

the context it appears that it is not used as descriptive of any particular kind of ship, or with any reference to her motive power, but is used in relation to something which a ship is caused to do; that is to say, so far as affects the present case, to perform a voyage into or out of the Port of St. John.

There is nothing in the words of the section, when the definition of the word "ship" is considered, to indicate that at the time of moving in the pilotage waters a ship, to be under compulsion, must at the time possess independent practical power of moving herself. If that were so, it would seem to follow that any ordinary sailing vessel which was necessarily towed into port would not be within the section, and this can scarcely be the true meaning of the section. The argument that, because the barges are towed, they do not need a pilot, will not alter the express language of the section, and, moreover, it is reasonably clear that, although a pilot may not be so useful on large barges in tow of a tug as he would be if they were capable of making their own way into or out of port, yet the same argument would apply to any case of towage, even of a properly rigged sailing vessel, and yet, wherever pilotage is compulsory, the pilot is usually found on the tow where he can exercise such control of the navigation as is possible and give such directions and assistance as may be required. The fact that the tug may have more vessels than one in tow does not alter this position.

Their Lordships consider that the 58th section applied, and that the vessels in question were liable to the payment of pilotage dues unless exempted by the 59th section.

That section exempts "the following ships," and then in sub-sections (a), (b), (c), (d), (e) and (f) it enumerates the ships exempted. It is important to notice again the use of the word "propelled" in the definition of the word "ship," for the second question turns mainly on the use of that word in sub-section (c). In the definition clause the word "propelled" is obviously used in its ordinary sense, and does not embrace the idea of traction. It is used as it was by Cicero—"propellere navem remis"—with reference to the motive power possessed by the vessel herself, and in this sense it is, in their Lordships' opinion, used in sub-section (c). "Ships propelled wholly or in part by steam" are steamships which have either no motive power but their steam engines, or have steam engine power and some sailing power, and this is made plain by the actual use of the word "steam-