Ex. 1511(i)) the rates were again revised upwards, the surcharge was raised to 3¢ and a pilot boat fee of \$10 and a boatman's fee of \$5 were introduced.

In 1958, P.C. 1958-475 of March 29 revoked the previous General By-law and its amendments and approved the now current By-law which retain the same tariff structure and makes the pilot boat fee \$15.

Chapter B

BRIEFS

No brief was submitted.

EVIDENCE

1. GENERAL DESCRIPTION

(1) PHYSICAL FEATURES AND AIDS TO NAVIGATION

Originally the District comprised some 40 miles of coastline and included the emplacement which is now the port of Belledune. In 1957, the District was confined to the only area where pilotage was performed, the port of Bathurst. For a time after the creation of the man-made port of Belledune (vide p. 363), the few pilotage services required were performed by one Bathurst pilot. There were two ships piloted in 1967 and 5 up to December, 1968. Since then, the Harbour Authorities (the Belledune Fertilizer Ltd. acting as such for the National Harbours Board) have given notice that the Bathurst pilots are no longer required (Ex. 1511(m)). The movement of ships in the port of Belledune does not present any particular difficulties. The depth of water is adequate both inside the harbour and in its wide approach area.

The harbour of Bathurst is situated on the south shore of Chaleur Bay on Nipisiguit Bay at the head of a basin formed by the junction of three rivers: the Nipisiguit, on the west bank of which the harbour proper is situated, Middle River and Tetagouche River.

Bathurst is a Port of Entry serving the surrounding area whose principal industries are lumbering, mining, fishing and farming.

The harbour freezes over during the winter and the navigation season is from mid-April to the end of November or the beginning of December.

From the navigational point of view, the port and its approaches are characteristic of a delta estuary where heavy silting, sedimentation, currents and cross-currents constantly change the banks and the depth and location of the channel. Continuing surveys and dredging are required and the buoys must be moved frequently to meet changing conditions.

A four-mile dredged channel is maintained. It is 140 feet wide with a depth of 15 feet at low water and is marked on both sides by red and black spar buoys.

A fairway buoy moored seaward of the entrance to the harbour indicates the location of the straight approach channel $1\frac{1}{2}$ miles in length. In addition to the spar-buoys, the centre of the channel is indicated by leading range lights just inside the entrance to the basin. The harbour entrance is two cables wide between Carron Pt. and Alston Pt. Thence the channel winds through mud and sand banks to The Forks where it branches around the mud banks formed by the junction of Middle River and Nipisiguit River.

Spring tides rise 7 feet and neaps $4\frac{1}{2}$ feet. The usual rate of the tidal stream in the main channel is 2 knots but during the freshet season (from the latter part of March to early June) it reaches 4 to 5 knots.

Two wharves accommodate ocean-going ships: the 500-foot Bathurst Power and Paper Company wharf and the 403-foot Government wharf. The depth alongside both wharves at low water is reported to be 20 and 21 feet respectively.

Considerable dredging has to be done off the paper mill to remove bark and wood refuse. The pilots warn Masters of this danger and point out that ships have grounded there causing damage to their pumps.

The size of ships that can use the harbour is limited by its physical conditions. The maximum draught for vessels outbound is 18.6 feet and inbound 17.6 feet, but this limitation seldom creates a problem. Since the sea bottom is of mud and sand there is little danger of damage if a ship touches or grounds. Pilot A. J. Doucet informed the Commission that he had piloted a deep draught ship with only 6 inches underwater clearance.

At the time of the Commission's hearing in 1963, the harbour's aids to navigation were not advanced sufficiently to permit normal night pilotage. However, small tankers about 500 tons NRT were piloted in and out during the night to lighten larger Irving Oil Co. tankers anchored outside the harbour. On these occasions, lanterns carried by the pilot vessel were placed on the ranges, the black buoy at The Forks and the Bathurst Power and Paper Company wharf. The pilot vessel, operated by the apprentice pilot, showed her lights and proceeded ahead of the ship being piloted.

Pilot Doucet stated in his evidence that frequent requests had been made to the Department of Transport to install new ranges and lights but to no avail. The Commission has learned since that three new sets of range lights have been installed (making a total of four) and that, in addition, 18 new spar buoys and nine lighted buoys are planned for placement.

Maintenance dredging is required annually.

(2) MARITIME AND PILOTAGE TRAFFIC

Vessels visiting the District comprise those engaged in coastwise trade, small tankers, medium sized ocean-going cargo vessels, small bulk ore carriers and fishing vessels.

Bathurst, N.B., Pilotage District

The following table concerning vessels of 250 NRT and over arriving at Bathurst is based on information provided by the Dominion Bureau of Statistics (Ex. 1483):

| Year | Arrivals | Aggregate NRT | Average NRT | Cargo Handled (Tons) | |
|-----------|----------|------------------|----------------|----------------------|-----------|
| | | | | Foreign | Coastwise |
| 1959..... | 26 | 31,433 | 1,209.0 | 29,063 | 212,603 |
| 1960..... | 42 | 85,893 | 2,045.1 | 22,551 | 276,565 |
| 1961..... | 40 | 81,406 | 2,035.2 | 26,209 | 255,878 |
| 1962..... | 50 | 96,730 | 1,934.6 | 139,858 | 178,311 |
| 1963..... | 47 | 109,184 | 2,323.1 | 29,230 | 285,983 |
| 1964..... | 36 | 96,145 | 2,670.7 | 99,897 | 203,242 |
| 1965..... | 44 | 141,931 | 3,225.7 | 149,788 | 124,374 |
| 1966..... | 59 | 184,804 | 3,132.3 | 162,875 | 95,602 |
| 1967..... | 65 | 173,444 | 2,668.4 | 136,757 | 96,951 |

The following table, which shows the extent and importance of the pilotage service, is compiled from information contained in the Pilotage Authority's Annual Reports (Ex. 304). For comparative purposes, the arrivals and aggregate tonnage in the previous table should be multiplied by two since, for pilotage purposes, an *arrival* means two trips, one inward and one outward, and the *aggregate tonnage piloted* is counted each time.

| Year | No. of Pilots | No. of Trips | Aggregate NRT | Average NRT |
|-----------|---------------|--------------|---------------|-------------|
| 1959..... | 2 | 36 | 48,826 | 1,356.3 |
| 1960..... | 2 | 39 | 59,291 | 1,520.3 |
| 1961..... | 2 | 59 | 72,910 | 1,235.8 |
| 1962..... | 2 | 76 | 94,333 | 1,241.2 |
| 1963..... | 2 | 94 | 94,439 | 1,004.7 |
| 1964..... | 3* | 54 | 109,645 | 2,030.5 |
| 1965..... | 3 | 62 | 125,128 | 2,018.2 |
| 1966..... | 3 | 71 | 184,441 | 2,597.8 |
| 1967..... | 3 | 94 | 202,950 | 2,159.0 |

* Pilotage was performed by only two pilots.

The two tables show:

- (a) Traffic is light.
- (b) An appreciable number of vessels of 250 tons and over dispense with pilots.
- (c) Size is not necessarily the factor which determines whether a pilot will be employed since the average net tonnage of the total traffic (over 250 NRT) in all years, except 1961, is substantially higher than the average net tonnage of ships piloted.

For Masters with a good knowledge of local conditions there are no serious navigational problems and a grounding is unlikely to cause damage in view of the nature of the sea bottom.

Compulsory pilotage in any form, including the compulsory payment of dues, can not be justified on the ground of safety, and even less as a matter of public interest.

These statistics do not give a true picture because they show more traffic than actually exists due to the shuttle system of lighters which discharge Irving Oil Co. tankers whose draught prevents them from entering the harbour. The number of such trips taken varies from 12 to 16 each time. The procedure is carried on day and night and takes five days or more. This method of operating began around 1960 and accounts for a significant part of the increase in both general and pilotage traffic since then. Each time a lighter returns to port is counted as one arrival and for pilotage purposes a round trip counts as two trips.

Traffic depends on local requirements. The increase in recent years is mainly due to three factors: construction by the Irving Oil Company of a plant served from a wharf in East Bathurst, the Bathurst Paper Company's decision to ship by sea rather than by rail and the increase in demand for local products.

2. PILOTAGE ORGANIZATION

The District is the responsibility of a three-member commission recruited locally. The few administrative duties are carried out by a member of the commission who is also appointed District Secretary and Treasurer.

Because of the small demand for pilotage, the Secretary and Treasurer has only a part-time occupation. Despite the fact that, according to the regulations, he is responsible for despatching in addition to his administrative duties, this is left to the pilots to arrange among themselves. If on occasion a request for a pilot is addressed to him, he merely conveys it to one of the pilots. In the circumstances, the senior pilot has assumed, unofficially, the function of Master Pilot. He complained to the Commission about the absence of a procedure covering notices of requirements which he claimed should always be referred to him.

The Secretary who was in office in 1963 at the time of this Commission's hearing, Mr. Antonio J. Robichaud, stated that the function of Pilotage Authority was being discharged by the local Commissioners in a very informal and perfunctory manner. Since his appointment in 1959, the Commission had never met as a body and responsibility for the District was left to him. However, he kept the members informed and occasionally telephoned the Chairman on important matters. He deplored this state of affairs. It was reported that a previous Secretary had abused the situation so created and had administered the District arbitrarily.

Neither the Government nor the Pilotage Commissioners take the functions of the Pilotage Authority seriously but treat the office as an honorific title granted for partisan political reason, as is demonstrated by the replacement of all the members of the Commission, including the Secretary, each time the Federal Government changes. In recent years, all the members including the Secretary were dismissed *en bloc* and replaced twice on the ground of political activities, June 25, 1959 (P.C. 1959-821) and October 17, 1963 (P.C. 1963-1529). Pilot A. J. Doucet was so accustomed to the process that he stated during this Commission's hearing early in 1963 that, since there had been a change of Government the appointment of a completely new Pilotage Authority was to be expected. His forecast proved correct. He added that partisan politics also played a part in the appointment of a pilot. He complained that he had recommended his boatman, Mr. Murray McLean, without success but added he was confident that the new Commission to be appointed by the new Government would approve. This prediction also materialized in July, 1964, despite the fact that the candidate did not meet the By-law requirements. The Secretary at that time denied Pilot Doucet's allegations, adding that the Authority was seriously considering appointing Mr. McLean.

COMMENTS

Drastic changes in organization which break continuity are unjustified except to deal with an operational crisis. The fact that wholesale changes can be made in the Pilotage Authority with no apparent ill effect allied to the perfunctory manner in which the District is administered indicates that the District as now constituted should be abolished. If a merger type District is created, pilotage services for the port of Bathurst should be included in order to establish control over licensing and rate-fixing.

3: PILOTS

There are at present (1969) three pilots and no apprentice (apprentice Murray McLean was granted a pilot's licence retroactive to July 13, 1964).

The evidence shows that the By-law requirements relating to licensing are completely disregarded. Sec. 10 of the District General By-law stipulates, *inter alia*, that "subject to section 12 (apprenticeship), no person is eligible to be licensed as a pilot unless . . . (c) he is . . . not more than thirty-three years of age; . . . (g) he holds a certificate not lower than that of a Master of a Home Trade Tug . . . (h) he has successfully passed an examination before a Board of Examiners." Sec. 11 stipulates that a Board of Examiners be appointed by the Authority for the purpose of examining applicants' general and local knowledge of subject-matter listed in subsec. (6). The first licence is probationary and may be granted to a person who does not qualify as an

apprentice, provided he is not over 45 (subsec. 12(1)) and meets the other requirements set out in sec. 10 (subsec. 12(4)), *inter alia*, holds the stipulated minimum marine certificate. The next licence is permanent and unlimited.

When Mr. Murray McLean received his licence in 1964, he was 49 and hence over age. In addition, he did not, and still does not, hold a marine certificate of competency of any kind. A Board of Examiners was not convened. Instead, Mr. McLean's request was dealt with by the Pilotage Authority itself as a routine matter. He was granted a permanent but limited licence enabling him to act only as relief pilot, until a vacancy was created by the departure of one of the two fully licenced pilots (Ex. 1511(k)).

The Pilotage Authority held a special meeting July 30, 1964, to consider Mr. McLean's application. The minutes of that meeting read as follows:

"BOARD OF PILOTAGE COMMISSIONERS OF BATHURST, N.B.

Leo J. Melanson, Secretary-Treasurer

Aug. 1st. 1964

Meeting of the Board was held at 1.15 P.M. with full Board present on July 30th. 1964.

Reading of minutes of April 18th. meeting approved.

The matter of granting a Pilots license to Murray McLean was discussed at length. After reading several references Mr. McLean was called in and he was questioned and examined by the Board.

Moved by J. Huntly Ferguson and seconded by Patrick M. Meahan and carried that Murray McLean be granted a Pilots license for the Port of Bathurst District. It being understood that he act only as spare Pilot as originally intended by our Board. To be paid only when one of our 2 appointed Pilots be incapacitated for some time, and monies from Pilotage to be divided by the Pilot in question and at the discretion of the Secretary Treasurer of the Board.

No other change until further advised.

Application for Pilot Apprenticeship was received from Mr. William McLean.

LEO J. MELANSON
Sec'y. Treas."

Pilot Murray McLean "pilots" a dredge for J.P. Porter & Co. during dredging season and is paid by them. These revenues are not treated as pilotage revenues for the District and do not appear on the annual financial statements. It is presumed that the tariff is not applied. In addition to this occupation, pilot McLean is the District linesman and operates the pilot vessel. He is paid out of the Pilotage Fund for his services as linesman and by the owner of the pilot vessel, pilot A. J. Doucet, for operating the pilot vessel (Ex. 1511 (k)). Pilot Murray McLean has served with the pilots for 18 years as pilot Doucet's boatman. His other experience in local waters has been as a fisherman.

Pilot Doucet stated in his evidence that he learned his trade by going on board ships from time to time since he was 12 years old, accompanying his father who was a pilot. He piloted his first ship in 1944 when he was 34. He holds no marine certificate of any kind.

The other senior pilot, Edgar McLean, was appointed in 1955 at the age of 43. Before his appointment he had served seven years as an apprentice and operated the pilot boat. He had also sailed in local waters as a fisherman and like the other two pilots, does not hold a marine certificate.

The Secretary at the time of the Commission's hearing, Mr. Robichaud, stated that he had once issued a licence to a pilot without a Board of Examiners having been convened.

There is no shipping casualty reported in any of the annual reports since 1959. However, the Commission learned at its public hearings that in 1962 the M.V. *Irvingwood* grounded between Carron Point and Alston Point but floated off undamaged with the following high tide.

The Secretary determines when the pilots take their vacation. If a pilot has to be absent for a few days, he informs the Secretary who makes arrangements with the other pilots. There is always one pilot available.

The Secretary has had no occasion to exercise his disciplinary powers and has received no complaint regarding the pilots.

COMMENTS

The foregoing indicates the obvious reluctance of the Department of Transport to discharge its surveillance role and the necessity for an active and effective Central Authority (Part I, pp. 62 and ff.).

The pilot's licence granted to Mr. Murray McLean is invalid since he did not, and still does not, meet the regulation requirements. The limitations imposed on his licence are also invalid because they are not authorized in the regulations.

This example shows how legislation is likely to be ignored unless a superior Authority exists to enforce it. Such irregularities are clearly apparent from the limited information contained in the District annual reports. Proper directives to the Pilotage Authority would have sufficed to make clear the importance of adhering to governing legislation in the discharge of a public function such as Pilotage Authority.

This Commission is satisfied that the Pilot Commissioners in this case acted in good faith, in the best interest of the service and on the basis of equity for those concerned, as they would have done if pilotage had been their own personal business. They often take established practice as their guide but are seriously hampered when, as so frequently happens in this District, continuity of membership is disrupted. This situation would probably not have arisen if, when such irregularities occurred, the Pilotage Authority had been reminded that not only was it bound by Part VI C.S.A. and by its own By-law but also it had the power and obligation to modify the regulations, with full confidence that such amendments would be sanctioned if they were *intra vires* and met genuine local requirements. Instead, the Pilotage Authority was left without surveillance or guidance, except when it

sought assistance on its own initiative. This is the basic cause of the unsatisfactory legal situation which now prevails.

Dealing with the question of the required number of pilots, it is considered that one pilot would be sufficient to handle the existing demand (vide p. 394). The appointment of a second pilot may be considered warranted to avoid interruptions in service due to illness or other reason, but there is no justification from the service point of view for appointing a third pilot. This is fully realized locally as is shown by the restrictive conditions placed on the present third pilot's licence and the fact that he has never been allowed to pilot a ship since he obtained his licence. It is obvious that this appointment was merely to establish a *fait accompli* so that when a vacancy occurs there will be no question of licensing another candidate. The decision could be justified in equity in that it made good the implied guarantee that by being an apprentice he would one day become a pilot and it compensated in some way for the years of sacrifice this extended apprenticeship involved.

4. PILOTAGE OPERATIONS

(1) PILOT BOARDING STATION AND PILOT BOAT SERVICE

The pilots usually board a ship about two or three miles seaward from the fairway buoy where the ship anchors.

It takes an average of three-quarters of an hour for the pilot vessel to reach the boarding area from the harbour where it remains between assignments. Hence, the pilots require a minimum of one hour's advance notice of a ship's arrival.

The pilot vessel is owned by the senior pilot, Mr. A. J. Doucet. Its total value is estimated at \$4,000. It carries no special equipment. A recurring annual expense of \$75 is required to replace the propeller which is damaged by pulp wood.

Despite the By-law requirement, the pilot vessel is not licensed. In addition, it does not carry a Steamship Inspection Certificate.

The practice has been for the pilots to furnish linesman service as well as pilot vessel service. It is their responsibility to attend to both. The \$15 pilot boat charge is divided between the boat owner and the apprentice—\$10 and \$5—as was provided in the 1916 tariff since repealed (p. 390). Pilot Doucet complained that the aggregate amount of his \$10 share of the boat charge was not sufficient to meet the expenses of operating and repairing the boat. The apprentice also receives a \$25 fee for his line service, which fee is billed by the Secretary to the ship and collected by him as if it were part of the pilotage dues, despite the fact that such service is not recognized by the By-law and there is no such item in the tariff.

The Department of Transport officials are aware of this practice and consider that there is nothing illegal or objectionable in it, but they do not think that the linesman's charge should be incorporated in the tariff. The

Department's stand is partly correct. There is no objection if the pilots and apprentice pilots are permitted to engage in other occupations, whether or not related to the service, provided their availability for pilotage is unaffected. Linesman service is not a pilotage function and, therefore, it is beyond the Pilotage Authority's regulation-making power to fix by By-law a charge for such a service or to control it. There is also no objection if the charge for the linesman's service is collected by the Secretary as a personal service to the linesman, even if the Secretary charges the linesman a fee for so doing, as long as the latter agrees. However, this is not pilotage money and should not be treated as such. Since it is collected by the Secretary, it belongs to the Pilotage Fund, but should be entered and reflected in the financial statements as belonging to a third party.

As seen earlier, granting a pilot's licence to the former apprentice Murray McLean has not changed local arrangements for providing pilotage services. Pilot McLean continues to operate the pilot vessel and attend to lines and does not perform pilotage, but carries out the normal duties of an apprentice. He does not share in the pool and his remuneration consists of his \$5 share of the pilot boat charge and the \$25 unofficial linesman's fee.

When the regular pilot vessel is not available due to unforeseen circumstances, transportation is obtained from other local sources at an agreed price, e.g., the 1966 financial statement shows that a Bathurst Paper Company Ltd., tugboat was used for that purpose at a cost to the District of \$42.75.

(2) DESPATCHING

Despite the By-law requirement, despatching is not attended to by the Secretary nor are assignments given in turn. The two senior pilots are readily available throughout the eight-month season of navigation. They arrange the workload between themselves, including occasional movages in the harbour. From 1960 to 1967, only five movages are reported: two in 1966 and three in 1967.

There is normally a slight peak in pilotage traffic at the beginning and end of the season. The Irving Oil tankers cause a sharp increase in pilotage for a few days as a result of the shuttle system used. For instance, in 1962, out of 76 pilotage trips, some 25 were in lighters serving tankers that called about four times during the year. (For the number of trips for each year between 1960 and 1967, vide Table, p. 394.)

An inbound trip, including berthing, takes about an hour. Since it takes about three-quarters of an hour for the pilot boat to reach the boarding area, the time spent by a pilot on a trip from the time he leaves his home until he returns may be calculated as 2½ hrs. This would mean that in 1967 (which was the busiest year on record with 94 trips and 3 movages) each pilot during the eight-month season was actually engaged in piloting for not more than 50 hours, and the total, including travelling time, could not have

exceeded 125 hrs. Such a small demand can readily be attended to by one pilot and the workload is extremely light when shared by two. Three pilots are clearly not warranted.

5. PILOTS' REMUNERATION AND TARIFF

This Commission received no complaint or recommendation concerning the pilots' remuneration or the tariff.

The system being followed for pooling and the tariff structure are both very similar to those in the Restigouche District.

As explained earlier, despite the fact that there are three pilots officially on strength, one is in name only, and does not share in the pool. The other two pilots share the net District revenues after operating expenses have been deducted. These include the pilot boat charges which, when collected, are paid direct to the senior pilot, A. J. Doucet. This accounts for the higher amount shown as pilot Doucet's earnings. However, he pays his boatman one-third of the boat charges and meets its operating expenses.

While the tariff structure is the same as in the Restigouche District, the amount of both components is different: the price unit for a foot of draught is \$2 and the price unit per NRT is 3¢. Hence, the pilotage charges for a ship of 5,000 NRT with 20-foot draught (which is used for comparison purposes with the figures quoted for Restigouche) would be \$190 plus the \$15 pilot boat charge.

These rates are very high in comparison with those charged in the larger Districts and are not warranted by navigational difficulties or by District financial requirements. It is further considered that the ton-price unit related to maximum gross tonnage with a minimum rate, which was recommended elsewhere, should apply in this District. The rate, i.e., the price unit, should be fixed to provide sufficient revenue to meet District expenditures while providing an adequate remuneration for the services performed. The establishment should not be increased beyond actual requirements indicated by the prevailing workload, i.e., two pilots, one of whom might well be employed as a relief pilot only. As the workload is not sufficient even to keep one pilot fully occupied, pilots should be allowed and encouraged to take other employment which would be compatible with their respective pilotage commitments.

Pilot Doucet complained that the pooling regulations are not always followed and cited two cases in the fall of 1962 when he received no share of certain earnings. The second pilot, E. McLean, explained that one case concerned the trawler *Polar Fish*, under 100 NRT and exempt from the compulsory payment of dues. When he was asked to pilot this vessel, he communicated with the Secretary for direction and was informed that, since it was exempt, he could accept the request and charge a nominal fee. The second vessel, the derelict *Burchton*, was to be towed in and converted to a

floating dock by the Bathurst Power and Paper Company. Pilot McLean was asked by the company agent to perform this task; he accepted and charged \$25. In both cases, Pilot McLean collected and retained the charges without involving the Secretary.

The same situation now obtains with regard to the employment of Pilot Murray McLean on the J.P. Porter & Co. dredge, if in fact he is employed there as a pilot.

It is considered that pilot Doucet was correct in his contention that, according to the By-law all earnings paid to pilots for pilotage services performed in the District should be deposited in the Pilotage Fund and eventually shared among the pilots.

The fact that a ship enjoys an exemption has absolutely no bearing on the applicability of the tariff and the pooling system (Part I, pp. 134 and ff.). The tariff should specify the remuneration of pilots for whatever services they may render in the course of their duties. In the case of the fishing vessel, the price was, therefore, \$2 per foot draught and 3¢ per NRT. It would have been illegal to ask for more and the Secretary was duty bound to charge exactly that price. The second case, as well as the case of the dredge, poses a difficulty in view of the fact that Part VI applies only to "ships" (Part I, p. 181 and pp. 213 and ff.).

The limited financial information provided by the annual reports does not establish the actual amount paid to each of the two pilots who share the pool. Only an aggregate amount is shown with an indication that this is divided 50/50 among them and that Pilot Doucet also receives the pilot boat charges. After the pilot boat charges have been estimated and deducted, and assuming that the two pilots receive exactly equal shares, their "take home pay" should be as shown in the following table, which also shows the share per pilot of the total cost of the District. The "take home pay" figures are however too high since they include the linesman's fees for which no data is provided to make even an estimation. Actual figures were obtained for 1967 (p. 404) establishing the linesman's fees at \$3,282.25 and the pilot's "take home pay" at \$7,893.39 instead of \$9,622.51 quoted below.

| Year | Pilot Boat Charges Paid to Pilot Doucet* | Pilot's Take Home Pay | Pilot's Share of District Cost |
|-----------|--|-----------------------|--------------------------------|
| 1959..... | \$ 270.00 | \$ 1,304.86 | \$ 1,728.14 |
| 1960..... | 585.00 | 3,540.68 | 4,036.43 |
| 1961..... | 885.00 | 5,122.56 | 5,859.98 |
| 1962..... | 1,140.00 | 5,884.20 | 6,795.82 |
| 1963..... | 1,410.00 | 7,583.56 | 8,703.09 |
| 1964..... | 810.00 | 6,045.28 | 6,789.85 |
| 1965..... | 930.00 | 6,891.17 | 7,743.82 |
| 1966..... | 1,165.00 | 8,664.24 | 9,755.22 |
| 1967..... | 1,410.00 | 9,622.51 | 10,889.63 |

*One-third of this amount belongs to the linesman.

This table indicates the existence of the same situation that prevails at Restigouche and which is caused by the lack of policy regarding the establishment of rates and the unwillingness of local, uncontrolled Pilotage Authorities to reduce rates once set, although circumstances may have made them quite disproportionate. Although the same tariff obtained between 1959 and 1967, the pilots' "take home pay" increased more than six times (617.5%), while their workload (which still remains negligible) increased less than twice (161.1%). Since the tariff and the number of pilots with sharing rights remained the same, the increase is accounted for mostly by the increase in the size of ships (vide p. 393). (The remarks made in Sub-section I (pp. 381-382) re the necessity of revising rates apply here.)

6. FINANCIAL ADMINISTRATION

The only fund is the Pilotage Fund.

The financial administration of the District is attended to by the Secretary. After each assignment the pilots hand in their pilotage slip (source form, Ex. 303) signed by the Master, giving the name of the ship and all the other information necessary to compile the bill. The Secretary does not check the tonnage in the shipping register but takes it for granted that this was done by the pilot. The bill form being used lists and details the dues payable for the pilot's services, the pilot boat charge divided between boatman's fee and pilot boat fee, and also contains an item "other charges", which is used to cover the linesman's fee (Ex. 302). Both billing and collection are handled by the Secretary. Once a month or occasionally more frequently, the Secretary prepares a statement of revenue, gives a copy to each of the two sharing pilots and the linesman and pays the linesman his fees and the two senior pilots their share, after deducting 5 per cent of the gross revenue².

The Secretary submits annual reports to the Department of Transport as required by sec. 332 C.S.A., but the financial information they contain are devoid of details.

The accounts are never audited but the pilots stated that they were satisfied because they can easily make their own verification.

Financial administration is simplified by the fact there are practically no expenditures, which are not directly dependent upon the collection of dues. Since the pilot vessel service is provided by Pilot Doucet personally for a price which corresponds to the pilot boat charge, there should be no deficit in that connection except when this service must be obtained from other sources. There is no need to keep a reserve to pay the Secretary because he

²The money earned by one pilot in 1967 at Belledune was collected and shared in the usual manner but was not reflected in the financial statement because Belledune is outside the District. This accounts in part for the slight discrepancies in the 1967 financial statement (Ex. 1511(o)).

Bathurst, N.B., Pilotage District

receives 5 per cent of the dues collected. The small expenditures for stationery, stamps and telephone which amounted to \$73.82 in 1967 are financed by the Secretary personally but he is reimbursed from time to time by the pilots out of their own money and no bookkeeping entry is made. Such a procedure is an unnecessary imposition upon the Secretary. There are no group expenses, and the pilots have no pension or group protection of any kind.

Financial administration is conducted on the basis of cash on hand. The Annual Reports that should contain the financial details are sketchy and convey very little information beyond aggregate amounts. To provide a clearer picture the Commission obtained a breakdown of the expenditures for 1967 (Ex. 1511(o)):

| REVENUES* | |
|--|--------------|
| Pilotage dues excluding boat charges..... | \$ 16,901.01 |
| Pilot boat charges (56 ships)..... | 1,680.00 |
| Linesman's fees..... | 3,455.00 |
| Total..... | 22,036.01 |
| Less discrepancy..... | 256.74 |
| | 21,779.27 |
| DISBURSEMENTS | |
| Secretary's remuneration..... | 1,114.24 |
| Pilot Doucet's share in the pool..... | 7,893.39 |
| Boat charges (less 5% and less boatman fee)..... | 1,064.00 |
| Pilot Edgar McLean's share in the pool..... | 7,893.39 |
| Pilot Murray McLean's share in the pool..... | nil |
| Boatman's fees (less 5%)..... | 532.00 |
| Linesman's fees (less 5%)..... | 3,282.25 |
| Stamps, stationery and telephone.....(73.82) | |
| Total..... | 21,779.27 |

*Belledune earnings are not reflected in the annual statement. In 1967, there were two ships (aggregate NRT 19,364) which brought an aggregate revenue of \$1,363.10. This off-the-record revenue was distributed as follows (Ex. 1511(m)):

| | |
|-------------------------|-------------|
| Pilot A. Doucet..... | \$ 567.20 |
| Pilot E. McLean..... | 567.20 |
| Linesman M. McLean..... | 156.75 |
| Secretary's 5%..... | 71.95 |
| | \$ 1,363.10 |

COMMENTS

A brief study of the annual reports submitted in accordance with sec. 332 C.S.A. again demonstrates that the Department of Transport has not fulfilled the surveillance function entrusted to it by Parliament. The sketchy information forwarded neither constitutes a financial report nor provides a basis for the Department to discharge its limited but mandatory duties, a situation the Department of Transport should not have allowed to perpetuate. Furthermore, incomplete financial information distorts the information the return is purported to give, e.g., the actual remuneration of pilots.

In his last reply to this Commission's various enquiries, the present Secretary of the Pilotage Authority complained that he had no training or directive for this employment but was simply trying to follow the practice established by his predecessor. He poses the question: Why has no one ever checked his books? and he points out that he is "no auditor, just a layman, a retired business man". He added that he has all the records of the District financial operations and that his bank deposits and the bank statements always balance (Ex. 1511 (o)).

It appears that the foregoing procedural irregularities would not have occurred if the Department of Transport had shown interest and offered guidance. However, such a situation will not arise if a Central Authority with power to investigate and take remedial action is created as recommended (General Recommendations 17, 19 and 20).

Subsection III

PILOTAGE DISTRICT OF CARAQUET, N.B.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

Excluding Orders in Council concerning appointments, all special legislation for the District of Caraquet is contained in two orders issued by the Governor in Council and the District General By-law.

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

The District was created by the Governor in Council on April 9, 1878, at the same time and by the same Order in Council which created the Pilotage District of Bathurst (P.C. 272 of April 9, 1878, Ex. 1511(a)). This Order in Council contained all matters connected with the creation of a District and remains the authority for the legal existence of the District and the compulsory payment of dues. Its other clauses have been modified since. The Pilotage Authority is still a commission composed of three members whose appointments date back respectively to 1920, 1948 and 1951.

The District limits were last defined in 1938 by Order in Council P.C. 1453 dated June 24, 1938 (Ex. 1512(a)) as follows:

"To include all the coastal waters of the County of Gloucester, New Brunswick, inside an imaginary line drawn from the Roman Catholic Church at Grand Anse to a point three and one-half nautical miles due north (ast) from the Pokesudi Point Lighthouse, thence due south (ast) to the Pokesudi Point Lighthouse, together with all tributary waters flowing thereinto."

In other words, it is now limited to the port of Caraquet and its approaches.

(2) PILOTAGE AUTHORITY'S ENACTMENTS

All the regulations emanating from the Pilotage Authority are contained in the District General By-law which was approved on May 28, 1962, by P.C. 1962-783 (Ex. 24) as amended on October 25, 1962 (P.C. 1962-1519).

The General By-law is very similar to that of Bathurst except for one point, the absence of apprenticeship. It provides for control of the service by

the Secretary, who despatches the pilots according to a *tour de rôle* for the pooling of the pilots' earnings and for the salary of the Secretary who receives 8% of the gross receipts. The District is financially self-supporting. No marine certificate or actual experience in District waters is required from pilot candidates. Their main prerequisites are residence in the County of Gloucester, age not less than 21 or more than 60, good health, good character and success in an examination on nautical and local knowledge. Skill is appraised in the course of a probationary period whose duration is left to the discretion of the Pilotage Authority. The By-law contains the usual provision that a pilot shall not be otherwise employed during the season of navigation unless so authorized in writing by the Pilotage Authority. Pooling is on the basis of dues collected and availability for duty, including leave with pay. Pilot vessels must be licensed annually. The tariff structure is based on draught and tonnage but the schedule is worded realistically to avoid the distinction between power-driven vessel and others. The rates are \$2.00 per foot draught plus three cents per NRT, and the charges for movages and pilot boat service are \$10 each.

2. HISTORY OF LEGISLATION

Up to the time of the creation of the District in 1878, pilotage in the port of Caraquet, as in the port of Bathurst, came under the jurisdiction of the Justices for the County of Gloucester.

On April 9, 1878, by P.C. 272 (Ex. 1511(a)) the Governor in Council divided the coastal waters of the County of Gloucester into two separate Districts—the Pilotage District of Bathurst and the Pilotage District of Caraquet—the dividing line being the Roman Catholic Church at Grande Anse. The Caraquet District extended to the south east boundary line of the County on the Gulf of St. Lawrence and included Shippegan and Miscou Islands. The Order in Council appointed as Pilotage Authority a local commission of three members, two residing at Caraquet and one at Shippegan.

Shortly thereafter, on September 30, 1878, by Order in Council P.C. 775, a By-law prepared by the new Pilotage Authority was given approval by the Governor in Council (Ex. 1512(b)).

This By-law contains realistic features which reflect the nature of the local pilotage organization, i.e., it has merely licensing and regulation-making power with jurisdiction over a number of separate pilotage services for the various ports within its limits. Pilots are licensed for one or more ports. The coastal waters do not form part of the District, except to serve as a boarding area, with the result that vessels passing through them are not subject to the compulsory payment of dues unless destined for one of the District ports. Subject to the payment of a fee an annual pilotage certificate may be issued to the Master or mate of "any ship or vessel registered in Canada" who is

found qualified by the Pilotage Authority to navigate his ship or vessel in the District. The number of pilots must not be less than 6. No marine experience or local knowledge is required but candidates must satisfy the Authority that they are competent. Licences issued by the previous Authority are cancelled and their holders must re-establish their competency. Each pilot must own his own pilot vessel. The pilot responsible for an inward voyage is entitled to pilot the same ship outward. Each pilot must make monthly returns to the Authority giving particulars of the services rendered and money collected. Fines are imposed for breach of the By-law, the amount within the established limit being left to the discretion of the Court or the Justice dealing with the case. As in Bathurst, the rate structure is different for small ships, viz. a flat rate of \$6 for ships up to 60 tons and \$9 up to 80 tons. The rates for larger ships are based on two factors: type of voyage and draught, the rates being \$1.20 per foot for an inward voyage and \$1 per foot for an outward voyage. A moorage calls for a fee of \$1.50 for vessels not exceeding 150 tons and \$2 for those above, but not subject to compulsory payment. The rates are the same for all ports in the District.

On May 18, 1880, by Order in Council P.C. 866, the Pilotage Commission was enlarged to five members by the addition of two residents of Tracadie.

The 1878 By-law was amended from time to time and remained in force until superseded in 1935 by a new By-law approved by Order in Council P.C. 1971 dated July 16, 1935 (Ex. 1512(g)).

The 1935 By-law established controlled pilotage, and shared the responsibility for control between the Secretary and the Pilot Master. Three pilot stations were established for the ports of Miscou, Shippegan and Caraquet. The dues were made payable to the Authority and were collected by the Secretary whose salary was fixed at 2½ per cent of the gross earnings. The pilots were entitled to an equal share in the net receipts of the District, the Pilotage Authority having power at its sole discretion to reduce the share of any pilot who failed to perform the requisite number of assignments. The special rates for small vessels and the difference between inward and outward voyages were abandoned, leaving a uniform rate of \$1.50 per foot of draught plus 1¢ per NRT. In addition, a \$3 pilot boat charge was instituted which, when collected, was to be kept in a separate fund used solely for the upkeep, maintenance and repair of the pilot vessel or vessels. The pilots were to take assignments in turn at the direction of the Pilot Master.

On June 24, 1938 (P.C. 1453, Ex. 1512(a)) the present limits (p. 408) were adopted when the Pilotage District of Shippegan was created (it was abrogated in 1960). The District territory was restricted to the port of Caraquet, its immediate approaches and the coast between Grande Anse and Maisonnette Point. The District By-law was amended to conform to the new limits (P.C. 1965 dated August 10, 1938, Ex. 1512(i)).

Thereafter, the By-law was amended three times before it was superseded by the current General By-law in 1962. In 1949 (P.C. 2485, Ex. 1512(m)), the rates were increased to \$1.95 per foot draught plus 1.3¢ per NRT and in 1951 (P.C. 3811, Ex. 1512(n)), the pilot boat charge was increased to \$5. In 1953, new pilotage rates were adopted on the same pattern as those still prevailing at Bathurst, i.e., making a distinction between mechanically propelled vessels and others. There was a general rate per foot draught of \$2, \$1.55 or \$1 depending whether a ship made a full trip inside the District, or only a partial trip to or from the ballast ground. A 3¢ per NRT surcharge was set for vessels propelled by steam or by mechanical power. The pilot boat charge was increased to \$15, \$10 for the pilot boat and \$5 for the boatman (Ex. 1512(o)).

Chapter B

BRIEFS

No brief was submitted.

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

The District of Caraquet comprises the port of Caraquet and its approaches together with that part of the south shore of Chaleur Bay west of Caraquet from Maisonnette Point to Grande Anse. This last named section has been retained from the original limits as defined in 1878.

The port of Caraquet is situated on the south shore of Caraquet Bay at the southern entrance to the Bay of Chaleur. The harbour is described in the *Gulf of St. Lawrence Pilot* (sixth edition, 1968):

“Caraquet Harbour lies between Pokesuedie Island and Maisonnette Point, on the mainland $7\frac{1}{2}$ miles to westward; it is entered through Caraquet Channel, a narrow, tortuous channel running between the steep edges of Pokesuedie and Caraquet Shoals. The northern side of the harbour is formed by Caraquet Island, with the shoals extending from it, and the drying sands extending southeastward from Maisonnette Point.”

Caraquet Channel has sufficient depth for vessels of moderate draught. At its entrance there are depths of 5 to 6 fathoms and not less than 20 feet up to within half a mile of the east point of Caraquet Island. The channel between this island and the mainland has been dredged to 3 fathoms in a cut about $6\frac{1}{2}$ cables long and a quarter of a cable wide. Farther westward the channel broadens to a quarter of a mile with a depth of 4 fathoms. The head of the harbour forms a spacious but shallow bay, into which flows the northeast and southwest streams of the Caraquet River.

Caraquet is an excellent harbour for vessels of moderate draught, but mariners are warned of its dangerous approach which lies between shoals extending several miles from the shore. A depth of 20 feet extends from shore far enough for vessels to find safe anchorage. Caraquet is a thriving fishing village with a station on the Canadian National Railway. A dragger fishing fleet is stationed at Caraquet where a large fish plant is located. It is a Port of Entry.

A Government wharf is located at Middle Caraquet, L-shaped, 600 feet long with a 100-foot ell at the outer end where there is 6 feet of water at low tide. Young's wharf at Caraquet is the main shipping wharf, 1,200 feet long, block shaped, with 20 feet depth of water at the outer end and extending for 240 feet. There are good anchorage grounds off this wharf. Since there are no tugboat facilities, vessels berth and unberth by their own power. Spring tides rise $6\frac{1}{2}$ feet and neaps $4\frac{1}{2}$ feet.

Caraquet Harbour is frozen over during the winter and the season of navigation extends for seven months, from May 15 to December 15.

The boarding area is situated at the entrance to Shippegan Channel, approximately one mile north of the fairway buoy indicating the entrance to Caraquet Channel. From there to Young's wharf, where cargo vessels berth, is a distance of nine miles and the channel between is marked by light—and sparbuoys and leading lights situated on the eastern shore of the harbour.

Pilot Denis Lanteigne testified that the buoys and range lights were satisfactory but that ships were not piloted at night. The Chairman of the local Pilotage Commission, Mr. Jos. G. Chiasson, testified that fishermen who use the harbour day and night consider the range lights not bright enough and difficult to distinguish from those of private houses. The Department of Transport has informed the Commission that three additional light-buoys have been placed in Caraquet Channel since 1963, all light-buoys have been equipped with radar reflectors and the intensity of shore lights has been increased where possible.

Ships are not piloted at night because the channel is narrow and winding but little difficulty is encountered in daylight. The controlling depth of the channel at low tide is 20 feet, except inside Caraquet Island where there is a patch with only 18 feet.

The ports of Shippegan and Miscou have not been included in any Pilotage District since the abolition of the Shippegan District 1960. Hence, any services required there are provided by a local unlicensed pilot. Very few ships call at Shippegan: the principal traffic consists of small fishing vessels, fish carriers of 200-500 tons and the Irving tankers *Hickory* and *Seekonk*. The approach to Shippegan is not considered difficult but the channel is not as deep as at Caraquet. Only fishing vessels under 50 NRT use Shippegan Strait to enter the Gulf of St. Lawrence. A lift bridge is raised to allow them to pass.

(1) MARITIME AND PILOTAGE TRAFFIC

The vessels encountered in the District are mostly medium-sized cargo vessels or tankers engaged in foreign and domestic trade. There are also several fishing vessels.

The following shipping statistics provided by the Dominion Bureau of Statistics (Ex. 1483) show the total number of vessels of 250 NRT and over that arrived at Caraquet in each of the nine years from 1959 to 1967, including their aggregate net tonnage, and the tonnage of foreign and coastwise cargo handled.

| Year | Arrivals | | | Cargo Handled (Tons) | |
|-----------|--------------|----------|---------------------|----------------------|-----------|
| | No. of Ships | Net Tons | Average Net Tonnage | Foreign | Coastwise |
| 1959..... | 23 | 25,295 | 1,099.8 | 34,399 | 2,699 |
| 1960..... | 5 | 3,864 | 772.8 | 1,108 | 2,888 |
| 1961..... | 26 | 26,785 | 1,030.2 | 32,851 | 2,368 |
| 1962..... | 23 | 26,045 | 1,132.4 | 26,814 | 1,788 |
| 1963..... | 17 | 13,385 | 787.4 | 9,218 | 2,834 |
| 1964..... | 26 | 23,563 | 906.3 | 24,199 | 3,088 |
| 1965..... | 33 | 34,979 | 1,059.9 | 38,492 | 5,844 |
| 1966..... | 24 | 19,250 | 802.1 | 14,702 | 4,706 |
| 1967..... | 18 | 18,281 | 1,015.6 | 10,187 | 6,605 |

The following table taken from the Pilotage Authority's Annual Reports (Ex. 308) provided the same information for ships piloted.

| Year | No. of Pilots | Ships Piloted | | | |
|-----------|---------------|---------------|-----------------------|---------------------|--------------|
| | | No. | Aggregate Net Tonnage | Average Net Tonnage | No. of Trips |
| 1959..... | 2 | 15 | 13,790 | 919.3 | 30 |
| 1960..... | 2 | 5 | 3,744 | 748.8 | 10 |
| 1961..... | 2 | 24 | 23,886 | 995.3 | 48 |
| 1962..... | 2 | 22 | 22,106 | 1,004.8 | 44 |
| 1963..... | 2 | 11 | 8,685 | 789.5 | 22 |
| 1964..... | 2 | 22 | 20,212 | 918.7 | 44 |
| 1965..... | 2 | 34 | 36,035 | 1,059.9 | 68 |
| 1966..... | 2 | 25 | 20,900 | 836.0 | 50 |
| 1967..... | 2 | 21 | 20,368 | 969.9 | 42 |

The figures contained in the foregoing tables indicate that Caraquet can accommodate only comparatively small vessels. The largest reported was 1,603 NRT and the average net tonnage is approximately 1,000.

There is very little traffic except an Irving Oil Co. tanker of 579 NRT which calls monthly. Apart from vessels under 250 tons, almost all employ a pilot.

Maritime traffic is dependent upon local requirements. The low in 1960 is accounted for by the fact that the wharf was under construction. The District Secretary stated that he expected the drop in traffic in 1963 because of a decline in wood exports to Europe. He explained that lumber ships go into Bathurst for their principal cargo but, since there is not sufficient water to allow them to take a full cargo there, they call at Caraquet to take on a deck load. In fact, not more than 3 or 4 ships called at Caraquet in 1963, if the Irving tanker which calls once a month is excluded.

2. PILOTAGE ORGANIZATION

The District organization is the same as in Bathurst (vide p. 395), but it is apparent from the Commissioners' lengthy tenure of office that partisan politics do not play any part. The appointment of the Pilotage Authority Chairman, Mr. Joseph Chiasson, dates from 1920, Mr. Alexandre Gionet, 1948, and Mr. Raymond Roy, member and Secretary, 1951.

The Secretary testified that the local Commission meets on an average once a year. If important matters arise, he communicates with the Chairman, who calls a meeting. Minutes are kept by the Secretary.

In 1961, complaints about pilotage were made by the Caraquet Chamber of Commerce and a local member of Parliament wrote to the Department of Transport. The Pilotage Commission discussed three complaints with the Chamber of Commerce who seemed satisfied with the explanation given. The Secretary is of the opinion that partisan politics were involved. He added that whenever the Government changes there is pressure to appoint new pilots and a new Harbour Master because there is so much unemployment. Captain F. S. Slocombe of the Department of Transport stated that at the time of these complaints, the Department was not receiving the Pilotage Authority's annual reports, or any other information. Hence, the Department wrote to the Secretary that, since the activities of the District were decreasing, the Department was considering recommending its abolition. This letter received a speedy reply, there has been a marked improvement in cooperation ever since and no further problems have arisen.

The Secretary despatches the pilot(s) (when there are two they are despatched in turn), keeps all records, collects pilotage dues from agents and, after deducting his share of 8%, pays the pilots, who in turn pay the boatman of the hired fishing boat that acts as pilot boat. The pilot boat does not carry a licence from the Authority as called for in the By-law, subsec. 24(1). The Secretary also prepares annual reports and submits them to the Minister of Transport.

3. PILOTS

According to the By-law, pilots are recruited from the general public. There is neither apprenticeship nor a requirement for a marine certificate, or experience at sea or in local waters. The By-law merely requires that a candidate be not over sixty years of age, be in good health and of good character, and has proved to a Board of Examiners that he has the general and local knowledge necessary to become a pilot. His skill is to be appraised during his probationary period. Although the licensing procedure as set out in the By-law is not followed strictly, the Pilotage Authority is effectively ensuring that only qualified candidates are licensed.

For the last twenty-five years, the number of pilots on strength has been two but, due to the limited demand, pilotage service has been provided by only one pilot since 1963. That year the second pilot, Prudent Lanteigne, was given leave of absence to enable him to be appointed Master of a local trawler. In 1965, he returned to pilotage duties and the other pilot, Denis Lanteigne, was given similar leave of absence.

In view of the small remuneration derived from pilotage the pilots must have additional employment to supplement their income, provided at least one of them is readily available when needed. When the pilots are not on extended leave of absence, they keep the Secretary informed of their whereabouts.

The By-law provisions regarding despatching and pooling are obviously not requisite for that type of pilotage organization and should be amended realistically.

In 1962, two younger pilots were licensed to replace the two previous pilots who had to retire on account of age, having been licensed in 1937 and 1950 respectively.

The vacancies were not advertised. The Commission let it be known that two pilots were required and three applicants presented themselves. The Authority did not convene a Board of Examiners but carried out its own informal investigation of the competency of the candidates, which possibly was the best procedure in the circumstances. First, they consulted the retiring pilots and on their recommendation rejected one applicant who was considered unqualified to take examinations because he had had very little relevant experience. Then they arranged for the other two candidates to be examined for competency by Capt. Dubé, a Quebec District licensed pilot, who was then conducting courses in navigation at the fisheries school at Caraquet. The verbal examination, which lasted two evenings, covered aids to navigation, signals, tides and currents, charts, manoeuvring, berthing and allied subjects. Eyesight and hearing tests were conducted by a Caraquet doctor. The candidates, Mr. Denis Lanteigne and Mr. Prudent Lanteigne, passed these examinations and were granted permanent pilot's licences.

One of the candidates had served at sea in the merchant marine during the war and had, on one occasion, piloted the Irving owned *Seekonk* when a licensed pilot was unavailable. Both had local knowledge of the District gained in fishing vessels which use the same channel as other ships.

In the last decade, there have been no shipping casualties or incidents reported. However, the Commission was informed that in December, 1960, a ship grounded on the sand bar near the wharf due to a strong wind but freed herself without damage. This has been the only accident since the Secretary took office in 1951.

The Secretary reported that there had been only one occasion when a pilot was disciplined. In 1959, a pilot, now retired, was suspended for two weeks because he had been intoxicated several times and was giving poor service.

4. PILOTAGE OPERATIONS

Normally, requests for pilotage are addressed to the Secretary who then notifies the pilot. When there were two pilots, they normally took turns unless one was not available. The practice was for the pilot who brought a ship in to pilot her out. The pilots embark in the area west of the seaward buoy marking the entrance to Shippegan Channel, a distance of approximately ten miles from Young's wharf. It takes about one hour for the pilot vessel to travel from Caraquet to the boarding area and from one and a half to two hours to pilot a ship in to her berth, and about the same time to clear outbound. The pilot boat follows outgoing ships to disembark the pilot.

Neither the Authority nor the pilot owns or operates a pilot boat because its earnings would be insufficient to cover expenses. Boats are hired as required, and it is the pilot's responsibility to make the necessary arrangements with local fishermen. The \$10 pilot boat charge is paid to the pilot, together with the other pilotage dues earned by him. The cost of boat hire is generally fifteen dollars, i.e., ten dollars for the boat and five dollars for the boatman but sometimes the pilot is able to make a better deal. The various boats so used are not licensed by the Pilotage Authority.

In adverse weather, a boat is required to handle ship's lines. In such a case, an additional charge of ten dollars is made against the ship (for comments, vide p. 400).

Re the extent of the workload, vide p. 415.

5. TARIFF, PILOT'S REMUNERATION AND FINANCIAL ADMINISTRATION

The pilots' remuneration is supposed to be an equal share of the net pilotage receipts of the District. This procedure was followed when there were two actual pilots but now there is only one and the net receipts belong

to him: The only item of expenditure listed in the annual reports is the remuneration of the Secretary which amounts to 8% of the gross receipts of the District. There is no entry with regard to the other necessary items of expenses—telephone, stationery and postage. It is assumed that the same procedure that prevails at Bathurst is followed here (p. 403). The linesman's fees are collected by the Secretary and entered into the Pilotage Fund and the pool as if they were pilotage dues. The annual returns show only the aggregate receipts without segregating pilot boat charges and linesman's fees from the dues earned by the pilot's services.

The amount shown on the financial report as having been paid to the pilot is not his net income, in that it comprises the pilot boat and linesman's charges (less 8% retained by the Secretary). The pilot must pay out of this income the cost of boat hire and the line service fee to the boatman.

Assuming that the small items of expenditure, such as postage, are disregarded, and that pilot boat and linesman's charges average fifteen dollars each time a boat is hired, the distribution of pilotage revenues appears as follows:

| Year | Number of Pilots Sharing | Gross Earnings | Secretary Treasurer's Remuneration | Postage | Pilot Boat and Linemans Cost to the Pilots | Aggregate Net Earnings | Individual Pilot's Net Income |
|-----------|--------------------------|----------------|------------------------------------|----------|--|------------------------|-------------------------------|
| 1959..... | 2 | \$ 2,005.34 | \$ 160.42 | — | \$ 225.00 | \$ 1,619.92 | \$ 809.96 |
| 1960..... | 2 | 582.50 | 46.60 | — | 75.00 | 460.90 | 230.45 |
| 1961..... | 2 | 3,405.25 | 272.42 | — | 360.00 | 2,772.83 | 1,386.41 |
| 1962..... | 2 | 3,372.03 | 269.76 | — | 330.00 | 2,772.27 | 1,386.13 |
| 1963..... | 1 | 1,427.30 | 114.18 | — | 165.00 | 1,148.12 | 1,148.12 |
| 1964..... | 1 | 2,915.68 | 169.25 | \$ 21.30 | 330.00 | 2,395.13 | 2,395.13 |
| 1965..... | 2 | 5,358.54 | 428.68 | 1.30 | 510.00 | 4,418.56 | 2,209.28 |
| 1966..... | 1 | 3,085.46 | 246.83 | — | 375.00 | 2,463.63 | 2,463.63 |
| 1967..... | 1 | 3,225.11 | 258.00 | — | 315.00 | 2,652.11 | 2,652.11 |

The pilots have no welfare scheme or pension benefits.

COMMENTS

In general, the District is administered efficiently and realistically and the pilotage service is adequate for local needs.

The limits of the District appear over-extended. Since no pilotage is performed between Maisonnette Point and Grande Anse and it is unlikely any services will be required there in the near future, it is considered that the limits should be redefined to include only the port of Caraquet and its approaches.

The limited demand for pilotage services does not warrant more than two pilots nor is it necessary to forbid them to accept other employment. It

Caraquet, N.B., Pilotage District

is commendable to arrange, as at present, for a regular pilot and a relief pilot, provided the Pilotage Authority ensures that the relief pilot has sufficient opportunities to navigate in the District in order to maintain his *expertise*.

The pilotage rates are low in comparison with Bathurst and Restigouche. It is realized this may be due to the fact that the majority of vessels employing pilots are small. However, once again it is believed that the best system would be a rate in the form of a price per ton of maximum gross tonnage with a minimum charge.

The local regulations should be rewritten to meet local requirements and not to resemble those in other Districts.

Subsection IV

PILOTAGE DISTRICT OF MIRAMICHI, N.B.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

PREAMBLE

Apart from Orders in Council concerning appointments, all the special legislation for this District is contained in two Orders from the Governor General and the District General By-law as amended. (Vide also p. 428 re the *harbour regulation* of 1933.)

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

The District was created by an Order of the Governor in Council on May 7, 1874 (P.C. 502, Ex. 1513(a)) which fixed its limits, appointed a five-member commission as its Pilotage Authority and made the payment of dues compulsory. The provisions in this Order in Council governing the creation of the District and the compulsory payment of dues are still in force.

The Pilotage Authority is still a commission composed of five members whose respective appointments range from 1952 to 1966. The present Chairman, Mr. Wallace P. Anderson, was appointed as such on April 1, 1966, and has been a commissioner since 1948. On April 1, 1966, Mr. K. R. Bruun was appointed Secretary and Treasurer to replace Mr. R. A. Walls who had been Secretary for twenty-six years.

The District limits were amended only once, on January 26, 1939 (P.C. 176, Ex. 1513(b)), as follows:

"To include all the coastal waters of the County of Northumberland, N.B., inside an imaginary (sic) line drawn from Morin Point to the north end of Portage Island, thence in a south-easterly direction to Buoy No. 1 in Miramichi Bay being 47°07'07" North Latitude, and 64°46'49" West Longitude, thence in a southerly direction to the lighthouse on Escuminac Point, and including all the tributary waters flowing thereinto."

(2) REGULATIONS ADOPTED BY THE PILOTAGE AUTHORITY

The present General By-law (approved by Order in Council, P.C. 1958-576 dated April 23, 1958 (Ex. 21)) was made at the time the regulations of most Commission Districts were revised mainly to make them

uniform. The result was, except for some provisions interjected locally, a series of regulations similar to those in other Districts, which frequently, but especially in this District, do not conform to actual practice or to District requirements. The General By-law was amended twice by Order in Council, P.C. 1961-1070 dated July 24, 1961, and by Order in Council, P.C. 1964-2021 dated December 23, 1964. Its main features are as follows:

- (a) Pilotage is controlled and the Secretary is responsible for the direction of pilots. There is no provision for a Master Pilot.
- (b) The Secretary's remuneration is fixed at 5% of the gross receipts of the District. (Increased to 6% March, 1969.)
- (c) Pilots are recruited through a four-year apprenticeship and can not be licensed unless they are under forty-five years of age, in good health and of good character, and have successfully passed an examination on nautical and local knowledge before a Board of Examiners. Skill is assessed during a probationary period, the duration of which is left to the discretion of the Pilotage Authority, as is also the remuneration to be paid to probationary pilots.
- (d) If a qualified apprentice is not available when a vacancy occurs, a mariner holding a certificate not lower than First Mate, Home-Trade Steamship, or Master, Inland Waters Steamship, and possessing the other qualifications, may be licensed, commencing as a probationary pilot.
- (e) The pilots' remuneration is an equal share, on the basis of time worked, in the net revenue of the District, i.e., after all operating expenses, including the compulsory deduction for the pension scheme, are made. The monthly shares are estimated on dues earned, while the final payment at the end of the year is based on money actually received during the year. Absence from duty, whatever the cause does not count for sharing under any circumstances.
- (f) The usual provisions regarding leave of absence have been retained, modified only to indicate that, in each case, leave is always without pay. Some meaningless provisions which will be studied later have resulted.
- (g) The By-law purports to modify some of the absolute exemptions to the compulsory payment system listed in sec. 346 C.S.A., e.g., *inter alia*, by restricting the various absolute exemptions (vide Part I, p. 228) granted to vessels of dominion registry to Canadian vessels. Such provisions are *ultra vires* and, therefore, null and of no effect. At the same time, all the relevant exemptions regarding dominion registered coastal and inland trading vessels were withdrawn, which is legal for those exceeding 250 N.R.T.
- (h) The pension scheme is based on the purchase of Government annuities.

- (i) The 1964 amendment provided for the creation of a "Maintenance Fund" consisting of the pilot boat charges for the upkeep, maintenance and repair of the pilot boats belonging to the Authority.
- (j) The voyage charge, as in the other Commission Districts, is based on both draught and tonnage but the distinction between power-driven vessels and those that are not was not retained, despite the fact that the term is still defined in the By-law interpretation section. The rates are \$2.50 per foot draught and 3¢ per N.R.T. The pilot boat charge is \$10 and the moorage charge \$30.

2. HISTORY OF LEGISLATION

In pre-Confederation days, pilotage within the County of Northumberland, including pilotage at Miramichi, was according to the governing New Brunswick statute, under the Court of the County acting as licensing authority (vide pp. 34 and ff.).

The first limits of the District, which were established by P.C. 502 of May 7, 1874¹, comprised all the coast of the Gulf of St. Lawrence from Miscou Point in the County of Gloucester to Kouchibouguac River in the County of Kent, and extended seaward to the Magdalen Islands. A commission of five was appointed as Pilotage Authority composed of members residing in Newcastle, Chatham and Douglastown. The payment of dues was made compulsory.

One month later, on June 17, 1874, the first *Rules and Regulations* for the District were approved by the Governor in Council (Order in Council, P.C. 791, Ex. 1513(d)). These were merely interim regulations which amended the pre-Confederation rules enacted by the Northumberland Sessions for the government of pilots.

A few months later, a complete set of regulations was approved by Order in Council (P.C. 336 of April 10, 1875, Ex. 1513(e)), entitled "Rules and Regulations for the Government of Pilots for the Port of Miramichi". They provided rules for the free exercise of the pilotage profession. Pilots were recruited through a four-year apprenticeship to be served on board a licensed pilot boat, and each pilot had to be the owner of his own pilot boat.

The requirement for each pilot to own his pilot vessel of suitable seaworthy qualities to meet vessels at the seaward limit of the District, i.e., in the neighbourhood of the Magdalen Islands, had proven to be too heavy a

¹ It may be argued that the District had been created some months earlier, evidenced by Order in Council, P.C. 432 of April 21, 1874, providing for the replacement as a member of the Miramichi Pilotage Authority, of one Thomas F. Gillespie, who had resigned, by the Hon. Richard Hutchinson (Ex. 1513(c)). This would indicate that the Board of Commissioners had already been appointed. However, Order in Council, P.C. 502, made fifteen days later, is a completely self-contained Order for the creation of the District. The Hon. Richard Hutchinson is mentioned as one of the Commissioners and no reference is made to any previous Orders that were abrogated, amended or superseded.

financial burden for the individual pilots. In 1882, by an amendment to the By-law, the system of companies for the support of pilot vessels was instituted. The pilots were divided into four groups for the ownership and operation of one suitable schooner per group.

One indirect effect of the re-organization was the disappearance of individual competition and the incentive for each pilot to earn more. In 1892, twenty-seven Italian ship Masters who called regularly at Miramichi addressed a petition to the Minister of Marine and Fisheries complaining that the service had gravely deteriorated since the institution of the new system, the pilots were no longer on the look-out for vessels at the seaward District limits near the Magdalen Islands and vessels had to make closer approach to embark a pilot regardless of weather. They reported that four vessels were stranded on the shores of Miramichi Bay during a storm in August 1892 because pilots were not available and recommended a return to the pre-1882 free enterprise system. The petition was endorsed by one group of pilots and a number of merchants in the area (appendix to Order in Council, P.C. 782 of April 12, 1893, Ex. 1513(f)).

The matter was referred by the Minister to the Pilotage Authority for immediate action. The other group of pilots made a counter petition opposing a return to the previous system. When the Minister realized that the Pilotage Authority was unable to arrive at the right solution, he recommended an appropriate Order, which was approved and issued by the Governor in Council (P.C. 782 of April 12, 1893, Ex. 1513(f)) dismissing the members of the Pilotage Authority *en bloc* for lack of interest in shipping and apparent inability to control and manage pilotage affairs. A new Board was appointed. Four of the new Commissioners were shipowners and exporters, all local residents engaged in shipping.

The new Authority made new regulations which were approved by Order in Council (P.C. 1534 of May 19, 1894, Ex. 1513(g)). A transitional period ensued when steamships gradually superseded sailing vessels as reflected in the By-law.

The main changes were:

- (a) A pilot vessel with two or more pilots aboard had to be kept constantly on station and under sail off Escuminac Point (the present boarding station) which was well inside the seaward limit of the District but at the entrance to confined waters.
- (b) Pilotage was fully controlled. The pilots were obliged to take charge of the pilot vessels in turn and accept assignments according to a tour de rôle as directed by a person appointed for that purpose. Pilotage earnings were payable to the Authority, collected by the Secretary and shared equally among all the pilots after payment of the operating expenses of the District.
- (c) The advent of steamships was marked by the imposition of a surcharge on these vessels of 2¢ per N.R.T.

By 1883, the number of pilots had increased out of all proportion to requirements. The 1882 By-law amendment provided that, subject to the acquired rights of the then apprentices, new pilots would not be appointed until their number fell to thirty. This clause did not appear in the 1894 regulations, although there were still more pilots than required, but the authority and the pilots had a general understanding that the number would not exceed twenty.

New problems soon developed. In 1899, the Pilotage Authority, without consulting the pilots, had reduced the rates and increased exemptions from the compulsory payment of dues (Ex. 1513(h)). When the pilots learned about the new regulations, they notified the Authority that they did not accept them and threatened to resign unless the new rates were repealed or modified. But the Pilotage Authority would not relent with the result that the pilots, now twenty in number, went on strike May 23, 1899, by resigning their licences *en bloc*. Three or four large steamers were in port, loaded and ready for sea, and their draught was such that, unless they departed at high tide that day they would be delayed for ten or twelve days to await the next high tides. The Authority, anticipating the pilots' action had amended its By-laws (approved twice the same day by the Governor in Council by P.C. 1078 and P.C. 1083, both of May 20, 1899, and to the same effect (Exs. 1513(i) and (j)) to empower it to issue a pilot's licence to any person considered competent. Four new pilots were appointed forthwith, the ships sailed on time and the pilotage service was maintained.

Since the strike caused much confusion in the District, the Minister appointed a Capt. Bloomfield to hold an investigation into the causes of the strike with an added mandate to endeavour to settle it. The investigation was held and recommendations made but they failed to achieve an amicable settlement.

At that stage, the Attorney General of the Province of New Brunswick entered into the dispute by seeking a court injunction to prevent the four newly-licensed pilots from acting as such, challenging the validity of their licensing. The petition was dismissed by the court on the ground that, there being no pretense that the appointments had not been made in good faith, the office of licensed pilot being public, and the issue being the validity of the licensing, the remedy if any was not by injunction but by information in the nature of a *quo warranto* (Attorney General of New Brunswick v Miller et al., 2 N.B. Equity Reports, p. 28; vide also Part I, p. 65). The pilots also instituted other injunction proceedings on their own.

No doubt the failures in court, heavy legal costs, and the loss of earnings finally made the pilots more amenable to a settlement, and a written agreement was signed April 21, 1900, by the pilots' Negotiation Committee and the Pilotage Authority. Apart from some modifications to the controversial By-law, it provided for the abandonment of the pending court proceedings, the re-establishment of the former pilots, the retention of the

new pilots, the division of the pilots into three groups instead of two; each group possessing its own pilot vessel and competing for employment against each other and the payment out of District earnings of the court and legal costs, if the Pilotage Authority failed in its endeavour to have them paid by the Federal Government out of public funds.

On May 15, 1900, by Order in Council, P.C. 1165 (Ex. 1513(k)), the pilots' request for financial assistance was partially granted and the Pilotage Authority was given \$600 out of public funds towards the payment of part of the costs incurred in the litigation.

In order to give effect to the agreement, the By-law was amended (approved by Order in Council, P.C. 1341 dated May 24, 1900, Ex. 1513(m)).

In 1918, the organization and administration of the District came under the terms of reference of the Robb Royal Commission (p. 47). The Commission found (Ex. 1328) that the District was efficiently administered. It noted that the number of pilots had been reduced from thirty-nine in 1893 with four pilot schooners, to twenty with three pilot schooners between 1900 and 1910, and to sixteen with two pilot schooners up to the autumn of 1917 when one of the two pilot schooners was lost. The largest pilot schooner was owned by eleven pilots and the other by five. Since its loss, it was reported that the pilots who had owned it were unable to earn their living because they lacked a vessel of their own or shares in another. The pilots' earnings were pooled and deductions were made from the earnings of each pilot to pay for his share of the cost and maintenance of the pilot schooner of which they were co-owners. (This explains the variations in their "take home pay".) The Commission found that due to decreasing shipments by water the earnings of the pilots were exceedingly low while their number was too great. It was also found that four of the pilots were over seventy years of age. At that time, the Canada Shipping Act did not contain a provision for an ultimate age limit of seventy but each Pilotage Authority had the power to fix such ultimate limit from sixty-five years and over. The District By-law did not contain any such provision. The Commission deplored the absence of a Pilot Fund. It noted that, in 1882, some of the pilots had formed a club with the idea of instituting a superannuation fund but opinions were divided and the scheme did not develop. However, the pilots assisted each other during illness by not making any deductions from shares in the pool for periods of absence and approving allowances for widows of deceased pilots for short periods. This latter practice had to be discontinued owing to lack of funds.

The Commission recommended:

- (a) the number of pilots be reduced to twelve;
- (b) to attain this aim the four overage pilots be compulsorily retired;

- (c) in view of the absence of a pension fund, these four pilots be granted in compensation for their lost rights an annual pension of \$300, following the precedent established by the Government in 1905 in the Quebec District (Part I, p. 119);
- (d) in the public interest, the pilot vessel service be taken over from the pilots and operated by the Pilotage Authority under a subsidy from the Federal Government until such time as the average annual income per pilot reaches \$750;
- (e) a superannuation fund be established.

Little, if anything was done to implement these recommendations. The new 1926 By-law (sanctioned by P.C. 1577 dated Oct. 12, 1926, Ex. 1513(u)) confirmed the rights of the pilots to remain in the service after the age of 70 by making retirement voluntary irrespective of age provided they remained fit and competent. It was not until 1937 that a pension scheme was adopted.

The 1926 By-law retained the governing features of the repealed By-law. The main change was an extension to qualified mariners of the opportunity to become pilots in case there were no apprentices available when vacancies occurred.

Miramichi has not always been exempt from partisan political considerations. The fact that a position of Pilot Commissioner was a political reward at one time is clearly enunciated in Order in Council, P.C. 2118/65 of December 23, 1926 (Ex. 1513(v)) which cancelled the appointment of a Commissioner because it was made by the former Government on the eve of its resignation. The report of the Minister of Marine and Fisheries, which is cited in the Order in Council, reads as follows:

"1. That by Order-in-Council of the 23rd September, 1926, P.C. 128/1437, Mr. J. W. Brankley of Newcastle, N.B., was appointed a Pilot Commissioner for the pilotage district of Miramichi.

2. That the said Order-in-Council issued on the day preceding the resignation of the then Government after said Government has sustained defeat at the polls.

The undersigned, therefore, recommends that the said Order-in-Council of the 23rd September, 1926, P.C. 128/1437, be cancelled. He further recommends that Mr. G. P. Burchill of Nelson, N.B., be appointed a Pilot Commissioner for the pilotage district of Miramichi."

In 1933, the Minister of Marine, on the recommendation of the Pilotage Authority, recommended a harbour regulation controlling the movement of vessels through the draw span of the Morrissey Bridge within the limits of the harbour of Newcastle. The requested regulation was enacted by Order in Council, P.C. 1125 dated June 9, 1933, Ex. 1513(w) under Sec. 836, 1927 C.S.A. (now Sec. 604 C.S.A.). It prohibited the passage of vessels in excess of 160 tons, through the draw span except against the tide, and established that the pilot of the vessel would be the authority to determine the time such passage could be made. This regulation appears to be still in effect.

The 1933 By-law was amended from time to time. The main amendment was the introduction, for the first time, of a pension scheme in a form that was unique, at that time, i.e., the annuity-purchasing formula whereby the benefits had a direct relation to contributions and, therefore, there could be no actuarial deficit or surplus. This scheme is still in existence today. No doubt this was made possible because of the qualifications of the members of the Pilotage Authority who were all businessmen and well versed in financial affairs and had realized the inherent weaknesses of the pension systems existing in other Districts.

On June 30, 1938, the District of Shippegan had been created by a division of the Caraquet District and it was found that its limit in the Gulf of St. Lawrence as then defined, overlapped the Miramichi District territory in an area where no pilotage was being performed by the Miramichi pilots. Hence, on January 26, 1939, by Order in Council, P.C. 176, the Governor in Council corrected the situation by reducing the Miramichi District limits to meet the Districts requirements. These new limits (vide p. 422), have not been amended since.

In 1939, a new General By-law was approved (P.C. 807 dated April 5, 1939, Ex. 1513(z)). It was mostly a consolidation. *Inter alia*, it prohibited the pilots from proceeding outside the District limits to board vessels. This By-law was superseded in 1958 by the current General By-law which was drafted mainly for the purpose of making it uniform in draftmanship and provisions with those of other similar Districts. The 1958 By-law was amended twice, first, in 1961, to raise the age limit for apprentices from thirty to thirty-seven and, in 1964, to create the "Maintenance Fund" for pilot vessels, to simplify the wording of the tariff, and to raise the dues both for voyages and movages.

Chapter B

BRIEFS

No briefs were submitted.

However, while testifying, the Secretary of the Pilotage Commission read into the record a memorandum containing seven recommendations that the pilots had made to the Authority concerning improved aids to navigation, i.e.,

"1. That the buoys presently in use at Sheldrake Island to the Bar be replaced by larger and brighter lights. Masters of vessels (coming into the District) have complained that they do not show sufficient light."

The Secretary testified that this condition resulted from the fact that there were too many lights in the background.

"2. That the range lights from Leggett Shoal and the Mill Bank range lights be placed on stands so they will show clearly above the trees.

3. That the woods on the east side of Napan Range be cleared further back to permit a clearer view. In heavy weather they are difficult to see as at present.

4. The Cheval, Mill Bank, Hayes and Moody Point lights be changed from white to green lights."

It was complained that with so many electric lights and car headlights behind them it was difficult to distinguish these ranges.

"5. That all lighthouses be painted an orange colour similar to those on the St. Lawrence River.

6. That a red lighted buoy be placed on the outer turn of the cut at Grand Dune; with the Grand Dune light and the head of Fox Island lights in one.

7. That three lighted buoys be placed as follows:

- one red lighted buoy at the Swashway;
- one black lighted buoy opposite the dredged channel buoy;
- one black lighted buoy opposite the Fairway buoy."

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

(1) DISTRICT LIMITS

The District comprises the full extent of the 40 miles of navigable water of the Miramichi River and its approaches in the confines of Miramichi Bay. The service is river pilotage with the usual hazards, but the seaward limits extend to deep water and provide a safe boarding area north of Escuminac Point.

(2) PHYSICAL FEATURES

The boarding station lies four miles due west of a bell-buoy showing a flashing light about three miles due north of Escuminac Point where the pilot station is located. A second bell-buoy showing a flashing light and situated about four miles west of the first buoy marks the entrance to the channel. From this buoy the channel winds for 26 miles to Chatham and a further 4 miles to Newcastle above which the river is navigable for a further 10 miles.

The channel is well marked throughout by buoys of various types. Guides for turns leading to and through the centre of the channel are provided by conspicuous, well defined leading lights and marks.

The ebb and flow of tidal currents off Newcastle and Chatham range from 1 to 2½ knots. Spring tides rise 5½ feet and neaps 4 feet. The controlling depth of the channel at low water is 19 feet, giving a maximum depth at spring tide of about 24 feet. West of and close to Chatham lies a new high level bridge with a clearance of 121 feet above high water. Its supporting piers on each side of the channel are 500 feet apart and large vessels make their transit with no unusual navigational difficulty.

West of and close to Newcastle lies the Morrissey Bridge fitted with a swing span 80 feet wide through which vessels pass to reach the wharves at Nelson. As seen earlier (p. 428), D.O.T. regulations forbid passage through the span for all vessels over 160 tons, except against the tide.

A buoyed channel leads west of Newcastle to the northwest branch of the river which is navigable by vessels of moderate size proceeding to Fraser Mill wharf situated just below the railway bridge. This is a fixed bridge with a vertical clearance of 24 feet at high water which effectively blocks further navigation upstream except for very small craft.

There are periods of fog or poor visibility when vessels have to anchor. Because anchorages are scarce for large vessels along the 40 mile channel, pilots use their own judgment as to visibility and weather before proceeding inward or outward. Good anchorage grounds lie off the southwestern part of Partridge Island at the entrance to the river.

The river freezes over during the winter and the average season of navigation extends from about April 16 to December 8.

(3) PRINCIPAL HARBOURS

The two principal ports are Chatham and Newcastle, both Ports of Entry with Canadian National Railway connections. In between lies the small port of Douglastown and upstream from Newcastle is South Nelson, all with good wharfage facilities. These ports serve their immediate vicinity and local industries, mainly lumber, wood and fish products.

(4) MARITIME AND PILOTAGE TRAFFIC

Traffic consists mainly of vessels engaged in foreign or coastal trade. Most pilotage assignments are for vessels bound for or departing from Chatham or Newcastle. In addition, there are occasional trips to wharves on both banks of the river for pulp wood and wood products.

For Miramichi River arrivals, D.B.S. has segregated only those concerning the two principal ports of Chatham and Newcastle (including Nelson) and the small number of vessels calling at other ports entered under the general heading "Other New Brunswick Ports". It would appear, however, that the number over 250 tons is negligible at Douglastown since the depth of water there is only 16 feet.

The following table is based on D.B.S. statistics for Chatham and Newcastle of ships of 250 NRT and over (Ex. 1483) and traffic statistics contained in the Pilotage Authority's Annual Reports for the whole District.

| Year | No. of Pilots | Vessels over 250 NRT at Chatham and Newcastle | | Vessels Piloted | | Pilotage Assignments | | |
|--------------|---------------|---|-------------|-----------------|-------------|----------------------|---------|-------|
| | | Number | Average NRT | Number | Average NRT | Trips | Movages | Total |
| 1958/59..... | 3 | 116 | 1,527.0 | 111 | 1,360.2 | — | — | — |
| 1959..... | 3 | 117 | 2,218.8 | — | — | — | — | — |
| 1960..... | 4 | 115 | 1,835.3 | 115 | 1,790.4 | 230 | 34 | 264 |
| 1961..... | 4 | 147 | 1,967.1 | 137 | 1,920.7 | 274 | 43 | 317 |
| 1962..... | 4 | 172 | 1,870.2 | 175 | 1,841.3 | 350 | 48 | 398 |
| 1963..... | 4 | 139 | 2,051.7 | 156 | 2,005.7 | 312 | 57 | 375 |
| 1964..... | 4 | 192 | 2,185.1 | 200 | 2,056.0 | 397 | 134 | 533 |
| 1965..... | 4 | 223 | 1,952.0 | 232 | 1,899.5 | 461 | 132 | 598 |
| 1966..... | 4 | 139 | 2,368.4 | 145 | 2,161.3 | 289 | 42 | 331 |
| 1967..... | 5 | 119 | 2,806.3 | 144 | 2,363.3 | 288 | 62 | 350 |

The District returns do not segregate traffic by ports but this is unimportant because there is little difference between the length of pilotage voyages to the various ports of destination. Therefore, it is considered unnecessary to reproduce here detailed D.B.S. statistics regarding traffic at Chatham and Newcastle. It is sufficient to note that more ships call at Newcastle but they are somewhat smaller than those at Chatham.

The District Secretary has reported that the decrease in traffic is due to a number of factors (Ex. 1513 (dd)):

- (a) Exports of pulpwood and lumber have decreased because prices are no longer competitive on overseas markets.
- (b) Shippers of lumber destined to Canadian and U.S. buyers have changed from water to rail and road transportation.
- (c) Pulp and paper products are being sent by rail to other ports for shipment in vessels which can not take a full cargo in the District ports on account of the limitation on draught posed by the shallowness of the channel.

This fact is clearly illustrated by the following figures regarding the all time high in 1965 and the low of 1967:

| | No. of Ships | | Average NRT | |
|----------------|--------------|------|-------------|---------|
| | 1965 | 1967 | 1965 | 1967 |
| Chatham..... | 102 | 37 | 2,099.9 | 3,173.6 |
| Newcastle..... | 121 | 82 | 1,827.3 | 2,640.5 |

Coastwise trade predominates at both ports but is proportionately higher at Chatham. This is illustrated by the following average figures for the nine-year period 1959 to 1967.

AVERAGE PER YEAR CARGO HANDLED (Tons)
FOR PERIOD 1959-1967

| | Foreign | Coastwise |
|----------------|-----------|-----------|
| Chatham..... | 67,221.0 | 152,974.1 |
| Newcastle..... | 103,146.6 | 117,577.7 |

These statistics show:

- (a) Maritime traffic is directly dependent upon local needs and any fluctuation in the activities of local industries is immediately felt.

- (b) The trend to larger ships is noticeable but a plateau is now being reached on account of the limitations imposed by the nature of the channel. The only recourse would be extensive capital dredging and improvements but the high cost could not be justified from the point of view of economy or public interest.
- (c) Most vessels are engaged in coastwise trade, presumably by regular traders, and coastal tankers would account for a large proportion of this traffic.
- (d) The difference between the average tonnage of total traffic and vessels piloted shows that not all ships employ a pilot, but that a number under 250 NRT do. The hazards along the 40-mile shallow, narrow, crooked channel created by the ebb and flow of changing tides and adverse weather conditions make local knowledge and experience essential for safe navigation. Most vessels, except very small ones, employ pilots.

(5) AIDS TO NAVIGATION

At the Commission's hearing, the pilots made serious complaints and offered suggestions regarding aids to navigation (vide p. 430). Several of these improvement have now been effected and on May 29, 1967, the Department of Transport reported as follows (Ex. 1527):

"Since the spring of 1963 all range lights used by shipping have been equipped with flame orange day targets. Most lights have been changed from battery to hydro power operation and where it has been possible to have this done the intensity has been increased. Also from the start of the shipping channel in Miramichi Bay to Newcastle, lighted buoys have been increased from 4 to 27, and nineteen of these are equipped with radar reflectors."

In 1963, the Commission was informed that navigation was limited to daylight hours, except for very small vessels. However, night navigation should now be possible as a result of improved aids to navigation.

2. ORGANIZATION

Since the District was created in 1874, pilotage operations have been under the control of a Pilotage Authority composed of five local residents, who generally have a direct interest in shipping or local industry and, hence, are vitally concerned with the ports efficiency. This is probably the reason why the District's affairs have generally been conducted in a business-like manner. Although appointments have not always been free of partisan politics (p. 428), this now appears a rare exception, no doubt because pilotage is so important to the locality. Tenure of office has been long as a rule, e.g., the present Chairman, Mr. Wallace P. Anderson, has been a member of the Authority since 1948 and the former Secretary, Mr. R. A. Walls, who retired in 1966, had been in office for 26 years.

Mr. H.S. Burchill, the Chairman at the time of the Commission's public hearing in 1963, testified that all the members of the Commission were shippers who maintained close relations with the pilots and discussed mutual problems with them. The rôle of the Commissioners is confined mostly to questions of policy. He considered the Authority's principal duty was to ensure a sufficient number of qualified pilots were available to handle all traffic and, at the same time, provide them a reasonable remuneration without unduly increasing the rates. He paid tribute to Mr. Walls, their Secretary, who had served the Commission for 23 years conducting 90 per cent of the Commission's business. The Secretary attends to all correspondence, collects pilotage dues, keeps records of all receipts and expenditures, pays the pilots and all expenses, administers the General By-law and records the minutes of all meetings. The work involved is such that a full-time Secretary is not required. As will be seen later, he attends only to outward despatching.

The Commission meets as necessary to decide special issues and at least once annually to approve the Secretary-Treasurer's financial report.

The Secretary-Treasurer's remuneration is now 5% of the gross receipts of the District including pilot boat charges. Prior to 1958, it was 3%. His remuneration in 1967 was \$2,048.09.

3. PILOTS

(1) RECRUITING AND QUALIFICATIONS

According to the annual reports, there were four pilots at the time of the Commission's hearing in 1963. Since that time, one pilot has retired, having reached the age limit, and two apprentices have been granted a pilot's licence bringing their number to five in 1967. As of 1968, there was no apprentice. In fact, however, except for 1967, the number of pilots officially reported was short by one because the holder of a probationary licence was not counted as a pilot for statistical purposes.

The normal method of becoming a pilot is to serve a four-year apprenticeship and it is only when there is a lack of qualified apprentices when a vacancy occurs that a mariner may be licensed. In the case of an apprentice, no marine certificate is required but the mariner must possess a certificate not lower than first mate home trade steamship or Master inland waters steamship. He need not have any actual experience in the District provided he has enough local knowledge to pass the examination.

None of the five pilots holds a marine certificate of competency, but they had all served their full apprenticeship period.

The Chairman of the Pilotage Authority testified that with respect to the procedure for recruitment he considered the licensed pilots the proper persons to advise the Authority on suitable candidates. He expressed the

opinion that advertising in newspapers for applicant apprentice seldom produces satisfactory results. Therefore, they requested the pilots to recommend persons of their choice whom they considered competent and interested.

The apprentices' duties consist generally of operating the pilot vessel, attending to housekeeping and cooking at the pilot station house and accompanying the pilots on their assignments. After two years, the apprentices are given practical instruction accompanying the pilots on assignments. These training requirements are not stipulated in the regulations as they should be.

The Secretary testified that an apprentice receives no salary as such, but is paid \$4.50 a day for operating the pilot vessel. An apprentice considered competent in his third year is issued a probationary pilot licence and paid a salary of half the amount of the regular pilots earnings. There is no authority in the By-law for such action. During this probationary period, he is limited to ships of a certain draught, generally not over 15 feet. This practice was followed, *inter alia*, with the two pilots who recently received their licences (Ex. 1513 (dd)).

The age limit to be licensed as a pilot is 45. This is realistic. The maximum age limit to become an apprentice was 30 up to 1961 but that year it was extended to 37, no doubt to deal with special cases.

Despite the By-law requirement, an apprentice's qualifications are not assessed by a Board of Examiners. A pilot's licence is granted when an additional pilot is required and the apprentice is considered competent to pilot as shown by the pilots' recommendations and the candidates behaviour, work and record. Again, despite the By-law requirement, the first licence is probationary only when granted to an apprentice who has not completed his four-year apprenticeship.

(2) CASUALTIES

The records indicate that during the years 1960-67 there were 14 shipping casualties, all while navigating but only one of a major character. They illustrate clearly the difficulties encountered. None occurred while berthing or unberthing. On the other hand, because of the nature of the channel, as well as silting, a number of them were merely incidents, i.e., touching bottom in the channel which caused no damage to the ships involved. Three groundings occurred, due to ice conditions, late in the season in 1964 and 1966 on the Horse Shoe Bar at South Nelson, but without damage.

The two most serious accidents occurred at the Morrissey Bridge:

- (a) November 15, 1965, S.S. *Northfield* struck the swing span; there was no damage to the ship but the span was displaced.

- (b) June 4, 1967, the 6,000-ton tanker *Liquilassie* struck the bridge causing heavy damage. The bridge was out of commission for about three months and traffic was rerouted. The estimated cost of repairs to the bridge was \$150,000 and to the ship \$25,000. The cause was stated to be loss of control due to underwater currents.

Available records fix responsibility in only two cases: (i) a grounding without damage at Robichaud Spit in 1965 which was attributed to pilot's error; (ii) the *Liquilassie* accident which a Preliminary Inquiry found was due to "an error of judgment on the part of both the pilot and the master of the vessel" in deciding to "pass through the bridge at an hour so close to the time of the turn of the tide stream". Both were warned by letter but no further action was taken by the Minister of Transport under Part VIII C.S.A. (Ex. 1513 (gg)).

COMMENTS

The ship handling prerequisites for pilots are the same in this District as in the Restigouche District (vide comments p. 373). It is suggested that candidates could qualify for a minimum marine certificate of competency during their apprenticeship period as is the practice, for instance in the Quebec and Montreal Districts. Such a certificate will become a prerequisite for a licence if the Commission's Recommendation No. 13, Part I, p. 494, is implemented.

To grant a licence without an appraisal of the candidate's qualifications by disinterested persons is dangerous because, in addition to the risk of biased opinions, the level of competence may be lowered instead of raised as it should be to meet the ever changing requirements of the service.

The procedures set out in the regulations should be strictly followed; if they prove inadequate, the regulations should be amended to meet local requirements and then strictly adhered to.

4. PILOTAGE OPERATIONS

(1) PILOT STATION AND BOARDING STATION

The pilots maintain a pilot station at Point Escuminac some four miles south of the District boarding area. Originally the District regulations defined the boarding area and made it an obligation for the pilots to keep a vessel cruising there. These provisions were not retained and the procedure was slightly modified. The pilot vessel is now stationed nearby enabling the pilots to meet an incoming ship at short notice. The pilots have a pilot house at Point Escuminac where they remain in sufficient numbers to meet inward requirements; the apprentice also lives there.

The pilot house was built and is owned by the pilots, but the cost of maintaining it and operating the station, i.e., light, telephone, taxes and food provisions, is paid out of the pilotage fund. An unwritten agreement restricts ownership to the active pilots and ensures them of equal rights. The share of a pilot who ceases to be on strength has to be purchased by the pilot who replaces him and, if he is not replaced, by the remaining pilots. When the number of pilots is increased, an equal share is sold by all the pilots to the newcomer. The value of a share is established by the pilots among themselves. The price is usually paid in instalments deducted by the Secretary from the new pilot's earnings (Ex. 1513 (ff)).

The decision to establish a pilot vessel base as near as possible to a boarding station and maintain a pilot station nearby is determined partly by financial considerations and partly by the desirability of not wasting the pilots' time in extensive travelling. The governing factors are the demand for pilots at the boarding station, the distance between the port or ports of destination, and the boarding area, the practicability of establishing the pilot vessel base near the boarding area and the cost and time involved in transporting pilots from their residence to the pilot vessel base.

Whenever the port of destination is a considerable distance from the boarding station (as is the case here), it is important to establish a pilot vessel base close to the boarding area, provided an adequate site is available in order to avoid the extensive travelling by the pilot vessel (p. 217), and the large operating costs involved.

However, a pilot station should now be maintained only if it is clearly uneconomical to make pilots available by other methods. Such a station was absolutely necessary when the only means of ship-to-shore communication was visual, but with radio, notices of arrival may now be given with great accuracy many hours in advance, generally allowing more than sufficient time for pilots to travel from their home to the pilot vessel base before ships arrive. In the Quebec District, the long distance between the harbour of Quebec and the seaward boarding station off Les Escoumains makes it impractical to have pilots travel from their residence in Quebec City to the boarding station and, therefore, a pilot station must be maintained at Les Escoumains. The opposite situation now prevails in the New Westminster District which has made it possible to dispense with the pilot station at Steveston (Part II, p. 337), thus allowing the pilots to remain at home between assignments and improving their working conditions considerably.

At first sight, it would appear that the pilot station at Point Escuminac could be dispensed with, but the various factors involved should be fully appraised. Some of these are not known to this Commission but some are clear: there appear to be good roads; the cost of maintaining the pilot station is substantial (expenses for pilot house and provisions were \$1,211.73 in 1965 and \$1,101.44 in 1967), and the daily requirement for pilots at

the boarding area is small (on the average, the pilot vessel is used once a day either to embark or disembark a pilot). The cost of maintaining this pilot station does not appear to be justified.

If, however, it is to be retained, its title should not be held by the pilots unless the registered title contains safeguards to ensure that ownership remains with the active pilots and that the price of a share at the date of purchase is objectively established. Otherwise, unwarranted consequences may result, e.g., a forced sale in justice when the estate of a deceased pilot is liquidated or undue speculation, as occurred in the Quebec District (vide Part I, p. 552). No doubt the land title was registered in the name of the pilots to avoid the complication of having it registered in the names of the individual Pilot Commissioners as was done at one time in the New Westminster District (Part II, p. 338). This objection will be met if the Pilotage Authority and the pilots of each District are granted a corporate status as recommended (General Recommendations 18 and 25, Part I, pp. 510 and 549).

It is considered that registration showing each Pilot Commissioner as co-owner of a pilot vessel would be illegal because it would not conform to the factual situation. If corporate status is granted to the Pilotage Authority as recommended (General Recommendation 18, Part I, p. 510), the question will present no difficulty in future. As discussed in Part I of the Report (p. 318), the Pilotage Authority has a legal identity of its own under present legislation. Its powers of ownership are ancillary to those given it in Part VI C.S.A., but the power to operate a pilot vessel service itself is not one of them; therefore, at present, neither directly nor indirectly can a Pilotage Authority own a pilot vessel. This situation can be made legal only through new statutory legislation.

The Authority verbally appoints the senior pilot as the general supervisor of pilot boat operations and it is normally the responsibility of the apprentices to man the boat. When a relief vessel is required, a boat is hired on a per trip basis.

It has been the practice to segregate receipts from pilot boat charges (less the 5% remuneration for the Secretary) in a separate account called the *Boat Fund* which is used solely for the upkeep, maintenance and repair of the pilot vessel. The apprentice's remuneration of \$4.50 per day for operating the pilot vessel is paid out of this fund. The Secretary testified that, on December 31, 1962, the remaining balance was \$4,526. By By-law amendment, which was approved on December 23, 1964 (P.C. 1964-2021), the practice was given legislative sanction by setting up a *Maintenance Fund*.

It is considered that the system is desirable in that it enables the Pilotage Authority to form a reserve for future expenditures. In fact the *Maintenance Fund* was used in 1966 for the purchase of a new pilot vessel without obliging the Pilotage Authority to ask for a bank loan (as the New West-

minster Pilotage Authority was obliged to [Part II, p. 322]) or seek financial assistance from the Government (as was the practice in various Districts). Since a loan must be repaid in substantial instalments, the pilots' earnings are considerably reduced during the period concerned. Apart from the present irregularity of the Pilotage Authority owning a pilot vessel, it is possible this regulation might be justified under subsection 329(c) C.S.A. This is a logical and adequate procedure which should be authorized in the new legislation proposed by this Commission.

(2) DESPATCHING

According to the By-law, it is the Secretary's responsibility to attend to despatching and this would normally follow a tour de rôle system. However, a more practical procedure which meets the pilotage requirements of the District is being followed.

Responsibility for the provision of services is shared between the Secretary and a Pilot Master, who is generally the senior pilot. The Secretary deals with requests for outward assignments and movages while the Master Pilot is responsible for pilot vessel services, the pilot station at Point Escuminac and inward assignments. The agents are well aware of these arrangements and direct their requests either to the Secretary's office or the pilot station.

When there were four pilots and one apprentice, two pilots remained at Chatham and the other two, together with the apprentice, stayed at the pilot station, the apprentice normally manning the pilot vessel. If a pilot is not readily available at Chatham to take a ship outbound, one is assigned from the pilot station at Escuminac. He proceeds thirty miles by land to Chatham at a cost of eight dollars.

An assignment is normally on the basis of a one-way trip, but it has been the practice for the pilot to remain on board a ship, such as a tanker which discharges cargo immediately upon arrival and is ready for departure a few hours later, and handle the outward trip.

Every endeavour is made to divide assignments equally among all pilots and no complaints were registered on that score.

COMMENTS

The procedure being followed is realistic. Too rigid adherence to a tour de rôle results in an unnecessary wastage of pilots' time and money due to increased travelling. Provided no pilot is overworked, advantage should be taken of a pilot being in a locality where services are requested, it being understood that the person in charge of despatching ensures that assignments are equitably divided in the long run. This practice is facilitated by the small number of pilots but the number on establishment should never be a bar to realistic despatching.

The other main factor in despatching, i.e., selecting the appropriate pilot for special or difficult assignments, should also be remembered. This requires intelligent, active participation by the person in charge of despatching. In most Districts, despatching authorities tend to avoid taking any responsibility and entrench themselves behind a strict *tour de rôle*, thus giving the appearance of equity and protecting themselves from possible criticism by some pilots. By so doing, despatching authorities fail to discharge their duty, lower service efficiency, and cause much unnecessary expense to be incurred.

(3) WORKLOAD

The Pilotage Authority's annual returns give no information about the pilots' actual workload or the distribution of work during the navigation season, but list the total number of assignments per year divided into trips and movages. These figures, together with testimony at the hearing, supply a reasonably accurate picture of workload.

The following table, which is derived from information in the annual reports, shows for the years 1960 to 1967 the number of trips, movages and total assignments performed in the District each year. On the assumption that the workload is shared equally between the pilots on strength, averages per pilot on strength were established per year, per week and per day. The navigation season was defined as somewhat less than eight months ranging approximately from April 15 to December 10, i.e., 34 weeks or 238 days.

| Year | Assignments | | | Pilots on Establishment | Average Share of Total per Pilot on Establishment | | |
|-----------|-------------|---------|-------|-------------------------|---|----------|---------|
| | Trips | Movages | Total | | Per Year | Per Week | Per Day |
| 1960..... | 230 | 34 | 264 | 4 | 66.0 | 1.9 | .28 |
| 1961..... | 274 | 43 | 317 | 4 | 79.3 | 2.3 | .33 |
| 1962..... | 350 | 48 | 398 | 4 | 99.5 | 2.8 | .42 |
| 1963..... | 312 | 57 | 375 | 4 | 93.8 | 2.7 | .39 |
| 1964..... | 397 | 134 | 533 | 4 | 133.3 | 3.8 | .56 |
| 1965..... | 461 | 132 | 598 | 4 | 149.5 | 4.3 | .63 |
| 1966..... | 289 | 42 | 331 | 4 | 82.8 | 2.4 | .35 |
| 1967..... | 288 | 62 | 350 | 5 | 70.0 | 2.0 | .29 |

In some years, e.g., from 1963 to 1966 inclusive, the averages per pilot were, in fact, even somewhat lower on account of the erroneous practice of not including for statistical purposes the apprentice who held a probationary licence and took his share of assignments.

The Commission was told that traffic is fairly regular but a number of ships occasionally arrive or depart close together.

The maximum workload per pilot per week in the years 1960 to 1967 was approximately 26 hours, an all-time peak which was reached in 1965, compared with 12 hours per week in 1967. These are very liberal figures because the work done by the apprentice pilot is not deducted and in this calculation movages are shown as trips, despite the fact they are always of much shorter duration. They also include travelling time as if the pilot travelled on each occasion by land 1 hour and 40 minutes from or to Point Escuminac pilot station. Pilot J. S. Preston testified that it takes pilots about twenty minutes to board vessels from their pilot station and 3½ to 4 hours to pilot a vessel the 32 miles to Newcastle, including berthing, and a little less for the 28 miles to Chatham. For the purpose of the above aggregate figures, 4 hours was taken as the average duration in order to account for trips above Newcastle and occasional delays. Thus, a full trip assignment, including travelling time, would amount to 6 hours.

COMMENTS

The above computation indicates clearly that the average workload of the individual pilot is far from heavy under present arrangements. Even in the peak year of 1965, the average was 4 to 5 trips or movages per pilot per week, i.e., a six-hour work day with two days off per week. In 1967, which was the least busy year since 1960, the weekly workload was five days off and two 6-hour work days.

These findings prompt the question whether there are too many pilots, bearing in mind that an occasional delay to vessels due to lack of service during exceptional peak periods should be an accepted risk. The number of pilots has a direct effect on the individual pilot's remuneration on account of the pilots' status of *de facto* employees.

It would appear that, under these circumstances, the appointment of the fifth pilot in 1967 was unwarranted after the experience of 1966. In fact, the appointment had been made one year earlier when the apprentice was given a probationary licence, thereby committing the Pilotage Authority to grant him his permanent licence. No doubt at the time the governing factor was the all-time peak which was reached in the two previous years and was expected to continue.

The local scheme of organization may be one reason why the number of pilots remains above realistic requirements. The present system was dictated by factors that no longer exist, i.e., at a time when more pilots were needed, radio communications with ships were lacking and travel by road to and from the pilot vessel base was time consuming. As suggested earlier, the necessity for a pilot station with living accommodation at Point Escuminac should now be reassessed. With the trend to larger ships, the

number of assignments is unlikely to increase significantly and the average use of once or twice a day of the pilot vessel raises the question whether or not the present system of providing this service is economical. It is quite possible that the demand could be met more easily and economically both in cost and pilots time (hence in the number of pilots) by engaging a third party to provide boat service as required, either on a per trip basis or by contract for the season. There is no need for such a third party to be constantly available. E.T.A. requirements should be more adequately established so that the boat operator can be informed of requirements, thus enabling him to be otherwise employed between pilot vessel trips.

(4) LEAVE OF ABSENCE

When calculating the pilots' workload, allowance should be made for absence. If it were taken for granted that the regulations dealing with leave of absence are applied the records indicate that the pilots never take any holidays and are never ill. The By-law provides that any absence shall be without pay. The annual report shows that the pilots all receive exactly the same share while they are on strength, i.e., from the time of their appointment to the date of their retirement. Here again, the factual situation does not conform to the regulations.

The purpose of the standard leave of absence provisions which appear in most By-laws is the establishment of pooling rights for the period of absence when pooling is based upon availability for duty. The provisions become meaningless when, as in this District, any absence is always without pay. The same texts have been reproduced, no doubt for the sake of uniformity with the format of regulations in other Districts, but the expressions "with pay" and "with half pay" have been deleted.

This process has provided some meaningless provisions, such as subsection 23(5) which provides that such leave without pay may be granted for a period not exceeding three months. The provision is silent as to what happens if the illness is of longer duration. To stipulate that part of an absence will be without pay leaves the inference that the rest of the absence should be with full pay; otherwise, there is no point in the restriction.

However, these provisions are not followed. Since forced inactivity in the District during the four-and-a-half winter months does away with the necessity of providing for annual leave, there was no need to provide for it in the By-law. According to long-established practice, pilots arrange among themselves to replace one another in case of absence due to illness or for any other reason, thus equalizing the workload in the long run. For this reason, it has been the practice to disregard justified absence for pooling purposes and, hence, the pilots receive equal shares.

COMMENTS

This is a good example of failure to recognize that District regulations are essentially local legislation whose contents and text are dictated by local requirements. Any attempt toward standardization is bound to result in meaningless, inapplicable legislation, as is the case here.

5. PILOTS' REMUNERATION AND TARIFF

The Miramichi pilots are *de facto* employees whose remuneration is an equal share in the dues earned by all the pilots. The pilot vessel earnings have been for a long time segregated and used for the sole purpose of the maintenance of the pilot vessel service. As explained earlier, although sharing rights are supposed to be based on each pilot's day-to-day availability for duty, justified absence is not taken into account, with the result that all fully licensed pilots received an equal share for the time they were on strength. Therefore, their actual "take home pay" corresponds to what is in other Districts the average "take home pay" per pilot on strength. For the years 1958/59 to 1967, the individual pilot's "take home pay" was as follows:

| Year | Amount | Year | Amount |
|--------------|------------|-----------|-------------|
| 1958/59..... | \$4,471.42 | 1964..... | \$ 8,628.17 |
| 1960..... | 4,536.03 | 1965..... | 11,611.22 |
| 1961..... | 5,734.93 | 1966..... | 6,709.48 |
| 1962..... | 7,151.11 | 1967..... | 6,854.70 |
| 1963..... | 6,769.26 | | |

The high remuneration in 1965 is accounted for by three main factors: (a) the largest number of assignments on record (vide p. 433); (b) increased rates; (c) only three pilots had full sharing rights, compared with four the previous year. In the years that followed, earnings were lower due to fewer assignments shared among four and five pilots.

The aggregate pilot earnings quoted in the annual report are inaccurate and misleading on account of the interpretation given locally to the term "pilot", which does not include a probationary pilot. Hence, the half share paid to the probationary pilot is shown as the remuneration of apprentices.

For a number of years the pilots requested that the rates be increased and that a \$25 additional charge be made for transiting the Morrissey bridge. The Pilotage Authority deferred the request because at that time an increase in water transportation costs would have adversely affected the port including pilotage. In 1964, the draught component of the voyage rate was raised from \$2 to \$2.50, and the movage rates were substantially increased to a \$30 flat rate. However, the bridge charge was not granted.

In addition to the rates provided in the tariff, i.e., voyage rates (\$2.50 per foot draught and 3¢ per N.R.T.), movage rates (\$30) and boat charges

(\$10), detention and special charges are also unofficially made. The Secretary testified that detention in excess of one hour was charged at \$5 per hour². This normally occurs in late fall when ice is beginning to form and it is difficult for the pilot vessel to reach ships. When a ship arrives after the pilot vessel has been taken out of the water for the winter, an extra charge of \$50 or \$75 is also made to cover the extra expense involved in refloating it and taking it out again after the ship has departed. These extra costs had been agreed to beforehand by Masters and the Authority. The alternative would have been for the pilot to board and disembark at Charlottetown at the ship's expense which would have been more costly.

COMMENTS

Under the present legislation it is illegal to make any change which is not specifically provided for in the regulations (Part I, p. 150).

The delay incurred in the circumstance described by the Secretary is not detention since it is due to circumstances over which the ship concerned has no control (vide Part II, p. 158).

The two cases mentioned by the Secretary are due to services being performed under abnormal circumstances. Nevertheless, in such cases the tariff must be applied. The solution is for the Pilotage Authority to include in the tariff special provisions to cover such occurrences.

Re voyage rate structure, reference is made to the comments pp. 381-382.

6. FINANCIAL ADMINISTRATION

The Pilotage Authority keeps three distinct funds: the Pilotage Fund in which all monies received by or on behalf of the Authority is kept and whose net balance after all the authorized expenditures have been effected becomes the pilots' pool; the Pilot Fund, called the Annuity Fund; and the pilot vessel service Maintenance Fund.

The Secretary prepares two District annual financial statements one in detail for the Pilotage Authority (Ex. 313) and an abbreviated version (Ex. 311), which appears on the form provided by the Department of Transport for the required annual report.

Up to 1963, the financial statements contained in the annual reports gave an exact account including some details of the Pilotage Fund and items of expenditure showing the amounts that were paid to the Annuity Fund and to the Boat Fund. In 1964, the By-law was amended to approve the creation of a separate fund out of that part of the fund that would normally have been paid into the Pilotage Fund, i.e., pilot boat charges. From 1964

² A 1969 amendment to the By-law introduced a detention charge of \$3.30 after the first hour to a maximum of \$25.00 per calendar day for detention on board a vessel for any reason during the winter season (Nov. 1 to April 30), or for detention at the boarding station after a ship's ETA (P.C. 1969-490 dated March 11, 1969).

Miramichi, N.B., Pilotage District

on, pilot vessel receipts and payments to the Maintenance Fund (formerly known as the Boat Fund) have been omitted with the result that the financial information contained in the annual statements no longer conveys a true financial picture of District operations. This situation should be corrected.

The last payment made out of the Pilotage Fund to the Annuity Fund dates from 1949 when the amount was 10 per cent of the pilots' earnings. Since then, the interest yield of that fund has been sufficient to meet the payment of the annual premiums payable on the annuity contract for each of the pilots and, therefore, there has been no contribution by the pilots towards their pensions since then.

The Commission has obtained the missing information regarding pilot vessel earnings for the year 1967 in order to make the following comparative statement of the years 1961 and 1967.

| | 1961 | | 1967 |
|---|--------------------|--|--------------------|
| REVENUES | | | |
| <i>Pilotage Dues</i> | | | |
| Pilots' earnings..... | \$25,727.08 | | \$38,711.70 |
| Pilot vessel earnings..... | 2,720.00 | | 2,250.00 |
| | <u>\$28,447.08</u> | | <u>\$40,961.70</u> |
| Undistributed balance from previous year..... | 213.14 | | 213.14 |
| Total assets..... | <u>28,660.22</u> | | <u>41,174.84</u> |
| DISBURSEMENTS | | | |
| Secretary's remuneration... | 1,422.35 | | 2,048.09 |
| Pilot Master's remunera- tion..... | 350.00 | | 600.00 |
| Pilot house expense..... | 348.39 | | 508.84 |
| Provisions..... | 381.33 | | 592.60 |
| Office supplies, postage, telephone, etc..... | 51.29 | | 73.57 |
| Pilot vessel service | | | |
| Boat Fund (less Sec- retary-Treasury Re- muneration)..... | 2,584.00 | | 2,137.50 |
| Boat Hire..... | 25.00 | | 25.00 |
| | <u>2,609.00</u> | | <u>2,162.50</u> |
| Pilots' travelling expenses.. | 345.00 | | 742.40 |
| Pension Fund..... | nil | | nil |
| Canada Pension Plan..... | nil | | 396.00 |
| Pilots' take home pay..... | 22,939.72 | | 33,837.68 |
| Apprentice's (probationary pilot's) remuneration..... | nil | | nil |
| Balance on hand on Dec. 31st..... | 213.14 | | 213.16 |
| | <u>\$28,660.22</u> | | <u>41,174.84</u> |

As of December 31, 1961, the Boat Fund (now the Maintenance Fund) amounted to \$3,902.16 a \$414 increase over the year before. The earnings of this fund are the aggregate boat charges less the 5% commission to the Secretary, bank interest on the accumulated capital and a small amount received for fire insurance in 1961. The 1961 disbursement for operating the pilot vessel amounted to \$2,385.33, the main items being the boat operator's (i.e., the apprentice pilot's) remuneration (\$1,030.50), the remuneration for "Captain and Caretaker" (\$150 per year), repairs, fitting out and gas and oil.

The function of Master Pilot (and therefore his entitlement to a special remuneration) is not covered in the By-law. The Secretary testified that it has been a custom before his time (i.e., 1940) to pay the Master Pilot an annual additional remuneration fixed by the Authority of which the other pilots were aware, a custom that has continued up to the present time.

The items *Pilot house expense* and *Provisions* are expenses incurred in maintaining the pilot station at Escuminac, e.g., electricity, taxes, repairs and food for the pilots and apprentices at the station.

What appears in the annual report as money paid to the apprentices is, in fact, what was paid to the probationary pilots, i.e., one half a share in the pool from the time they receive their probationary licence until they obtain their permanent one. The \$4.50 per day an apprentice receives for looking after the pilot vessel is paid out of the pilot vessel Maintenance Fund and, therefore, does not appear in the Pilotage Fund statement, or in the annual report to D.O.T.

This District has retained the practice contemplated in the provision now contained in sec. 344 (1) C.S.A. which has become obsolete since the time the billing procedure was adopted (Part I, pp. 196 and ff). The Secretary testified that before the departure of each ship he sends a waiver to the collector of Customs so that the ship may obtain its clearance (Ex. 317), despite the fact that in most cases the dues have not been paid since it is also the local practice to bill the agent after the ship's departure.

7. PENSION FUND

The only pension scheme the Miramichi pilots have entered into was introduced in 1937 (vide p. 428). It is still in force and its details have not changed. It is basically an annuity purchasing plan which assures the pilots a \$500 annuity on reaching the age of 65.

When a pilot is licensed a \$500 annuity is purchased by the Pilotage Authority on his behalf from the Annuity Branch in Ottawa and the annual premiums are paid out of a fund called the Annuity Fund which the Pilotage Authority keeps for that purpose. This fund comprises compulsory deductions made from time to time from pilotage earnings in amounts

determined by the Pilotage Authority after consultation with the pilots, plus returns from investments. The first charge on the fund is the aggregate premiums paid annually to the Superintendent of Annuities in Ottawa in favour of each pilot. The unspent balance is invested. The last compulsory contribution (amounting to 10 per cent of the gross pilotage revenue) was made in 1949. Since that time, the fund has been self-sustaining, which accounts for the nil entry in the financial reports since 1950.

Apart from this annuity scheme and the Canada Pension Plan to which the pilots are now required to contribute, they have no welfare plan or pension and they do not benefit from the Workmen's Compensation Act or Unemployment Insurance. However, as stated earlier, through their work sharing and pooling arrangements, they have provided protection for themselves against loss of earnings due to injury and illness. Nevertheless, it would be preferable if these arrangements were guaranteed by regulations.

Subsection V

THE FORMER PILOTAGE DISTRICT OF
RICHIBUCTO, N.B.

LEGISLATION AND GENERAL DESCRIPTION

The Pilotage District of Richibucto was rescinded October 29, 1968, by Order in Council P.C. 1968-2027 (Ex. 1514(m)). Its Pilotage Authority had not been functioning as such for a number of years and, on account of the gradually decreasing importance of the port, it became obvious that cancellation of the District was indicated rather than a reorganization of its Authority.

The District was created April 21, 1875, by Order in Council P.C. 374 (Ex. 1514(a)). Its latest By-law, which dated from 1962, was similar in form and content to the By-laws of other Commission Districts. However, its provisions conformed neither with reality nor local requirements, e.g., pilotage operations were supposed to be fully controlled by the Secretary who despatched by a tour de rôle and pooled earnings but, in reality, for a number of years before and after the By-law was made there was only one pilot who acted as a free entrepreneur without assistance from the Pilotage Authority or its Secretary.

Richibucto is a public harbour situated on the river of the same name some four miles upstream. It probably thrived in its early days but, because of the limited needs of the region and the fact that the harbour's mouth is almost blocked by shifting sand bars, the port gradually became inaccessible as ocean vessels increased in size. No doubt the very limited economic importance of the port could not justify the considerable cost of the capital and maintenance dredging that would be required to achieve and maintain adequate depth in the channel. Hence, for all practical purposes, this port is now barred not only to normal ocean-going traffic but also to large coastal vessels.

The maximum draught for vessels is 15½ feet. Richibucto is described as a sand harbour whose channel is liable to be materially altered by every storm. While the channel is well marked with aids to navigation, it has to be constantly surveyed and aids, including range lights, have to be changed from time to time. For that reason, chart depths and channel locations indicated are not reliable. Because depths change so quickly, the pilots have been in the habit of taking soundings every time a ship is brought into the harbour. In 1963, the pilots reported that the largest ship that berthed at Richibucto was the S.S. *Eskglen* of 4,222 NRT, 447 feet in length, and the deepest draught leaving the port was 17 feet with a favourable tide. Due to the draught limitation, large vessels, generally loading pulpwood, can not take on a full cargo and this factor has also adversely affected this District. The season of navigation is roughly from May 1 to November 15.

The following table, compiled from D.B.S. statistics showing arrivals of ships of 250 NRT and over, indicates the decline in traffic and the port's ineffectiveness.

| Year | Number of Arrivals | Average NRT | Cargo Handled (tons) | |
|-----------|--------------------|-------------|----------------------|-----------|
| | | | Foreign | Coastwise |
| 1959..... | 16 | 1,782.4 | 11,465 | 32,345 |
| 1960..... | 20 | 1,788.9 | 15,994 | 36,382 |
| 1961..... | 21 | 1,882.6 | 27,065 | 13,930 |
| 1962..... | 27 | 1,588.9 | 41,463 | 11,357 |
| 1963..... | 15 | 1,752.0 | 20,055 | 6,317 |
| 1964..... | 25 | 1,701.9 | 38,473 | 10,348 |
| 1965..... | 11 | 1,657.5 | 19,852 | 6,155 |
| 1966..... | 5 | 1,341.6 | 7,309 | 3,508 |
| 1967..... | — | — | — | 366 |

SOURCE: EXHIBIT 1483

The Pilotage Authority was a commission of three members recruited locally. Since there was almost no pilotage activity, there was almost nothing for the Pilotage Authority and its Secretary to do, with the result that for a number of years the District had ceased to function. One of the Commission's members stated in 1963 that there had not been any meeting of the Pilot Commissioners for the previous twelve to fourteen years. There was not even a meeting to adopt the 1962 General By-law which had been drafted by officials of the Department of Transport at their instigation and forwarded to the Authority for concurrence.

Mr. Leo Leblanc, who was appointed Secretary and Treasurer November 5, 1959 (Order in Council P.C. 1959-1440, Ex. 1514(i)), refused the office. When he appeared before the Commission at the public hearing, he stated that he had nothing to say because he knew nothing of the situation since, in fact, he was not the Secretary. He added that his appointment had been handed to him against his will and that he had been unable to get books and documents from the former Secretary. He considered his appointment a political one which he did not wish to keep because it created enemies.

Capt. F. S. Slocombe testified that appointments such as these were made in the Minister's office and that the Department does not verify whether a person who is being appointed has been informed and accepts. It was assumed that Mr. Leblanc had been told of the appointment by his local member of Parliament or whoever recommended him.

Since 1963, the District has not submitted the required annual reports, despite repeated demands addressed to the Secretary and members of the Authority (Ex. 1514(k)).

The maximum number of pilots since 1926 has been three and Mr. Edgar O'Leary has been the sole pilot since 1958. He served as an apprentice-pilot for ten years during which he made ten to fifteen trips a year with the pilots and also operated the pilot vessel. He holds no marine certificate of competency. All his working life he has been a fisherman or a seaman. He served in the Royal Canadian Navy as a seaman for five years and also in vessels on the Great Lakes as an able seaman and wheelsman. He was licensed as a pilot on the recommendation of the then senior pilot.

He stated that the limited demand for pilotage service did not warrant the appointment of another pilot, pointing out that if he became temporarily unavailable there was a former pilot who could replace him. He testified that he had never had an accident, and only occasional groundings with no damage to the ships concerned.

Pilot vessel service was provided by a local resident who was hired by the pilot at \$25 per trip plus an additional \$20 for attending to the ship's lines for which the pilot was not reimbursed.

Pilot O'Leary was acting as a private and independent entrepreneur. He made all his own arrangements, collected the dues he earned and retained them all. He kept no record and made no return to the Authority.

He billed ships according to the rates established in the tariff, except for the boat charge which he made only once per round trip. The rates were \$2.00 per foot draught and 2¢ per NRT.

COMMENTS

The appointment of a pilot is not warranted. The navigational difficulties encountered require no more than up-to-date knowledge of the channel. Such information may readily be provided by a "Pilotage Adviser" (General Recommendation 12, p. 493). The only likely casualty, as indicated by the records, might be grounding, and in such a case the ship involved is not likely to sustain serious damage on account of the nature of the sea bottom.

Subsection VI

PILOTAGE DISTRICT OF BUCTOUCHE, N.B.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

PREAMBLE

The only legislation with particular application to the Pilotage District of Buctouche (except for appointments) is contained in two regulations: the 1877 Governor General's Order creating the District and the 1961 Pilotage Authority's Regulation, i.e., the present General By-law.

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

On April 28, 1877, by Order in Council P.C. 347 (Ex. 1515(a)) the Governor General created the Pilotage District of Buctouche, fixed its limits, appointed a five-member commission of local residents as its Pilotage Authority and decreed that the payment of pilotage dues was to be compulsory. Except for the names of the incumbents, this Order in Council has not been amended since.

The limits of the District are described as extending:

"North to Richibucto Head, and South to Cocagne Head, and to comprehend the waters between New Brunswick and Prince Edward Island or adjacent thereto".

The Pilotage Authority is now a three-member commission assisted by a Secretary.

(2) DISTRICT REGULATIONS

All the regulations made by the Pilotage Authority that are in force are contained in the District General By-law which was sanctioned by Order in Council P.C. 1961-193 on February 9, 1961 (Ex. 19) which has not been amended since. Except for a few points, it is a verbatim reproduction of the Miramichi By-law. The main differences are:

- (a) There are no provisions modifying or amplifying the exemptions defined in sec. 346 C.S.A. and, hence, small ships irrespective of their size are subject to the compulsory payment of dues if not of dominion registry.
- (b) The duration of apprenticeship is three years.

- (c) All candidates, whether apprentices or mariners in case apprentices can not be recruited, must hold a marine certificate of competency not lower than "Master of a Home Trade Tug".
- (d) The movage rates are the same as for voyage rates, i.e., \$2 per foot draught plus 2¢ per ton; the pilot boat fee is \$5.

As will be seen later, these regulations are completely disregarded in practice.

2. HISTORY OF PILOTAGE

Prior to Confederation, the waters of the present District came under the jurisdiction of the Kent County Sessions under the same legislation as the other New Brunswick ports (pp. 34 and ff.).

As stated earlier, the District was created under federal legislation on April 28, 1877, by P.C. 347 (Ex. 1515(a)) which, except for appointments, has remained unchanged to date.

The first By-law was approved July 20, 1877 (P.C. 694, Ex. 1515(b)). It contained practically the same provisions as the contemporaneous By-laws of adjacent Districts. It was based on free enterprise and each pilot had to be the owner or part owner of a pilot vessel. The rates for a pilotage voyage were computed on a price unit per foot draught which varied according to a scale based on net tonnage only. Masters of ships outward bound were at liberty to choose their own pilots.

For a time between 1917 and 1935, the Pilotage Authority must have been inactive since it was necessary to appoint a full new board of Pilot Commissioners in 1935 (P.C. 1305 dated May 18, 1935 Ex. 1515(c)) when it was realized that the previous board had ceased to exist because two of the members had died and the third had left the locality and his address was unknown.

Shortly afterwards, the new Authority enacted new By-laws (approved on June 26, 1935, by Order in Council P.C. 1669 Ex. 1515(d)), establishing fully controlled pilotage and providing for the pooling of the pilots' earnings and their direction by a Pilot Master. The rates were amended by the addition to the price per foot draught of a price per ton (\$1.50 per foot draught plus 1¢ per NRT). The movage rate structure was retained. Direction of the pilot vessel service was taken over by the Pilotage Authority and the pilots were required as a group to maintain one or more vessels at the expense of the District. The boarding station, which is still in use, was established "two-thirds of a mile Southeast of the lighthouse on Buc-touche Sandbar and on the line of Dixon Point range lights". Apprenticeship was abolished. Anyone could apply to become a pilot provided he was a resident of the County, was not less than 21 years of age, had passed an examination on local conditions and was physically and mentally fit. No marine certificate of competency was required nor any actual experience

Buctouche, N.B., Pilotage District

in District waters. There were neither probationary nor permanent licences: only a term licence which was renewed every two years until the ultimate age limit of 70 was reached.

This By-law was amended twice until superseded in 1961 by the General By-law presently in force. In 1937, P.C. 2467 dated October 6, 1937 (Ex. 1515(e)) dealt, *inter alia*, with special cases by providing a special rate of \$5 per trip for steamships engaged in the carriage of sand and gravel and the S.S. *Elkhound*, which regularly were exempted but employed a licensed pilot. In 1955, P.C. 1955-100 dated January 20, 1955 (Ex. 1515(i)) raised the voyage rates to \$2 per foot draught plus 2¢ per NRT, and introduced a boat charge of \$5.

Chapter B

BRIEFS

No brief was presented.

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION

(1) DISTRICT LIMITS

According to the definition of its limits, the District comprises all the waters of the bays, coves and rivers along 27 miles of the New Brunswick coastline from Richibucto Head to Cocagne Head as well as all that part of Northumberland Strait as far as the coast of Prince Edward Island situated opposite that part of the New Brunswick coast above described. According to the present governing statutory provisions (secs. 345 and 357 C.S.A.), this would mean that any ship in transit through Northumberland Strait, or heading to or coming from a Prince Edward Island port situated along these waters, would be subject to the compulsory payment of dues unless exempted by law.

These limits do not correspond to present reality and must be interpreted in their 1877 context.

In sailing ship days, a wide area of open water was necessary to serve as a boarding area, and compulsory payment in the 1873 Pilotage Act (sec. 57) did not extend to ship movements through District waters other than inward and outward voyages, i.e., to and from a District port. Vessels not calling at a District port could not be subjected to the compulsory payment of dues, even if they happened to pass through the waters of one or more Pilotage Districts.

The only pilotage that exists along that 27 miles of coast occurs at the port of Buctouche and extends no farther seaward than the boarding area as described in the 1935 District By-law, i.e., the open waters southeast of the lighthouse on Buctouche Sandbar and in line with Dixon Point range lights 25 miles inside the official eastward limit of the District which is the coast of Prince Edward Island. The limits of the Buctouche pilotage area should be amended officially to correspond to the port of Buctouche and its immediate approaches.

(2) PHYSICAL FEATURES

The harbour of Buctouche is formed by the common estuary of Black River, Buctouche River and little Buctouche River. It is protected to seaward by a seven-mile sandbar parallel to the coast which provides shelter. The town of Buctouche, where the wharves are situated, is about one mile upstream on Buctouche River and six miles from the boarding area.

This estuary, which is called the harbour, extends over a large area all but covered with mud flats under only a few feet of water through which winds a shallow, narrow dredged channel, maintained at a width of 80 feet and with a controlling depth of 13 feet at low water. There is heavy silting and almost constant maintenance dredging is required to keep even that shallow depth. Pilots take soundings regularly and buoys and leading lights are changed to indicate the deepest water. Rock bottom is found at two places along the channel at depths of 14 and 15 feet. Major improvements to the channel and the ensuing maintenance requirements would call for extensive expenditures which can not be justified by the economic importance of the port. This port is, and will remain, out of reach to all maritime traffic except small vessels and up-to-date knowledge of the changing conditions of the channel is a requisite to safe navigation. The only type of casualty which is likely to occur is grounding on the mud banks of the channels or in the channel where depth has been reduced by silting with no other consequence except the inconvenience of delay. Any Master could navigate this channel provided he possesses up-to-date local knowledge or has the assistance of a "Pilotage Adviser".

On account of the shallow channel, both inward arrivals and outward departures are generally timed for high water. There are no tugboats available and either the pilot or the Master takes charge of berthing.

Navigation extends from May 1 to November 15 approximately because the river freezes during the winter.

There is no night navigation since light-buoys are not maintained.

The channel is marked by a system of cans, conical buoys and spar-buoys with bushes indicating turning points. Two sets of range lights mark the centre of the only two straight courses in the channel, which extend some three miles from the seaward entrance of the channel. The first set, located on Dixon Point, is one of the reference points to locate the seaward boarding area (p. 455). The pilots complained that the second range light on Indian Point was very poor. This has now been corrected, the range lights having been converted to automatic and their intensity increased.

Fog is not prevalent but when it occurs ships are not navigated.

The port serves only local needs, i.e., imports of general merchandise and oil products, and local exports mostly of wood products.

(3) MARITIME TRAFFIC

The following table provides a comparison between D.B.S. figures for ships of 250 NRT and over and statistics contained in pilotage returns.

| Year | D.B.S. Statistics (Ships over 250 NRT) | | | | Pilotage Returns (Ships over 250 NRT) | | |
|-----------|---|-------------|----------------------|-----------|--|--------------|-------------|
| | No. of Arrivals | Average NRT | Cargo handled (Tons) | | No. of Pilots | No. of Ships | Average NRT |
| | | | Foreign | Coastwise | | | |
| 1960..... | 16 | 1,987.6 | 1,742 | 41,703 | 3 | 21 | 1,803.29 |
| 1961..... | 18 | 1,286.5 | 4,000 | 30,450 | 3 | 17 | 1,346.41 |
| 1962..... | 18 | 891.9 | 10,100 | 14,681 | 3 | 14 | 888.00 |
| 1963..... | 8 | 1,455.8 | nil | 11,955 | 3 | 12 | 1,199.42 |
| 1964..... | 8 | 1,294.1 | 3,626 | 7,335 | 3 | 17 | 850.59 |
| 1965..... | 9 | 1,401.0 | 4,001 | 6,232 | 3 | 13 | 1,156.08 |
| 1966..... | 11 | 1,251.3 | 7,561 | 6,454 | 3 | 15 | 1,089.87 |
| 1967..... | 11 | 1,048.6 | nil | 9,908 | 3 | 13 | 1,395.08 |

Of the 13 ships which took pilots in 1967, six were Irving Oil tankers, and most of the others were ships carrying pulp wood.

The foregoing table supports the findings already arrived at by studying the physical features of the harbour. Only small ships can have access to the port. Ships, even small ones under 250 tons, will not venture in unless they are navigated by a person with local knowledge but the difficulties encountered are not such that regular traders need a pilot. There is not enough work to keep one pilot fully occupied and when it is divided among three pilots their individual workload is very light. In view of the trend to larger ships and the availability of alternate means of transportation, it is unlikely that traffic will ever increase substantially.

2. PILOTAGE ORGANIZATION

The situation is similar to the one that prevailed at Richibucto before the District was abolished, except that the Secretary-Treasurer does attend to his duties. Since there are no commission meetings, a minute book is not kept and the only records are copies of the District annual reports.

The Secretary testified that, in general, the District By-law is not followed because it is difficult to convey its meaning to those concerned. Furthermore, since Buctouche is not a large port, no serious difficulties are encountered.

The main function of the Secretary is to collect pilotage dues, administer the Pilotage Fund and prepare and file the annual reports. While the By-law states that his salary is 5% of the gross earnings, the former practice was for him to retain \$4 per ship with the exception of tankers for which he received \$3. However, since 1963 the By-law provision has been followed.

3. PILOTS

(1) RECRUITING AND QUALIFICATIONS OF PILOTS

The number of pilots had generally been three since 1932. It was reduced to two in 1968 by the retirement of Pilot Willie Duplessis who had reached 70 years of age. He has not been replaced (Ex. 1515(m)).

The pilots are employed as fishermen when they are not piloting. They hold no certificate of competency but this was not a prerequisite when they were licensed. The licensing procedure has always been very informal.

Pilot M. Mooney stated in his evidence that he had learned from his father who was a pilot. He received his licence in 1931 after being examined by another pilot. Pilot Willie Duplessis also sailed with his father and his licence was issued in 1933 by the then Chairman of the local Commission on the recommendation of the Secretary. His son, Vincent Duplessis, was granted his licence in 1955; he wanted to take his father's place on the latter's retirement. The Secretary testified that he did not know whether Vincent Duplessis had served any apprenticeship or if he had been examined on his qualifications.

(2) SHIPPING CASUALTIES

There have been no serious casualties. Occasional groundings have occurred but, since the bottom consists of sand and mud, no damage was sustained. Occasionally, the wharf is slightly damaged when berthing. Once the Irving Oil pier was extensively damaged when a ship collided with it. The pilot was not to blame because the Master had insisted on berthing his own ship. The Pilotage Authority keeps no record of these accidents nor has the Department of Transport any record.

4. PILOTAGE OPERATIONS

Ships always send their estimated time of arrival, either to the Secretary or to their agent, generally by wire through Charlottetown, P.E.I. (VCA). The Secretary or the agent notifies the pilots. The pilots work on turns. It takes from three-quarters of an hour to an hour to pilot a vessel in but it takes a little longer outward for vessels deeply laden.

Realistically, a regular pilot vessel service is not maintained. When such service is needed, it is obtained on a per trip basis through boat hire, except in the case of Pilot Mooney who uses his own fishing vessel. These vessels are not licensed by the Authority. When a pilot is on board, they display the pilot signal.

The boats used for the pilot vessel service are based in Caraquet where the pilots join them and they travel the six miles to the boarding area to meet ships.

The total workload could easily be attended by one pilot. In 1967, the average total workload during the six and a half months' navigation season was two ships per month (4 trips). A second pilot is desirable to provide uninterrupted service if the first pilot becomes unavailable for any reason. This can be achieved as at present by sharing the workload between the pilots or by having the second pilot act only in relief, provided he obtains sufficient practice to maintain his experience either through pilotage assignments or through navigation in the District when otherwise employed.

5. PILOTS' REMUNERATION AND TARIFF

The tariff is unsatisfactory in that the same rates apply to trips and movages. It is possible that the problem is only theoretical because apparently a movage is never performed. This information is not shown in the annual reports as it should be and the spaces for details of assignments are left blank. However, since there is always a possibility that a movage may be necessary, the tariff should be amended to fix reasonable rates for the various types of movage that may be performed in the District.

As stated in other Subsections when discussing the tariff structure, there is no reason why the draught factor should be retained.

The practice regarding boat charges is to bill each ship \$20 for pilot vessel service covering inward and outward service, instead of \$5 each time a pilot vessel is used. No doubt such a charge is more in line with the price the pilots have to pay to the boat owners and to date the charge has been paid without any objection, but it is obviously illegal and also results in a statutory offence (sec. 372 C.S.A.). Therefore, this practice should be discontinued. If it is considered that the present rate is inadequate, the situation should be corrected by an amendment to the tariff but, until this is done, the Secretary must charge only what is prescribed.

Pilot Mooney stated in his evidence that Masters frequently ask the pilots to reimburse part of the pilotage dues but the pilots always refuse, or it is suggested that a higher pilotage fee be charged, the surplus being paid to the Master. The Secretary testified that he had also heard rumors of kick-backs but he had no proof.

The pooling procedure stipulated in the By-law is not adhered to. No doubt because few ships call during any month, the practice has been to share the earnings every time a bill is paid. The Secretary deducts his share and the rest is divided equally among, and paid to, the pilots (even if a pilot happened to miss a turn). However, this can not be the full story because, if such a procedure were followed, the three pilots would have received the same amount every year. The record shows this is not the case and there are always discrepancies, e.g., in 1967, the annual gross earnings of the three pilots were shown as \$872.60, \$694.10 and \$704.10.

6. FINANCIAL ADMINISTRATION

The District financial report contains very little financial information—no item of expenditure is included except what is shown as paid to the pilots. Up to 1966 inclusive, this amount corresponded exactly with total earnings, i.e., the amount shown as paid to the pilots prior to deducting the Secretary's remuneration. In the 1967 report, the discrepancy between the two totals indicates (although no details are given) that the new Secretary deducted his 5% remuneration (\$116.06) and also charged other expenses, no doubt for stamps, stationery and the like (\$3.78).

The amount quoted as each pilot's remuneration is not his net income because it is a share of the total revenue, including boat charges, out of which he had to pay boat hire.

There have never been any funds—pilot, welfare, pension or relief—in this District. The pilots do not benefit from Workmen's Compensation or Unemployment Insurance, nor do they enjoy any group protection of any kind. Their contributions to the Canada Pension Plan are not deducted by the Secretary. Directives received from the Department of Transport were to the effect that "pilots are considered to be self-employed and are thus responsible for their total contributions to the Canada Pension Plan" (vide Part I, p. 81).



Subsection VII

PILOTAGE DISTRICT OF SHEDIAC, N.B.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

All the local legislation concerning this District, except appointments, is contained in three Orders in Council, of which two concern the formation of the District and the third is the District General By-law.

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

The authority for the existence of the District is P.C. 486 of May 19, 1876 (Ex. 1516 (a)) which established the District, fixed its limits, appointed a five-member Commission to be its Pilotage Authority and made the payment of dues compulsory. Except for the names of the Commissioners and the District limits, this Order in Council is still in force.

The present limits of the District were redefined a few days later (P.C. 537 dated June 1, 1876 Ex. 1516(b)) as follows:

“...so as to extend from the Point known as Shediac Point Southerly to Cape Bald, comprehending the waters lying Westerly of a straight line between those Points.”

(2) PILOTAGE AUTHORITY'S ENACTMENTS

The only regulation now in force emanating from the Pilotage Authority is the District General By-law which was approved by P.C. 1961-1068 on July 24, 1961 (Ex. 18).

It is of the same form, style, and content as those of the adjacent Commission Districts. It provides for fully controlled pilotage under the direction of the Secretary whose remuneration is 5 per cent of the gross receipts of the District with a minimum of \$10 per vessel. There is no Pilot Master. The statutory exemptions have been neither modified nor amplified. There is no apprenticeship. Pilot candidates need not have any marine certificate of competency, nor any sea or local experience. Absence from duty always forfeits participation in sharing the pool. The rate structure is similar with charges for inward and outward voyages at \$1.70 per foot draught plus 3¢ per NRT surcharge for power-driven vessels. Pilot boat and moorage charges are both \$10.

2. HISTORY OF LEGISLATION

Prior to Confederation, pilotage in the port of Shediac came under the licensing jurisdiction of the courts for the County of Westmoreland. A federal District was created by P.C. 486 on May 19, 1876 (Ex. 1516(a)) which also appointed as pilotage Authority a five-member Commission recruited locally, made the payment of pilotage dues compulsory and established the limits as extending from Cassies Cape to Point Brûlé. This description was no doubt a mistake since it was corrected shortly afterwards by P.C. 537 of June 1, 1876 (Ex. 1516(b)) which redefined the limits to extend from Shediac Point southerly to Cape Bald, a distance of about 10 miles from headland to handland across Shediac Bay. These limits are still in force.

The rules and regulations made for the government of pilots by the Justices of the County Sessions were followed by four successive sets of By-laws in 1879, 1900, 1943 and 1961 (the present General By-law).

The 1879 By-law (sanctioned by Order in Council P.C. 686, dated May 17, 1879 (Ex. 1516(c)) contained the normal provisions regulating the pilots' profession under the free enterprise system, i.e., rules for licensing, rate-fixing and competition. There was no apprenticeship. Voyage rates were based on draught but inward voyages called for a higher rate. On outward voyages the Master could choose his pilot. Pilots collected and kept the dues they earned and their only obligation to the Authority was to report. The Authority's funds consisted only of licence fees and fines.

This By-law was superseded by new rules and regulations sanctioned by P.C. 1672 dated July 20, 1900 (Ex. 1516(d)). The main change was an increase in rates to equalize them with those prevailing in the neighbouring ports of Cocagne, Buctouche and Richibucto; it increased the moorage (removal) rate; the collection of dues was made the responsibility of the Secretary and his remuneration was fixed at 2 per cent of the gross receipts and earnings of the pilots; the pilot was entitled to dues he earned less his share of District expenses.

The 1943 By-law was sanctioned by Order in Council P.C. 7626 dated October 1, 1943 (Ex. 1516(f)). It established control over the provision of services by arranging for the establishment of a common pilot vessel service and obliging the pilots to share both workload and receipts through a system of despatching and pooling. This By-law remained in force until it was superseded in 1961 by the current General By-law.

Chapter B

BRIEFS

No brief was presented.

Chapter C

EVIDENCE

1. GENERAL DESCRIPTION, MARITIME AND PILOTAGE TRAFFIC

The District is wholly contained within the confines of Shediac Bay; it is ten miles wide at the seaward limit and extends seven miles to Shediac. Most of the bay is covered by mud, sand flats and shallows and provides only a narrow channel with a limiting depth as shallow as 5 feet at Shediac. The only accessible port for medium draught vessels is Pointe du Chêne situated one mile seaward from Shediac. It is approached through a well marked channel one cable wide and two miles long which is negotiated by two straight courses clearly indicated by range lights and buoys. The minimum depth in the channel is 14 feet. High tides range between 3½ and 2 feet. The maximum depth at the wharf at low water is 18 feet. The channel entrance, which is marked by a fairway buoy, can be approached from two directions, both well indicated by range lights. Since 1963, all range lights have been converted to automatic and their intensity has been increased. The port is icebound in winter months.

The following table, compiled from D.B.S. statistics (Ex. 1516(i)) of ships of 250 NRT and over, and from statistics contained in the Pilotage Authority's annual reports (Ex. 35), indicates the extent of maritime and pilotage traffic and the pilots' workload (a trip normally means two assignments).

| Year | D.B.S. Statistics (Ships over 250 NRT) | | Pilotage Returns (Ships over 250 NRT) | | |
|-----------|---|-------------|--|--------------|-------------|
| | No. of Arrivals | Average NRT | No. of Pilots | No. of Ships | Average NRT |
| 1960..... | | | 3 | 16 | 1,366.7 |
| 1961..... | | | 3 | 30 | 1,330.7 |
| 1962..... | (data not available) | | 3 | 22 | 1,602.0 |
| 1963..... | | | 3 | 23 | 1,663.9 |
| 1964..... | 18 | 1,524.2 | 3 | 20 | 1,720.7 |
| 1965..... | 16 | 1,223.2 | 3 | 18 | 1,580.1 |
| 1966..... | 5 | 1,329.6 | 3 | 10 | 1,685.4 |
| 1967..... | 10 | 1,480.8 | 3 | 13 | 1,418.8 |

This table indicates that the District is now beyond the reach of modern maritime traffic and even a moderate sized vessel would be unable to call at Pointe du Chêne with a full cargo, or depart with one. The Norwegian *M. V. Belbetty* of 2,990 NRT, which berthed at Pointe du Chêne in 1964, was the largest vessel to enter the port up to that time (Ex. 36).

Coastwise traffic predominates and the port serves only local needs. Its main exports consist of pulpwood and other wood products, and fish products, but a downward trend has been noticeable in recent years.

The pilots recommended that the channel be made deeper or, at least, that maintenance dredging be carried out to preserve normal depth, particularly at the Robin Hood Flour Mills wharf. Here again the governing factors are economics and public interest.

The channel, which extends for about two miles from the pilot boarding area off the fairway buoy to the wharf at Pointe du Chêne, presents no navigational hazards other than those created by strong northeasterly winds and some silting.

2. PILOTAGE ORGANIZATION

Immediately following World War II, there was very little traffic—one ship in 1946 and two in 1947 for four pilots—and the pilotage organization ceased to function although limited pilotage activities continued. The secretary failed to file annual returns in 1948 and also from 1950 up to 1959. Repeated requests from the Superintendent of Pilotage in Ottawa addressed to the Secretary and to the Pilot Commissioners remained unanswered with the result that the Minister of Transport concluded the local Commission no longer existed. However, no action was taken and it was not until a local resident who wanted to become a pilot discovered there was no one to grant him a licence and asked his Member of Parliament to raise the question with the Department of Transport. This brought the desired result. P.C. 1959-878 dated July 9, 1959, appointed three new Pilot Commissioners, one of whom, Mr. J. C. Cunningham, was designated to act also as Secretary and Treasurer. He still held the position in 1968. The Department was also active in re-organizing the District. Departmental officers visited the District in order to explain their duties and responsibilities to the Pilotage Authority and the Secretary (Ex. 1147). Since then, the District has been functioning normally and annual reports have been submitted regularly (Ex. 35).

3. PILOTS

For several years there have been three pilots. They are fishermen by trade and hold no marine certificate of competency.

There appears to be no record or report of a casualty of any kind in recent years.

Requests for a pilot are normally addressed to the Secretary who, in turn, informs the pilots. The three pilots work in turn as convenient to them. They use their own fishing vessel as a pilot vessel. It is licensed annually as such.

A pilotage trip, including berthing, takes about half an hour. Ships deeply laden must wait for high water. Movages are rarely performed and only one was reported in the past eight years.

The light pilotage workload divided among the three pilots averaged less than two trips each per month in 1967. Such a workload could well be attended to by only one pilot but to insure continuity of service it is desirable to license a second pilot who either acts as a relief pilot or shares assignments if this procedure is more convenient.

4. PILOTS' REMUNERATION AND TARIFF

According to the By-law, the pilots' remuneration is supposed to be an equal share in the pool, i.e., of the net earnings of the District. However, the procedure followed is totally different. It appears from the financial data contained in the annual reports that each pilot is actually paid the amount of the dues (including pilot boat charges) his services have earned after deducting the Secretary's remuneration. Furthermore, the pilots have to share among themselves the few operating expenses for stamps, telephone and transportation. On the other hand, as stated earlier, they share the workload as equitably as possible. This system is logical where the workload is so low that pilotage can be only an incidental occupation. In such a case, it is to be expected that other occupations will interfere at times with the pilot's availability and, therefore, will preclude sharing the workload equally. The comparative table below indicates, *inter alia*, the pilots' net earnings in the peak year of 1961 and also in 1967. These figures are not, however, true net earnings because, although they include pilot boat charges, the cost to the pilots of providing their own pilot vessel service is not deducted, and with available data there appears to be no means of ascertaining the amount.

There is no welfare, pension or relief fund of any kind for the pilots.

The tariff provides rates for pilotage voyages, movages and boat charges only. Movages and boat charges are \$10 flat. The rate structure for a pilotage voyage is the same as in most adjacent Districts, i.e., a rate per foot of draught (\$1.70) plus a surcharge per net registered ton (3¢) for power-driven vessels. Reference is invited to the comments on this structure (Restigouche pp. 381 and 382).

5. FINANCIAL ADMINISTRATION

The Secretary attends to the financial administration. He computes pilotage charges from source forms provided by the pilots after each assignment, prepares bills and collects dues. He also prepares the required annual report and forwards it to the Department of Transport. The following table provides a comparison of the financial data contained in the annual reports for 1961 and 1967.

| | 1961 | 1967 |
|--------------------------------|-------------|-------------|
| Earnings | | |
| Pilotage dues..... | \$ 4,087.90 | \$ 1,934.65 |
| Pilot vessel licence fees..... | 3.00 | 3.00 |
| Total earnings..... | 4,090.90 | 1,937.65 |
| Disbursements | | |
| Secretary's salary..... | 269.65 | 125.75 |
| Stamps..... | 2.25 | 1.00 |
| Telephone..... | 2.20 | 15.00 |
| Transportation..... | 12.37 | 4.00 |
| Typing..... | nil | 2.00 |
| Bank charges..... | nil | 9.00 |
| Pilots' remuneration..... | 1,124.09 | 702.92 |
| | 1,439.02 | 492.71 |
| | 1,226.32 | 585.27 |
| Bank balance..... | 3,789.43 | 1,780.90 |
| | 15.00 | nil |
| | \$ 4,090.90 | \$ 1,937.65 |

Subsection VIII

PILOTAGE DISTRICT OF PUGWASH, N.S.

Chapter A

LEGISLATION

1. LAW AND REGULATIONS

The special legislation that applies to the District of Pugwash is contained in the Order in Council which created the District and in the District General By-law.

(1) CREATION OF THE DISTRICT AND RELATED MATTERS

The regulation which gives legal existence to the District is the one by which it was created in 1877, i.e., P.C. 90 dated February 2, 1877 (Ex. 1517(a)). Except for appointments and the number of appointees, this Order in Council has not been modified. It provided a three-member (now five-member) Commission for the function of Pilotage Authority, made the payment of pilotage dues compulsory and established the District limits as follows:

“...the said District to be bounded on the East by Cape Cliff, and on the West or North West by Lewis Head, both in the County of Cumberland aforesaid”.

To correct an error (vide p. 476) the limits were redefined as above by the Governor in Council on June 16, 1894 (Orders in Council 1793 and 1812, Exs. 1517(c) and (d)).

(2) PILOTAGE AUTHORITY'S ENACTMENTS

The regulations made by the Pilotage Authority are all contained in the 1962 General By-law (P.C. 1962-898 of June 20, 1962) as amended in 1964 regarding the rates (P.C. 1964-1492 dated Sept. 23, 1964). It is similar in format and content to those of adjacent Districts. It provides for the service to be fully controlled by the Secretary through despatching and pooling the pilots' earnings. Except for age (between 21 and 60) and physical and mental fitness, there are no prerequisites for pilot candidates, but they must pass an examination on required nautical and local knowledge. There is no apprenticeship and no marine certificate of competency or previous experience in District waters is required. The first licence is probationary and

is followed by a permanent licence. The tariff is based on the same structure as in adjoining Districts: pilotage voyages, \$2 per foot draught plus 2¢ per NRT; movages and pilot boat service, \$10 each.

2. HISTORY OF LEGISLATION

Prior to Confederation, public control over pilotage in Nova Scotia existed only at the main ports and each was specifically covered in a special Act of Parliament. In 1851, these special Acts were consolidated into a general statute that applied only to named ports, of which Pugwash was one (vide p. 170).

Organized pilotage in Pugwash began as early as 1833 when a Nova Scotia Act authorized Justices of the Sessions of the Peace for the County of Cumberland to license pilots and make necessary regulations. It also fixed rates and prohibited unqualified persons from piloting. The Act was extended in 1835 to include the harbour of Wallace. It was superseded by another statute in 1848 that applied to Pugwash, Wallace and Pictou. From 1851 on the abovementioned general statute applied.

Pugwash was created a federal Pilotage District in 1877 by P.C. 90 dated February 2, 1877 (Ex. 1517(a)). Three local residents were appointed Pilot Commissioners and formed the Pilotage Authority. The payment of pilotage dues was made compulsory and the limits of the District were defined as quoted earlier.

These limits embodied the two-mile wide bay between Lewis Head and Fishing Point, which is the common estuary of River Philip and Pugwash River, and also some ten miles of coastline further east to Cape Cliff. There was obviously no pilotage along that part of the coast and it was included merely because at that time Government policy was to assign the whole coast to Pilotage Districts.

On June 15, 1877, P.C. 562 (Ex. 1517(b)) sanctioned new by-laws that superseded those made by the Justices of the Sessions of the Peace. They retained most of the provisions of the former by-laws which had been drafted under the pre-Confederation Nova Scotia statute. They provided rules for the exercise of the pilots' profession under free enterprise by providing, *inter alia*, that a pilot who had piloted a ship inward was entitled to pilot her out unless the Pilotage Authority directed otherwise. The pilots were obliged to enforce the quarantine regulations and make reports. Provision was made for the settlement of disputes. The limits beyond which the pilots could not proceed to meet or hail ships were defined: these "pilot limits" extended seaward to the provincial boundary line in Northumberland Strait. The pilots were required to furnish a bond and securities to ensure their compliance with the regulations. The rate structure was the same as for other Nova Scotia Districts

(a carry-over from the pre-Confederation period), i.e., a scale based on tonnage, the outward charges being lower than the inward ones; transiting the drawbridges at Port Philip or at Pugwash called for an additional charge of 2½¢ per NRT each way.

When in 1889 a consolidation was made of the various orders made by the Governor in Council for the creation of Districts and related matters (P.C. 1261 of June 12, 1889, Ex. 1532) the same error was made as for Halifax (p. 159), i.e., the District limits were cited as being both the District limits as defined in P.C. 90 and the "pilot limits" as defined in the By-law. The error was corrected in 1894 (Orders in Council P.C. 1793 and 1812 Exs. 1517(c) and (d)) by deleting the "pilot limits" from the definition of the District limits and reaffirming the original definition.

In 1938, P.C. 1211 dated May 30, 1938 (Ex. 1517(k)), approved a new set of by-laws which remained in force until superseded in 1962 by the present General By-law.

The 1938 By-law established fully controlled pilotage including despatching and pooling the pilots' earnings. It situated the boarding area one and a quarter miles northeast of Pugwash lighthouse. The rate structure of the adjacent Districts was adopted (\$1.50 per foot draught and 1¢ per NRT). The 2½¢ per NRT additional charge for proceeding further than one and a half miles above the drawbridges at Pugwash or Port Philip was retained. A boat charge (\$3) was instituted and its proceeds were to be kept segregated for the upkeep, maintenance and repairs of the pilot vessel. The pilot boat charge was raised to \$5 in 1947 and to \$10 in 1962. The moorage charge was \$5 plus 50% if over four miles (Ex. 1517(k)).

NOTE

(To read in conjunction with p. 479.)

On May 1, 1969, with the aid of high tide two pilots succeeded in bringing in and berthing at the salt pier the largest vessel ever to enter the port: S.S. *Hallfax*, 5113 NRT, 7470 GRT. Turning the ship before berthing proved to be a difficult and elaborate procedure due to her length, 445½ feet overall, and the confines of the harbour. She left the following day on high tide with over 9,000 tons of bulk salt, thus creating a record as the largest vessel and the largest cargo ever to enter and clear the port.

Chapter B

BRIEFS

No brief was submitted.