

(f) Ships of such description and size, not exceeding two hundred and fifty tons, registered tonnage, as the pilotage authority of the district, with the approval of the Governor in Council, from time to time, determines to be exempt from the compulsory payment of pilotage in such district; Provided always, that this paragraph shall not apply to the River St. Lawrence, where all ships registered in Canada, if not more than two hundred and fifty tons registered tonnage, shall be exempt. 36 Vict., ch. 54, sec. 57, part;—38 Vict., ch. 28, sec. 1;—40 Vict., ch. 20, sec. 3.

By section 2 (b) of the Act the expression "ship" includes "every description of vessel used in navigation, not propelled by oars."

In or about the year 1893 the respondents had built for them five vessels for the purpose of carrying coal sent from the respondents' mines at Spring Hill and shipped from Parrsboro, Nova Scotia, to the port of St. John and other ports along the East Coast of Canada and the United States of America.

The vessels were each of about 440 tons, and were described as "schooners" in the builders' statements and claims for drawbacks, and the certificates of registry in Nova Scotia certified that they had within themselves the power of independent navigation, though the facts shew that this statement cannot be treated as being sufficiently explicit. They were constructed with two short masts, which were fitted as derricks, with gaffs for discharging cargo, and carried small, triangular sails and a jib. These sails were used to steady the vessels and assist them in strong breezes. The vessels could run before the wind, but could not be safely navigated as sailing vessels in the ordinary way, and were intended to be, and, in fact, were, towed from port to port. Each had a captain and crew, and was fitted with steering gear and anchors. If they had been fully rigged they would have been navigable by sails as ordinary schooners.

The barges or schooners whichever they are called, were towed by a steam tug from Parrsboro to St. John, and also on the return voyage. In summer there might be two or three in a line, but in winter only one at a time appears to have been towed.

The appellant Commissioners are the pilotage authority for the pilotage district of St. John and entitled to collect the pilotage dues. The payment of these dues is made com-