

does not give effect to the term "ship" as used in the Act, and, indeed, the judgment is based on what may be termed practical reasons, and not upon sufficient consideration of the language of the Act. On appeal to the Exchequer Court of Canada, Burbidge, J., affirmed the decision on grounds which are substantially the same as those given by Mr. Justice Davies in the present case.

It may be observed that the statutes have been revised and re-enacted with some modifications in 1906. The Statute of that year, ch. 1, sec. 21, sub-sec. 4, provides that:—

"Parliament shall not, by re-enacting any Act or enactment, or by revising, consolidating, or amending the same, be deemed to have adopted the construction which has, by judicial decision or otherwise, been placed upon the language used in such Act, or upon similar language."

The legislation on the subject of pilotage in Canada extends back for many years. The Pilotage Act of 1873 repealed a number of old statutes in none of which, so far as their Lordships can trace, is there any enactment which would shew any distinction between barges or schooners of the kind and size of those in question used for the purpose of sea-going voyages, and towed in or out of port, and any vessel of the ordinary sailing powers similarly towed. There is a provision in 12 Vict., ch. 117, sec. 23, which in one case gives a lower rate of pilotage for vessels towed, for under it a Montreal pilot only had half rates when a vessel was towed by a steamer, but the General Act of 1873 does not appear to contain any similar provision. The Act of 1873 was revised in 1886, and some important changes were made by sec. 59 of the Revised Statute with regard to the exemptions which were specified in sec. 57 of the Act of 1873. There would seem to be no reason for placing different constructions upon the words "ships propelled wholly or in part by steam" used in these two sections. In the earlier it may be noticed that these words are used in relation to vessels proceeding on certain lengthy sea voyages upon which, in 1873, vessels without any motive power of their own would probably not be used. In the later section it may be further noticed that the word "steamships" is expressly used in the latter part of sub-sec. (c).

The statutory provisions in question appear to have originated in times when vessels were either sailing vessels or steamships or river craft, and before barges of such a size as