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SENATE
PROCEEDINGS OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATION

Freight Traffic 1 no.
Canada Shipping Act 6 nos.

TRANSPORT AND COMMUNICATIONS

To whom was referred the

BILL C-38 INTITLED: "AN ACT TO MAKE PROVISION FOR
THE REDUCTION OF CERTAIN CLASS AND COMMODITY
RATES ON FREIGHT TRAFFIC"

Honourable Adrian Z. Hingstman, Chairman

WEDNESDAY, JUNE 17, 1959

WITNESSES:

Mr. Rod Kerr, Q.C., Chief Commissioner, Board of Transport
Commissioners;
Mr. W. J. Knowles, Commissioner, Board of Transport Commis-
sioners.

REPORT OF THE COMMITTEE

2nd Session, 24th Parliament, 1959.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

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The Honourable Adrian K. Hugessen, Chairman.

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REPORT OF THE COMMITTEE

THE STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman.*

The Honourable Senators

*Aseltine	Gouin	Molson
Baird	Grant	Monette
Beaubien	Haig	Paterson
Bishop	Hardy	Pearson
Bouffard	Hayden	Power
Bradley	Horner	Quinn
Brunt	Hugessen	Raymond
Buchanan	Isnor	Reid
Campbell	Jodoin	Robertson
Connolly (<i>Halifax North</i>)	Kinley	Roebuck
Connolly (<i>Ottawa West</i>)	Lambert	Smith (<i>Queens- Shelburne</i>)
Dessureault	Lefrançois	Stambaugh
Emerson	*Macdonald	Veniot
Euler	McGrand	Vien
Farris	McKeen	Wood
Gershaw	McLean	Woodrow—(48).
Gladstone	Methot	

50 members
(Quorum 9)

**Ex officio member.*

ORDER OF REFERENCE

TUESDAY, June 9, 1959.

"Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Hnatyshyn, seconded by the Honourable Senator Higgins, for second reading of the Bill C-38, intituled: An Act to make Provision for the Reduction of Certain Class and Commodity Rates on Freight Traffic".

After debate, and—

The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Higgins, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—
Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

WEDNESDAY, June 17, 1959.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10 a.m.

Present: The Honourable Senators:—Hugessen, Chairman; Aseltine, Beau-bien, Bouffard, Brunt, Gershaw, Gladstone, Gouin, Hayden, Horner, Isnor, Kinley, Lambert, Macdonald, McKeen, McLean, Molson, Power, Reid, Smith (Queens-Shelburne), Stambaugh, Veniot and Woodrow. 23.

In attendance:—Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

The Official Reporters of the Senate.

Bill C-38, An Act to make Provision for the Reduction of Certain Class and Commodity Rates on Freight Traffic, was read and considered.

Heard in explanation of the Bill were:—Messrs. Rod Kerr, Q.C., Chief Commissioner, Board of Transport Commissioners and L. J. Knowles, Commissioner, Board of Transport Commissioners.

On Motion of the Honourable Senator McKeen, seconded by the Honourable Senator Reid, it was *Resolved* to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Bill.

In attendance but not heard:—Mr. H. H. Griffin, Assistant Chief Commissioner, Board of Transport Commissioners.

It was *Resolved* to report the Bill without any amendment.

At 11.15 a.m. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Wednesday, June 17, 1959.

The Standing Committee on Transport and Communications, to whom was referred Bill C-38, an Act to make Provision for the Reduction of Certain Class and Commodity Rates on Freight Traffic met this day at 10 a.m.

Senator Hugessen in the chair.

The CHAIRMAN: Honourable senators, we have Bill C-38 to consider this morning, an act to make provision for the reduction of certain class and commodity rates on freight traffic. I consulted with the Leader (Hon. Mr. Aseltine), and he thought that we should have our proceedings this morning reported. If the committee is of that view, will some honourable senator make a motion? Senator McKeen so moves.

Does the committee agree to my making a first report that 800 copies in English and 200 in French be printed?

Agreed.

Well, the committee will recall the debate that took place in the Senate on this bill, the Freight Rates Reduction Act. We have before us this morning available to give evidence on the bill, Mr. Rod Kerr, Q.C., Chief Commissioner of the Board of Transport Commissioners; Mr. H. H. Griffin, Assistant Chief Commissioner of the Board of Transport Commissioners; and Mr. L. J. Knowles, a member of the Board of Transport Commissioners. I take it that what the committee will be principally interested in is the effect the new rates will have upon this measure if this is passed.

I understand that the gentleman who is the expert on rate matters is Mr. Knowles. Is he the one whom the commissioners think would be the most helpful for us under these circumstances?

Mr. KERR: Although I have been chief commissioner for only a few months, I would be the first to say that does not qualify me as an expert on freight rates. Mr. Commissioner Knowles has been with freight rates for 50 years, and has appeared here in previous sessions. He rose to the top of the Canadian National Railways in freight rates, and then was advisor to the Royal Commission on Transportation, of which the Honourable Mr. Turgeon was chairman. For the past few years Mr. Knowles has been a commissioner of our board, and certainly is more qualified than I am to answer questions with respect to freight rates.

The CHAIRMAN: The Leader of the Opposition (Hon. Mr. Macdonald) reminds me that this is the first time the chief commissioner, who has been recently appointed, has appeared before our committee.

Mr. KERR: I may say, sir, that it is a privilege for me and the other members of the board to be here. We certainly will afford any co-operation we can.

The CHAIRMAN: Thank you. Does the committee accept the chief commissioner's suggestion that we hear Mr. Knowles on this subject?

Agreed.

L. J. KNOWLES (*Commissioner, Board of Transport Commissioners*): Thank you, sir. It is a pleasure to appear here. I appeared here about eight years ago.

The CHAIRMAN: To start the ball rolling, Mr. Knowles, perhaps you could give us some idea of how this bill, if we pass it, providing for this \$20 million subsidy would relieve the effect of the 17 per cent rate increase on class and commodity rates, how it will operate on those rates, and how and to what extent it will relieve.

Mr. KNOWLES: It will be a very simple procedure, gentlemen. The 17 per cent increase was put into effect by what is called a master tariff. It is shown in one column what the rates were before the 17 per cent, and in the second column what it will be afterwards. For instance, a rate of a dollar in the first column goes up to \$1.17 in the second column. There will be a similar tariff issued which shows only \$1.10 in the third column to be made applicable for a year as required by the bill, after which it will either revert to the 17 per cent unless the royal commission has reported and made recommendations or unless the Government decides to continue the subsidy for some other period.

It is designed to relieve the increases that have been placed on normal traffic which has not escaped any of the increases that have been made and constitutes only about one-third of the railway traffic. The other two-thirds consists of about one-third international traffic between Canada and the United States, which has been increased in accordance with the international increases allowed by the International Commerce Commission and which amount to a total of 112 per cent. The other one-third of the traffic is subject to what we call agreed charges, that is contract rates, which are very difficult to increase once the contract is made with the shipper. There is a three-month cancellation notice in the contract, but the shipper usually says, "All right, if you want to increase these rates you are giving me three months' notice of cancellation and I will simply accept the notice, the contract will go out of existence and we will truck all our traffic or give it to the water lines."

Then there are competitive rates included in this other one-third that cannot be increased to the full extent because of trucking or water lines carrying low rates. So, we have a residue of what the railways call normal traffic consisting of about one-third of the total upon which there have been eight increases made since 1948 due very largely to increased labour costs and increases in prices of materials and supplies and resulting in a final increase of 157 per cent. The last increase was 17 per cent over the former increase of about 125 per cent. Actually the 17 per cent increase was about a 35 per cent increase over the original rates of 1948 because they had gone up 125 per cent in the meantime.

As I understand it, there was an appeal by eight of the provinces to the cabinet against the 17 per cent increase. There is an appeal allowed under the Railway Act to the Governor in Council against any matter of fact or law, and the appeal was taken and the Government decided to allow the increase to go into effect. They looked around for some method of reducing the impact of the increase and decided that they could allow out of the general revenues of the country a subsidy of \$20 million. Then, they asked the Board of Transport Commissioners to determine what reduction this would make and we have figured out from the normal traffic of last year, and projected into 1959, that it will make a 7 per cent reduction, reducing the increase to 10 per cent over the former rates.

The CHAIRMAN: This 7 per cent really was your figure that you supplied the Government with?

Mr. KNOWLES: That is right, Mr. Chairman.

The subsidy is a maximum subsidy; the Government is not allowing any more money than \$20 million. If that has to be spread over a greater traffic, the reduction might have to come down to 6 per cent. If the traffic goes down, it might be up to 8 per cent or more. At the present time, and on present calculations, the reduction will amount to 7 per cent, and will use the \$20 million in 12 months' time.

Senator MACDONALD: This is for one year only?

Mr. KNOWLES: Yes, senator.

Senator MACDONALD: Unless there is another bill passed next year the increase will be 17 per cent?

Mr. KNOWLES: Yes. This reduction will expire, and the former tariff will come back. In the meantime it is hoped that the royal commission which the Government has instituted to look into the whole question of freight rates, can suggest some solution. Other than a subsidy, the increase will come back again.

Senator McKEEN: This would have no effect on other than the normal traffic. You mentioned if traffic went up and the railways earned more money, it might be a 6 per cent drop, or maybe more. But the competitive rates would have no effect on this particular reduction?

Mr. KNOWLES: The competitive rates will not come into this picture at all, senator. I can well imagine that if the railways find they must transfer more of their normal traffic into competitive rates on which they get no subsidy, the normal traffic will get a greater amount. We will have to increase the subsidy to 8 per cent to use up the \$20 million.

Senator GERSHAW: By how much will the Prairie people escape the freight rate burden by reason of this increase, where there is no competition, and where there are long hauls? How much relief will they get under this bill?

Mr. KNOWLES: The relief will be 7 per cent off the previous rate.

Senator GERSHAW: Will that be a general relief all over the country, or will it be more where there is no competition?

Mr. KNOWLES: It is a general relief off the 157 per cent. It will bring it down by actually about 14 per cent. Normally, it is 7 per cent over the previous rate, but it is actually about a 14 per cent reduction off the original rate of 1948.

The CHAIRMAN: I think what Senator Gershaw is asking, Mr. Knowles, is in what proportion will this \$20 million relief benefit the different sections of the country, as between east and west.

Senator HNATYSHYN: How much will the western region benefit, taking it west of Port Arthur?

Mr. KNOWLES: Based on the subdivision of the traffic between the three regions—

The CHAIRMAN: Will you explain the regions?

Mr. KNOWLES: What is known now as the western region is Port Arthur and west through to the Pacific coast. That amount will be \$11,340,000. The Central region, which is largely Ontario and Quebec, will be \$5,300,000, and the Maritime region—that is, east of Levis—will be \$3,360,000. That totals \$20 million.

Senator BRUNT: Would you give me those figures again?

Mr. KNOWLES: The Western region, \$11,340,000.

The CHAIRMAN: What percentage is that of the whole?

Mr. KNOWLES: 56.7 per cent. The Central region is \$5.3 million which is, 26½ per cent, and the Maritime region is \$3,360,000, which is 16.8 per cent. Those figures are based on the actual traffic that was shipped in 1957 by those regions.

Senator STAMBAUGH: In other words, Mr. Knowles, you mean the increase is approximately 10 per cent instead of 17 per cent?

Mr. KNOWLES: That is right.

Senator KINLEY: Mr. Chairman, in regard to competitive rates I notice those are excluded by the bill. It says: "other than competitive rates". You do not have any control over competitive rates? It is a free buying proposition?

Mr. KNOWLES: No, the railways, under the Railway Act, are permitted to publish competitive rates as they see fit. They are simply filed with the board, and unless somebody complains about them they stay in the files and they are applied by the railways.

The CHAIRMAN: But they must be lower than the class rates or the commodity rates?

Mr. KNOWLES: Yes, absolutely. They would not be competitive rates if they were higher than the normal rates.

Senator KINLEY: Do I understand that the railways cannot make a specific bargain with the shipper?

Mr. KNOWLES: That would be an agreed charge.

Senator KINLEY: Is the agreed charge an open rate? Is there any control over the agreed charge?

Mr. KNOWLES: Not now. Parliament passed an act in 1955 which took practically all control over agreed charges away from the board. They are simply filed with the board and we can do nothing about them unless someone complains of discrimination against his business and in that event we can fix a charge for him, but we cannot order an agreed charge cancelled or changed or extended, or do anything with it.

Senator BRUNT: That is a contract made between the shipper and the railroad?

Mr. KNOWLES: Yes, it is a contract rate, the same as he could make with a trucker.

Senator KINLEY: If I call up the railway and say: "I can get this by truck for \$100. What do you want to do about it?" they could bid on it; is that it?

Mr. KNOWLES: Yes, but they would probably publish a competitive rate for that, senator.

Senator KINLEY: Would that rate have to be the same for everybody? Why would it be published?

Mr. KNOWLES: That rate would be published as a competitive rate between the origin point and the destination point.

The CHAIRMAN: Applicable to everybody?

Mr. KNOWLES: Applicable to anybody living at those two points, and who wants to use the rate.

The CHAIRMAN: What is the difference between that and the agreed charge?

Mr. KNOWLES: Well, an agreed charge is in the form of a contract under which the shipper who makes the agreed charge with the railway agrees to give all his business to the railway. Now, if the railway publishes a competitive rate there is nothing to prevent the shipper ignoring that rate and giving all his business to the trucks just the same, but the contract ties him down to giving all his business to the railway.

Senator BRUNT: That is on the agreed charge only?

Mr. KNOWLES: On the agreed charge only.

Senator BRUNT: Does he have to give 100 per cent? I thought they could be made for 80 per cent.

Mr. KNOWLES: Not necessarily. The proportions vary. There are some cases where for short haul distances the shipper could not give all his business to the railway. The consignee wants it by truck so they have to make exceptions, but the minimum is about 75 per cent.

Senator KINLEY: Whatever they agree upon they can do under an agreed charge.

Mr. KNOWLES: That is right.

Senator KINLEY: If the railroad has power enough to say "You have to give me your business" they can do it, but perhaps they shouldn't be in a position to do that.

Mr. KNOWLES: Well, power was given to the railroads in 1938 under the Transport Act to make these agreed charges, and the Board then had even greater control over agreed charges than they had over the ordinary rates. They had to approve them in the first place, and they had to listen to any complaint about them, but the railroads found that procedure so burdensome they came to the Government and asked for relief and a second Turgeon Commission was appointed and it recommended that the railways be given practically unlimited authority to make these agreed charges subject to one or two conditions.

Senator KINLEY: Do you know how much business is carried on under agreed charges?

Mr. KNOWLES: Yes, I can give you that right away.

Senator KINLEY: Are wheat shipments under agreed charges?

The CHAIRMAN: Perhaps you might let the witness answer your first question first, Senator Kinley.

Senator KINLEY: I just wanted to know what was covered by the agreed charges.

Mr. KNOWLES: This is an estimate of the Canadian Pacific Railway Company. They are earning \$48.4 million under agreed charges compared with \$406 million on all traffic.

The CHAIRMAN: For what year?

Mr. KNOWLES: 1958.

Senator SMITH (*Queens-Shelburne*): If you excluded the statutory rates under the Crowsnest Pass Rates Agreement, what proportion of the other revenue of the railway would the agreed charges be? Have you any information on that point?

Mr. KNOWLES: Yes, the statutory rate was \$38 million. You deduct that from \$406 million. That is about 10 per cent. So that the agreed charges would be about 11 per cent instead of 12 per cent, leaving out the statutory rates.

Senator SMITH (*Queens-Shelburne*): I don't see where you get the 12 per cent.

Mr. KNOWLES: Excuse me. It is the other way around. It is about 13½ per cent if you leave out the statutory rates. The Canadian National Railways had \$56 million of agreed charges out of \$495 million, which means about 11 per cent of their traffic is under agreed charges.

Senator ISNOR: Would I be correct in saying that because of the competition in the trucking business in Quebec and Ontario practically all the agreed charges go to the benefit of those two provinces, namely, Quebec and Ontario?

Mr. KNOWLES: That is not altogether correct, senator. There are some agreed charges in western Canada, and there are a few in the Maritimes; but generally speaking you are correct, and at a rough guess I would say that perhaps 80 per cent of the agreed charges are in Ontario and Quebec.

Senator ISNOR: Then I am safe in saying that 80 per cent of the agreed charges go to the benefit of Ontario and Quebec?

Mr. KNOWLES: I am just taking a rough estimate; but some figures have been taken out by the province of Alberta, and they know exactly how many there are in each province.

Senator ISNOR: I am thinking only of the Maritimes.

Mr. KNOWLES: Mr. Frawley of Alberta is here, and he could give you the exact figure, if you wish.

The CHAIRMAN: Do you want that figure for Alberta, Senator Isnor?

Senator ISNOR: If they are going above 80 per cent, yes.

The CHAIRMAN: You can get information of what proportion of agreed charges were made in Alberta. Do you want that?

Senator ISNOR: Perhaps it would be just as well.

Senator KINLEY: There is no Government control over trucking rates, is there?

Mr. KNOWLES: Well, the control over trucking is in a very peculiar position. The Supreme Court, and the Privy Council in England, found that the Dominion had control over trucking in interprovincial traffic, and a bill was passed passing back that jurisdiction to the provinces to exercise it by sort of a common council over the whole situation; but the provinces have different ideas about control of trucking, and it has not worked very well. I understand that the large truckers have asked the Government to take back the jurisdiction and put it into some board.

Senator KINLEY: It would not help the little fellows much.

Senator REID: Do I take it that the Dominion Government has not the right to control trucking between provinces?

The CHAIRMAN: It is just the opposite, Senator Reid.

Mr. KNOWLES: It is just the opposite. It has the right to control interprovincial traffic in the way of trucking or buses, but they arranged to pass authority back to the provinces to let them exercise it, because they were exercising it locally. Within each province the Dominion has no control at all.

The CHAIRMAN: The Chief Commissioner points out that what happened was that the federal Parliament passed an act in the form of turning back the control over interprovincial trucking to the various provincial authorities as agents of the Dominion.

Senator HORNER: But that would not prevent the federal Government returning to their original position.

The CHAIRMAN: Oh, no, they could change that any time they saw fit, and they could come back and enter into the field of interprovincial trucking.

Senator ISNOR: I wonder if Mr. Knowles would give us a brief definition of the two terms, "Class" and "Commodity"?

The CHAIRMAN: That is, class and commodity rates?

Senator ISNOR: Yes.

Mr. KNOWLES: The class rates are the general rates for all articles governed by a freight classification which takes everything that is produced or shipped or imported or exported or grown in Canada, and is about 8,000

groups of articles, and classifies them into 10 classes ranging from class 100 down to class 27, that is, the percentage that each class is of the class 100, and that provides a rate, along with a mileage table, on every article between every point in Canada. Those are the highest rates that can be applied. But a lot of articles such as lumber, stone, building materials, asphalt, grain, and things of that nature, cannot be carried at those high class rates; so they are pulled out of the classification and given tariffs of their own, they are called commodity rates. A commodity rate is or should be always lower than the class rate.

The CHAIRMAN: But it is applied to a special commodity?

Mr. KNOWLES: It is applied to a special commodity, yes.

Senator SMITH (*Queens-Shelburne*): Under which of those two categories, and perhaps there is another one, would unmanufactured steel fall, and why is there a difference in the rate for the weight carried between manufactured steel or semi-manufactured steel and the raw steel as it comes out of the steel mills?

Mr. KNOWLES: Well, the raw steel would carry a lower rate; that would be a commodity rate.

Senator SMITH (*Queens-Shelburne*): Then under which of the categories would a semi-manufactured steel fall?

Mr. KNOWLES: Well, it might come under a commodity rate if there is large movement of it, when the railways would give a lower rate called a commodity rate; otherwise it would be the fifth or sixth class rate, depending on the value of the steel.

Senator SMITH (*Queens-Shelburne*): Why is it there is such a large difference in the rate for moving a semi-manufactured steel shipment and a raw steel shipment; is it because it takes more cars to carry the weight, or what is the reasoning back of it?

Mr. KNOWLES: Well, could you give me a specific example?

Senator SMITH (*Queens-Shelburne*): Of course, I am thinking of the steel manufacturers down in Nova Scotia. The argument is that if they could get a freight rate similar to the freight rate they now have on raw steel they might be in a position economically to ship semi-manufactured steel and thereby create more employment in that area. That is what I am getting at.

Mr. KNOWLES: Well, it all goes to the question of the value of the steel and the weight that would be loaded in the cars. If you loaded the cars heavily with raw steel you could get a lower rate, and also some part of that rate is based on the fact that the raw steel is of lower value. The semi-manufactured article would be a high value. As soon as you start to put labour on the raw material you increase its value; and the railway freight rates right up to now have been given on that basis of the value of the service to the steel. Now, on the semi-manufactured and fully manufactured, you probably load less in the car, not because you could not load more, but most people would not buy that material in very large quantities, as on the raw materials. All those factors enter into the making of freight rates.

Senator SMITH (*Queens-Shelburne*): Of course, that factor you speak about is almost historical of railroads. But is there any important reason why that very basis for moving steel could not be changed? Does it cost the railway companies any more to move semi-manufactured steel that is carried a little farther in the original raw state per ton and per car? Is there any real reason why that could not be changed?

Mr. KNOWLES: No, not on a cost basis, except in the case of a heavily-loaded car the unit cost would be somewhat less than it would be on a lightly-

loaded car. But, Senator Smith, you have asked a great fundamental question in ratemaking that is worrying everybody today, and that is, the way the rate structure is made now, high rates are charged on high-grade materials and low rates on low-grade materials, and the higher rates are being eroded by the trucks and railways are being left with the low-grade articles which are moved at a rate less than the average cost of transportation. That is the great problem all over the world today, I read it in all the railway magazines—that is, the fact that the original method of ratemaking on a value basis, while it was very good for 75 years, is out of date today, and it may be that the railways will have to come to a more cost basis of fixing rates. But as long as the value of the service principle remains in the rate structure, you are going to have that situation existing. It is quite difficult to understand for anybody who has to use the rates, to charge 50 cents per 100 pounds on one article and \$1.50 on another when the cost of moving the car is exactly the same.

Senator SMITH (*Queens-Shelburne*): It seems to me the trucking industry does not take into account the value of the article. For instance, I can ship a kitchen chair costing 50 cents by truck for the same charge as a \$150 antique chair.

Mr. KNOWLES: You are quite right, the railway would not carry your antique chair for the same rate as the kitchen chair. The railways pay very great regard to the freight classification or value of the service now. The truck will carry almost everything for the same rate and that is rapidly destroying the railway rate structure. That is one of the troubles that has brought about these increases on the normal traffic, because the railways cannot get their money out of the other traffic.

Senator McKEEN: On the other hand the truck companies will not take that cheap-rated commodity?

Mr. KNOWLES: That is quite right, Senator McKeen, you cannot get a truck to carry fertilizer from Ottawa to Toronto, but it will take the groceries and leave the fertilizer for the railways to carry at the low rates.

Senator REID: In all the years that you have been with the board, and in all the appeals made on the subject of freight rates, have the railways at any time ever produced figures to show what it costs to haul anything. I remember one time when we appeared before them in connection with rates on grain, the counsel for the Canadian Pacific Railway said at that time, and it has been said since, that they could not tell exactly what it costs to haul grain.

Mr. KNOWLES: You will not get that same answer today. That sort of an answer was given 10 years ago.

Senator REID: It was given to me when I appeared before the board.

The CHAIRMAN: When was that, Senator Reid?

Senator REID: 1934.

Mr. KNOWLES: I may say that I appeared for the Canadian National Railway in that case and I probably was the one who gave you that answer, but it is not so today. In the last 10 years the railways have organized research and cost departments that can tell within a small fraction of a cent what it actually costs to haul traffic. Even when the Turgeon royal commission was sitting eight years ago the Canadian Pacific was able to produce a cost study they made on haulage of grain but it was not quite accurate enough, it was between \$13 million and \$17 million lower than what it actually cost, and the chairman, Judge Turgeon, said, "If you cannot be any more accurate than that I am going to take no notice of your figures." But today I think you will find the Canadian Pacific and the Canadian National can tell within a few cents what it costs to haul grain or any other commodity. Of course, they have to make some assumptions in distributing the overhead.

Senator REID: I am glad to have that answer and to have the witness admit that he is the one who gave me that answer some years ago.

Mr. KNOWLES: At that time I had my troubles with our research department. Somebody would come and ask me for a low rate and it would look to me pretty low and I would call on the research department and they would tell me "your out-of-pocket cost is so much". I would tell them, "I do not want to know that, what I want to know is the total cost." And they told me they could not give it because they did not know how to distribute the salary of the president, and my salary, in the calculations. Now, they are coming around to the point where they can tell even the total cost. In fact, we have accountants in the board who can tell within a very short range what it costs to haul traffic.

Senator GERSHAW: Will the subject matter of this bill be subject to review by the royal commission that is about to start its investigation of freight rates?

Mr. KNOWLES: I could not tell you, Senator Gershaw, whether they will review this particular subsidy or not. The object is to review the whole freight rate structure and tell the Government how it can be revised or if it can be revised to lift the impact of this 157 per cent increase for one-third of the traffic.

Senator GERSHAW: That is the point exactly.

Mr. KNOWLES: I would think the commission would look into this bill to some extent, but it is not a difficult bill, it is very plain on the face of it. The provisions of this bill are going to be very easy to apply, in fact, the draft of the board's order is now ready to issue whenever the bill is passed.

Senator KINLEY: I suppose it is true that the railroad is still making a profit on freight haulage—I mean an overall profit.

Mr. KNOWLES: The Canadian Pacific had a few million dollars left over its total expenses out of freight receipts, according to their figures, last year, but they say they are not making enough, that they should have more. There is an application by the railway now before the board for another 12 per cent increase but they have asked us to suspend any hearing on it because they are not ready to proceed. I would say the Canadian Pacific Railway is making a small profit out of the present freight rates but the Canadian National is not.

Senator KINLEY: Does your board control the passenger rates?

Mr. KNOWLES: Yes, we have authority over passenger fares.

Senator KINLEY: What would you say about passenger rates?

Mr. KNOWLES: The passenger service is undoubtedly losing money. We recently had a hearing on the question of commuter fares. The railways wish to increase them again. In that hearing they gave us the whole story of the passenger service, and it shows that they are losing money on that service, and the freight rates are paying for it.

Senator KINLEY: You have no control over truck or bus rates?

Mr. KNOWLES: No, we have no control over bus or trucks in any way.

Senator KINLEY: And they are your chief competitor?

Senator McKEEN: And the air lines.

Mr. KNOWLES: The air lines are of course under the Air Transport Board.

Senator MOLSON: Mr. Chairman, of this one-third of the freight affected by the bill we are dealing with, could Mr. Knowles give us a breakdown of the volume of that by zones, western, central and Maritime?

Mr. KNOWLES: We have tried to give figures of that kind. Do you want the provincial figures?

Senator MOLSON: Mr. Chairman, Mr. Knowles broke down the agreed charges as between central, western and Maritime zones...

Mr. KNOWLES: No sir.

The CHAIRMAN: That is, for the benefit of this \$20 million.

Mr. KNOWLES: I gave a breakdown of the traffic a little while ago.

The CHAIRMAN: I think what Senator Molson wants you to give, Mr. Knowles, is a breakdown of the relevant proportion of the \$20 million which will benefit the different regions. He wants a similar breakdown of the traffic originating in the regions.

Mr. KNOWLES: These figures are based on the traffic originating in those regions, senator. Those are the shipments that are made or received by each region.

The CHAIRMAN: In other words, the figures you gave of the benefits which each region would derive from this bill are the same figures as for the traffic originating in those regions—that is, on class and commodity rates?

Mr. KNOWLES: People from the Western and Maritime regions have always claimed that they pay the freight both ways on raw material in and finished products out. I have taken them at their word, and have taken all the traffic in and out of the Western region, and in and out of the maritime region, and the central region is simply the traffic that originates in that region.

You could get into endless arguments as to who pays the freight. You have to make some assumption in this matter. I have listened to cases for 10 years, at which all the provincial people have appeared, and the maritimers and westerners have always claimed they pay the freight both ways. As I say, I accepted that in these calculations.

Senator ISNOR: That is pretty nearly true, is it not, that the Maritimes do pay the freight both ways?

Mr. KNOWLES: I think it is quite true, senator. You will find by adding the Western and Maritime regions together—that is the outlying provinces—they are going to get \$14,700,000 out of this subsidy of \$20 million. So, I think the purpose of the Government in assisting the outlying provinces is well taken care of by this bill.

Senator POWER: Why do the central provinces get any benefit, if the west and east pay both in and out? What is left for the central provinces?

Mr. KNOWLES: There is quite a lot of traffic in Quebec and Ontario; they pay the 17 per cent. The Government did not want to discriminate against them.

The CHAIRMAN: I want to ask Mr. Knowles one question arising out of an answer he gave a little time ago, about the various provincial boards and their control of intra-provincial trucking traffic. Have they reached any agreement as between the boards, as to rates that shall be charged on truck traffic as between Ontario and Quebec, or between Ontario and Manitoba?

Mr. KNOWLES: I understand there has been no agreement, senator. But for one thing, the province of Ontario does not require the truckers to file their tariffs with anybody. The Quebec Public Service Commission does require that, and I understand on inter-provincial traffic that province is very vigilant to see that the freight rates are applied between Quebec and Ontario on any traffic that is delivered in Quebec; but they have no real control on what is shipped to Toronto from Montreal, because the province of Ontario does not police these rates.

The CHAIRMAN: What you are telling us in effect is, as a result of the federal Parliament having turned the control of inter-provincial trucking traffic rates back to the provinces, it has become a regional control?

Mr. KNOWLES: I would say there is no real control.

Senator HORNER: The truckers association have an organization, and they regulate their tariffs on what the traffic will bear. They are their own regulatory body, and no one has any control except themselves.

Mr. KNOWLES: You are quite right about that. There is some self-policing by the trucking association itself, but Senator Hugessen asked me if there was any real control by these provincial public service boards. I don't think there is, except in the province of Quebec. British Columbia, I think, is very effective within its own province; they watch the situation very closely and they require tariffs to be filed.

Senator HORNER: For instance, where the railway is competing with the trucks, the trucks reduce their rates; where they are off the railway, they can charge whatever is agreed to among themselves.

Senator REID: I would like to ask the witness about a particular class rate, as to whether it is still in existence. At one time we in British Columbia were paying more for the same weight and class of goods to Ontario, then Ontario was paying to ship to us. I refer to butter: Ontario could ship butter cheaper to us than we could ship it to them.

That was the situation at the time I appeared before the Board of Transport Commissioners, and I wondered if it were in existence. It amounted almost to a tariff against us. I am asking you now if that has been straightened out, and are we paying the same?

Mr. KNOWLES: No doubt complaints have been made to the railway about that situation. I know quite a lot of rates are the same in both directions. However, it is easy to understand how the situation can come about that butter made in Ontario or Quebec and shipped to British Columbia, years and years ago before that province had built up its dairy herds and no request having been made for a rate on eastbound butter, it would go at the class rate. I have no doubt that the people of your province are now smart enough to see that situation.

Senator REID: What annoyed me was that the statute provided that there should be no discrimination. We were being discriminated against on the same class of goods, but the words of the statute did not mean anything to the Board of Transport Commissioners; they said there was no discrimination.

Mr. KNOWLES: The moment any such complaint was brought before the board, they would order the discrimination removed.

Senator REID: They didn't do it.

Senator ISNOR: I am not very clear on the effect of the words "other than competitive rates." That is the important part as I see it, as to its effect on the Maritimes. If those words were not in there, and if overall rates were being considered, what would be the effect on the three regions?

Mr. KNOWLES: I would think if the words "other than competitive rates" were struck out, so much would have to be paid out to Ontario and Quebec on competitive rates, there would not be much left for the eastern and western provinces.

The CHAIRMAN: Do I hear a motion from an Ontario senator to have those words struck out?

Senator ISNOR: Considering the agreed charges and competition from trucking firms, and the unfair advantage which the Maritimes and the western provinces are placed in, those words are included in the bill.

Mr. KNOWLES: Yes, that is quite right. The point is that many of these competitive rates were not increased 17 per cent. The whole bill is based on the 17 per cent increase, and the Government wants to reduce it to 10 per cent.

The CHAIRMAN: It is only the rates that were increased by 17 per cent which are benefiting by this bill.

Mr. KNOWLES: Yes. If there are any competitive rates increased by 17 per cent the railways are just taking their chance on being able to collect that 17 per cent.

Senator HNATYSHYN: Mr. Chairman, that would be an increase of 17 per cent at the time the bill is passed?

Mr. KNOWLES: Yes. Where the increase has stayed in effect from the 1st of December until now. If the railways have taken the increase off, there will be no subsidy under the bill, and there are some very large movements of traffic that have already taken the 17 per cent increase off—the whole increase.

Senator SMITH (*Queens-Shelburne*): I have just one question before Mr. Knowles goes. I wonder whether he can recall whether the Turgeon Royal Commission studied the feasibility of recommending some change in the basic rate structure as we were discussing just a while ago.

Mr. KNOWLES: The basic rate structure?

Senator SMITH (*Queens-Shelburne*): Yes, relating the freight rate to the actual cost of moving that freight rather than having any reference to the value of the commodity carried.

Mr. KNOWLES: Yes.

Senator SMITH (*Queens-Shelburne*): Did they examine that and come up with any recommendation on that?

Mr. KNOWLES: The province of British Columbia proposed such a scheme to the Royal Commission. They suggested that everything be made on a cost basis. The only difference in the rates would be where there was more loaded in the car, or less loaded in the car, and the kind of equipment that was used, but at that time this problem of the traffic being eroded in the higher brackets was not acute at that time. There had only been a 21 per cent increase in the freight rates at the time the Turgeon Commission sat. You will find a whole paragraph on it at page 118 of the Royal Commission's report.

Senator HAYDEN: What percentage of the rates that are paid on movements from the Maritimes would be covered by agreed charges? Have you any figure on that?

Mr. KNOWLES: I could not tell you offhand, senator.

Senator HAYDEN: You could not make even a sort of an informed guess?

Mr. KNOWLES: No, I do not think I could. I do know that there are very few agreed charges from the Maritimes for the simple reason that the Maritime rates are so low that they do not need agreed charges.

Senator HAYDEN: That is a gratuitous statement, because I could demonstrate to you that the rates are quite onerous, even with the Maritime freight rates' benefit of 30 per cent.

Mr. KNOWLES: Well, I am only stating what your own freight rate expert and the Maritimes have said.

Senator HAYDEN: I have no freight rates expert.

Mr. KNOWLES: I am sorry; I thought you were a senator from the Maritimes.

Senator HAYDEN: Well, I am interested in the Maritimes.

Mr. KNOWLES: I think there is a lot of misapprehension about these Maritime freight rates because when the bill was passed in 1951 requiring equalization of freight rates the Maritimes were not only left out of equalization because they did not want it, but they also secured in that bill a statement that their rate structure was not to be disturbed. Now, they have very low, what we call,

arbitrariness over Montreal. For instance, there is a rate from Toronto to Montreal which is so much, and then in the extension down to the Maritimes there are small arbitrarinesses added to the Montreal rate. Comparing that to the whole rate from, say, Toronto to Halifax with the rate for a similar distance from Toronto to the West you will find the rate is very much lower to the Maritimes, and on the westbound traffic they have a 30 per cent reduction up to Levis.

Senator HAYDEN: Let me illustrate this to you. If I am moving a certain type of raw material to the Maritimes, and other people are moving it to Montreal, the differential to Montreal over the Maritimes—and I speak with knowledge—is of the order of 2 cents per 100 pounds. Yet, when I am moving the finished product from the Maritimes to Montreal on the same quantity converted into finished goods the rate is about even with the 30 per cent; it is about 24 cents per 100 pounds.

Mr. KNOWLES: Well, that is something that I could not give an offhand opinion on.

Senator HAYDEN: But you say that all that money that is paid for the carriage of goods into the central market has to be absorbed because the people in Montreal and elsewhere have not got those charges against their production.

Mr. KNOWLES: I can understand that, but an excessive difference such as that does not look quite right to me. If I had the figures on the commodity and the originating and destination points we could go into it in our traffic department and find out where the difficulty is, or where it lies. Often people get into those situations which they cannot understand, but there may be a reason at the back of it. There is usually a reason for every freight rate that is published.

Senator HAYDEN: I know what the chief reason is. It is that the differential is too low.

Mr. KNOWLES: The differential in the raw material?

Senator HAYDEN: Yes.

Mr. KNOWLES: Well, there are some things that I cannot explain about freight rates. I have been making them for 50 years, and I am still astonished at some of the things which are in the freight tariffs today.

The CHAIRMAN: But, generally speaking, do you agree with Senator Hayden that the Maritimes get an unfair advantage in these low differentials?

Mr. KNOWLES: I would not say that. Parliament said they could have it, and—

Senator HAYDEN: The witness should not make that type of answer because it might lead to quite a lengthy cross-examination.

Mr. KNOWLES: Well, I was speaking generally, senator, when I said that the rates to and from the Maritimes are quite low compared with any mileage west of Montreal.

Senator HAYDEN: Yes. Well, the benefit of the Maritimes subvention only applies as far as Diamond Junction.

Mr. KNOWLES: That is right, but what I was pointing out is that the basic structure itself without the reduction is low.

Senator HAYDEN: But the internal rate structure in the Maritimes is higher than elsewhere.

Mr. KNOWLES: Higher than anywhere else? It is 20 per cent lower than in Ontario and Quebec.

Senator HAYDEN: I know, but they start off with a higher basis first.

Mr. KNOWLES: I would not agree with that.

Senator HAYDEN: Well, I could demonstrate that, Mr. Knowles.

Mr. KNOWLES: You can find an odd instance here and there, but—

Senator HAYDEN: I would say as a matter of practice.

Mr. KNOWLES: In 1912 the rates were lower than in Ontario and the then General Manager of the Intercolonial Railway put them on the same basis. That is what started all the row in the Maritime provinces.

Senator HAYDEN: The internal rates in the Maritimes are higher.

Senator KINLEY: Yes, sure they are.

Mr. KNOWLES: Well, give me some examples and I will look into them.

Senator KINLEY: Mr. Chairman, in regard to this freight rate story are not low freight rates highly advantageous to the Ontario and Quebec manufacturer? His market is in the Maritimes. He has got most of the market in the Maritimes, and if he has a high freight rate he is burdened by it, so the Maritime freight rates are important to the man in Ontario and Quebec. Is not that so?

Mr. KNOWLES: It is an old argument that has been going the rounds for a long time. There are many people who want low freight rates from eastern to western Canada, but I know one manufacturer in Regina who said he was glad to see the 17 per cent increase.

Senator KINLEY: I manufacture in the Maritimes and my chief competitor is Ontario with its mass production. They come down there and I don't know whether they are selling their surplus or competing on even lines but they have low prices, and if the freight rate is high it is to their disadvantage.

Mr. KNOWLES: You think the Ontario manufacturer has an advantage in your market with a low freight rate?

Senator KINLEY: Yes.

Mr. KNOWLES: That is what I have been saying, the rates are low.

Senator KINLEY: There are two sides to it.

The CHAIRMAN: Are there any further questions of Mr. Knowles? Gentlemen, are you ready to consider the bill now? Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: Before we adjourn I should like to express on behalf of the committee our very sincere thanks to Mr. Knowles for being with us this morning.

Mr. KNOWLES: It is always a pleasure to appear before you gentlemen.

Whereupon the committee adjourned.

WEDNESDAY, June 17, 1959.

The Standing Committee on Transport and Communications to whom was referred the Bill (C-38), intituled: "An Act to make Provision for the Reduction of Certain Class and Commodity Rates on Freight Traffic", have in obedience to the order of reference of June 9, 1959, examined the said Bill and now report the same without any amendment.

All which is respectfully submitted.

ADRIAN K. HUGESSEN,
Chairman.

2nd Session, 24th Parliament, 1959.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill S-3, An Act to amend the
Canada Shipping Act.

The Honourable Adrian K. Hugessen, Chairman.

No. 1

THURSDAY, FEBRUARY 5, 1959.

WITNESSES:

Mr. J. R. Baldwin, Deputy-Minister, Department of Transport; Mr. G. G. M. Guthrie, Chief Registrar for Shipping, Department of Transport; Mr. Jean Brissette, Attorney for the Shipping Federation of Canada; Captain F. S. Slocombe, Chief of the Nautical Division, Department of Transport.

THE QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1959

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman.*

The Honourable Senators

*Aseltine	Gouin	Molson
Baird	Grant	Monette
Beaubien	Haig	Paterson
Bishop	Hardy	Pearson
Bouffard	Hayden	Power
Bradley	Horner	Quinn
Brunt	Hugesen	Raymond
Buchanan	Isnor	Reid
Campbell	Jodoin	Robertson
Connolly (<i>Halifax North</i>)	Kinley	Roebuck
Connolly (<i>Ottawa West</i>)	Lambert	Smith (<i>Queens-</i> <i>Shelburne</i>)
Dessureault	Lefrançois	Stambaugh
Emerson	*Macdonald	Veniot
Euler	McGrand	Vien
Farris	McKeen	Wood
Gershaw	McLean	Woodrow—(48).
Gladstone	Method	

50 members
(Quorum 9)

**Ex officio member.*

ORDER OF REFERENCE

WEDNESDAY, January 28, 1959

Extract from the Minutes of the Proceedings of the Senate.

“Pursuant to the Order of the Day, the Honourable Senator Aseltine moved, seconded by the Honourable Senator Brunt, that the Bill S-3, intituled: An Act to amend the Canada Shipping Act, be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Emerson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.”

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, February 5, 1959.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.00 a.m.

Present: The Honourable Senators: Hugessen, *Chairman*; Aseltine, Baird, Beaubien, Bouffard, Bradley, Brunt, Buchanan, Connolly (*Halifax North*), Connolly (*Ottawa West*), Euler, Gladstone, Horner, Isnor, Jodoin, Kinley, Lefrançois, Macdonald, McKeen, McLean, Molson, Monette, Pearson, Power, Reid, Smith (*Queens-Shelburne*), Stambaugh and Woodrow—28.

In attendance: Mr. E. Russel Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill S-3, An Act to amend the Canada Shipping Act, was considered.

On Motion of the Honourable Senator Aseltine, seconded by the Honourable Senator Brunt, it was RESOLVED to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Bill.

The said Bill was considered clause by clause. Heard in explanation of the Bill were: Mr. J. R. Baldwin, Deputy-Minister, Department of Transport; Mr. G. G. M. Guthrie, Chief Registrar for Shipping, Department of Transport; Mr. Jean Brissette, Attorney for the Shipping Federation of Canada; Captain F. S. Slocombe, Chief of the Nautical Division, Department of Transport.

In attendance but not heard: Captain Erik Ehrlander, Marine Superintendent, Canada and Great Lakes Region; Captain J. E. Matheson, Assistant General Manager, The Shipping Federation of Canada; Mr. Herbert Colley, President, Colley Motorships Ltd; Mr. E. M. Strang, Operating Manager, Saguenay Shipping Limited; Mr. P. V. O. Evans, Assistant Manager, Furness, Withy & Company, Limited; Captain R. V. Youd, Marine Superintendent, The Cunard Steamship Company Limited; Mr. L. N. Outram, General Superintendent, Canadian Pacific Steamships, Ltd.; Captain P. N. Bolger, Marine Superintendent, McLean Kennedy Limited; Mr. C. T. Mearns, General Manager, the Shipping Federation of Canada; Mr. B. W. Corbett, Director, March Shipping Agency; Mr. S. S. Brock, Vice-President, Operations, Canadian Overseas Shipping Limited; Mr. J. P. Boyle, President, Canadian Overseas Shipping Limited;

Further consideration of the said Bill was postponed.

At 12.00 noon, the Committee adjourned to Tuesday, February 10th, 1959, at 11.00 a.m.

Gerard Lemire,
Clerk of the Committee.

Attest.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, February 5, 1959.

The Standing Committee on Transport and Communications, to which was referred Bill S-3, to amend the Canada Shipping Act, met this day at 11.00 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, I ask the committee to come to order. We have before us this morning a bill of some importance, Bill S-3, an Act to amend the Canada Shipping Act.

As the Leader of the Government mentioned when he explained the bill on second reading in the Senate, arrangements have been made to report the proceedings of the committee. Under those circumstances I would ask for a resolution from the committee authorizing me to submit our first report to the Senate requesting authorization for the printing of 800 copies in English and 200 copies in French of the proceedings.

Senator ASELTINE: I so move.

Carried.

The CHAIRMAN: Gentlemen, it is quite clear that this bill has created a great deal of interest, and a number of representations are to be made to us; the committee will have to look forward to a number of meetings, in addition to the one this morning.

The first thing which I think we should consider is this. The members of the committee should have before them copies of the act which it is proposed to amend. There are a number of amendments of various sections of the act and, as so often happens on such occasions, the proposed amendments refer to sections of the act and in order to clear their minds the members of the committee should have copies before them.

Senator ASELTINE: Are they available?

The CHAIRMAN: I have made arrangements with the Clerk. He is getting 20 copies from the Printing Bureau and they should be here in a few minutes. They will be available for distribution to honourable senators. Would honourable senators at the end of the sitting be good enough to return those copies to the Clerk, so that they will be available for our next meeting.

Gentlemen, there are a number of representations that have been made to us by people who wish to appear and make observations on certain sections of the bill. I will not list them all at the moment. We have with us counsel for the department who are ready to explain the reasons behind the various amendments, but unfortunately, this morning, we have a rather rigid time limit because we shall have to adjourn at 12 o'clock on account of another meeting which a large number of senators wish to attend.

Senator BRUNT: An important meeting?

The CHAIRMAN: Yes, it is I believe an important meeting. A considerable majority of the members of the committee belong to a party which, although at present in opposition, is generally agreed to contain most of the intelligence in the country, and they are meeting.

Now, I should like to have the views of the committee as to how we should proceed. I have a suggestion to make. There are a number of sections of the bill which I think are non-contentious and which perhaps we can dispose of fairly shortly; in order to make progress, and in view of the shortness of the time we have this morning, I was going to suggest that perhaps we should proceed now with the non-contentious parts of the bill, and get explanations from the departmental officials with regard to those sections, so that at our next meeting we can go ahead with the sections on which there will be considerable discussion. Does that meet with the approval of the committee?

Senator BRUNT: Could we have a short explanation of the bill, or is that impossible?

The CHAIRMAN: The bill deals with many amendments of different sections and they are all rather disparate. Some deal with matters that are different from others. There is no general explanation that can be given, there is no general purpose except that of amending a good many sections dealing with different matters.

Senator MACDONALD: For the benefit of some of us who are not familiar with the act, could we have a statement explaining what the act is all about—the purpose of it generally, what the act does in general terms at the present time, and so on. Speaking for myself, I am not a shipping man and I do not understand the present act.

Senator ASELTINE: You probably will before this is over.

The CHAIRMAN: That sounds a reasonable suggestion. Does that meet with the approval of the members, that we begin with a general statement of the meaning and purport of the act as a whole? Mr. Baldwin, who is the deputy minister, or one of his colleagues, can give a short statement now as a basis for the proceedings.

Mr. J. R. Baldwin, Deputy Minister of Transport: Sir, it would have to be either a short statement or an extremely long one. I will try to make it the former if that is satisfactory, because the act itself runs to several hundred pages and is a major statute relating to all matters in the field of marine activity and shipping in Canada. Because of this, and having regard to its length, and the wide variety of subjects it covers, any comprehensive description would take a considerable length of time. To illustrate, it deals with the recording and registry and licensing of vessels, safety inspection of vessels, matters relating to mortgage of vessels, matters relating to the naming of vessels, matters relating to the national flag and characteristics of vessels.

Senator MACDONALD: Does it deal with ships on the high seas or on the lakes?

Mr. BALDWIN: In so far as matters relating to jurisdiction are concerned, Canadian ships on the high seas would be covered.

It deals with matters relating to licensing and certification of standards that apply in the field of seamen and marine engineers of all types; matters relating to desertion, matters relating to marine wrecks, apprenticeships, employment port wardens, and so on. There is a section dealing with sick mariners and marine hospitals; there are sections dealing with pilotage, the safety and inspection of ships for safety purposes, load lines, international load line convention, safety of ships' passengers and crews, seaworthiness: There is a provision with respect to salvage, provisions covering shipping casualties, light-houses, buoys, beacons, sections dealing with navigation collisions, limitation of liability and so on.

That, I think, gives a brief indication of the coverage, and since this is not only basic but an authorizing statute as well, there are numerous regulations made in the various fields mentioned in the implementation of the act itself.

The CHAIRMAN: Are there any general questions arising out of Mr. Baldwin's statement? As I have said, he is the Deputy Minister of Transport, and his department is in charge of administration of the act. If there are no questions, is the committee willing to proceed along the lines I suggest and take up now some of the non-contentious sections?

Senator EULER: There are a good many people here who seem to be interested and I rather think they are interested in what would be the contentious sections of the act. Should we not tackle the tough ones right away seeing that these people are here?

The CHAIRMAN: Unfortunately, as I have pointed out, we have only a short time, senator. I do not think that we could do anything very adequately this morning in the direction you suggest.

Senator ASELTINE: Your suggestion is that we eliminate the non-contentious sections?

The CHAIRMAN: Let us try to deal with them now.

Senator ASELTINE: And later on deal with the others.

The CHAIRMAN: Yes, at a subsequent meeting.

Senator EULER: The reason for that being the shortness of time at our disposal this morning.

The CHAIRMAN: Yes.

Senator EULER: Very well.

Senator MACDONALD: I am amazed to see so many present, Mr. Chairman. I do not know whether it would help us in any way, but I am rather curious to know who all these people are and what their interest is.

The CHAIRMAN: The two main interests who are represented here this morning and have asked to be heard, apart from the departmental officials, are Mr. C. T. Mearns, general manager of the Shipping Federation of Canada; Mr. J. P. Boyle, president, Canadian Overseas Shipping Limited, and in addition to them, there are a number of gentlemen whose cards are before me: Capt. P. N. Bolger, Marine Superintendent, McLean Kennedy Limited; Mr. L. N. Outram, general superintendent, Canadian Pacific Steamships, Limited; Capt. R. V. Youd, the Cunard Steamship Company Limited, Montreal; Mr. E. M. Strang, operating manager, Saguenay Shipping Limited; Mr. P. V. O. Evans, assistant manager, Furness, Withy and Company Limited, Montreal; Mr. Herbert Colley, president, Colley Motorships Limited; Capt. Erik Ehrlander, marine superintendent, Canada and Great Lakes region, Swedish American Line; Capt. J. E. Matheson, assistant general manager, the Shipping Federation of Canada; Mr. B. W. Corbett, director, March Shipping Agency, Montreal and representative also of Poseidon Lines and other lines. We have with us Mr. S. S. Brock, Vice-President of Operations, Canadian Overseas Shipping Limited, Montreal, representing Fjell-Orange Lines, Fjell Line, Swedish Chicago Line, Norwegian American Line, and Niagara Line.

There may be other representatives here as well, but these are all the names I have before me. Is there anyone representing any other interest who would like to have his name recorded as present?

You will observe, gentlemen, we have a considerable amount of work before us if we are to hear all these gentlemen.

Senator MACDONALD: I did not note, Mr. Chairman, whether you read the name of anyone representing the seamen. When Mr. Baldwin was going over

the different clauses in the bill, he did refer to certain matters which would be of particular interest to the employees. Is there anyone representing them?

Senator BRUNT: It may be that there are no amendments dealing with clauses that affect the seamen's union.

Mr. BALDWIN: I do not think there are.

Senator BRUNT: If that is so, there would not be anyone here representing them.

Senator EULER: Were they notified?

The CHAIRMAN: So far as I understand, no representations have as yet been made by any member of the Canadian Seamen's Union. There is one name I omitted, the name of a gentleman who is not here, but has sent a letter saying he desires to make representations at a future meeting, and that is Mr. Paul Lajoie of Montreal, acting on behalf of several interested persons. For all I know, he may represent the seamen.

Seeing that we have only a short time at our disposal this morning, I do not think that we could intelligently discuss any contentious matters now. Does the committee agree that for the moment we might proceed with the non-contentious sections?

Senator EULER: Were the representatives of the Seamen's Union notified?

The CHAIRMAN: No one is notified, senator, apart from the public knowledge that exists that the committee is about to consider a bill. I should think that as our sittings are likely to last for several weeks the public would become well acquainted with the fact that the committee is dealing with the act.

Senator EULER: I just wanted to know whether they were notified. They might be interested.

The CHAIRMAN: It is not the practice, senator, to notify anyone in particular that the committee proposes to deal with a particular bill.

Senator EULER: Very well; I have my answer.

The CHAIRMAN: If we may proceed with the non-contentious sections, we should do so subject to a qualification. There may be sections which at first we may consider non-contentious, but if there is anyone here among the large number of representatives who tells us that this or that section with which we propose to deal is in fact contentious we might allow it to stand.

Senator BRUNT: Or they might wish to make representations.

Senator KINLEY: If there are any such sections we can set them aside for consideration later.

The CHAIRMAN: We should reserve to ourselves the right, even if we pass a non-contentious section this morning, to re-open it in case we find later that it is in fact contentious.

If we might proceed along those lines I have made a rough examination of the bill.

Section 2, which is related to section 4, deals with the manner of recording bills of sale and mortgages on vessels. These seem to be more or less procedural matters: they make only minor amendments.

Is there anyone here representing any of the interests who has any representations to make with reference to sections 2 and 4? If not, shall we consider them for the time being as non-contentious and proceed with them? I would ask Mr. Baldwin or one of his officials to explain to us the basis of section 2 and perhaps, at the same time, section 4 of the bill.

Mr. BALDWIN: With your permission, Mr. Guthrie, of the Marine Regulations Division, will speak on this.

Mr. GUTHRIE: Clauses 1, 2 and 4 are all joined together, and relate to recording. It is a device to give a measure of security to a builder's mortgage before registry. You cannot register a mortgage until the ship itself has been registered. Therefore recording gives some security for the monies advanced on ships when they are being constructed. At the point of registry any unsatisfied builders' mortgages must be transferred to the register book. It was found that in the act there was a reference to a valid provincial mortgage, but investigation showed there was no machinery in any of the provinces for the recording of a chattel mortgage on a set of plans. So we are merely removing that reference. And clause 1 amends the definition of "builder's mortgage". Clauses 2 and 4 simplify and streamline the recording sections of the act. Relating to bills of sale and mortgages.

Senator BRUNT: Will you give us a detailed explanation of how you go about recording a ship? I have no idea how it is done.

Mr. GUTHRIE: You make an application on a special form for recording the vessel, giving its estimated dimensions and tonnage. That can be done from a set of plans before construction, and the builder must record the ship at the port at, or nearest to, which the ship is being built. You could not record a vessel in Vancouver if it were to be built in Montreal; you must record it at the port of registry nearest to the shipyard.

Senator BRUNT: If you were building a boat at Wiarton, in Bruce county, where would you record that?

Mr. GUTHRIE: At the port of registry nearest to Wiarton.

Senator BRUNT: Owen Sound?

Mr. GUTHRIE: Owen Sound. If you were building at Collingwood, which has a shipyard, you would record at Collingwood. Midland is also a port of registry. Section 17 directs that when a recorded vessel has been built and measured, and comes up for registry, any undischarged builder's mortgage in the record book must be transferred to the register book and becomes a first charge on the register at that time.

Senator BRUNT: In other words, on this vessel being built at Wiarton, if you made your registration at Owen Sound, you filed your lien or mortgage at Owen Sound, they are compelled to register this vessel at Owen Sound?

Mr. GUTHRIE: Yes.

Senator BRUNT: And as soon as they register the lien or mortgage immediately attaches to it?

Mr. GUTHRIE: Correct, sir.

The CHAIRMAN: Perhaps I should ask, are there any of the interested parties present who have any comments or observations to make on this section? The section concerned is subsection 1 of section 1 of the bill which adds the words "of a recorded vessel". Shall subsection 1 of clause 1 carry?

Senator CONNOLLY (*Ottawa West*): May I ask one question. It arises from the fact that we have not the full act before us. You used the word "recorded", and I also notice officially used the word "registered". I take it the word "registered" applies to the document which indicates the title of ownership to the vessel. You use the word "recorded" only in respect of the mortgage.

Mr. GUTHRIE: The word is used to differentiate in respect of registration. The senior transaction is registry, so the word "recorded" is used to differentiate so there will be no confusion. When you register you are dealing only with a registered ship.

Senator CONNOLLY (*Ottawa West*): The use of the word "recorded" is in harmony with the other sections of the act?

Mr. GUTHRIE: Yes. Actually we use it in the phrase, "recorded before registry".

Senator MCKEEN: I take it, then, when they are recorded before registry, when registration is made the recording, the registry will be done in the same order. One is recorded ahead of another.

Mr. GUTHRIE: The priority of recording is maintained in the register book.

The CHAIRMAN: I am sorry that the copies of the act have not come. They are expected momentarily. Would you like to wait to consider these sections until we have the copies? Shall I put the question? Shall subsection 1 of section 1 carry?

Section 1, subsection 1, agreed to.

The CHAIRMAN: All this, of course, is subject to reconsideration if we find we have to later on.

The next is section 2, ownership of a recorded vessel to remain unchanged until bill of sale recorded; register to record bill of sale. Shall section 2 carry, subject to the same qualification?

Section 2 agreed to.

The CHAIRMAN: Next we deal with section 4, which is the method of covering a mortgage. Section 4 repeals and replaces sections 45 and 46 of the act, and the marginal note reads: recorded vessel may be mortgaged; form of builder's mortgage and recording; registrar to record builder's mortgage, effect in law of builder's mortgage. Are there any questions on section 4?

Senator BRUNT: Could we have a full explanation from the departmental expert? Would you let us have your comments on section 4?

Mr. GUTHRIE: The wording of the present sections 45 and 46 has been considered to be very obscure, so it is being simplified and clarified. The reference to the builder's mortgage is contained in section 45, and the transfer into the register book is contained in section 46.

The CHAIRMAN: Does that satisfy you, Senator Brunt?

Senator BRUNT: I notice you provide the form for a builder's mortgage in Form D. You also provide for a discharge, but have you a particular form for that?

Mr. GUTHRIE: The transfer of the mortgage is provided for on the back of Form D.

The CHAIRMAN: Subject to the same qualification, shall section 4 carry?

Senator MACDONALD: Mr. Chairman, I thought the way you dealt with the previous clause was a very good method, when you asked if anyone here might have a comment to make?

The CHAIRMAN: Yes, that query is the same in reference to section 4. Does anybody present have a comment to make with respect to section 4, dealing with the method of recording mortgage on vessels and the change in the statute? If not, shall we carry section 4 subject to the same qualification?

Senator MACDONALD: I take it, Mr. Chairman, that there are present a number of solicitors representing various companies and I think they would be well qualified to speak on these sections if they feel it advisable to do so.

The CHAIRMAN: It is open to them to do so if they so wish.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, would it be an inconvenience to go back to section 2 for just a moment? At the end of the first subsection of the proposed new section 5, these words appear:

"... the ownership of that vessel shall be deemed unchanged until the bill of sale is recorded."

Now, that is a departure, by statute of course, and only in respect to vessels, from the ordinary rules of law that provide when a contract is made the title changes. Is there some reason for this additional requirement when title is to pass?

The CHAIRMAN: I would assume, Senator Connolly, that it is the same principle as in the case of the sale of land. You may execute a bill of sale with respect to land between the parties but until it is actually registered in the registry office it is not notice to third parties.

Senator CONNOLLY (*Ottawa West*): It is the registry which has the value of notice to third parties, but this does not say that. This says, as I read it, "The ownership shall deem to be unchanged until recorded." This is a departure from the normal rules of conduct. I thought perhaps the department might have some reason for saying that this rule should be changed. It does not appear to be so in the second form of Section 5.

The CHAIRMAN: Mr. Baldwin addresses my attention to the fact that this is no change in principle. The old section which is repealing Section 5(a), if the senator will look at it, on the opposite page, says:

"Subject to the operation of paragraph (d) . . ."

And so on.

" . . . the ownership of such a vessel, in so far as it is material to any provision of this Part relating to recorded vessels, shall be deemed to remain unchanged unless the vessel is sold and a duly executed applicable bill of sale is produced to the registrar who recorded the vessel."

Senator CONNOLLY (*Ottawa West*): Yes, I realize.

Senator BRUNT: Change of possession, then, does not mean anything once possession changes; it is notice to the public that ownership is changed.

Senator CONNOLLY (*Ottawa West*): I have no interest in it, other than an academic interest, but it may be of concern to people who are dealing with it in the trade, you see.

Senator MACDONALD: I think the point of Senator Connolly is well taken. The wording of the bill is that the vessel "shall be deemed to remain unchanged". Deemed by whom? If there were an accident at sea, then I presume the party in whose name the vessel is recorded would be liable whether or not the party had sold the vessel.

Mr. BALDWIN: A recorded vessel could not be at sea, because it would then have to become a registered vessel at sea.

Senator MACDONALD: It might be in the harbour that the accident would take place.

Senator CONNOLLY (*Ottawa West*): The existing subsection (a) of section 5 has an onus amending subsection 1, section 5, which adds an essential requirement to complete the transfer of title. I point it out because it may be of value, it may be of interest, to the solicitors involved, and perhaps to the trade itself. I do not think it matters if the department wants to do it that way.

Senator MCKEEN: In regard to the question brought up about a damage action, where can the vessel look for damages? Of course, they have a claim against the ship. At the same time, they do not know who the owner is. In this way they know the owner; and it is a usual thing when a bill of sale is executed that they register immediately, otherwise some claim might be recorded against them and they might not have a protection. Once it is recorded they cannot register a claim against an owner.

Senator MACDONALD: But if there is a week intervening between the execution of the bill of sale and the completion of the sale, and the actual

change of ownership and the recording of the bill of sale, is the old owner still liable?

Senator McKEEN: The claim may be against the old owner and it cannot be filed after the new owner is recorded; but they could issue a lien against that vessel, so as to protect them with respect to the man buying as well.

The CHAIRMAN: All we are discussing really is in connection with recording, that is, of a vessel that is being built. Section 3(1) of the Act refers to the fact that a vessel that is about to be built or is being built may be recorded pending registration. There is no question of an accident at sea, or anything of that kind, it is merely while the vessel is being constructed.

Senator MACDONALD: But there might be an accident while the vessel is being constructed, and the ownership of that vessel may have changed hands.

The CHAIRMAN: Without it being recorded.

Senator MACDONALD: Without it being recorded.

The CHAIRMAN: Well, that surely is the responsibility of the vendor to see that the deed is recorded as soon as possible, is it not?

Senator MACDONALD: I think that is for the shipping people to decide; but I know in connection with other matters, I think I am correct in saying that if I sell my automobile and the change of ownership is not recorded, the person who buys the automobile is then liable for what happens after I have disposed of it irrespective of whether or not I have recorded the change of ownership.

Senator BRUNT: Provided you can prove a bona fide sale.

Mr. Chairman, could we hear from a shipowner on this to see what they think about it—they are the ones really concerned.

The CHAIRMAN: Perhaps I should have mentioned before that there are two other gentlemen here, Captain Andrews and Captain Wilson of the Great Lakes Pilots Association. The pilots are evidently interested in certain sections of this bill.

The only counsel whose name I have here is Mr. Jean Brissette, the attorney for the Shipping Federation of Canada. Have you any observations to make, Mr. Brissette, on this question before us now, the change of ownership during construction?

Mr. BRISSETTE: No Mr. Chairman, we have no representations to make on that. I might mention here that some of the amendments in that part of the bill have been brought about as a result of representations made by counsel practising in Admiralty who were complaining of the vagueness of some of the sections. As to the point that has been raised, relating to recording of title, I might mention here that the question of liability for damage caused by the vessel or arising out of an accident has really nothing to do with the amendment that is before you. The amendment has only to do—but here perhaps I am out of order in speaking thus.

Senator BRUNT: No; go on.

The CHAIRMAN: We want all the enlightenment we can get Mr. Brissette.

Mr. BRISSETTE: The amendment has only to do with title and notice to third parties of where a title lies. I might give an illustration: if a ship is being built and is recorded in the name of the shipyard during the period of construction and then is sold to, say, party A, this party will have the bill of sale recorded showing the title in his name. If before he does arrange to have his bill of sale recorded, and the shipyard—of course we have no dishonest shipyards here—were to sell the same ship to somebody else, the first buyer who

records his title will be the one who acquires title, save the recourse of the one who was defrauded against the shipyard.

The CHAIRMAN: Just like a man who sells the same property to two people.

Mr. BRISSETTE: You have here exactly the same principle as we have in the province of Quebec regarding the registration of title deeds to real estate. It is exactly the same position. It has nothing to do with liability but with the recording of the title giving to the person that has the recorded title full title even though it might have been sold to somebody else who did not record his title ahead of him.

Senator MONETTE: But is the comparison absolute? Between the date of the sale of the ship and the date of recording—let us suppose the buyer takes two months before recording—and in the meantime the one who bought but who did not record remains the owner in fact under our law in Quebec—you referred to that. Anything that would happen in the meantime, such as damage caused by the ship, could be claimed from the one who bought it but did not record. Now here is the question—the question raised by Senator Connolly—that there is no effect at all of that sale, if it was made, until it was recorded.

Summarizing, the buyer is the owner and responsible for every damage caused though he has not recorded, but if the second buyer, through a fraudulent scheme by the first owner, becomes the owner and registers, then as far as the ship is concerned he is the owner, not the first buyer. But in the meantime the first buyer has the title of ownership for the public, in that, if he causes damages, he would be responsible for same under this bill.

Mr. BRISSETTE: Yes. The bill does not at all deal with the matter of liability. But actually the man who operates the vessel would have a personal liability. But there is a further protection. The victim of an accident caused by a ship would always have the right *in rem*; that is a privilege against the ship, whoever the owner might be, which can be exercised by way of the arrest of the vessel.

Senator MONETTE: But what of damages caused to other parties?

Mr. BRISSETTE: The party who suffers the damage—and I take it you are speaking here of the first party—will have a right *in rem* against the ship. The passengers on the other ship, the owner of the other ship which has been damaged, the owners of the cargo aboard the other ship, will all have a right *in rem* against the ship responsible for the collision, whoever might be owner.

Senator MONETTE: But has he a personal right against the one who bought but did not record?

Mr. BRISSETTE: Then the victim, in so far as his personal right is concerned, would have to prove that the damage was caused by that person or by his servants. Then the doctrine *respondet superior* would apply.

Senator MONETTE: But section 5, amended by the proposed section 2 of this bill, says that

“the bill of sale for a recorded vessel that is sold shall be filed with the registrar at the port at which the vessel is recorded, and the ownership of that vessel shall be deemed unchanged until the bill of sale is recorded.”

Therefore the ownership, if it is unchanged, remains in the original owner or builder, and the one who bought and might use the ship on the sea, and caused damages, might not be held to be the owner.

Mr. BRISSETTE: He would not be held to be the owner from the point of view of title, but he would be held responsible because of the very fact that he was the operator at the time of the casualty.

The CHAIRMAN: In other words, the claim against that party would not lie in any way on whether he was the recorded owner or not, but would lie in the fact that he had caused the damage?

Mr. BRISSETTE: That is right.

Senator BRUNT: Is it not the fact that these claims could only arise when a ship is being built, because this says, "recorded", not "registered".

Mr. BRISSETTE: There would be a period when the ship would be at sea during trial trips, before registration.

Senator CONNOLLY (*Ottawa West*): I think we have a pretty thorough discussion about responsibility for personal injury or damage of that kind in existence, but the other point is the one I would like to observe again about. Take the case of a vessel having been sold twice, and the man who got the bill of sale first had completed a contract. The second man had also completed a contract and registered it. The aggrieved parties have completed the contract and did not register. Under the law, apart from this section, he not only has a claim in damages based upon fraud, but he has also a claim arising out of the fact that he has completed a contract, and he can argue, at least, if he can establish it, that he might have completed his contract of sale; in fact, as between the former owner and himself he had acquired title to the ship. Under this section he will not have that argument available. His claim must sound in damages and in no other way. But under the normal law applicable to the sale of land or chattels, he also has the other claim, based upon contract, and he is being deprived of that claim because of the way in which this section is now worded.

Senator BRUNT: Except that they have always proceeded on this basis.

Senator CONNOLLY (*Ottawa West*): No, I don't think so, because subsection (a) of section 5 now is only an owner's clause. There is an absolute requirement that not only must you have a contract of sale, but you must also register it, and if you don't register then you have no right. I may be going just a little too far on that point, but I would doubt if you would have a right under contract to claim—

Senator MACDONALD: To claim the vessel.

Senator CONNOLLY (*Ottawa West*): I think your title has gone. I think the possibility of recovering title has gone.

Senator MACDONALD: Senator Connolly referred to the sale of land. But if there is a sale of land, and the deed to that land is registered, then the subsequent purchaser without notice gets good title to the land. Supposing there is a sale of land to A, and A does not register, but there is a sale of that same land to B, and B does register, and a subsequent purchaser from B without notice gets a good title to the land.

Senator CONNOLLY (*Ottawa West*): Yes, but the aggrieved party there has a claim against the owner based not only on damages but on breach of contract.

Senator MACDONALD: Has he not here?

Senator CONNOLLY (*Ottawa West*): I don't think so; however, it may be perfectly satisfactory to the industry. If it is, I have no objection.

The CHAIRMAN: Senator Connolly, is not this the situation? I am thinking of a land example in the province of Quebec. Suppose owner A has a deed which he has not registered, and owner B has registered, is it not open to A to go to the court and ask in the conclusion of his action that the sale to B be discharged from the register and his own sale be substituted for it? Is not that the case here?

Senator CONNOLLY (*Ottawa West*): I don't think so. Also it says the ownership shall be deemed unchanged until the bill of sale is recorded. I think the court could rectify that if it found there had been a fraud of that kind.

Senator MACDONALD: If I may refer to the example you gave in the province of Ontario: if A sold to B and B did not register, and A sold the same to C, and C did not have notice of the sale to B, B could not have the deed to C set aside, because C bought without notice of the sale to B.

Senator BRUNT: No doubt there is a very good reason for this amendment. I would like to hear from Mr. Baldwin.

Senator MACDONALD: May I ask one simple question? Is there a period of time within which the recording must take place? I know an ordinary sale of goods in Ontario must be registered within five days.

Senator BRUNT: No.

Mr. BRISSETTE: There is no such period, but I can assure the gentleman when there is a sale, and we have a bill of sale, we immediately register the bill. At times it is done at the registrar's office. What I understand is being done during the period of recording is what in fact is done during the subsequent period when the ship is registered. There again, the first to register his title or bill of sale has good title as against one who would have had a bill of sale given to him and had failed to register it.

The CHAIRMAN: Mr. Baldwin, have you any observations to make?

Mr. BALDWIN: Mr. Chairman, I do not think I can add as to the principle involved. As to what has been said just now with regard to the intention of the section I can only supplement it by saying it had not been our intention in the proposed amendment to in any way change the principle which is now incorporated in section 5(a). The exact wording was drafted by the Department of Justice in accordance with our instructions and their own desire that the wording should be clarified, but the principle should remain unchanged.

The CHAIRMAN: Is the committee satisfied with section 2? As a matter of fact, we passed section 2 tentatively already.

Are we ready now to deal with section 4? Are there any representations to be made by anybody here with regard to section 4, in addition to what we have already heard? As I understand it, section 4 simply clarifies the method of registering a mortgage on a vessel. Shall we pass section 4 subject to the same qualification?

Section 4 agreed to.

—On Section 5: Fees for inspection and copies of register book, etc.

The CHAIRMAN: Section 5 merely relates to the question of fees for registering. Is this objected to by any representative present of the parties interested? This section increases the fees for inspection and for copies of the register book.

Senator ASELTINE: There is a fee of 25 cents.

The CHAIRMAN: Yes. Shall we hear a representative of the department as to the necessity of section 5? Would somebody be good enough to explain that to us?

Mr. GUTHRIE: At the present time on payment of 25 cents you may look at the register book, the same as you may search a land title, and for 25 cents you may have a certified transcript of the register book. Our collectors of customs throughout the country, who are ex officio registrars of shipping, may spend up to two hours making a transcript of the register of a ship or a dozen ships, and the fee is limited to only 25 cents per transcript. We are merely

attempting to be more realistic, sir. This is less than the British and the United States fees for the same work.

The CHAIRMAN: Subsection 2 of section 5 merely imports the words "or record book" to bring the section into line with what we have already passed. Is that so?

Mr. GUTHRIE: Yes.

The CHAIRMAN: Unless there is any observation that any interested party has to make, shall we pass section 5 subject to the same qualification?

Section 5 agreed to.

—On Section 13: Directions for payment to municipality.

The CHAIRMAN: I think we have to pass over quite a number of sections which may be of considerable interest, but it seems to me we can now turn to section 13, which is a section dealing with payments of fines to municipalities and which I do not imagine is contentious. Would somebody from the department be good enough to explain the reason for this proposed amendment?

Mr. BALDWIN: I would ask Captain F. S. Slocombe, Chief of the Nautical Division, to speak to this.

Captain F. S. Slocombe: Section 491 is intended to encourage local police officers and local authorities to take part in enforcing the provisions of the Canada Shipping Act and the requirements thereunder with regard to small motor boats. As honourable senators know, there has been a terrific increase in motor boating in Canada, and there have been speed merchants who have gone out in motor boats and just operated them recklessly, to the danger of other people. Efforts have been made over the years to curb this practice, and the impression has existed among local authorities that only the Royal Canadian Mounted Police could act in these matters, and of course the Mounted Police have not sufficient officers to cover the whole country. Some of the reluctance on the part of local authorities to act in prosecuting offenders in these matters has been attributable to the fact the fines have had to be paid to the federal Government. The amendment provides where a magistrate imposes a fine he may direct that the fine be paid to the local authorities who instituted the proceedings.

Senator BRUNT: Why not make it compulsory?

Senator POWER: You have substituted the municipal authority for the informer.

Captain SLOCOMBE: This is a new section 491(a).

The CHAIRMAN: If honourable senators have copies of the present act before them, I would refer them to section 491 which reads as follows:

"All fines recovered under this Part shall be paid to the Minister of Finance, and shall be placed by him to the credit of the Consolidated Revenue Fund of Canada, but the Governor in Council may, if he sees fit, authorize the payment of a portion of any such fine to the informer, if he is not a steamship inspector."

All section 491(a) says is that in case where there is a local prosecution the judge may direct that the fine be paid to the authority who conducted the prosecution.

Senator POWER: In other words, you have switched from the policeman to the municipality. If the policeman had laid the complaint he would have been entitled to a portion of the fine, and now you take it from him and give it to the municipality.

The CHAIRMAN: Part of the fine can still be paid to the informer.

Senator REID: Some municipalities use the services of the R.C.M.P. Where I come from we pay the shot to the policemen, so why shouldn't we get the fine?

The CHAIRMAN: Does this section seem to be reasonable to honourable senators?

Senator BRUNT: Yes, except it should be mandatory. The money should go to the municipality.

The CHAIRMAN: Don't you think it is likely to be, in effect, mandatory? If the court is given the right to do so, I imagine the court will invariably do it.

Senator McKEEN: There is no objection from the Minister of Finance, is there?

The CHAIRMAN: Shall section 13 carry, subject to the same qualification? Section 13 agreed to.

The CHAIRMAN: It is now 12 o'clock. I think I should apologize to the large number of gentlemen here, representing various interests, who have not had an opportunity to be heard this morning. Would it suit the sense of the meeting that we adjourn now till 11 o'clock next Tuesday morning, and be prepared to spend the whole day on this matter, and meet on Thursday morning too?

Hon. SENATORS: Agreed.

The meeting thereupon adjourned until Tuesday, February 10, at 11 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill S-3, An Act to amend the
Canada Shipping Act.

The Honourable Adrian K. Hugessen, Chairman.

No. 2

TUESDAY, FEBRUARY 10, 1959.

WITNESSES:

Mr. J. R. Baldwin, Deputy-Minister, Department of Transport; Captain John Andrews, President of the Great Lakes Pilot Association of Canada; Mr. James P. Boyle, President, Shipping Limited; Mr. Jean Brisset, Attorney for the Shipping Federation of Canada; Captain J. E. Matheson, Assistant General Manager, Shipping Federation of Canada; Mr. W. J. Fisher, General Manager, Canadian Shipowners Association; Mr. O. S. Booth, Assistant Deputy-Minister of Transport; Captain F. S. Slocombe, Chief of the Nautical Division, Department of Transport.

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman*.

The Honourable Senators

*Aseltine	Gouin	Molson
Baird	Grant	Monette
Beaubien	Haig	Paterson
Bishop	Hardy	Pearson
Bouffard	Hayden	Power
Bradley	Horner	Quinn
Brunt	Hugessen	Raymond
Buchanan	Isnor	Reid
Campbell	Jodoin	Robertson
Connolly (<i>Halifax North</i>)	Kinley	Roebuck
Connolly (<i>Ottawa West</i>)	Lambert	Smith (<i>Queens-</i> <i>Shelburne</i>)
Dessureault	Lefrançois	Stambaugh
Emerson	*Macdonald	Veniot
Euler	McGrand	Vien
Farris	McKeen	Wood
Gershaw	McLean	Woodrow—(48).
Gladstone	Methot	

50 members

(Quorum 9)

**Ex officio member.*

ORDER OF REFERENCE

WEDNESDAY, January 28, 1959

Extract from the Minutes of the Proceedings of the Senate.

“Pursuant to the Order of the Day, the Honourable Senator Aseltine moved, seconded by the Honourable Senator Brunt, that the Bill S-3, intituled: An Act to amend the Canada Shipping Act, be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Emerson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.”

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, February 10, 1959

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.00 A.M.

Present: The Honourable Senators: Hugessen, *Chairman*; Aseltine, Beaubien, Bishop, Bradley, Brunt, Buchanan, Campbell, Connolly (*Ottawa West*), Gladstone, Horner, Isnor, Macdonald, McKeen, Pearson, Power, Reid, Smith (*Queens-Shelburne*), Stambaugh.—19.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill S-3, An Act to amend the Canada Shipping Act, was further considered clause by clause.

Heard in explanation of the Bill were: Mr. J. R. Baldwin, Deputy-Minister of Transport;

Captain John Andrews, President of the Great Lakes Pilot Association of Canada;

Mr. James P. Boyle, President of Shipping Limited;

Mr. Jean Brisset, Q.C., Attorney for the Shipping Federation of Canada;

Captain J. E. Matheson, Assistant General Manager of the Shipping Federation of Canada;

At 1.00 P.M. the Committee adjourned.

At 2.15 P.M. the Committee resumed.

Present: The Honourable Senators: Hugessen (*Chairman*); Aseltine, Brunt, Buchanan, Campbell, Connolly (*Ottawa West*), Gladstone, Isnor, Macdonald, McKeen, Methot, Pearson, Power, Reid and Smith (*Queens-Shelburne*).—15.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

The said Bill was further considered clause by clause.

Heard in explanation of the Bill were: Mr. Jean Brisset, Q.C., Attorney for the Shipping Federation of Canada;

Mr. W. J. Fisher, General Manager of the Canadian Shipowners Association;

Captain John Andrews, President of the Great Lakes Pilot Association of Canada;

Mr. Paul Gerin-Lajoie, Attorney, representing the Association of Pilots for the Harbour of Quebec and below, United Montreal Pilots, Corporation of the Montreal Harbour Pilots, Corporation of the St. Lawrence-Kingston-Ottawa Pilots;

Mr. O. S. Booth, Assistant Deputy-Minister of Transport;

Captain F. S. Slocombe, Chief of the Nautical Division, Department of Transport.

STANDING COMMITTEE

Further consideration of the Bill was postponed.

At 6.00 P.M. the Committee adjourned to Thursday, February 12, 1959,
at 10.30 A.M.

ATTEST.

Gerard Lemire,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Tuesday, February 10, 1959

The Standing Committee on Transport and Communications, to which was referred Bill S-3, to amend the Canada Shipping Act, met this day at 11.00 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, we have a number of witnesses who are ready to give evidence before our committee this morning. Before proceeding with that, I think I should read a telegram addressed to the committee:

Ottawa, Ontario, February 10, 1959. The Senate Committee in Transport and on Transport and Communications.

Re bill to amend Canada Shipping Act due to weather conditions am unable to attend meeting this morning. Dominion Marine Association strong supports the bill because it will make it possible to exempt domestic shipping from compulsory payment of pilotage dues in areas where such ships do not require pilots and will enable the Government to set up an adequate pilotage system on the Great Lakes for foreign vessels.

John J. Mahoney, Manager,
Dominion Marine Association.

I have a letter addressed to me by Mr. Leopold Langlois, a lawyer of the firm of Langlois, Lord and Pinsonnault. He states that he represents the Canadian Merchants Service Guild and wishes to have an opportunity to appear before the committee, that his clients are particularly interested in clauses 8, 9, 10 and 11. Is Mr. Langlois here?

Mr. LANGLOIS: Yes.

The CHAIRMAN: I understand that Captain Andrews, superintendent of the Great Lakes Pilot Association, is here and wishes to present a brief. I understand that Captain Andrews and his association are not represented by counsel and, as the committee knows, we are always very tender to people who are not so represented here.

Now, honourable senators, you will recall that when we met last we were dealing with certain non-contentious sections of the bill which we had tentatively approved, but I suggest for your consideration that, seeing that we have all these witnesses here, we might go ahead immediately with what I might call the contentious parts of the bill and hear as many witnesses as we can so as to free them from having to attend here from day to day.

I understand, from matters that have been submitted to me since the last meeting, and from conversation with the deputy minister, that the really contentious sections of this bill all relate directly and indirectly to pilotage, and those sections are 8, 9, 10 and 11. Is it the wish of the committee that we should begin right away with those sections?

Senator MACDONALD: If I remember correctly, Mr. Chairman, one honourable senator—Senator Kinley—wanted to be present when section 9 was under consideration.

The CHAIRMAN: In that regard, bearing in mind that perhaps we shall reach no final decision about it at the moment and that we are meeting again on Thursday morning, any representations that Senator Kinley wishes to make about that section could be heard then.

Senator MACDONALD: But if we were to question witnesses today on section 9 he would not have an opportunity of discussing that section with them.

The CHAIRMAN: Rather than inconvenience and embarrass all these witnesses that have come especially for this purpose, I suggest that, as between their convenience and that of Senator Kinley, we can hardly accommodate him completely. He knew we were to meet this morning.

Senator MACDONALD: I have not the evidence before me, Mr. Chairman, but I believe we gave him, if not an undertaking at least the understanding that we would not proceed with section 9 today. I believe we gave him to understand that.

Senator MCKEEN: The meeting has been regularly called, and I think the witnesses should be heard.

The CHAIRMAN: It was my understanding that the only undertaking we gave Senator Kinley was that section 9 would not be finally dealt with until he had an opportunity to make representation.

Senator MACDONALD: I am not suggesting that we should keep anyone here unnecessarily, but it occurred to me that the people who are interested in section 9 might also be interested in some other sections.

Senator CAMPBELL: I think you will find, when the briefs are presented, that they will deal particularly with the subject matter of section 9, with exemptions. I am sure that the evidence that will be given in the discussion of the pilotage question generally will cover everything and I do not think therefore that Senator Kinley will be prejudiced. He is interested in the language of the section, which can be discussed after the evidence is taken. You cannot separate them.

The CHAIRMAN: The only prejudice that Senator Kinley might suffer would be that he would not have heard the evidence today. He knew, however, that the committee was meeting today.

Senator BRUNT: The section deals with exemption in respect of tolls, and I do not think anyone is going to fight that. Everyone would be happy if there were no tolls.

Senator MACDONALD: I do not know what Senator Kinley has in mind. May I ask this question: will the evidence which is presented here today be available for Senator Kinley on Thursday?

The CHAIRMAN: Senator Kinley will be able to read the evidence given today before the meeting of the committee on Thursday. I think that is as far as we can go to accommodate him.

Senator MACDONALD: That is at least helpful.

The CHAIRMAN: Does the committee agree that we should proceed with general discussion of sections 8, 9, 10 and 11?

Some Hon. SENATORS: Agreed.

The CHAIRMAN: If that is agreed, I might ask the deputy minister, or someone whom he designates for the purpose to give a general review of the objects of the section.

Senator MACDONALD: I was not sure whether the committee was of one mind that Senator Kinley would not be at a disadvantage.

Senator ASELTINE: His objection was as to the flag of British registry.

Senator BRUNT: I suggest that we proceed.

Senator MACDONALD: I do not suppose I can press it.

The CHAIRMAN: Then we will proceed along the lines I have suggested.

Senator ISNOR: I know, Mr. Chairman, that Senator Kinley expressed the definite desire to be here during the discussion of section 9. I have in mind paragraph (c) of subsection (1) of the new section 346, in section 9 of the bill. That particular provision affects Nova Scotia, both Halifax and Sydney, and I believe that strong representations have been made by the pilots at both those ports. I feel therefore that in fairness, and in view of the undertaking more or less given to Senator Kinley that he would have an opportunity of being present when the witnesses were heard on this, we should defer section 9 and proceed to the consideration of sections 8 and 10.

The CHAIRMAN: What is the feeling of the committee?

Senator POWER: I agree that we gave some undertaking to Senator Kinley and we should stand by it. It is all very well to say that he will have an opportunity to read the evidence, but he will not have had the opportunity of seeing the witnesses unless we bring them all back. Not to comply with the request that has been made in this matter would only delay proceedings.

The CHAIRMAN: What does the committee feel? What is the majority opinion? Shall we proceed with all these sections or shall we defer section 9?

Senator BRUNT: No one wants to give evidence on it. How many witnesses here this morning want to give evidence on section 9? Evidently no one does. These are the people we are talking about bringing back.

Senator ISNOR: Whom does the honourable senator mean when he says "these people"?

Mr. LANGLOIS: I am interested in section 9.

The CHAIRMAN: Is there any objection to proceeding with section 11, the new Part VIA?

Senator BRUNT: Is that non-contentious?

The CHAIRMAN: No, it arouses a considerable amount of contention, and if any of the witnesses, in the course of the presentation, have anything to say about section 9 we cannot help it. I do not see that we can very well embarrass all these witnesses merely because Senator Kinley does not find it convenient to be present today.

Senator MACDONALD: Probably we could read the evidence that has been taken and see what arrangement we did make with him.

Senator CAMPBELL: Is it not the practice to hear representations from the witnesses—representations generally on the bill—and then sort out in this instance the parts that are relevant, the parts that pertain to section 9? You will find when the briefs are presented that they will deal with the question of pilotage generally and not specifically and we can probably leave aside the subparagraphs of section 9 in which Senator Kinley is interested. We are certainly concerned with section 8, which is the governing section.

The CHAIRMAN: Shall we proceed with a preliminary statement from the deputy minister.

Some Hon. SENATORS: Agreed.

The CHAIRMAN: Mr. Baldwin, will you give us a general statement of the purport of these sections?

Mr. J. R. Baldwin, Deputy-Minister, Department of Transport: Mr. Chairman and honourable senators, it may be of some assistance if I were to spend a minute or so on the basic concept of pilotage, because I think that will help to give the background within which the specific amendments fit.

Pilotage is the provision of special marine expert knowledge to a ship which is moving through waters where navigation especially is considerably more difficult than navigation in open waters, and it has existed for many years in other countries as well as this.

The concept that is established by the Shipping Act is not one that prevents pilotage from coming into being on a voluntary basis in individual areas, but rather one that provides that where pilotage assumes substantial dimensions the federal Government, within its constitutional responsibility for shipping matters, may intervene and establish a general area of pilotage, set the rules and administer the district. In other words, under the Shipping Act, the Governor in Council has the authority to say that in a given area, if the Government considers the matter of pilotage important enough to navigation, it may intervene to establish a pilotage authority. Normally, the pilotage authority named is the Minister of Transport, and he sets up by-laws for pilotage within that district.

The pilots are licensed by the authority—that is the minister—in accordance with pre-established technical standards. The federal Government assumes responsibility for these standards and for the licensing. The fees that are collected from the vessels which make use of pilotage go into a pool, the federal Government acting as collection agency, and the pool is then distributed to individual pilots in accordance with a pre-arranged and authorized scheme.

The federal Government may in some instances assist by providing dispatch services or by assisting with the provision of special pilotage boats. We are trying to regularize that situation now. Basically, however, it is a plan by which the federal Government, in the crucial areas, can intervene and set rules and administer the district, although pilots continue to be self-employed normally, in the sense that earnings from ships go into the pool, which is divided among the pilots.

There are two types of district in existence under the scheme: one is the compulsory-dues district and the other non-compulsory. In the former, the Governor in Council may require that, subject to specifically stated exemptions, the ships passing through the district pay pilotage dues, whether they use a pilot or not.

The act as it now stands does not require any ship to take on a pilot; it does provide, however, that in some districts the Government may require them to pay fees. There may be districts which may be non-compulsory dues districts, in which a ship passing through pays a fee only in the event of its taking on a pilot.

That is a general background of the provisions of the act dealing with pilotage. Under those provisions we now have in existence marine pilotage districts under the authority of the Minister of Transport, and they set up by-laws in each case: for British Columbia, New Westminster; for the area from Kingston to Montreal; for the area from Montreal to Quebec; for the area from Quebec to Father Point; for Saint John, New Brunswick; for the area Halifax, Nova Scotia; for Sydney, Nova Scotia, and for the Bras d'Or Lake as well.

The amendments that are proposed at this time fall into two categories—certain general amendments designed to deal with pilotage as a whole, and certain specific amendments designed to deal with the particular situation that has emerged on the Great Lakes area where no pilotage district now exists, resulting from the construction of the St. Lawrence Seaway.

I do not propose at this time to make detailed statements on the amendments; we have officials who can do so and answer any questions that are asked. I would, however, refer briefly to the basic content and principle.

Section 8 is an amendment which relates to pilotage boundaries only. Under the act as it stands, the Governor in Council has authority to define pilotage boundaries for each district as the situation may require, with the exception of the Quebec and Montreal districts, which are the oldest in Canada, and where as a result of long standing conditions exact boundaries were defined in the act. We are reaching a stage, however, where we feel that the Governor in Council should have the same power with regard to definitions of boundaries of these districts as he has with regard to other boundaries, because of a change of the technical and physical requirements in a district which may at some future date require an adjustment in those boundaries.

Section 9, which, I understand, is to be considered further in greater detail on Thursday, is the clause which deals with exemptions. We will have detailed evidence from witnesses on this. As I remarked before, some districts are districts in which ships must pay pilotage dues regardless of whether they use a pilot or not.

Senator ISNOR: Not all ships, Mr. Baldwin. Are there not exemptions?

Mr. BALDWIN: I am coming to that in a moment. The act in that regard states certain exemptions from this requirement and gives the Governor in Council authority to withdraw but not add to these exemptions. It also gives the Governor in Council authority to cancel the whole compulsory scheme for a district. We have, however, proposed here that the authority be modified or adjusted to give the Governor in Council the authority to add to the exemptions that may be granted from payment of compulsory dues when we will be in a position to make a detailed statement as to why we consider that is essentially required.

The other major recommendation relates to the Great Lakes pilotage situation, where we feel that, with the completion of the seaway, it is necessary that some provision be made to enable marine pilotage to exist, and where we feel that this could not be done under the present provisions, in regard to pilotage districts, the main reason being that in the Great Lakes area we are faced with the problem of ships that are crossing back and forth frequently across the border from United States to Canadian borders and from Canadian to United States waters, whereas the present provisions of the Shipping Act were planned only with Canadian waters in mind and navigation through solely Canadian waters. We have to have a scheme which will provide reciprocity with United States with regard to the Great Lakes area. Part VIA does provide a new principle in place of the compulsory dues approach we have had. It provides that on the Great Lakes themselves we can establish a principle of compulsory pilotage, and that we can define waters in which a high degree of competence may be required, and special pilotage, issue licences for the personnel, and establish other waters in which the principles of pilotage of shipping in waters in which perhaps lower degrees of competence may be required and a different type of pilotage certificate issued; the whole thing can be adjusted to meet the requirements of whatever United States legislation may be passed dealing with pilotage in United States waters, and placed upon a reciprocal basis. Because it is obvious that unless we have reciprocity, considerable damage to shipping may result.

Senator CONNOLLY (*Ottawa-West*): Where do you take authority to do that?

Mr. BALDWIN: I would prefer, sir, if it is suitable, to give additional detailed explanation as we go over the clauses one by one, and to limit myself at this stage to this rather generalized interpretation.

Senator BRUNT: It is page 6, section 10.

Mr. BALDWIN: That is correct. This generalized explanation was intended only to touch the highlights of the various amendments that relate to the subject of marine pilotage.

The CHAIRMAN: Any questions to the Deputy Minister at this stage?

Senator McKEEN: I would like to ask one question regarding pilotage. You have a reciprocal arrangement with regard to pilots. Was there any discussion of reciprocal arrangements as far as the coasting trade is concerned on vessels owned in the United States and Canada? Under United States laws a Canadian cannot own a company that engages in coasting trade in the United States. On the other hand, an American can own a company in Canada that can engage in the coasting trade of Canada. In effect it is an advantage to a Canadian citizen to become an American citizen to engage in the coasting trade in Canada, because then he can trade on either coast. Has any consideration been given to this?

Mr. BALDWIN: That is not dealt with in this legislation at all, sir. The only discussion we have had with the Coast Guard recently in these matters relates to the question of pilotage alone.

Senator McKEEN: I think section 3 on page 2 covers that. Paragraph 6(b) provides that a body corporate in a country of the Commonwealth can engage in this trade. It doesn't say "Canadian".

The CHAIRMAN: That is rather astray from the subject we are discussing at the moment.

Senator McKEEN: We will leave that until later, then.

Senator REID: The explanatory note opposite page 5 reads:

"The purpose of the amendment is to provide for the recognition in Canada of masters, mates and engineer certificates granted by the Republic of Ireland."

The CHAIRMAN: That is section 7, and we are not dealing with that section at the moment.

Senator REID: I am sorry.

The CHAIRMAN: We are dealing with sections 8 to 11. If there are no more questions to be asked of the Deputy Minister I would point out that there are at least four people here who wish to make representations to us on this general pilotage question. They are Captain Andrews, who represents the Great Lakes Pilotage Association of Canada; Mr. Langlois, from Quebec, who represents, as I understand it, pilots generally throughout Canada, and then there is Mr. Lajoie, who represents the Association of Pilots for Quebec and Below. Finally, there is Mr. Brisset, who we had last Thursday and who represents the Shipping Federation of Canada.

Shall we ask these gentlemen in turn to give us their representations?

Hon. SENATORS: Agreed.

The CHAIRMAN: Captain Andrews, are you ready to proceed?

Senator MACDONALD: May I ask, Mr. Chairman, do we expect these will be opposed interests?

The CHAIRMAN: I gather there are very divergent views, but I do not know anything about it other than that, Senator Macdonald.

Captain John Andrews, president, Great Lakes Pilotage Association of Canada:

Mr. Chairman and honourable senators, I appreciate the opportunity to state our thinking on this section of Bill S-3.

Senator SMITH (*Queens-Shelburne*): Excuse me, but who is Captain Andrews speaking for? It was not made clear.

Captain ANDREWS: The Great Lakes Pilotage Association of Canada.

The CHAIRMAN: You are the President of the Great Lakes Pilotage Association of Canada?

Captain ANDREWS: I am.

The CHAIRMAN: How many members are in your organization?

Captain ANDREWS: Thirty-three.

Senator MACDONALD: May I ask in what waters you act as pilots?

Captain ANDREWS: From Kingston west.

The CHAIRMAN: To the head of the lakes?

Captain ANDREWS: Yes. In essence, this new section of the bill is enabling legislation rather than anything definitive.

The CHAIRMAN: Which section is that?

Captain ANDREWS: I believe section 11.

The CHAIRMAN: You are dealing with section 11 now?

Captain ANDREWS: Yes. It presumes the working out of bi-lateral agreements and subsequent regulations in detailed terms, with our U.S. neighbours.

In presenting the following information, we wish to stress that this is background for you. This information will give generally our reasons for supporting the bill, although much of the specific detail assumes a certain kind of regulative and pilotage arrangement as essential.

At the present time, there is a considerable amount of shipping on the Great Lakes. At the close of the calendar year, the total Great Lakes fleet, including Canadian and American vessels of 1,000 gross tons or more, including 742 commercial vessels, aggregated almost three and one-half million gross tons.

For many years these lake carriers of Canada and the United States have been plying these waters, carrying great quantities of ore, coal, grain and other important commodities which are so vital to the economy of our two great countries. The men manning these vessels, trading on home waters, have, over the years, become truly proficient in Great Lakes navigation, simply because that is their regular day-to-day business. These are skilled pilots, well qualified in their jobs. With this great skill and competency, exercised year after year on an around-the-clock basis, has come naturally a good degree of marine safety. This is to be expected, of course. Continuing familiarity with local waters always breeds competent pilots. The Canadian Government and the United States Government have long recognized this competency in the art of navigating the Great Lakes by licensing those of our lake-going personnel who measure up to our necessarily strict standards. Unless a person can meet these standards, he is not entrusted with the responsible job of piloting one of our vessels on the Great Lakes.

Unfortunately, however, this same degree of competency in pilotage cannot presently be required of the transient or part-time navigator on the Great Lakes. There is now no requirement in Canada or the United States law that vessels coming into the Great Lakes from outside have on board a person especially skilled in qualified Great Lakes pilotage. We feel that this is a serious deficiency. Certainly, it leads to an incongruous situation. On the one hand, we do require a substantial showing of skill in pilotage on the part of our own people, piloting our ships, exclusively on these waters; yet, on the other hand, we can impose no requirement whatsoever on the intermittent visitor to the lakes, even though, by circumstances of his total voyaging, he can almost never gain the same familiarity with lake waters.

Now, I will not say that this lack of requirement for qualified personnel on the Great Lakes has so far resulted in serious marine casualty on these waters. I do not mean in any sense to be derogatory of the basic navigational skills of these men who man these transient vessels in the Great Lakes trade. Obviously, they must be good ocean-going seamen, else they would not be sailing the ships of their home countries. But these are not open ocean waters of which we are speaking. These are land-locked, restricted waters with numerous tricky passages and confined channels. It is just not reasonable to assume that these lake waters can be successfully mastered without a full degree of special qualifications. There have been some accidents on the Great Lakes in which outside vessels were involved. It is not our purpose to point the finger of blame in these cases to the outside vessel. We do say, however, that there is always a logical question in such instances.

Aside from the problem of what has or has not happened, we feel it is significantly more important to consider what might happen. Let us quote you a few meaningful figures to make our point. Perhaps many of you are aware in a general way of the increase in outside shipping on the Great Lakes since the close of World War II. Again, let us say, that by the term "outside shipping" or "outsiders" we are referring to those vessels which trade between Great Lakes ports and overseas countries in Europe, South America and the like. In 1946 a total of 12 "outside" vessels made 21 voyages into the lakes. Five years later (in 1951), 40 different "outsiders" representing six foreign flags made a total of 100 trips into the Great Lakes. During the season of 1956, 133 different vessels, representing 10 foreign nations, made 374 voyages into the Great Lakes. This is truly a remarkable build-up in shipping from outside the lakes, with still more of an increase in the years just past. But let me remind you that these are "little fellows": The present 14-foot controlling depth of the St. Lawrence River locks and channels necessarily limit both the size and number of "outside" vessels now coming into the lakes.

Suppose we look ahead a few short years. I know that all of you are well aware of the Seaway project and the great expectations of its completion. It can be logically envisaged that the Great Lakes are soon to become a virtual "World Waterway", flowing with the shipping of many nations. There will be many more ships and larger ships. The planned 27-foot controlled depth of the Seaway will enable a great proportion of the world's merchant marine to enter and do business on the Great Lakes. It is with this tremendous expected growth of Lake shipping that we are especially concerned. We think it goes without saying that the greater the volume and mass of shipping, the greater become the hazards and problems of marine safety. Certainly the law of averages alone would dictate a greater probability of serious marine casualties unless we take timely and adequate steps to assure ourselves that the great bulk of lake shipping will be in the hands of qualified and competent personnel. That is the sole objective of the proposal which you have before you. A goodly percentage of "outside" vessels even now entering the lakes do take on pilots or sailing masters in the prudent interest of safety in navigation on unfamiliar waters. Perhaps a goodly percentage would continue to do so voluntarily in future. But we must all accept the fact that voluntary action in this respect can never give us complete assurance of competency in navigation that we must have. To truly accomplish what we seek there must be a clear requirement—a requirement that this total mass of shipping, sailing on these waters, be in the hands of well qualified personnel.

As I have noted earlier, we have given long and very careful thought to this problem. Since January, 1955, particularly, we have discussed this issue

with our good friends the Americans and with many shipping companies. Since this problem of Great Lakes pilotage is as pressing in the American waters on the Great Lakes as it is to us in our part of these waters, we have carefully considered the extranational aspects of this proposed legislation and have held numerous conferences with our American friends and also with shipping companies. We deeply believe that this is a good bill, a very necessary one, and a definite step in the right direction for giving us a greater marine safety on the Great Lakes.

There has been hundreds of millions of the Canadian taxpayer's dollars invested on the canals, rivers and harbours in the Great Lakes Basin and I feel compulsory pilotage is essential to protect this investment.

In closing, I would point out that the United States Coast Guard, which is the United States counterpart of our Department of Transport, has sponsored a United States bill requiring that all foreign ships carry a licensed pilot while in U.S. waters of the Great Lakes Basin. The U.S. Coast Guard have their officers on board Coast Guard vessels on the Great Lakes at all times and therefore realize the necessity of qualified pilots. Unfortunately our Department of Transport does not have the advantages of seeing the conditions on the Great Lakes during all seasons, in good weather and foul.

The factor of cost must be considered if we are to have a pilotage service dependent upon the Department of Transport or if pilots become civil servants. A point we wish to stress is that the service should be sustained by a charge on the ships using the service, not upon the taxpayer. Further, an over-all service of pilotage, compulsory on the whole lakes, has advantages in cheapness over compulsory pilotage only for limited regions.

The CHAIRMAN: To summarize then, Captain Andrews, for the reasons that you have given you support section 11 of the bill?

Captain ANDREWS: We support it, yes, Mr. Chairman.

Senator REID: Before one is granted a certificate of competency as a pilot on the Great Lakes what qualifications are required of the applicant?

Captain ANDREWS: There is no law now which says anything at all on that, Senator Reid. For a Great Lakes master's licence you must have spent time on a Canadian ship, but there is no pilotage licence required now on Canadian waters.

Senator REID: What then is to hinder a captain from any part of Canada making application, saying that he wants a certificate as a pilot without having had any experience as a pilot in that area?

Captain ANDREWS: There is nothing to stop him.

Senator BRUNT: Who issues pilots' licences for the Great Lakes?

Captain ANDREWS: The Department of Transport.

Senator MCKEEN: Are there any pilots' licences issued for Great Lakes pilotage now?

Captain ANDREWS: Not west of Kingston.

Senator MCKEEN: Could you supply the demand of all foreign ships if they were required to have pilots? Have you any provision for instructing pilots? I do not think that 33 pilots will be enough.

Captain ANDREWS: Well, there are quite a number of smaller ships plying the Great Lakes now that won't be running in future and the masters of those ships are all qualified. The smaller sized ships of the Canadian lake fleet are not coming out next season and the masters of those ships are qualified.

Senator WALL: Mr. Chairman, may I ask the captain this question vis-a-vis the point he made about marine safety. Is there any statistical evidence to show how many such accidents there were during what period of time, and

how did this accident rule with transit vessels not carrying pilots compare, on a comparable basis, with vessels that had registered pilots and did have accidents? In other words that, to me, is crucial.

Captain ANDREWS: I have not the record of it. Possibly the Department of Transport may have it.

Senator BRUNT: You have given us certain figures. You say that in 1946 there were 21 voyages into the Great Lakes.

Captain ANDREWS: Yes.

Senator BRUNT: How many of these vessels had pilots, and how many not?

Captain ANDREWS: They would all have pilots.

Senator BRUNT: Then we get down to 1956, with 374 voyages.

Captain ANDREWS: They all had pilots. That continued, to the best of my knowledge, until 1958.

Senator BRUNT: So that every ship making this voyage in the Great Lakes up until the spring of 1958 had pilots?

Captain ANDREWS: They did.

A SENATOR: What caused the change?

Captain ANDREWS: The Shipping Federation thought it was only necessary to have them from Port Weller to Sarnia through the Welland canal and the rivers.

Senator BRUNT: Did every ship have a pilot through the Welland canal?

Captain ANDREWS: Most ships did.

Senator CONNOLLY (*Ottawa West*): Did you supply those pilots?

Captain ANDREWS: No.

Senator CONNOLLY (*Ottawa West*): Who did?

Captain ANDREWS: The Shipping Federation had their own men.

Senator CONNOLLY (*Ottawa West*): How many had they?

Captain ANDREWS: I cannot answer that.

Senator CONNOLLY (*Ottawa West*): Did they have more than you?

Captain ANDREWS: No, they didn't.

Senator CONNOLLY (*Ottawa West*): Can you tell me this: what is the name of the corresponding Pilots Association in the United States?

Captain ANDREWS: The American Pilots Association.

Senator CONNOLLY (*Ottawa West*): Do you know how many pilots they have?

Captain ANDREWS: The Canadian certificate for the Great Lakes is issued as a mate's certificate or a master's certificate, whereas, with the American certificate, everyone who has a mate's licence has a firstclass pilot's licence.

Senator BRUNT: Can you tell us how many pilots you supplied in 1946?

Captain ANDREWS: Not in 1946.

Senator BRUNT: Did you supply any?

Captain ANDREWS: No, they were hired individually by the companies.

Senator BRUNT: When did your association first start to supply pilots?

Captain ANDREWS: 1955. They applied them in 1956 on a *tour de role* basis and a contract basis.

Senator MACDONALD: Prior to the year 1958, back to the year 1955, do I understand you to say that every ship plying the Great Lakes had a pilot?

Captain ANDREWS: Yes, to the best of my knowledge.

Senator MACDONALD: And did that pilot going west get on the ship at Kingston?

Captain ANDREWS: At Kingston.

Senator MACDONALD: And continue on the ship to its port?

Captain ANDREWS: Till its return to Kingston.

Senator MACDONALD: And there was no requirement either by regulation or by the act to force the ship to take on a pilot?

Captain ANDREWS: No, it was voluntary.

Senator REID: Do I rather gather from your remarks that a captain from the Pacific coast can apply for a pilot's certificate and obtain one without any working knowledge of the Great Lakes?

Captain ANDREWS: He can come up to the Great Lakes with a deep sea certificate, and there is nothing to stop him going up at present without a pilot. There is no regulation whatever for a pilot.

Senator REID: The point is, could he apply for a certificate as a captain pilot and obtain it if he was a captain from the Pacific coast?

The CHAIRMAN: There is no provision for a certificate now for pilots in the Great Lakes. That is what this bill seeks to supply.

Senator POWER: Who qualifies people to allow them to be called pilots and members of your association?

Captain ANDREWS: At present they are all former masters and mates of Great Lakes ships.

Senator POWER: Is any specific qualification required?

Captain ANDREWS: No, there is nothing set down at all.

Senator POWER: Nothing in the way of experience, a certain number of years' experience in pilotage, and an examination, or anything like that?

Captain ANDREWS: No, there is not.

Senator POWER: Who issues the certificates of pilotage, your association?

Captain ANDREWS: There is no certificate.

Senator POWER: You are speaking now for a group of 33 men who call themselves pilots—am I right in saying that—without any special qualifications?

Captain ANDREWS: They all have a licence on the Great Lakes.

The CHAIRMAN: Could we put it this way, Captain Andrews, that your body itself has decided that the 33 are sufficiently qualified to call themselves pilots on the Great Lakes?

Captain ANDREWS: Yes.

The CHAIRMAN: There is no legal way in which they can be qualified?

Captain ANDREWS: No.

Senator CONNOLLY (*Ottawa West*): Under this legislation there could be certain tests to which you would have to subject yourselves?

Captain ANDREWS: Yes.

Senator POWER: There is no examination such as they have in the district I come from, in Quebec, to Father Point, where they have to go through a rather lengthy apprenticeship?

Captain ANDREWS: Not at present. That is what I would like to see.

Senator MCKEEN: There is one point that I think is overlooked. Before these men get their master's certificates there is a certain length of time they have to serve; you can call it an apprenticeship, but they would get their certificates not as pilots, but as masters of a ship.

The CHAIRMAN: They would not necessarily have knowledge of these particular waters?

Senator MCKEEN: They would have to be working in a particular area.

Captain ANDREWS: At present a deep-sea certificate covers the Great Lakes and the coasting area, whereas you can write for a coasting certificate on the coast, but you do not have to pass a test on the inland "rules of the road".

Senator MACDONALD: But you will not admit a pilot to your association until he has a certificate, is that correct?

Captain ANDREWS: Unless he has a master's certificate.

Senator MACDONALD: Is there anything to prevent a man setting himself up as a pilot without having a certificate?

Captain ANDREWS: No.

Senator MACDONALD: One more question I was going to ask when I was interrupted a minute ago: You told me that it was voluntary on the part of the ship whether they take on a pilot at Kingston?

Captain ANDREWS: That is correct.

Senator MACDONALD: Does that apply to ships that are going to Canadian ports and also ships going to American ports?

Captain ANDREWS: The same provision.

Senator BRUNT: Any master that applies to join your association can become a pilot, but that would not make him a pilot?

Captain ANDREWS: Not unless he has experience on the Great Lakes.

Senator BRUNT: How many years' experience?

Captain ANDREWS: Men that come into our association have all been pilots for a certain length of time on the Great Lakes, and some of them masters for years, and they were pilots when we formed the association.

Senator BRUNT: What about anyone coming in now? If he was master for one year would you consider him a pilot?

Captain ANDREWS: Well, if he had been a master on the Great Lakes for one year, and possibly chief officer on the Great Lakes for seven or eight years, yes, I think we would.

Senator BRUNT: But you have no definite rules right now?

Captain ANDREWS: No.

The CHAIRMAN: Any further questions?

Senator ISNOR: I would like to ask Captain Andrews if his association is the only pilotage association in the area between Kingston and the head of the Great Lakes?

Captain ANDREWS: No.

Senator ISNOR: There are others?

Captain ANDREWS: There is one from Port Weller to Sarnia but I am not sure of the title.

Senator ISNOR: Then there is just one other?

Captain ANDREWS: That is right.

Senator BRUNT: I thought you said the shipowners had one.

Captain ANDREWS: That is the one.

Senator ISNOR: Have you such a thing as a closed period or closed season?

Captain ANDREWS: Just the navigation season. That is a full season on the Great Lakes.

Senator ISNOR: What does that cover?

Captain ANDREWS: From the 15th of April until early December.

Senator ISNOR: I thought it used to be November 15th.

Captain ANDREWS: No, it depends on the weather.

Senator ISNOR: Then you went beyond your period last year when those 13 ships were frozen in?

Captain ANDREWS: Yes.

Senator ISNOR: That was quite a costly thing to the country. They tell me it cost some \$600,000. Would you like to see that embodied in the regulations in the future?

Capain ANDREWS: A closed season?

Senator ISNOR: A closed season, yes.

Captain ANDREWS: Well, I had not thought of that angle. Possibly a closed season would be something that would be hard to regulate. If it is a mild fall you could possibly run longer, and then you might have facilities available to keep it open.

Senator CAMPBELL: Is there any distinction between the services your association renders and those rendered by the pilots supplied by the Shipping Federation of Canada?

Captain ANDREWS: They are only operating from Port Weller to Sarnia.

Senator MACDONALD: I would like to clear that up. Are there two associations of pilots on the Great Lakes?

Captain ANDREWS: There were last year. They did not take any pilots from Kingston last year but only from Port Weller to Sarnia, and that was a different association.

Senator MACDONALD: That was not your association?

Captain ANDREWS: No. It was made up partly from ex-members.

Senator MACDONALD: Of your association?

Captain ANDREWS: Partly.

Senator MACDONALD: So some of your 33 members are also members of the association which operates between Port Weller and Sarnia, is that right?

Captain ANDREWS: That is right.

Senator CONNOLLY (*Ottawa West*): The association that operates between Port Weller and Sarnia is quite different from the group of pilots who are employed by the Shipping Federation of Canada?

Captain ANDREWS: No, they are the same group.

Senator HORNER: Is your organization associated with the American pilots or have they a separate organization?

Captain ANDREWS: The American pilots have a separate organization, although we have an agreement with them.

Senator BRUNT: Is there anything compulsory about American vessels using American pilots?

Captain ANDREWS: No.

Senator REID: Who sets the fees for the pilots?

Captain ANDREWS: They were set by mutual agreement between the ship-owner and the pilot.

Senator McKEEN: What are the pilotage fees on the Great Lakes as charged by your association?

Captain ANDREWS: We worked on a daily rate in 1947 of \$42.50 per day. I think we average 163 days in a season.

The CHAIRMAN: Of actual working days?

Captain ANDREWS: Of actual working days. I think our average in 1957 was 163 working days.

Senator MACDONALD: Do you mean that if you go aboard ship at Kingston and; we will say, you sail continually until you get to Fort William, and then the ship is in port for a week, you are paid during the week the ship is in port?

Captain ANDREWS: We were at that time.

Senator MACDONALD: Which rate was that at?

Captain ANDREWS: \$42.50.

Senator MACDONALD: And then there was a change made, was there?

Captain ANDREWS: We came back to Kingston and we waited around for another ship and we were not paid in that period of time.

Senator MACDONALD: You were paid for every day from the day that the ship left Kingston, went to Fort William and stayed in Fort William and then returned to Kingston?

Captain ANDREWS: That is correct.

Senator MCKEEN: Who pays you now in your layover? You say you are getting paid every day.

Captain ANDREWS: You will have to ask the Shipping Federation that question.

Senator MCKEEN: The Shipping Federation pays the pilots, is that it?

Captain ANDREWS: Yes.

Senator BRUNT: And the pilots are paid while the boat is loading and unloading at Fort William, for instance?

Captain ANDREWS: Yes.

Senator CAMPBELL: Have you an answer to the question Senator McKeen asked as to what members of your association are paid on a per diem basis while you are piloting a ship?

Captain ANDREWS: Would you repeat that?

Senator CAMPBELL: What is the daily rate of pay for pilots in your association?

Captain ANDREWS: \$42.50 per day. In 1958 we had a few men who worked at \$53 per day but just for the days they were aboard ship.

Senator MACDONALD: I must say that I am not clear on how the payment is made. If the man is paid for the layover, what happens? Say the season opens on April 1st. Is a pilot paid by the Shipping Federation, under the old system, from April 1st until the close of the season?

Captain ANDREWS: No, just the actual days aboard ship.

Senator MACDONALD: No, but you said at one time he was paid for the period of layover.

Captain ANDREWS: That was in 1958.

Senator MACDONALD: How is that done?

Captain ANDREWS: I am not acquainted with that.

The CHAIRMAN: Senator Macdonald, this is really a question which I think counsel for the Shipping Federation should answer, for this relates to what the Shipping Federation paid its pilots quite apart from the pilots represented by Captain Andrews. Is that not so, Captain Andrews?

Captain ANDREWS: Yes.

Senator MACDONALD: I am not clear, then. The members of your association did not get layover pay?

Captain ANDREWS: No.

Senator MACDONALD: Never?

Captain ANDREWS: No.

The CHAIRMAN: But apparently the pilots employed by the Shipping Federation did. That is the difference, I gather, is that so, Captain Andrews?

Captain ANDREWS: Yes.

Senator SMITH (*Queens-Shelburne*): What is the average length of the voyage from one end of the Great Lakes system to the other? In other words, what would be the total amount of pilotage the shipowners would have to incur if Great Lakes pilotage is made compulsory?

Captain ANDREWS: That depends on where the ship is going and how much cargo it is loading and unloading. I have been on board 23 days and other times only six days. The ships going to Toronto and Hamilton and turning around and going back have a short trip, but if you are going to Chicago and you make perhaps 12 other ports, it is going to be a trip of around 23 days.

Senator SMITH (*Queens-Shelburne*): It is difficult for you to say what the average would be.

Captain ANDREWS: One year it was 9.3 days.

Senator SMITH (*Queens-Shelburne*): Is that one way?

Captain ANDREWS: Round trip.

Senator CONNOLLY (*Ottawa West*): You told us, Captain Andrews, that the pilots were used regularly until the spring of 1958. After that they were not used.

Captain ANDREWS: No, they were only used in that one district from Port Weller to Sarnia.

Senator CONNOLLY (*Ottawa West*): Well, were your people not working during the 1958 season?

Captain ANDREWS: No, they were not.

Senator MACDONALD: I thought you said some of your men did pilot between Port Weller and Sarnia.

Captain ANDREWS: Some of them did, yes.

Senator MACDONALD: Do you know how many of your 33 piloted between Port Weller and Sarnia?

Captain ANDREWS: No, not offhand.

Senator CONNOLLY (*Ottawa West*): I am told that the reason you did not work in 1958 was because of the strike.

Captain ANDREWS: Well, we wanted to start on as we always had at Kingston, and go all the way.

The CHAIRMAN: You had a dispute with the Shipping Federation and they adopted this new system of only taking pilots from Kingston to Sarnia, and for that they paid them for days of layoff as well.

Senator POWER: Up to 1958 was the contract with your association, or did they operate as individual pilots?

Captain ANDREWS: In 1956 and 1957 it was with our association. Previous to that it was on an individual basis.

Senator POWER: And in 1958 the contract with your association was not renewed on account of the dispute between you?

Captain ANDREWS: That is correct.

Senator CONNOLLY (*Ottawa West*): Are you organized?

Captain ANDREWS: Yes, we are.

Senator CONNOLLY (*Ottawa West*): What is your affiliation?

Captain ANDREWS: We are affiliated with M.M. & P. on the American side.

The CHAIRMAN: Would you tell us what that represents?

Captain ANDREWS: Masters, Mates and Pilots. That is a branch of the Maine Pilots Association.

Senator BRUNT: Are they A.F. of L.-C.I.O.?

Captain ANDREWS: Yes, A.F. of L.-C.I.O.

The CHAIRMAN: Are there any questions of Captain Andrews? I am sure there are quite a lot of things none of us know about, speaking for myself as a landsman.

Senator MACDONALD: We are learning.

The CHAIRMAN: Thank you, very much, Captain Andrews.

The Deputy Minister suggests, and with some merit, I think, that since Captain Andrews merely dealt with section 11 and to the question of Great Lakes pilotage, and that he disclosed the connection with the Canadian Shipping Federation, perhaps we should hear from Mr. Brisset, attorney for the Shipping Federation of Canada on this question of pilotage again, which will take us away from section 9, in which Senator Kinley is interested. I think that is a sensible thing to do. Mr. Brisset?

Mr. BOYLE: Honourable senators, as chairman of the Canadian Shipping Federation of Canada, I want to explain that we represent all the deep sea ships operating into the St. Lawrence and Great Lakes; and today Mr. Jean Brisset, who is our legal attorney, will be speaking on our behalf.

The CHAIRMAN: I do not think I need to introduce Mr. Brisset. He was here last Thursday and helped us on the non-contentious sections of the bill. Will you confine yourself more or less, Mr. Brisset, to section 11, the question of Great Lakes pilotage?

Mr. JEAN BRISSET: I will confine myself to section 11, on the question of Great Lakes pilotage.

Mr. Chairman, and honourable gentlemen, we are all very grateful to the members of the committee for the opportunity given to us to appear here, and I would like to tell you a little more about what is the Shipping Federation. It is an association of operators, agents and owners of ocean ships trading into eastern Canada ports, St. Lawrence river ports and the Great Lakes, and in the Great Lakes both to Canadian and American ports. The lines which the Federation represents have ships that they own or charter, and which ships fly the flag of all the Maritime countries of Europe—Great Britain, of course, France, Italy, Ireland, West Germany, Finland, the Scandinavian countries. There are at present no ocean ships Canadian or American that trade into the Great Lakes. The ships that trade into the Great Lakes, leaving aside the ocean ships I have mentioned, are either what we call captive ships—they are the big lakers which up to now have been unable to come down the River St. Lawrence, or they are the small canalers that do trade between the lakes and the lower St. Lawrence river; but neither the canalers nor the big lake ships when they will be able to come down after the St. Lawrence Seaway opens are fit to trade overseas; they are not ocean ships, in other words.

The CHAIRMAN: At that point, how far down the St. Lawrence river would those vessels be capable of trading?

Mr. BRISSET: They will be capable of trading—"coasting", as we call it—down the lower St. Lawrence river, Newfoundland, the Gulf, and along the coast, that is the Atlantic coast, but are not fit to cross the ocean to go overseas.

The CHAIRMAN: Thank you.

Mr. BRISSET: I might mention to you also, gentlemen, that the Shipping Federation here is also the spokesman of the International Chamber of Shipping of London, the Chamber of Shipping of the United Kingdom, and the International Maritime Conference of Copenhagen. These three associations are worldwide associations that represent the totality, I would say, of the ocean shipping industry of the world, and their purposes and objectives are to formulate policies that are of general interest to shipping and to present the views of the industry on international gatherings and also in the various countries in which legislation may affect the interest of ocean shipping in general.

Before I go into the meat or substance of the remarks I want to make to you this morning, I would like to draw your attention to the map or the chart which I have had distributed this morning. This is a chart which has been published by the Seaway Authority, and the reason I want to draw your attention to this chart is that, first of all, it shows the boundary between Canada and the United States, and secondly it shows how the shipping industry has divided the waters of the Great Lakes Basin for purposes of the legislation before you this morning. We have divided these waters into two—what we call the first class will be the restricted waters, and these are of course on a trip from Montreal up the lakes, I will say to Chicago, for instance; the stretch between Montreal and Kingston; the Welland Canal between Lake Ontario and Lake Erie; the stretch between Lake Erie and Lake Huron, which includes the Detroit river to Lake St. Clair, and St. Clair river; and then the St. Lawrence River between Lake Huron and Lake Superior.

Now, navigation of these restricted waters is a tricky matter. You have to have local knowledge. There are narrow passages and currents, and so forth, and the Federation has always been of the view that in these restricted waters there should be specialized pilotage, and by specialized pilotage we mean what the deputy minister described—men who have been trained in these waters, who go up and down these waters, who are able to handle all kinds of ships, be it a motor ship, a steam ship, twin screw single screw, passenger ship of whatever size. They have to be experienced and able to handle all ships.

In the open waters of the lakes the federation has always advocated that there was no necessity for a pilot. An ocean ship coming into these waters with a master aboard holding a foreign ticket is as much at ease in the open waters of the Great Lakes as he would be on the seas. Actually the lakes are such that they could compare with many other seas like the Irish Sea, the English Channel, the Red Sea, the Baltic, the Black Sea. And it is as easy for a master to navigate these open waters of the Great Lakes as to navigate the other seas I have spoken of.

Senator CAMPBELL: Are the rules of the road on the Great Lakes different to what they are elsewhere?

Mr. BRISSET: The rules of the road are different in some respects but any person of average intelligence could in the space of an hour learn what the differences are. As a matter of fact any master licensed for foreign voyages for the open seas has to have a thorough knowledge of the international rules of the road, and in the international rules of the road there is a rule which provides also that the master must obey in his navigation any local rules that may be put in force in any part of the world. Actually the ship—and I might mention this in passing—going up to the Great Lakes, and I am speaking of ocean ships, have in their wheelhouse a board on which are printed the

differences between the two rules of the road. This is furnished by the Shipping Federation of Canada as a service to the ocean ships going up the lakes.

Senator MACDONALD: Is somebody charged with putting those regulations on board those ships?

Mr. BRISSET: These regulations of course which must be known to the master as a rule of law, and are put aboard the ship as part of the papers of the ship. The ship must always have on board charts and navigation books and so forth, and these rules for the lakes are printed and are available from the Department of Transport here and are on board every ship going up the lakes.

Senator MACDONALD: Are these regulations passed by the minister?

Mr. BRISSET: These are regulations passed by the governor in council and they are called the rules of the road for the Great Lakes.

Senator MACDONALD: And do these regulations provide that the rules of the road on the Great Lakes must be handed to the master of the ship before he enters the Great Lakes?

Mr. BRISSET: No, they do not so provide. They apply to all ships and all ships in the Great Lakes must follow these rules.

Senator MACDONALD: Then there is no provision at the present time whereby someone is charged with seeing that the regulations are handed to the master?

Mr. BRISSET: No, there is no regulation to that effect.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, I do not want to interrupt the thread of the discourse but on the point that Senator Campbell asked as to the differences in rules of the road in waters in which the same masters will sail, are there in any part of the world rules of the road comparable to the ones on the Great Lakes?

Mr. BRISSET: There are in many parts of the world local rules and they have to be adhered to but whether there is any similarity with our Great Lakes rules I am afraid I am not technically able to answer that question.

Now, Mr. Chairman, before I pass to the bill before you and in respect of which the federation is going to ask that amendments be accepted by your committee, I would like to speak of the American legislation now pending before Congress, and it is absolutely necessary that I should go into this legislation because of its bearing on the comparable Canadian legislation now before you.

I have distributed a copy of the proposed American Bill called Bill H.R. 57, and I would like to draw your attention to the substantive part of that bill. I will take the liberty of reading it.

The first section of Bill H.R. 57 reads this way:

"That no merchant vessel of three hundred gross tons or over shall navigate in United States waters of the Great Lakes, their connecting and tributary waters, and the Saint Lawrence River as far east as Saint Regis, unless there is in the service of such vessel a pilot or other officer qualified for navigation on such United States waters and licensed either by the head of the Department in which the Coast Guard is operating under regulations issued by him or by the appropriate agency of Canada. This pilot or other qualified officer shall, subject to the customary authority of the master, direct the navigation of the vessel (a) on such of the United States waters of the Great Lakes, their connecting and tributary waters, and the Saint Lawrence River as far east as Saint Regis, as may in the interest of marine

safety be designated in regulations issued by the head of the department in which the Coast Guard is operating and (b) on such other United States waters of the Great Lakes, their connecting and tributary waters, and the Saint Lawrence River as far east as Saint Regis, in the discretion of the master.

I would like you to compare this substantive part of the American Bill with the proposed bill that is before you today—section 11, subsection 1, which introduces the new section 375A, subsection 1 of which reads:

- (1) Notwithstanding anything in this Act, no owner or master of a vessel of three hundred gross tons or over shall operate the vessel
- (a) in those portions of the waters of the Great Lakes Basin designated by the Governor in Council pursuant to paragraph (a) of subsection (4), unless the vessel is piloted by an officer or pilot authorized to navigate such waters, or
- (b) in the waters of the Great Lakes Basin other than those described in paragraph (a), unless the vessel has on board an officer or pilot having the qualifications prescribed by the Governor in Council.

The policy behind those two enactments is this, that all through the lakes you must have a qualified officer or pilot on board the ship.

In the restricted waters—that is paragraph (a), section 1 of the American legislation—that pilot or officer must navigate the vessel—he is in charge—and in the rest of the lakes, in the open waters of the Great Lakes, he simply has to be on board; he does not have to participate in the navigation of the vessel. That is the substance of the two acts, and, to put it briefly, it makes pilotage compulsory all through the lakes,—something which did not exist before.

Senator MACDONALD: Are the qualifications the same under (a) and (b), under our bill? Are the qualifications of the pilot the same?

Mr. BRISSET: The qualifications are not the same. I am coming to that point.

Senator ISNOR: What is the difference between (a) and (b) as far as qualifications are concerned?

Mr. BRISSET: The act at the moment does not state what these qualifications will be. This is a matter left to the Governor in Council to determine.

The CHAIRMAN: You will see in subsection 4, paragraphs (b) and (c), Senator Ishor, the Governor in Council may make recommendations covering (a) and covering (b).

Mr. BRISSET: We cannot see from the act what these requirements or qualifications will be. The same applies under the American act.

Senator CONNOLLY (*Ottawa West*): You take it that paragraph (a) of section 375A applies only to restricted waters, and paragraph (b) applies to open waters? You assume that?

Mr. BRISSET: I think we will have to assume that from now on, and I am saying we assume that because, of course, we have had many discussions with the officials concerned.

The CHAIRMAN: I think it may be fairly deduced from subsection 4 (a), Senator Connolly, which says that “the Governor in Council may make regulations (a) designating portions of the waters of the Great Lakes Basin as waters in which every vessel of 300 gross tons or over shall be piloted by an officer or pilot authorized to navigate such waters.” That, I think, obviously refers to the restricted waters.

Senator CONNOLLY (*Ottawa West*): I would think so.

Mr. BRISSET: I would ask the members of the committee to assume this for this amendment.

The CHAIRMAN: The Deputy, amongst others, says we can assume that, anyhow.

Mr. BRISSET: Yes, I think we are all in agreement.

I would like now to give you a brief history of this American legislation. It was first introduced in the House of Representatives in May of 1957. I think we can assume, because of the repercussions in Canada of such legislation, that there was consultation between the two Governments on this particular piece of legislation, and possibly there was agreement,—I am not in a position to say. Be that as it may, the legislation, as I said, was introduced in May, and the Shipping Federation and the ocean shipping interests which had been consulted, heard of this legislation and immediately made representations to the Department of Transport here, to our Minister of Transport. Briefly, the representations made by the Federation were to this effect: there is no necessity for pilots on ocean ships in the open waters. The efforts of ocean ships to carry pilots on these open waters will shoulder the operators with a burden which will make it unattractive for the ocean operators to trade into the lakes, and therefore will greatly affect the future of the Seaway. In so far as the restricted waters are concerned, the Federation considers that there must be specialized pilots there.

The CHAIRMAN: For each restricted water?

Mr. BRISSET: For each restricted waters of the Great Lakes; and the bill which is before the House of Representatives simply says "You must have a pilot," but it does not state where you will get your pilot; it leaves to anybody to call himself a pilot and to give and offer his services as such. Because in the United States—and in Canada it was the same at the time—the Government, through the Coast Guard, which is a licensing agency, will issue a pilot's licence to a master or a mate. In other words, the mate's or the master's licence is equivalent to a pilot's licence. I can perhaps introduce a lighter vein in the proceedings when I tell you that, in the appearances before the House and the Senate, there was a witness who came and said: "We wonder why the ocean shippers object to pilots on the lakes, when the American ships do carry four pilots." Well, of course, the ocean ships also have a master and three officers just as well as the American ships.

Now, we also stated in our representations to the Department of Transport that the problem was really one that should be settled by the two Governments jointly, and we thought that a pilotage organization under Government control, dual or otherwise, if you divide the lakes into spheres of influence, was the best method to ensure safety of navigation on the lakes. Be that as it may, the bill came before the House of Representatives of the United States in January, 1958, and although we appeared, we were informed at the last minute, and really we were not prepared, and the bill was passed without dissent, and the Secretary of State advised the House that there were no objections on anybody's part; no foreign nation nor Canada objected to the legislation. In the interval—I might mention here that the bill was actually passed on April 21, 1958—the Canadian Government had acted, at least we hope, on our representations, and had sent an *aide memoire* through its embassy to the Secretary of State on this American bill. I would like to read to you part of this record, the text of this *aide memoire*, which you will find amongst the documents left with you this morning.

Senator CONNOLLY (Ottawa West): This bill passed both House and Congress?

Mr. BRISSET: No, it was stopped in the Senate, in a hearing just as we have today. I am coming to that in a minute.

The CHAIRMAN: You are referring now to this *aide memoire*, this single-page document which was also included in that yellow booklet?

MR. BRISSET: Yes. It reads:

The Government of Canada shares with the Government of the United States the desire to ensure that all necessary measures are taken for the safety of navigation on the St. Lawrence River and in the Great Lakes and connecting channels. Bill H. R. 7515 now being studied by a committee of the House of Representatives seeks to accomplish this objective. As vessels passing through these waters cross and recross the international boundary line, it is obvious that all such vessels must in fact comply with the legislative measures and regulations of both countries. Accordingly, shipping to and from Canadian ports will be affected by the proposed United States legislation almost equally with shipping to and from United States ports. It is for this reason that the following considerations are urged with respect to the above-mentioned proposed legislation.

The Government of Canada believes that it is not essential in the interests of safety that vessels carry accredited pilots during passage of the open waters of the Great Lakes. The interests of safety would be adequately served by requiring vessels to carry pilots in designated restricted waters. Pilots can be embarked and disembarked as required.

The Government of Canada hopes that the improved navigation facilities in the international rapids section of the St. Lawrence River now nearing completion together with other improvements now being undertaken in the waterway will result in greatly increased traffic and will be of great advantage to the commerce of both countries. Compulsory pilotage throughout the Great Lakes could add so heavy a financial burden to shipping that it would discourage the increased use of this improved artery of commerce.

Senator MACDONALD: Was that note sent?

Mr. BRISSET: That note was sent, and I am now coming to the hearings before the United States Senate Committee on Interstate and Foreign Commerce. These hearings took place on the 17 and 18 June, 1958.

Senator ISNOR: Had you not better put the date of the *aide memoire* on record?

Mr. BRISSET: It was dated March 20, 1958.

Senator WALL: May I intervene at this point and ask this very interesting question: if, in fact, the Government of Canada believes what it says in the *aide memoire*, how is there a dichotomy between that belief and this bill?

Mr. BRISSET: I will come to that. That is the very reason I have gone into this long story, to explain what we think is the purpose of the bill. Although we will suggest amendments, we will say we agree with the bill and we will explain why afterwards.

The Senate hearings took place on June 17 and 18, and the Shipping Federation, of course, was permitted to appear with many other interests. The Shipping Federation's first concern in Washington was to ascertain from the Clerk of the Senate whether Canada's *aide memoire* had been submitted to the committee of the Senate that was going to sit and hear the witnesses on this bill.

The Clerk of the Committee informed the Federation that he had no knowledge of any such *aide memoire* or any communication from the Secretary of State to the effect that Canada was objecting to the bill. The Federation went to the Canadian Embassy and made quite sure that the *aide memoire* had, in fact, been dispatched to the Secretary of State, and once that had been

done the Clerk of the Committee of the Senate was invited to verify himself the position with the Department of the Secretary of State.

During the course of the hearing on June 18 the Chairman interrupted the proceedings and said, "I have just received a letter from the Secretary of State with an *aide memoire* from the Canadian Government."

This letter, which accompanied the *aide memoire*, forms part of the record of the Senate Committee proceedings, and I would like to read you an extract from this letter, addressed by William B. Macomber, Assistant Secretary to the Honourable Warren G. Magnuson, Chairman of the Committee on Interstate and Foreign Commerce. The date of this letter is June 18, 1958.

Senator MACDONALD: It sounds like the dumping legislation in reverse.

Senator BRUNT: You have not heard it yet.

Senator MACDONALD: It sounds like it.

Mr. BRISSET: The letter reads, in part, as follows:

"The Department of State favours legislation which will add to the safety of navigation on the Great Lakes, and it expressed its approval of the proposed bill in a letter to the House Committee on Merchant Marine and Fisheries dated June 10, 1957. The Canadian Government has, however, recently submitted some observations in opposition to H.R. 7515 in its present form, and a copy of the Canadian aide-memoire on the subject is enclosed for the information of the committee. Consultations between representatives of the two Governments have so far not allayed the concern of the Canadian officials.

The Department of State, mindful of the serious objections raised by the Canadian Government and believing that shipping on the Great Lakes will benefit from coordinated practice, cannot support enactment of this legislation until it has had the opportunity to consult further with the Canadian Government. These consultations, required by our formal agreements regarding the St. Lawrence seaway, are being undertaken on an urgent basis."

The CHAIRMAN: Perhaps I could interject here to say that I have been informed that officials of the Department of External Affairs wish to make representations to us in the future on, I should imagine, that branch of the subject the witness has just talked about.

Mr. BRISSET: After lengthy hearings before the Senate Committee—and you have before you the major briefs that were submitted to the Senate Committee—the bill was shelved.

Senator MACDONALD: If I might interrupt for a minute, in the first part of your remarks you referred to Bill H.R. 57, but in the *aide memoire* you referred to Bill H.R. 7515.

Mr. BRISSET: Bill H.R. 7515 was the bill introduced in May of 1957, and this year, under No. H.R. 57, the same bill was introduced before the house, but has not yet been considered. The text you have before you is the text of H.R. 57, which is exactly the same as H.R. 7515.

The decision of the Senate committee was incorporated in a letter addressed to the Honourable John Foster Dulles, by the chairman, Senator Warren G. Magnuson, dated July 25, 1958, and which reads this way:

"My dear Mr. Secretary:

In an executive session on July 23, 1958 the Senate Committee on Interstate and Foreign Commerce decided to pass over, without action, the bill S.2096..."

Well, that is the number in the Senate, the same bill:

“to require pilots on certain vessels navigating United States waters of the Great Lakes***. The decision of the committee in this respect was prompted largely by the report of the Department of State on this bill, dated June 30, 1958.”

That is of last year; this report is not included in the printed documents that were issued of these hearings:

In that report, the Department of State noted that the Canadian Government had raised certain serious objections to the proposal, and stated that until it had the opportunity to consult further with the Canadian Government, it could not support enactment of the proposed legislation. The Department report further stated that these consultations were being undertaken on an urgent basis.

Senator CONNOLLY (*Ottawa West*): At least the Senate Committee had an opportunity of considering the representations made by the Canadian Government on this legislation.

Mr. BRISSET: Oh, definitely. I will not attempt to summarize the briefs that are before you; they are the expression of the shipping industries and trade industries very much along the same line as the general policy which I indicated earlier. However, again before tackling the legislation itself I think, Mr. Chairman and gentlemen, that I should give you a brief history of the development of ocean shipping into the Great Lakes; and I think you will be able to follow that since I come after the witness who has testified on the subject to a certain extent.

Before the last war practically no ocean ships ever went up the Great Lakes. During the war, according to the records of the Federation, no ocean ship went up the Lakes. In 1946 there were seven that made 19 voyages, and the traffic from there on increased. In 1956 there were 110 ships that made 295 voyages.

Senator BRUNT: That does not agree with the figures that have been given to us. Which are correct?

Mr. BRISSET: Well, let me break these down. In 1956 there were 110 ships that went up, that is, ocean ships.

Senator BRUNT: The earlier witness said 133.

Mr. BRISSET: I think 1957 is 133.

Senator CONNOLLY (*Ottawa West*): What is your other figure for 1957?

Mr. BRISSET: I will give the figure in order to have everything correct. In 1956, 110 ships that made 295 voyages. In 1957, 133 ships that made 344 voyages.

Senator BRUNT: 347 was given to us for 113 trips.

Senator MACDONALD: You are getting closer.

Mr. BRISSET: In 1958, 200 ships made a total of 289 voyages.

The CHAIRMAN: Well, I think both these witnesses agree that the traffic has increased and is increasing.

Senator BRUNT: Except that 200 ships made fewer voyages than 133 ships.

Mr. BRISSET: Yes.

Senator BRUNT: The year previous.

Mr. BRISSET: That is so; there may be explanations for that.

Senator REID: Who keeps the record?

Mr. BRISSET: I would like to get technical assistance on this. I am not quite sure whether the records are kept by the Shipping Federation or some other organization. Could Captain Matheson answer that question?

Captain MATHESON: In 1958, 200 ships represent 577 voyages.

Mr. BRISSET: That is back and forth—you are calculating it as one voyage, the trip up and another voyage on the trip down?

Captain MATHESON: No, that is trips into the Lakes. It is double the amount for the return voyage.

The CHAIRMAN: Well, I do not think the figures really matter. We all know the traffic is increasing.

Senator REID: My question was, who keeps the record?

Captain MATHESON: The Director of Canals keeps a record of these ships and voyages.

Mr. BRISSET: I think the question was asked, who keeps the statistics on ocean ships going into the Lakes.

Captain MATHESON: The Director of Canals of the Department of Transport. But these are our own records.

Senator MACDONALD: I do not know why they should not be correct. I don't think the Director of Canals would necessarily know if a ship left Kingston and went as far as Toronto, and back to Kingston; he would not be near the places.

Senator BRUNT: Well, it is purely statistical information, and I do not think it affects the Act in any way.

Mr. BRISSET: My purpose was simply to show the important yearly increase in the past, which we can expect will always increase greatly after the Seaway is open.

Now, in the early days the ocean vessels going up the Lakes would take on board at Montreal what we call a sailing master. A sailing master was a retired captain, who had had many years of service on the Lakes; he was engaged on a contract basis or salary basis, and his job would be to pilot the vessel first of all between Montreal and Kingston, which is a rather tricky passage, also to pilot the vessel in the other restricted waters that I mentioned earlier, and generally to be there to advise the master if necessary.

The CHAIRMAN: Was this the same shipping master who carried the vessel from Montreal right through and passed all these restricted waters?

Mr. BRISSET: All through; and he stayed on board all the way to the final destination of the ship and until the vessel returned to Montreal where the sailing masters would get off.

Senator BRUNT: He was an employee of whom?

Mr. BRISSET: He was an employee of the ship owner.

Senator BRUNT: Of the ship owner?

Mr. BRISSET: Yes.

Senator BRUNT: And the ship owner paid him?

Mr. BRISSET: Paid him. He was paid actually at the rate prevailing at the time, \$25 a day for his services, plus his board.

Senator BRUNT: That is from the time he left Montreal and got back?

Mr. BRISSET: From the time he left Montreal.

Senator BRUNT: Until he got back?

Mr. BRISSET: He never got back to Montreal.

Senator BRUNT: He did not belong to any association?

Mr. BRISSET: No.

Senator BRUNT: Just an independent fellow who piloted vessels through these waters?

Mr. BRISSET: Yes. He was, as I explained, in some cases, a retired master.

The CHAIRMAN: There were no regulations of any kind covering that?

Mr. BRISSET: No regulations.

The CHAIRMAN: It was purely a voluntary system adopted by the ship-owners for the safety of their vessels?

Mr. BRISSET: Exactly.

Senator CONNOLLY (*Ottawa West*): Was he paid for the time he spent on open waters?

Mr. BRISSET: He was paid for all the time we has on board.

Senator CONNOLLY (*Ottawa West*): Do you know as a matter of fact if he piloted in the open waters?

Mr. BRISSET: No, he did not pilot in the open waters. He did not take any watch at all there. It was only in the narrow restricted waters that he would take the wheel of direct navigation.

Senator MACDONALD: If the ship went into port in Toronto would he take it into the Toronto Harbour?

Mr. BRISSET: While the ship was being taken into port he would take over from the master and pilot the ship into her berth.

Now, Mr. Chairman, as the traffic increased the Shipping Federation felt that the sailing masters system, which entailed taking the sailing master all through the locks, was not entirely satisfactory with respect to the stretch between Montreal and Kingston where really specialized pilotage is required, and the Shipping Federation started to develop a pool of pilots that were especially trained for that stretch—

The CHAIRMAN: The stretch from Montreal to Kingston.

Mr. BRISSET: Yes, from Montreal to Kingston...who would only pilot that stretch of water. And eventually, after representations were made to the Government that this district should be taken over by the Government this is what happened: The Government took over the administration and control of this pilotage district which is known as the St. Lawrence Ottawa Kingston Pilotage District.

Senator ISNOR: What do you mean by "taken over"?

Mr. BRISSET: They took over the administration of that district which formerly was in the hands of the Shipping Federation, like the dispatch of pilots, the records, the pay of the pilots and so forth.

The CHAIRMAN: In other words a new pilotage district was created?

Mr. BRISSET: Yes. They issued certificates to pilots for that stretch.

Senator CONNOLLY (*Ottawa West*): When was that done?

Mr. BRISSET: The district was actually created in 1936 but according to my information was not in operation until 1951.

Senator CONNOLLY (*Ottawa West*): Until when was the Shipping Federation operating this system?

Mr. BRISSET: Up until 1951.

Senator CONNOLLY (*Ottawa West*): And since 1951 the new district has been in full operation?

Mr. BRISSET: Yes.

Senator MACDONALD: The Government did that under the powers contained in the regulations?

The CHAIRMAN: Under the Shipping Act.

Mr. BRISSET: Under the Shipping Act, yes.

Senator BRUNT: They set out a special district from Montreal to Kingston?

Mr. BRISSET: Yes.

Senator CONNOLLY (*Ottawa West*): How long did that \$25 a day rate apply, up to 1951 only?

Mr. BRISSET: I think it still applied in 1951.

Senator BRUNT: But nothing was done about it?

The CHAIRMAN: Perhaps the Deputy Minister could explain that.

Mr. BRISSET: Until 1956 the sailing masters—I am not speaking of the pilots now for the Montreal-Kingston district...

The CHAIRMAN: You are talking about the sailing masters?

Mr. BRISSET: Yes. They were paid \$25 per day until 1956, but after the Montreal-Kingston district came into operation the sailing masters would board the vessel at Kingston all the way up to the lakes and back to Kingston; that system was in force from Kingston and back to Kingston until 1956.

Senator BRUNT: Would it be a sailing master who was on the ship that hit the bridge at Burlington?

Mr. BRISSET: I am not in a position to say; I am not familiar with the facts of that particular incident.

The CHAIRMAN: Gentlemen, it is now five minutes to one. The witness will have a great deal more to tell us. Would this be a proper time to adjourn until the afternoon? I think we should meet fairly soon this afternoon as we have a lot more to do. Would 2.15 be suitable?

The committee adjourned until 2.15.

—Upon resuming at 2.15 p.m.

The CHAIRMAN: The committee had adjourned until 2.15 o'clock. It is now 2.15 and we will begin again. Mr. Brisset was in the middle of his exposition to us. Will you be good enough to proceed from where you left off at 1 o'clock Mr. Brisset?

Mr. BRISSET: Before the recess I was sketching the history of the sailing master's system up until 1956. There is one point I forgot to mention. Up to that time sailing masters were either under contract to various lines and paid on a yearly salary basis or they were on the basis of per diem remuneration, which was \$25.

In 1956 the sailing masters in the service of the members of the Federation grouped themselves into an association which was called the Great Lakes Pilot Association of Canada, and from that moment the contract system was abolished and the sailing masters were put on a rotation or *tour de role* basis.

At the same time the Great Lakes Pilots Association affiliated itself to a United States organization which was named this morning, called the International Organization of Masters, Mates and Pilots, with headquarters in Cleveland and headed, for the Great Lakes District, by Captain R. R. Johnson.

In the 1957 season there were negotiations between the Federation and the association, and the per diem fee was increased to \$40 a day plus \$2.50 for expenses. The system on that basis remained in existence for the full season of 1957.

The CHAIRMAN: Was that the organization represented by Captain Andrews this morning?

Mr. BRISSET: That is right, sir.

In 1958, when the season of navigation opened on the Great Lakes—and if I may put in a parenthesis here, you will recall that in the meantime the

House in the United States had passed the pilotage bill there—at the beginning of 1958, the association presented new demands to the Federation. The fees were going to be, according to these demands, \$75 per day plus expenses, and there would have to be two pilots on board all through the lakes. It was even indicated by Mr. Johnson that when the Seaway would open in 1959 there would have to be three pilots on board and the fees would be \$100 a day.

In the interval, by the spring of 1958, the pool of sailing masters available in Kingston had been reduced by retirement, death, and so forth, to 48 men, but of these 48 there were eight over age, or what the Federation considered over age, 65.

The Federation, in the light of these demands, decided to disband its dispatching office in Kingston and to create a new system of pilotage on the Great Lakes which would take care of the restricted waters in so far as it was possible to do so. It created what has come to be known as the Port Weller-Sarnia District.

Another point I should mention is that in the hearings before the House in the United States witnesses who sponsored the bill, and particularly the Coast Guard, had stated it was impossible to organize a pilotage system on the Great Lakes to take care of only restricted waters, that you could only have pilots all the way through the lakes or no pilots at all.

The Federation therefore established this district, and I would like you to look at the map again so that I may show you how the system operated. I might say that the pilots who were engaged to serve in that district came in part from the former association of the sailing masters, and others were engaged.

Senator REID: How many pilots to a ship?

Mr. BRISSET: One pilot to a ship. Let us take by way of illustration a voyage to Chicago, which would be standard.

The CHAIRMAN: From Kingston?

Mr. BRISSET: Yes, a voyage by an ocean ship up the lakes to Chicago and return. The normal length of such a voyage is about 20 to 23 days, from Kingston back to Kingston. The time in port is 10 to 11 days. The ship would of course pick up a Canadian Government pilot in Montreal and that pilot would stay on board until the ship reached Kingston, when he would disembark. The ship would proceed through Lake Ontario, which is open water, and no pilot would be required. At the head of Lake Ontario, at the entrance to the Welland Canal at Port Weller a dispatching office was established, and the pilot would board the ship there. He would proceed in the second stage all through the Welland Canal and pilot the vessel, and the length of the canal, as you know, is 28 miles. The steaming time would be 12 to 18 hours, depending upon congestion in the docks, and so forth.

In the third stage the ship would transit Lake Erie. The pilot would remain on board but off duty. The distance there is 184 miles right up to what we call South-East Shoal at the upper end of Lake Erie, which is the point where all ships going up the lakes or coming down from the upper lakes converge.

The steaming time across Lake Erie is 15 to 18 hours. May I remind the committee that the pilot is off duty during that period.

The fourth stage begins at the western end of Lake Erie and therefore, at South-East Shoal, the pilot is required to be on duty and to remain on duty while navigating the Detroit River, Lake St. Clair, and the St. Clair River, right down to the lower end of Lake Huron, where the pilot is disembarked in a launch.

The CHAIRMAN: He is required to be on duty but does he navigate the ship?

Mr. BRISSET: He navigates the ship. He will be in charge of the ship, subject to the authority of the master. The distance covered on that passage

is 80 miles and steaming time is about 12 hours. On the way back the pilot would be embarked on a launch at Sarnia, which is the terminus, and do the same work, coming back until the vessel is at the lower end of the Welland Canal.

Senator MACDONALD: Would he remain at Sarnia at his own expense?

Mr. BRISSET: No, he would be paid his expenses.

Senator WALL: Would he pilot the same vessel?

Mr. BRISSET: No, he would take another ship back right away or after a waiting period. The technical advisors would be able better than I am to answer technical questions.

Senator MACDONALD: I understand he disembarks at Sarnia.

Mr. BRISSET: That is correct.

Senator MACDONALD: And he may be off ship for possibly a week, or a matter of days.

Mr. BRISSET: He might be off for a matter of a day.

Captain J. E. MATHESON: He is usually about a day at Sarnia, and he gets \$40 a day whether he is on the ship or waiting.

Senator MACDONALD: That is quite different from the period of time when he leaves the end of the Welland Canal. I understand that when he leaves the end of the Welland Canal and goes to Windsor he is on the ship but is not paid.

Mr. BRISSET: Yes.

Senator MACDONALD: He is paid whether he is on the ship or not.

The CHAIRMAN: The witness said he is off duty.

Captain MATHESON: That is a rest period.

Mr. BRISSET: I might mention here the question of earnings of pilots. They were guaranteed a minimum wage of \$8,000 a year for the season last year. That was part of the conditions of employment; they were guaranteed that minimum of \$8,000.

Senator McKEEN: By the Shipping Federation?

Mr. BRISSET: Yes. Now, to return to the voyage I have been describing.

The CHAIRMAN: Starting from Sarnia?

Mr. BRISSET: Yes, back to Port Weller, or vice versa. The pilot will be required to direct navigation of the vessel between 48 and 60 hours and the distance he will cover while directing navigation on the vessel will be 216 miles. Under this arrangement that I have described, however, the pilot will be actually on board for something between 78 and 96 hours, and the steaming distance covered while he is on board will be 584 miles. Now, compare this with the previous system where the pilot was required to be on pay for 20 to 23 days.

The CHAIRMAN: You have not taken the vessel beyond Sarnia. What happens beyond Sarnia? Are there any pilots?

Mr. BRISSET: Beyond Sarnia, the voyage to Chicago, he will go through Lake Huron and into Lake Michigan and on to Chicago, all in open waters.

The CHAIRMAN: Suppose she goes to Fort William?

Mr. BRISSET: If she goes to Fort William she will have been provided with a pilot from that district, the Port Weller to Sarnia district, who will take her through St. Mary's River and the pilot will be disembarked at the upper end of St. Mary's River.

The CHAIRMAN: In that case he goes all the way from Port Weller to Sault Ste. Marie?

Mr. BRISSET: Yes.

The CHAIRMAN: Off duty while traversing Lake Huron.

Mr. BRISSET: Yes. But very few ocean vessels in the past have gone up to Lake Superior; they go mostly to Chicago. In 1957, if I remember, there were only three ships that went up Lake Superior, and last year the few who went were provided with a pilot from Port Weller, from the Port Weller-Sarnia district, to do the stretch that you have mentioned, sir.

The CHAIRMAN: As far as Sault Ste. Marie?

Mr. BRISSET: Yes; that was a special arrangement.

Senator CAMPBELL: Were you speaking of liner vessels carrying package freight?

Mr. BRISSET: I was speaking of ocean ships, both liners and tramps carrying general cargo and bulk cargo.

Senator CAMPBELL: But you have not had many tramps in, so far?

Mr. BRISSET: No. The statistics show that during the year 1957, for instance, there were 133 ships that made 344 voyages. Of these 344, there were 23 tramp voyages.

Senator CAMPBELL: That situation will change this year, will it not?

Mr. BRISSET: Liner services will still be in existence. Tramp services might likely increase.

Senator CAMPBELL: I understand that there already have been fixtures for 70 tramps to the head of the lakes to move grain from Fort William as foreign vessels. Senator Hugessen raised a point with respect to vessels going to Lake Superior. They will be required, I suppose, to take on pilots at Port Weller and carry them through to Lake Superior. Would that not be the practice?

Mr. BRISSET: The policy has not yet been formulated. It will depend upon the policy put into effect by the Canadian Government, and I shall deal with that point later on.

Senator MACDONALD: Did you say there were 133 ships in 1957?

Mr. BRISSET: That is correct.

Senator MACDONALD: And they made how many voyages?

Mr. BRISSET: They made 344 voyages.

Senator MACDONALD: I do not understand how you arrive at the number of voyages. What is a voyage?

Mr. BRISSET: A voyage consists in going up the lakes and return to the point of origin.

Senator MACDONALD: That would be 266. How is the difference made up between 266 and the figure you gave?

Mr. BRISSET: I repeat, there were 133 vessels. Some of them made two or three trips, others made only one. When I speak of 344 vessels I am speaking of a return voyage.

Senator MACDONALD: Yes, but if there are 133 ships and they went up and back, that would be 266?

Mr. BRISSET: No, it would be 133 voyages.

Senator McKEEN: Some of them stay on the lakes and make several trips.

Senator MACDONALD: If the ship went as far as Fort William and came back to Kingston how many trips would that be?

Mr. BRISSET: That would be one trip. Back and forth is one trip.

Senator MACDONALD: To make another trip it would go further east and come back in the canal.

Mr. BRISSET: It would go overseas across the Atlantic and back, a month or so later, into Montreal and then up the lakes.

Senator MACDONALD: So that actually we are more interested in the 344 figure.

Mr. BRISSET: Yes.

Senator MACDONALD: So far as trips are concerned.

Mr. BRISSET: Yes; but the number of ships is also of interest because it shows how many ships can actually be within the Great Lakes at any given time. At a given time there may have been 75 of these ships up the lakes. I am quoting purely arbitrary figures in trying to make my point. During the season of 1958 the pilots who were serving in the Port Weller-Sarnia District made an average of 30 voyages each in and through these waters, thereby gaining invaluable experience in the handling of all kinds of vessels—experience which could not be gained by pilots taking a ship all through the lakes and having to stay 20 to 23 days on the same vessel. As you will readily see, such a pilot could not do more than a very limited number of trips during the season.

Senator BRUNT: With that I cannot agree. Once a pilot has gone to Fort William a dozen times, how much more experience does he need? Are you arguing that the oftener he goes, the better pilot he is?

Mr. BRISSET: Yes, sir, and I would like to compare the situation with the lower St. Lawrence.

Senator MACDONALD: Do you not think he is?

Senator BRUNT: No, I do not think he is better than the fellow who has spent the whole summer going back and forth between Fort William and some other point.

Senator MACDONALD: Do you not think that the more trips he takes, the more experience he gains?

Senator BRUNT: Am I a better driver because I have driven 10 years than I was after I had driven eight?

Senator MACDONALD: These pilots are operating only on difficult passages. If you drove on a very difficult and hazardous road I think you would be a better driver the more often you had travelled that road.

Senator CAMPBELL: The point that Mr. Brisset is making is that the more often a pilot operates in restricted waters, and the larger the number and variety of vessels he handles, the greater experience he will acquire. He is arguing that it is a matter not merely of frequency of operation but also of the types of ships he handles.

Mr. BRISSET: If I may pursue this point, with all due respect to the two gentlemen who have spoken, I submit that frequency has also a great bearing. To illustrate my point I might mention that in the lower St. Lawrence the very capable pilots that pilot ships say from Montreal to Quebec, and from Quebec to Father Point, have to undergo, before they are permitted to pilot a vessel, a long time of apprenticeship. I may be corrected if I am wrong here, but I think the term is five years and no less than, I think, 30 or 50 trips in each of those five years of apprenticeship before they are entitled to pilot a ship.

Senator BRUNT: How many trips does he have to make each year, after he gets his licence, to retain it?

Mr. BRISSET: I am unfortunately not able to answer.

Senator BRUNT: That would be a very good thing to know. On the basis of your argument he should make so many trips a year.

Mr. BRISSET: I can assure the honourable gentleman that they do.

Senator BRUNT: But is there a minimum number of trips they have to make each year?

The CHAIRMAN: The Deputy Minister says no, there is no restriction. Once they are licensed they can work as much or as little as they like.

Senator BRUNT: And they are still experienced pilots? If that applies down there, why does it not apply in the upper location?

Mr. BRISSET: I know for a fact that each year these pilots down river have to, I believe, undergo examination—medical, eyesight and so forth—and I do believe that those who keep their licence actually do put in quite a number of trips.

Senator MCKEEN: They do not have to face conditions like, for instance, in the Fraser river, where the channel of the river keeps changing? After every freshet there is a different channel, and if a fellow hasn't been up there in the new season he doesn't know where the channel is. But that is in swift-running waters.

Mr. BRISSET: There is very little swift-running water in these restricted waters. I take it that it is like the Detroit river and the St. Clair river.

Senator MCKEEN: Is there a silting condition? If there is not, the speed of the water would not make any difference.

The CHAIRMAN: The Deputy says it is a constant channel.

Senator ISNOR: I think it is only fair to point out that they rotate, so they do have a certain number of trips every season. They retain the services of the pilots, I understand. At least they do in the Nova Scotia district.

Mr. BRISSET: Well, we consider that the pilots serving the Port Welland-Sarnia district have gained valuable experience last year, and the Federation has set up rather strict qualifications for these men. This is purely on the basis of private enterprise. There is no regulation except that they must have already a master's or a mate's certificate of competency.

The CHAIRMAN: Would it be fair to ask you, Mr. Brisset, if you anticipate that if clause 11 of the bill is passed the department will set up substantially similar qualifications and restrictions as you are voluntarily imposing now?

Mr. BRISSET: I would expect so, and this is what we have been wanting, and about which we have been making representations to the Government. I am speaking now in the name of the Federation. What we want is specialized pilotage in restricted waters; and I use the word "specialized" with intention here.

Senator BUCHANAN: You refer more to his knowledge of that particular area over which he is going, details of the channel and that sort of thing, rather than having a master's licence? In other words, a master might not be a good pilot over that area.

Mr. BRISSET: That is correct, because the master will not make the same number of trips within this area as a pilot would do. That is why masters all over the world, when they go into restricted waters, rely on the services of a specialized pilot. You will find that situation all over the world in restricted waters.

The CHAIRMAN: And I suppose you would also say, Mr. Buchanan, that part of the experience that is available to them is the knowledge of weather conditions in that particular area?

Senator BUCHANAN: Quite so. I refer to this because I have seen a lot of water transportation in the north where you do have a channel which requires

the services of a specialized pilot, no matter how good the captain is. He may be an Indian who knows that area very well. I think that this is similar.

Mr. BRISSET: Yes. I know for a fact that in certain rivers in outh America they have local pilots that are Indians, and they know the local rivers and all their peculiarities.

Senator LEFRANÇOIS: Their pilots could not match them.

Mr. BRISSET: Their pilots could not match them, no.

Senator CAMPBELL: You are speaking now of foreign ships coming in but you are not referring to lake vessels that have been travelling these routes for years with captains aboard.

Mr. BRISSET: I am speaking of ocean ships. I am not referring to lake ships. You are quite right.

Senator BRUNT: And they are all foreign vessels.

Mr. BRISSET: They are all foreign vessels, yes, up to now.

Senator MACDONALD: Now that the question has been raised may I ask the witness if on lake ships there are pilots?

Mr. BRISSET: There are no pilots in the sense of specialized pilots on lake ships but I might mention that after the St. Lawrence-Kingston Pilotage District was organized, with the Federation having trained a number of pilots, the lake ships themselves started to use the services and used them extensively, in spite of the fact they already had masters and officers used to those waters. They have used these special pilots quite frequently.

Senator MACDONALD: Does section 11 apply merely to ships entering the lakes from the ocean or does it apply also to ships which ply on the lakes only?

Mr. BRISSET: It applies to all ships whether they are lake vessels or ocean vessels. There is no distinction made in the legislation before you as to these two types of ships.

Senator MACDONALD: Can I anticipate? Do you suggest there should be a difference?

Mr. BRISSET: We are simply stating that in so far as ocean vessels are concerned we recognize the advisability of specialized pilotage for the restricted waters but do not concede that pilots should be put aboard ocean vessels to transit upon waters of the Great Lakes.

Senator MACDONALD: You are not making any representation with respect to the ships which confine their business to the lakes only?

Mr. BRISSET: No, we are not. I have no authority to speak on behalf of lake vessels.

Senator BRUNT: Your representations relate only to four distinct areas, is that right? The areas are Montreal to Kingston, the Welland Canal up through Detroit and Windsor, and the St. Mary's River, is that correct?

Mr. BRISSET: That is correct.

Senator BRUNT: You don't think these ships need pilots when they are entering some of these large harbours now on the Great Lakes?

Mr. BRISSET: Yes, that is a very good point, The ships will undoubtedly require pilots in certain of the ports of the Great Lakes, such as Chicago, but we consider that this is a local problem to be settled by the local authorities. I think eventually that the negotiations now going on will result in some system being established in these various ports where pilots are required to berth the ships.

Senator BRUNT: What about Toronto where you have a narrow gap at the east and west?

Mr. BRISSET: The same thing will happen.

Senator BRUNT: You will let the harbours set up their own regulations? That is your argument?

Mr. BRISSET: This is really a point which I am not prepared to discuss today because the negotiations on this aspect of the problem are not far enough advanced. There is a problem, I readily grant to you, to be settled there and it is a problem of which the Shipping Federation, I can assure you, is well aware, and will assist all the authorities concerned to settle to the best of its ability. But to give you perhaps an absurd example: because ports require, or pilots are required into ports, does not mean that pilots must make the whole voyage through the open waters for that purpose.

Now, I think this will give you a fair enough history of the sailing masters system to understand what the problem is. But I might mention this, that when the Shipping Federation put into effect the new Port Weller-Sarnia district, the sailing masters that they had been using before in the great majority, I must say, refused at that time to pilot the vessels in the Port Weller-Sarnia district; they went on strike and picketed the ships in the St. Lawrence-Kingston district, with the result that the St. Lawrence-Kingston district pilots refused to cross the picket lines and gave their services to the ships who wanted them. In the same way pickets were organized in the United States' various ports and the longshoremen refused to discharge the vessels. Injunctions were obtained in American ports and pickets removed on the ground that this was a secondary boycott. A similar injunction was obtained before the Supreme Court of Ontario against the sailing masters ordering them and enjoining them not to picket any more the St. Lawrence-Kingston pilots. Mr. Justice McRuer, the Chief Justice of the High Court, of the Supreme Court of Ontario, delivered a very interesting judgment. If I may be permitted, I will read an extract from what he said:

"What the defendants and their association seek to do is to accomplish what is, in fact, a legislative program. That is, to legislate that all foreign ships must carry sailing masters on the Great Lakes. There is a bill before the United States Congress directed to this end, but it is one thing for such legislation to be passed by a body that is representative of the people and it is another thing to bring about the result in the guise of a labor dispute by setting up picket lines for the purpose of bringing about that result. The shipowners have a common-law right to operate their ships as owners of the ships until that right is interfered with by legislation. They may agree or refuse to agree to employ sailing masters, according to circumstances, and, likewise, the sailing "masters may agree or refuse to agree to go on board the plaintiff's ships. In the absence of legislation, no man is compelled to work where he does not want to work; neither are the shipowners required to carry pilots or sailing masters except where, by law, that requirement has been placed upon them."

Now, you will readily understand the bearing of one of our arguments before the Senate to the effect that carrying pilots in the light of the demands that we were faced with would be placing such a heavy burden on the shipowners that conceding to the demands would be impossible, because the remuneration to be paid on a voyage such as I have mentioned could amount to \$5,000 to \$6,000, considerably more than paid to the whole crew on the same voyage.

The CHAIRMAN: That is on the basis of the three pilots each being paid \$100 a day?

Mr. BRISSET: \$100 a day.

The CHAIRMAN: For the whole journey from Kingston?

Mr. BRISSET: Yes; plenty of times \$300, to give you a rough figure.

Senator REID: I suppose the two of them passed the time playing poker.

The CHAIRMAN: The hundred dollars might change hands during the voyage.

Mr. BRISSET: We might say, Mr. Chairman, that we got excellent support from various influential papers in the United States on this subject, and they coined a word which I think will amuse you—they called this "feather bunking".

Now, we were very happy to be able to prove to the United States authorities particularly that the system of specialized pilotage that we had advocated could operate, and it did operate all through the season on the basis that I have explained to you; and there were about 25 pilots employed in that district and that was sufficient to meet the needs of the ships that came during that period.

I might mention here perhaps in a lighter vein something that may also interest you. During the hearings before the Senate and the House we had realized of course that the pilots that would be used in that district would be piloting the ships partly in American waters—for instance in St. Clair River, St. Clair Lake, Detroit River, through Lake Erie and so forth—and we thought that it would only be fair to avoid recriminations from the other side of the border as there were American pilots in the district, and the Shipping Federation did retain the services of a few American pilots whom the federation considered to be amply qualified from their previous experience to serve in that district. Unfortunately some of these pilots were put in jail at the request or instigation of the immigration authorities as no American could obtain employment in this country; therefore, the American pilots had to be dispensed with and finally only Canadians were permitted to operate in that district. That might be a source of difficulties, as you will readily appreciate, in whatever system is established, if American pilots are not permitted to work in this district.

Senator WALL: You said that there were regularly employed pilots for that 1958 season, that is the 25 you spoke of: what would have been their remuneration for the season or for that year?

Mr. BRISSET: They were guaranteed a minimum of \$8,000 a year but I think that they actually earned a little more than that when the end of the season came around and they were finally paid off. Their total remuneration was \$8,700.

The CHAIRMAN: On the average?

Mr. BRISSET: For the full season.

Senator BRUNT: They are not suggesting that there should be any pilots employed other than American or Canadian—for instance British?

Mr. BRISSET: In the specialized pilotage district the federation is not advocating at all that the foreign masters or officers be licensed as specialized pilots.

Senator BRUNT: You mean for the four districts that you refer to on this map?

M. BRISSET: Yes.

Senator BRUNT: That includes the four?

Mr. BRISSET: The four restricted areas that I have mentioned.

Well, after the Senate of the United States had refused to pass the Pilotage Bill, to which I have referred you, the Shipping Federation entered into lengthy discussions and negotiations with the officials of the Department of Transport in order to evolve a policy which it was hoped would be satisfactory

to all interests concerned and assure safety of navigation on the lakes. I will not go into the details to explain what field these discussions covered but I might mention that many of these meetings were attended by representatives of other associations, such as the Canadian Shipowners Association. The Canadian Shipowners Association mainly represents Canadian owners of ocean vessels that are operating under the British flag in pursuance of the Canada-United Kingdom Transfer Scheme Agreement. That is an agreement between the two countries. There was also present the Dominion Marine Association, representing lake interests, and I think I can say that there was no real divergence of views on the principles and the policy which we thought should be put into effect with respect to Great Lakes pilotage.

The CHAIRMAN: Just before we leave that point, Mr. Brisset: is there any representative of the Canadian Shipowners' Association or the Dominion Marine Association who would like to be heard on this point after Mr. Brisset has finished?

Mr. FISHER: I am the manager of the Canadian Shipowners' Association.

The CHAIRMAN: Would you like to be heard?

Mr. FISHER: I don't think so. As far as Mr. Brisset has proceeded in his argument we are in agreement with everything he said. At the conclusion, if there are some statements I wish to qualify, I would like to have the privilege of doing so. But so far I have nothing to contribute.

The CHAIRMAN: The Dominion Marine Association sent a telegram approving of the bill, strongly supporting it, so I assume that they do not want to make any oral representations before us. Thank you. Sorry to interrupt you, Mr. Brisset.

Mr. BRISSET: We felt, of course, that it was essential that there be agreement between the two Governments on this subject. The Canadian Government officials—I would not like to speak for them—I am quite sure they feel the same way. There certainly were, so far as we know, numerous consultations between the two Governments on the subject, but so far as I know—and no doubt Government officials will answer your questions on the subject if they are asked—we do not think that agreement has been reached; and we even suspect that there is no definite agreement within the United States Government itself, between the various agencies that are concerned with this question.

The CHAIRMAN: I am sorry again to interrupt you, Mr. Brisset, but Mr. Booth, the Assistant Deputy Minister, is here, and in due course he will give us a few words on negotiations which he has been conducting on behalf of the Canadian Government.

Just one other observation. I notice that the last part of section 11 says that the part shall come into force on a date to be fixed by proclamation by the Governor in Council. I suppose that is done for the purpose of making sure that it will not come into force until there is agreement with the United States.

Senator ISNOR: Perhaps it would be a good time to ask now, has the United States Government, through the Secretary of State, made any representations at all in connection with this bill?

The CHAIRMAN: Does the committee wish to hear Mr. Booth now on this point, or shall we wait until Mr. Brisset has finished?

I am told that the answer to your question, senator, is "No."

Senator BRUNT: I think we should let Mr. Brisset finish.

Mr. BRISSET: There is one thing that the Federation fears above all, that should there be this lack of agreement, one or other of the two Governments

might take unilateral action. The bill that was defeated in the Senate of the United States last year has been presented again, and frankly we do not know what is going to happen to this bill.

Senator BRUNT: In the identical form that it was defeated?

Mr. BRISSET: In the identical form that it was defeated. Finally, this Bill S-3 was introduced into the Senate and had its first reading last month, and when the bill was so introduced the Shipping Federation addressed a telegram to the Minister of Transport dated January 20. I will not table this telegram, because, in the reply which we received, we actually have the text of this telegram. The telegram—I will quote only a short extract from it—said this:

“Members of this Federation who will have ocean vessels trading into the Great Lakes next summer are greatly concerned regarding pilotage problems within the Great Lakes area. In view of comparatively short period before opening of navigation a small delegation from Federation urge a meeting with you as early as possible to discuss following questions.”

And then there was a list of questions which I will take up later. The telegram continues:

“As our efforts to obtain this information have been to date unsuccessful, it is now absolutely essential to have this information without further delay, otherwise adverse trade repercussions will arise as overseas vessel operators unable to formulate definite policy regarding trading to Great Lakes without full knowledge of problems involved.”

The reply from the Deputy Minister of Transport came on February 2nd, and the document is important enough that I think it should be read to you, as it will explain the amendments which we are suggested in the present bill. It is addressed to C. T. Mearns, General Manager, The Shipping Federation of Canada, Inc.

“Dear Mr. Mearns:

I have for acknowledgment your telegram of January 20th, addressed to the Minister of Transport, in which you indicate the concern of your Federation regarding certain pilotage problems within the Great Lakes area and request a meeting as early as possible to discuss these matters.

I feel that in view of the fact that many of these matters are at a stage where definite action cannot be taken, a letter to you explaining as far as possible our policy with respect to them will serve the purpose better than a meeting at this time. I propose then to answer your questions and suggest that a meeting may be considered at a later date when our policy will have reached a more definite stage. I answer your questions in the order in which they appear in your telegram.

(1) Q. What has been the policy decided upon by the Canadian Government with respect to pilotage on the Great Lakes?

A. I would say that the policy of this department with respect to pilotage requirements on the Great Lakes is set out clearly in the proposed legislation which you will find in Bill S-3 of the Senate under the new Part VIA of the Canada Shipping Act. A copy of this bill is enclosed herewith.

(2) Q. Is the American Government in agreement with such policy?

A. In view of the fact that American Government policy and American legislation with respect to a Pilotage Bill for the Great Lakes

area have not yet been decided upon or approved by Congress, it is manifestly impossible for this department to say that the American Government is in agreement with its policy.

(3) Q. Is the Canadian Government prepared to license or qualify masters and officers of ocean vessels, whether Canadian, British, or foreign, for the open waters of the Great Lakes?

A. The answer to this question is in the affirmative, contingent, of course, upon the approval by Parliament of our proposed new legislation as contained in Part VIA.

(4) Q. Is the Canadian Government in agreement with the policy advocated by the Shipping Federation in its letter of November 28th addressed to Alan Cumyn, Director of Marine Regulations?

A. This Department is generally in agreement with the policies advocated by the Shipping Federation in its letter of November 28th, but feels that the various points raised in this letter could best be discussed between us once the Canadian legislation has been approved in the House.

(5) Q. What will be the restricted waters of the Great Lakes Basin where specialized pilotage will be required for ocean vessels and does the United States Government agree with the Canadian Government in this respect?

A. As has already been indicated in discussions with your members, the waters which Canada proposes to designate as restricted are as follows:

St. Regis to Lake Ontario.

The Welland Canal.

Southeast Shoal, Lake Erie to Sarnia.

The connecting waters between Lake Huron and Lake Superior.

Departmental officials have discussed this point tentatively with the United States officials but, in the absence of an expressed designation on their side, we are unable to state that agreement has been reached. However, we anticipate no difficulty in this respect. We should add that the American Government may decide to include in this list certain ports or waters which lie wholly within their jurisdiction.

6. Q. Is the Canadian Government to oppose the United States Pilotage Bill HR 57 now going through the House and, if not, how is the Canadian Government going to ensure that Canadian licences or certificates issued to officers of ocean vessels, including foreign, will be recognized by the American authorities?

A. We have undertaken to provide the American State Department with a new aide memoire telling them what we are doing and further advising them that in our opinion a knowledge of the Great Lakes Rules of the Road and a knowledge of the English language sufficient to enable them to use the radio are all the special qualifications required by officers of ships of any flag, in addition to certificates of competency, for the navigation of the open waters of the Great Lakes. Both the American and Canadian proposals provide for mutual recognition of pilots' licences or certificates, but in view of the fact that the United States authorities have not yet come to a decision with respect to their policy, it is impossible for us to say definitely that they will recognize our Class B certificates."

To explain this to the committee, a Class B certificate means the certificate contemplated under subsection 4, paragraph (c). That is the certificate that is to be issued to officers and masters of ocean vessels.

The CHAIRMAN: For navigating waters other than designated waters?

Mr. BRISSET: Other than those designated under paragraphs (a) and (b), which I imagine are the restricted waters mentioned in the earlier part of the department's letter. The remainder of the answer 6 reads:

This, of course, is a matter for further discussion with the United States Coast Guard but the timing of agreement on these matters cannot be set by Canada alone.

7. Q. What is the decision of the Government with respect to taking over the Port Weller-Sarnia Pilotage District?

I might say here that one of the representations made by the Shipping Federation was that the Government should take over the Port Weller-Sarnia Pilotage District in the same way as they had taken over the St. Lawrence-Montreal-Kingston District some years ago. The answer to No. 7 is:

No definite steps can be taken in this matter until our proposed new Part VIA has been approved by Parliament, but we may say that at this time plans are being prepared for the taking over of this district.

8. Q. What is the decision of the Canadian Government with respect to the St. Lawrence-Kingston-Ottawa Pilotage District?

A. In the case of the St. Lawrence-Kingston-Ottawa District, again we cannot take any firm steps until our legislation is approved, or until the possibility of a joint Canadian-United States Pilotage Authority is ruled out. Meanwhile, this Pilotage District is still in existence and pilots will be available at the opening of navigation.

The remainder of the letter reads:

I trust that this information will indicate to you that the Department is moving with all possible speed towards a solution of these problems before the opening of the Seaway, but it should be borne in mind that action taken must be in conjunction and in consultation with the American authorities if these solutions are to ensure the setting up of a proper pilotage service.

In view of that at the moment, as it seems from this letter, the United States has not agreed on any definite policy with respect to pilotage, and that, at least, is the view of the Federation at this time, the Canadian legislation and the Canadian policy to be implemented by this legislation must be such as to make sure that the nefarious results which may accrue from the American legislation, as we know it at the present time, are more or less counter-active. With this in mind, I would now like to review with you the amendments which we are suggesting in the present bill.

The CHAIRMAN: This is the three-page document that came with the yellow folder headed "Part VI, Great Lakes Pilotage".

Senator PEARSON: In your pilotage how do you arrange for a Canadian pilot or an American pilot? Supposing a foreign vessel comes into Sarnia, where do they pick up their pilot, on the American side or the Canadian side or where?

Mr. BRISSET: At the present time at Sarnia the pilot is taken over to the ship from the Canadian side on a launch and the whole district is operated from Canadian bases entirely.

Senator PEARSON: Would the Americans have a tendency to say that this must be equalized, that the American pilots must have so many vessels depending on the tonnage going through?

Mr. BRISSET: To answer the question I will say that the ideal solution would be, it would seem, for the two Governments to get together and establish a super-national pilotage authority to provide the services to the ocean ships in the Great Lakes. Another solution might be to divide the lakes into spheres of influence. For instance, the Canadians would operate the Port Weller-Sarnia District, limiting the services of the pilots there to the waters encompassed between those two points, and the United States could organize a similar pilotage service for the St. Mary's River, solely American with American pilots and providing and operating the service from American bases. That is one way.

Senator PEARSON: That is something that would have to be worked out after you had the act.

Mr. BRISSET: That is something that would have to be worked out, but not necessarily after we have the act, for the act, it is our respectful submission, is really not the proper method to adopt in this case. It is a half measure and we certainly hope that eventually the two Governments will perhaps come to terms and establish what we consider to be a more appropriate pilotage organization on the Great Lakes than this legislation really provides for on its face.

Senator POWER: I take it that it is suggested that we delay the passage of this legislation until such time as similar legislation is passed in the United States?

Mr. BRISSET: I understand that it is the intention of the Government here to delay the coming into force of the Act until the United States have passed similar legislation or until the two Governments have agreed on what they would do.

Senator POWER: And your suggestion is that we do not pass the legislation at all until such time as agreement has been reached with the United States?

Mr. BRISSET: No, I am not saying that, sir. I say this measure is not a measure which we are advocating the Senate do not pass at this time. We say this is a measure which should be passed in order to leave to Canada the upper hand, if I may say so. But this measure, with the amendments suggested, will enable the Government to apply a policy that would counteract the unfortunate results that may obtain from the American legislation as we know it at the present time.

Senator POWER: If this legislation did not pass how would pilots operate? We would have to get this agreement with the United States?

Mr. BRISSET: I think I see your point, sir. What I mean is this. If this legislation is not passed now by Canada we may be faced with this situation that the United States may very well pass the Act that you know of, and if they pass it and Canada has no legislation at all, then that will completely prevent ocean ships from going up the lakes unless they have on board pilots all through the lakes, as indicated.

Senator POWER: Now, if Canada passes this legislation and the United States passes the legislation, are you precluded from coming into the lakes?

Mr. BRISSET: No. If Canada passes this legislation with the amendments we have suggested—

Senator POWER: Without them—as is?

Mr. BRISSET: As is?

Senator POWER: Yes.

Mr. BRISSET: There is a great danger that ocean ships will not be able to qualify their own masters and officers to proceed up the lakes in the open waters.

— Senator POWER: In view of the difficulty of preventing ocean ships coming up to the lakes, which would arise out of the passage of American legislation?

Mr. BRISSET: That is right.

Senator POWER: But would this arise out of this legislation?

Mr. BRISSET: No, the passage of this legislation would have the effect of counteracting the difficulties created by the American legislation; and I think in explaining the amendments, that will perhaps be made clearer.

Senator MACDONALD: But I understood that Senator Power was asking about the present bill as presented to us—supposing that bill should pass?

Senator POWER: In its present form.

Senator MACDONALD: In its present form how would it affect shipping on the Great Lakes—shipping after the season opens with the new Seaway connection?

Mr. BRISSET: May I be permitted to answer this question by explaining the nature of the amendments which we suggest here, because then I think it will be clear, and I think it is the only way I can really explain it.

Senator MACDONALD: You explain it the way you think best. As long as my question is answered, I do not mind.

Senator CONNOLLY (*Ottawa West*): There is just one point I would like to make. There is nothing in this Act that says it will be brought into force on the date of proclamation, once it receives the Royal Assent.

The CHAIRMAN: If you refer to page 7, subsection 2 says:

This Part shall come into force on a day to be fixed by proclamation of the Governor in Council.

I thought I tried to explain earlier that was put in there because probably it will not come into effect until the United States legislation is passed.

Senator CONNOLLY (*Ottawa West*): I apologize.

Senator MACDONALD: May I ask this question: How far advanced is a bill in this respect now before either the Senate or the House of Representatives in the United States?

Mr. BRISSET: It has just been introduced into the house, and by the house I refer to the Marine and Fisheries Committee of the House, but no hearings have been set as yet by the committee.

The CHAIRMAN: One further question, arising out of what Senator Power said. What I would like to get in my mind is this, that there are three alternatives before the Senate, namely: (a) We could reject this bill; (b) We could pass it as it is before us today; (c) We could pass it with the amendments you suggest.

Now, obviously you prefer (c); but as to (a) and (b) would you prefer not to pass this bill now, or even without your amendments? Which do you prefer?

Mr. BRISSET: That is putting me in a dilemma, because I don't like either.

Senator BRUNT: But which would you prefer?

Mr. BRISSET: The two are, I would say, equally dangerous.

Senator MACDONALD: The witness said he could answer it best by explaining his amendments. Reserving our right to return to this question, we might hear what he has to say.

Mr. BRISSET: I have underlined in the document which was submitted to you the new words or sections that are amendments, so that you may be able to follow quite easily what these amendments are. The first amendment

is in subsection (1), section 375(a), and I will readily grant that it might be a minor point. If you read subsection (1) you will see that briefly it means that no officer or master of a vessel shall operate a vessel in the Great Lakes Basin unless there is aboard an officer or pilot authorized to navigate such waters and having the qualifications prescribed by the Governor in Council.

Now, and I do not say this will happen of course, but if the Governor in Council does not pass any regulation no ship can go on into the Great Lakes. The reason therefore that I had these words, which I have underlined, "from the time the regulations contemplated under subsection (4) come into effect" is simply to cover the point which I have made. But one reason that has prompted us to suggest this amendment is that in the American legislation, similar legislation, there is a provision to the effect that this act shall become effective on the first day of the third month following the issuance of regulations pursuant hereto by the head of the department in which the Coast Guard is operating. In other words, the United States authorities held that there should be an interim period between the promulgation of the regulations and the coming into force of the act, to show the practical reason for this. I might tell you that it is contemplated that certificates will be issued to officers and pilots entitling them to be on board or to navigate the ships into the Great Lakes. I do not want to speak for the department here, but it may be difficult to license everybody and put the act into effect if it has to be done on very short notice, and we are getting very short on time—the season of navigation will open in two months.

Senator BRUNT: You have no hope of getting a similar bill through the American Congress in two months, have you?

Mr. BRISSET: I would prefer not to comment, Senator Brunt, on what is going to happen in the United States.

Well, that is the purpose of what I would perhaps call this minor amendment.

There are no amendments recommended until we come to section 5 where instead of subsection 5, as you have it in the bill, we recommend the insertion of the following section, which will read:

Every officer or pilot whether a British subject or not having the qualifications prescribed under paragraphs (b) (c) of subsection 4 and who passes the required examination is entitled on payment of the prescribed fee to a certificate or license authorizing him either to navigate the waters designated under paragraph (a) of subsection 4 or the waters other than those designated under such paragraph, or both.

Now, you are going to ask me what is my authority for the text that I have used. I have followed very closely the text of the section of the act, which is section 119 of the present act, which deals with certificates to be issued to masters and so forth.

The CHAIRMAN: Has every honourable senator got a copy of the act before him? There are one or two copies here.

Senator MACDONALD: Does the clause that you have read replace clause 5 on page 7?

Mr. BRISSET: Yes, it will replace clause 5. Clause 5 will become clause 6.

Senator MACDONALD: But it is not replaced, it is in addition?

Mr. BRISSET: Yes, it is in addition—I am sorry.

Senator BRUNT: Are you quite serious in this amendment?

Mr. BRISSET: Allow me to explain what it means before answering your question.

Senator BRUNT: I just want to say a word or two before you explain it—you can qualify a Russian under this?

Mr. BRISSET: Yes.

Senator ASELTINE: Or a Chinaman.

Senator BRUNT: Anybody.

You did not follow section 119 very closely because the first three words of section 119 says, "every British subject".

Mr. BRISSET: That is the very point.

Senator CAMPBELL: Mr. Chairman, may I ask just one question. If I interpret this proposed amendment correctly does it not give such officer or pilot a statutory right to receive a certificate provided he meets the qualifications and passes the examination? In other words you are conferring a statutory right upon him to receive it.

Mr. BRISSET: That is correct.

Senator CAMPBELL: Of course, I think that is most objectionable.

Mr. BRISSET: Let me explain in more detail what is meant here. The section which I have quoted states that every officer or pilot whether a British subject or not having the qualifications prescribed under (b) and (c)... Now, these qualifications are to be stated by the Governor in Council or by order in council and there is therefore a restriction here. The qualifications of the officer must be those stated in those regulations.

Now, I would ask you to keep in mind here the distinctions that I have made between open water and restricted waters.

Senator BRUNT: Does this not cover both?

Mr. BRISSET: Yes. I will come back to the restricted waters eventually. Keep in mind for the moment the open waters, keep in mind also that the Government in its letter to the federation indicating what the policy of the Government would be, has indicated that the Government would license foreign officers and masters for the open waters.

Senator REID: What kind of an examination would be required of them?

Mr. BRISSET: We have been informed by the Government that this examination would cover the following points or requirements: Knowledge of the English language permitting the officer to use the radio telephone on the lakes, radio telephone installations being a requirement already existing under the act. The second would be a knowledge of the lake rules of the road to which we have referred; and thirdly,—I do not think this is mentioned in the letter we had from the department, but it was discussed at meetings,—a knowledge of what is the recommended tracks on the lakes. By recommended tracks is meant this: various shipping associations have laid out on the lakes tracks for down bound vessels and tracks for up bound vessels for purposes of safety of navigation and it might well be one of the requirements that the officer sitting for the examination should satisfy the examiner on, that he is fully conversant with these recommended tracks. I may add that all the charts published by the Government both here and in the United States also show what these recommended tracks are or you can procure the charts that show them.

Senator MACDONALD: What is understood by the wording, "every officer or pilot whether a British subject or not..." Why do you need those words?

Mr. BRISSET: That is the whole meat of the problem, and I agree with the Senator who raised this point, that the bill is bad and it should not be written that way, but it is recommended to you that it should be written this way in order to counteract the effect of the American Bill; that is the only purpose of this legislation.

Senator MACDONALD: Why don't you leave out the words, "whether a British subject or not"? Wouldn't that make it just as wide as having the words in it?

Mr. BRISSET: That is the point which was discussed with the department officials, and we asked them whether they felt they had the authority to license other than British subjects. Their views differed on this point. The Department of Justice was to be asked for an opinion, but we do not know whether this opinion stands delivered; but we were led to understand that the department would issue a certificate or license to other than British subjects for the open waters of the Great Lakes.

The CHAIRMAN: That would be essential where you had a Norwegian ship, let us say?

Mr. BRISSET: That would be essential, yes, Mr. Chairman.

Now, why should Canada issue such a license to somebody less than a British subject?

Senator MACDONALD: Of course, they could issue one to a Canadian.

Senator PEARSON: But this is only for open waters?

Mr. BRISSET: Yes.

I ask you gentlemen to bear with me for a moment or two and forget for the moment the restricted waters to which I will come later, and only to keep in mind that I am dealing here with open waters.

Then I refer you to section 2 of the American bill, which has this:

"The authority extended in this act to pilots or other qualified officers licensed by Canada to serve on vessels in United States waters shall be in effect only so long as Canada permits pilots or other qualified officers licensed by the head of the department in which the coastguard is operating similarly to serve on vessels when navigating Canadian waters on the Great Lakes, their connecting and tributary waters, and the St. Lawrence river as far as St. Regis."

Senator BRUNT: Pardon me: that statement was made in the United States when we had section 119, which starts off, "Every British subject". Even if we passed it, you could not possibly get that amendment through the Congress of the United States. If you will wait a minute I will quote you what the President said about one nation, and they would never stand for it up there. Why should we pass it if there is no hope of the American Congress passing it?

Mr. BRISSET: I have come to that. It comes to the second amendment. If you will have noticed the words used in the American bill, that the United States authorities will recognize the authority granted by Canada to an officer or master to sail in United States waters, if that officer or master is licensed, therefore in our view it is not sufficient for Canada to say, "Oh, we accept the qualifications of, say, a Norwegian master or a Norwegian officer or a British master or a British officer as qualifying him to navigate the open waters of the Great Lakes".

The CHAIRMAN: I see your point, Mr. Brisset. In section 2 of the American bill it talks about qualified officers licensed by Canada, and you are trying to bring that into this bill by saying that the Government must issue the licence to the foreign pilot. But I just wonder if it is necessary to incorporate this section in this legislation, because, if our authorities in Canada, our Department of Transport, knew, as they would know, that a foreign pilot required a licence from Canada to operate in these waters, surely they could provide for issuing him a licence within the regulations. Why do you need to put it in here? Am I not right? Would not they normally issue a licence? They have made

regulations authorizing an officer or pilot to qualify in open waters and authorizing an officer or pilot to qualify in designated waters. Would not they normally issue him a licence, anyhow?

Mr. BRISSET: The point of contention is really this: Has the Governor in Council the power to issue a licence or certificate to other than a British subject unless the act specifically says so? That is the issue. If it is not necessary we do not insist on the words "British subject or not".

The CHAIRMAN: Perhaps the Deputy Minister will give us an answer on that, if you do not mind waiting for a moment.

Mr. BALDWIN: On that particular point, I understand the matter has been considered by the Department of Justice, which has ruled that we can deal with this by way of regulation. If I might complete the statement on the paragraph as proposed as a whole, it does, quite honestly, present a rather indigestible morsel for the officials, for several reasons. That is, the proposed new paragraph 5. One of them is that it does circumscribe the ability of the Department to control licensing procedure in the restricted waters area, and it may be necessary for us to control that, and have a pool of pilots that is limited in number. We would not have that discretion, though it is desirable to equate the costs against revenue on a reasonable basis. Staying with the restricted waters: as I read this, this goes beyond the "British subject" concept. In all probability the Canadian citizen and British subject category were limited—probably the Canadian citizen category—and in the nonrestricted waters we have full power of regulation to deal with problems concerning the Federation in the issue of second-grade certificates and deck officers for the open waters without requiring this amendment. This amendment would merely circumscribe our hands and make it necessary for us anyway to give this—though it is our intention generally to give it—but Senator Brunt referred to a case where we might on security grounds wish to withhold something.

Senator BRUNT: Frankly if you pass this, I predict here and now you will never get it through the American Congress. All you have got to do is to read two paragraphs of the President's speech on the State of the Union, which expresses the attitude of the American people. I do not think we should even consider the amendment here if there is no hope of getting it through the American Congress.

The CHAIRMAN: It is not a question of getting it through the American Congress; it is a question rather of flying the red flag to the American Congress. They would say, "Look what these Canadians have passed."

Senator BRUNT: You would actually fly a red flag!

The CHAIRMAN: We might do it with regard to the open waters, though it is advisable not to do so in the legislation.

Senator BRUNT: This thing is mandatory, if a man can speak English and qualify and pass an examination you would have to give him a licence, would you not?

Mr. BALDWIN: Under this clause it would be mandatory. It would be our intention in the majority of cases to do this anyway.

Senator BRUNT: But you want the right to refuse any particular person a pilot's licence. I take it that the department, when it prepares its regulations, will reserve itself certain discretions regarding the granting of licences. Is that right, Mr. Chairman?

The CHAIRMAN: I assume so, and I assume also that the department feels that if they have to deal with section 2 of the American act, which talks

about certain rights to officers licensed by Canada, the department even without this section could grant licences under the present bill, as drawn, under subsection 4.

Mr. BALDWIN: They can do it better by regulation than by a statutory provision of this sort.

Senator CONNOLLY (*Ottawa West*): That is the point. It would be unlike the situation that would arise if this amendment were accepted. You would have a discretion under the regulation.

Mr. BALDWIN: That is correct.

Senator BRUNT: Might I ask this question of the Deputy Minister? If the statute does make it mandatory that a licence be granted when an applicant passes an examination and complies with the section, can you by regulation stop him from getting a licence?

Mr. BALDWIN: No, senator.

Senator CONNOLLY (*Ottawa West*): That is clear now, I think.

The CHAIRMAN: I am afraid we are against you in this amendment, Mr. Brisset.

Mr. BRISSET: I only want to point out to the committee that the Federation thinks in any event it was a good thing to air the problem here.

The CHAIRMAN: Oh, yes.

Mr. BRISSET: On the same subject, I refer you to paragraph (c) of subsection 4, which is the subsection in the paragraph dealing with the Governor in Council regulations. I remarked earlier that paragraph (c) had to do with open waters. It reads:

Prescribing the qualifications for an officer or pilot required to be on board a vessel in the waters of the Great Lakes Basin other than those designated under paragraph (a)...

There is nothing in that section which indicates that what is actually intended is that a licence or a certificate be issued, and it is all right for the Governor in Council to say, "We recognize the qualifications of this man as suitable to enable the ship to proceed in the open waters," but if no certificate or licence is issued, then we may well be faced with the argument by the American authorities, "Well, your ship has nobody on board holding a licence from the Canadian Government and therefore will not proceed through the open waters."

Senator CONNOLLY (*Ottawa West*): Doesn't the word "qualifications" include a licence?

Mr. BRISSET: We know that the Government, as it has said, intends to issue licences under this section, and they have called them B Certificates. Our only point is that if the act does so state that licences would be issued, we would have the guarantee that a document called a licence would be issued which would enable the ship to proceed through the open waters on the other side.

The CHAIRMAN: Don't you think, Mr. Brisset, we can be confident that the department will not act in such a stupid way as to bring all these men under the prohibition of section 2 of the American act? I mean to say, it seems so obvious.

Mr. BRISSET: Yes, I readily grant that.

The CHAIRMAN: And since they have the right to issue a licence under the bill as it stands, why emphasize it in an amendment? You have brought the matter to our attention.

Mr. BRISSET: I think my main purpose was to bring the matter to your attention, and the department will certainly explain what they intend to do. I now pass on to the next section, which is section 6 in the document that I have left before you gentlemen.

Senator CAMPBELL: Mr. Chairman, before we leave this point I wonder if Mr. Brisset would indicate why he felt there was any prohibition under the Canada Shipping Act preventing the department from licensing a foreigner?

Mr. BRISSET: That is a very good point, sir. If you will read all the licensing provisions already contained in the Canada Shipping Act you will see the power to licence is limited to the extent that only British subjects can be licensed, as far as I know.

Senator CAMPBELL: I realize that, but could we ask Mr. Baldwin a question as to where he gets his authority to say that they can licence a master on a foreign ship?

Mr. BALDWIN: I can only say, sir, that our plans were discussed in detail with the Department of Justice in the course of preparing this bill, including a method whereby we proposed to proceed thereunder, and they felt this draft was adequate to cover our requirements.

The CHAIRMAN: Did they cover the specific question as to whether you would have the right to licence a foreign pilot or officer?

Senator CONNOLLY (*Ottawa West*): That is the key.

Mr. BRISSET: That is the key point.

The CHAIRMAN: That is the crucial point.

Mr. BALDWIN: I don't recall that was taken up specifically with them but it was our understanding that this separate section of the act stood on its own feet in that regard, and that unless there was a limitation written into the act we would have the right to issue licences under this section if we saw fit to do so.

The CHAIRMAN: I cannot see under any rule of law anything which would prevent the Governor in Council in Canada from giving a licence to anybody.

Mr. BRISSET: I might state here that this question came up also in the United States and, according to my understanding, the Coast Guard, which is the licensing agency in the United States corresponding to our Department of Transport, had no power in the United States to issue licences except to American subjects.

The CHAIRMAN: I think perhaps we can pass over this. We should suggest to the Deputy Minister that he get a definite opinion from the Department of Justice on that question, and that will satisfy us. We cannot deal with that any more at the moment, can we?

Senator CONNOLLY (*Ottawa West*): As long as we are told. We should know.

The CHAIRMAN: Yes.

Mr. BRISSET: I would like you to keep in mind that I was speaking only of open waters, and perhaps it is wrong to use the word "pilot" to refer to this because in the text it is not the proper word.

The CHAIRMAN: No, it is "officer".

Mr. BRISSET: We are getting here into the same confusion that arises out of the fact that "pilots" and "officers" are interchangeable terms in the United States.

The CHAIRMAN: Let us go to your next suggested amendment, paragraph 6, subsection 6. In this subsection the following words have been added:

“except that any person may without subjecting himself or his employer to any penalty navigate the waters designated under paragraph (a) of subsection (4)

(a) when the Minister has indicated to the master of the ship that a Government pilot is not available;
and

(b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time.”

In other words, this is a relief clause which is to be found in, I would say, the legislation of most Maritime countries where pilotage is made compulsory, and the basis for the words used can be found in our own act.

The CHAIRMAN: Just a moment, please, Mr. Brisset. I think the Deputy Minister has a statement to make on this amendment.

Mr. BALDWIN: We see no objection in principle, Mr. Chairman, to what is being suggested here except that we do not consider it necessary to have this written into the statute because we have full authority to deal with this matter by regulation in clause 3 of the section.

Senator CONNOLLY (*Ottawa West*): Clause 3?

Mr. BALDWIN: Subsection 3, at least.

That particular subsection was put in, among other reasons, for the specific purpose of enabling us to deal with a situation of this sort.

Senator CAMPBELL: That would not deal with the question Mr. Brisset has raised because does this not contemplate a specific release rather than a general release?

Mr. BRISSET: I am aware of that section, and the contingency which the shipowners operating in the Great Lakes wish to guard against is that of strikes. The minister might, in the case of a strike, relieve the ships under that subsection 3, but I think it is putting upon the minister quite a burden and possibly even a stigma since, if he acts in that manner in the case of a strike, he may be accused of being a strike breaker.

The dangers of a strike in the lakes are much more serious than in industry on land and we have had this experience already once in the month of November, I believe it was, 1957 when the sailing masters went on strike.

If the ships were not permitted to proceed without pilots, they could very well be land-locked for the rest of the season and the whole winter until the next season, for four or five months, and this possibility of a strike, and the consequences that flow from it, if there is no relief clause, would give the pilots such a stranglehold upon shipping that it would be, as in fact it is, considered worse than whatever the longshoremen have done or could do.

On this subject, if you refer to the briefs that were submitted to the Senate, you will find a number of editorials that have dealt with the subject of strikes and the dangers of strike if pilotage is compulsory and there is no relief clause.

I said that in the Canada Shipping Act we had such a provision for pilotage districts of Montreal and Quebec, where pilotage is not compulsory, as it would be on the lakes and where only the payment of pilotage dues is compulsory. In other words, below Montreal, ships, if pilots strike, can still proceed without incurring any penalty. The worst that could happen would be this payment of dues.

The CHAIRMAN: To what section are you referring?

Mr. BRISSET: Section 354 of the act which was amended in 1957, and the text I have recommended here is the amended text, 347, of 1957.

Section 354 used to read:

"Any person may, within any pilotage district for which he is not a licensed pilot, without subjecting himself or his employer to any penalty, pilot a ship,

(a) when no licensed pilot for such district has offered to pilot such ship, or made a signal for that purpose, although the master of the ship has displayed and continued to display the signal for a pilot in this Part "provided, whilst within the limits prescribed for that purpose, and

(b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time."

Paragraph (a) was amended in 1956 to read:

"When the pilotage authority of a district has indicated to the master of a ship that a licensed pilot is not available . . ."

and so on.

I am using here the words "Government pilot" and not "licensed pilot". That was done intentionally because, of course, there will be licences issued to masters and mates and so forth. We have been told that the Canadian Government would likely take over the Port Weller-Sarnia district and the pilots who would serve there would be described, I imagine as Government pilots, and those were the pilots we had in mind in using the words we use here.

The CHAIRMAN: Is there any definition of the words "Government pilot" in any other section of the bill, in any amendment? Would that not cause trouble? Is that the right expression?

Mr. BRISSET: We are here allowing many things to be done by regulation and I wonder if we could not define "Government pilot" by regulation?

Senator MACDONALD: Under the section of the act to which you refer the wording is: "When a licensed pilot is not available". Could not licensed pilot be used here instead of Government pilot?

Mr. BRISSET: I am afraid we are going to get into difficulties here—difficulties arising from the fact that the Governor will be issuing licences. We are again confronted with this difficulty: are these pilots licensed or not? We considered that the use of the words "licensed pilot" might lead to confusion, and in the light of the policy—

Senator BUCHANAN: Are you referring to American legislation?

Mr. BRISSET: The American legislation does not contain any such relief provision.

Senator BUCHANAN: Is it because you propose to license captains of deep-sea ships that you will get into difficulties?

Mr. BRISSET: The relief here will apply only in the case of restricted waters. You will notice that we speak of waters designated under paragraph (a) of subsection 4. Therefore the relief is not at all applicable in the case of open waters where at all times a qualified master or officer must be on board.

Senator REID: Might not some confusion arise in Toronto and later on at Fort William? Acting under a harbour commission, they have their own pilotage rules. The word "Government" might not be interpreted to serve the purpose the harbour commission might have in mind.

Senator PEARSON: In case of distress they may call for a Government pilot or a licensed pilot in open waters?

Mr. BRISSET: In the case of distress, when no Government pilots are available, the relief clause as it is incorporated here would permit the ship to proceed through restricted waters without a specialized pilot. That is the purpose of the legislation.

The CHAIRMAN: Could you not get round the objection to the words Government pilot by the use of some other words?

Paragraph (a) of subsection 4 talks about a pilot authorized. Could you not say, "When a pilot authorized under paragraph (a) is not available"?

Mr. BRISSET: No, because there will be quite a number of pilots authorized under paragraph (a). The lake captains and officers will qualify, or it is intended that they shall qualify, under that subsection, and they will be holding in reality pilots' licences permitting them to navigate their vessels in restricted waters. But the strike situation which we wish to avert, speaking with respect to ocean ships, is the striking action of the specialized pilots who will be put at the disposal of the ocean ships in the restricted waters, which pilots will be under the control and supervision of the Government. That is why we call these pilots Government pilots in this case.

Senator WALL: May I ask what is meant by the words "in distress"? Is there some marine definition—some definition under marine law—of those words? Notice further the jurisdiction given to the master: "or under circumstances making it necessary for the master", and so on. That language is extensive and very loose. The master then decides what certain standards are.

The CHAIRMAN: The same wording is found in section 354 of the act as it stands.

Mr. BRISSET: That is the only reason we have to use these words: they are already in the act with respect to other pilotage districts.

Senator CONNOLLY (*Ottawa West*): Are these Government pilots to be paid by the federal authorities—by the department?

Mr. BRISSET: I have already explained to you, gentlemen, that the policy of the Canadian Government was not yet precisely formulated on the subject, but we understand if the policy is put into effect these pilots will be paid by the Canadian Government and pilotage dues would no doubt be assessed against the ships using them, in the way they are in the other pilotage districts.

Senator CONNOLLY (*Ottawa West*): I make this further observation in fear and trembling, but if they are paid by the federal Government and acquire the status of public servants, then perhaps they have no right to strike.

Senator MACDONALD: It is a question whether it is legal or not.

Mr. BRISSET: That is a very good point. I might mention, however, that in 1957 the St. Lawrence-Kingston pilots went on strike. Perhaps the department can give a better answer than I can whether that was lawful or not.

Senator MACDONALD: Were they civil servants?

Mr. BALDWIN: In reply to the comment by Senator Connolly, we have a choice in proceeding with the implementation of this legislation, if approved by Parliament, of either licensing pilots and establishing something similar to one of the existing districts where the revenues are pooled and divided among the pilots, or moving to another basis on which the Consolidated Revenue Fund retains the revenues from the pilot ships and the pilots who are licensed for general service, as a pool, are placed on the federal payroll in some fashion or other. We have not yet determined which is the best course to take in this matter and the subject is under discussion. With regard to this particular problem, as I said, we feel that we can deal with this by regulation and in fact that is preferable from the drafting point of view, because we do not like a situation where you have some exceptions in the statute and another set of exceptions with the regulations. I do not like that kind of drafting and, moreover, if

we have to adopt this system to balance with a United States system as yet unknown, we should like to have reasonable flexibility with regard to the regulations, and this eliminates part of the flexibility if it is written into the statute.

Senator MACDONALD: Under the proposed amendment the only person who can indicate that pilotage is not available is the minister. It may be that the minister is in Hong Kong—many ministers are prone to travel. He may be many miles away, and this section would not be put into effect. Under the section to which reference was made a moment ago, section 354, the words used were, “when the pilotage authority of the district has indicated to the master of the ship”. My question is this: if the minister did happen to be in Hong Kong, could the deputy minister or someone else give effect to this section?

The CHAIRMAN: The deputy minister informs me that under the Interpretation Act, the word minister is deemed to include the deputy minister. He wants to take a trip to Hong Kong probably.

Senator MACDONALD: I have just looked at the definition of “minister” under the act, and under section 2, subsection 4, minister means the Minister of Transport.

The CHAIRMAN: The deputy minister was referring to the Interpretation Act; not this act, but the Interpretation Act, which governs all statutes.

Senator MACDONALD: I should think if there is an interpretation of the word “minister” under this act it would prevail over the interpretation given in a general act in respect of interpretation.

The CHAIRMAN: There is no conflict. It is just an extension in the Interpretation Act of what “minister” means in any statute.

Senator MACDONALD: I do not understand why there is any interpretation of the word minister in this act, if that is so.

The CHAIRMAN: Because some particular minister has to administer this act.

Senator MACDONALD: Can this clause be put into effect only by the minister or by the deputy minister?

The CHAIRMAN: We all know of course that in every statute there are many references to minister—the minister may do this or the minister may do that. I understand the practice is for him to delegate his authority in the vast majority of cases. Obviously the minister cannot personally do all the things which the statute requires him to do.

Senator MACDONALD: There are many instances, I am sure where the direction must go over the signature of the minister himself. I do not think there is any doubt about that.

The CHAIRMAN: Have you any further representations to make, Mr. Brisset on your proposed amendments to subsection 6, or have you exhausted that subject?

Mr. BRISSET: I think I have exhausted the subject, Mr. Chairman. I have pointed out to the committee the dangers of a strike and the enormity of the consequences flowing therefrom, and it is for that reason that we wished to avoid leaving upon the minister the burden of deciding whether he would exempt ships from pilotage or not in restricted waters.

Senator CONNOLLY (*Ottawa West*): He might escape it by policy, if the pilots all became civil servants.

Mr. BRISSET: But the policy has not yet been formulated.

Senator CONNOLLY (*Ottawa West*): What about the situation in the United States? Are those pilots independent operators?

Mr. BALDWIN: The concept there, sir, is basically a different one in that the pilot's licence has been equated to a deck officer's certificate.

Senator CONNOLLY (*Ottawa West*): They are free enterprisers, then? They are not public servants?

Mr. BRISSET: There is at the moment no federal legislation in the United States comparable to our legislation permitting the American authorities to set up a specialized pilotage service which would be the type of service required in the lakes. They have a specialized pilotage service in certain ports or rivers, but that is strictly a state matter.

Senator CONNOLLY (*Ottawa West*): It is a state matter?

Mr. BRISSET: Yes. But where the federal Government pre-empts the field, as it will do in this legislation, then the United States have to keep out of it.

Senator CONNOLLY (*Ottawa West*): Then it becomes inter-state commerce?

Mr. BRISSET: Yes.

The great fault of the American legislation is that it says that you must have a pilot, but it has no policies evolved to provide piloting services that are required with regard to whatever system exists in other maritime countries of the world.

The CHAIRMAN: Would you now proceed to your last amendment, Mr. Brisset, that is, the new subsection (7) at the bottom of page 2 of your memorandum?

Mr. BRISSET: This subsection, in the view of the Federation, is perhaps the most important amendment that we have to suggest in the present legislation. Again I would like to refer to the bill now pending before Congress in the United States, and you will see that there is a section which contains a reciprocity provision, which briefly says that the certificates issued by the Canadian Government qualifying officers or pilots to navigate or be on board ships in U.S. waters of the Great Lakes will only be recognized so long as Canada recognizes the licences issued by the American authorities as entitling the owners to navigate the Canadian waters of the Great Lakes. Now, we feel that there should be a similar reciprocity provision in the legislation before you. I dare say you cannot, or Canada cannot, be subject to criticism on the part of United States authorities or Government if it inserts in its own legislation a provision exactly similar to the provision contained in the American bill. The purpose of this provision is of course to give to Canada the weapon that would permit Canada to get around the difficulties created by the negative policy which the American statute embodies. In other words, the licences issued by the Coast Guard to American pilots serving as pilots on American ships will only be recognized here and permit ships with these officers on board to come down from the lakes into the Canadian portions of the Great Lakes water Basin, if the United States recognize the validity of our own licences; and I remind you again of the licences for the open waters to be issued to foreign officers. In other words, by this reciprocity provision we can enforce recognition of even the licences permitting foreign ships' masters or officers to go up and navigate the open waters on the American side.

The CHAIRMAN: I suppose you would agree, Mr. Brisset, that even if this subsection that you propose was not passed, the Governor in Council would have power to do the same thing by regulation under subsection (e) of section 4, which allows the Governor in Council to make regulations "authorizing a person holding a pilot's licence issued by the Government of the United States to navigate any of the Canadian waters of the Great Lakes

Basin". I suppose he could quite properly issue an Order in Council that no authorization will be granted by us unless there is some authorization granted by the United States, could he not?

Mr. BRISSET: I would imagine that this is the intention of the department in this regard, that this very likely will be the type of regulation passed or contemplated; but it seems to us that it would be much preferable to have it in the Act itself, and I can assure you that such a reciprocity clause would give the ocean ship freighters a great measure of relief.

Senator CONNOLLY (*Ottawa West*): Could you do it by adding to subsection (e), if the licences issued by Canada are recognized in the United States by the United States Government?

Mr. BRISSET: I am not really wedded to any particular text; I readily grant that. The reason I have used the text before you is that it follows practically verbatim the American text, and that is my own justification.

Senator WALL: Well, I would think it is a little more evidence of making it more clear, rather than the fact that it is tit for tat.

Mr. BRISSET: It is clearer, certainly.

Senator MACDONALD: Otherwise we give the Government too much power by order in council. I feel that if it can be put in the legislation it should be done.

The CHAIRMAN: Yes, and certainly the United States could not object to our putting in similar legislation to their own.

Senator MCKEEN: They do in the Jones Act. In the coastwise shipping they won't put it in.

The CHAIRMAN: The deputy minister tells me that he has no objection to this being put into the legislation, but that he rather inclines to Senator Connolly's view that it might go in more properly, perhaps, as an addition to subsection (e) of Section 4.

Mr. BRISSET: Which would still in that case leave it a matter for regulations, though, which may or may not be passed. I am not saying that with any real fear that it will not be passed.

The CHAIRMAN: Well, no; the authority given to make regulations under subsection (e) would be subject to the fact that the Governor in Council could only make such regulations if there was a similar provision made in the United States, and which would be mandatory to just the same extent as you have it here today, would it not?

Mr. BRISSET: Yes, that is very likely, sir.

The CHAIRMAN: What is the feeling of the committee about that suggestion?

Senator CAMPBELL: I feel something should go in, and I think most of the people who have had experience in dealing with shipping interests of the United States realize how restricted they are in giving any rights to Canadians to participate in their shipping, to the extent that you cannot even hold a directorship in an American shipping company, and many shipping companies formed in Canada are wholly controlled by United States citizens in the majority on the board. It seems to me that the principle of putting such a reciprocal arrangement in the statute is important, and I rather favour the amendment to subsection (e), rather than putting it in as a separate section.

Senator MACDONALD: Did I understand you to say, Senator Campbell, that a Canadian could not be a director in an American shipping company?

Senator CAMPBELL: That is right, in a company engaged in the coastal trade in the United States. An instance occurred a while ago where on account of two Canadians who held substantial interests in an American company served as directors, and the ship was seized, and it was released upon payment of a \$5,000 penalty. That is the type of discrimination that takes place between Canada and the United States companies engaged in coastal shipping in the United States, and that is against Canada.

Senator McKEEN: On the other hand, an American can come up here and form a Canadian company and hold 100 per cent of the stock, and they can be directors and managers and own and operate it and manage coast-wise trade.

The CHAIRMAN: Is it the general view of the committee that we agree to the substance of this proposed amendment in subsection 7?

Honourable SENATORS: Agreed.

The CHAIRMAN: And secondly, that we think it should be incorporated in paragraph (e) of subsection 4 in appropriate language.

Agreed.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, perhaps the department might give some consideration to the wording and bring something back next week.

The CHAIRMAN: Yes, and perhaps the department could co-operate with our own Law Clerk, Mr. Hopkins, in revising the legislation.

Have you completed your submission, Mr. Brisset?

Mr. BRISSET: Yes, Mr. Chairman. I have only one word to add in conclusion, and that is that we want to assure this committee that the Shipping Federation of Canada and its members are really concerned with safety of navigation on the Great Lakes; they are not seeking to avoid any obligations that could properly be imposed upon them to insure that safety, but they still consider that these two bills that you now have been acquainted with are not really the solution to the problem. The solution of the problem is complete agreement between two Governments and the setting up of a proper pilotage service either under a super-national authority or a division of the sphere of influence as I have indicated earlier.

Thank you very much.

Senator MACDONALD: Mr. Chairman, I raised the question previously with respect to ships which ply the Great Lakes only. According to the bill which is now before us, if a ship leaves port McNicoll and goes to Fort William, doing that twice a week, will this bill require that ship to take on a pilot to take the ship through the St. Mary's River?

Mr. BALDWIN: I think the answer there is that we would expect the master or mate of such a ship would be in a position to qualify for the higher type of certificate.

The CHAIRMAN: We are all obliged to Mr. Brisset for his very exhaustive and very clear presentation. Arising out of Mr. Brisset's evidence there are two things I have asked the Deputy Minister to do: First of all, to get us an opinion from the Department of Justice on this question of licensing non-British subjects, and secondly to co-operate with our law clerk to revise the appropriate language to amend paragraph 3 of subsection 4.

Mr. Fisher, you wanted to add a few words in case there was anything that Mr. Brisset had omitted to mention.

Gentlemen, Mr. Fisher is the head of the Canadian Shipowners Association.

Mr. FISHER: I would like to say a few brief words, Mr. Chairman.

The CHAIRMAN: Would you come to the table, Mr. Fisher?

Senator MACDONALD: Who do you represent, Mr. Fisher?

Mr. FISHER: The Canadian Shipowners Association.

Senator MACDONALD: How is it made up?

Mr. FISHER: It consists of some 25 Canadian corporations owning vessels. These vessels are primarily engaged in ocean going trade. We differ from our friends in the Shipping Federation in that they represent all operators of any nationality in Canada.

Senator REID: Are any of your members connected with the Federation?

Mr. FISHER: A number of our members belong to the Federation too and co-operate with them in many ways. But our principal purpose is to further the position of the Canadian shipowner as such, the Canadian corporation owning ships.

Mr. Chairman, I did reserve a caveat because as I explained to the committee we work closely with the Shipping Federation on all these matters. There is a great deal of common interest in these things. I have one comment that I wish to make Mr. Chairman, and that is with respect to the contentious section 5.

I do not think that on behalf of my members I could associate myself as closely with the "or not" portion of this proposed section, but I do wish to remind the committee of this very important fact, that as Canadian corporations they are also British and in respect to the registration of our ships we are required by law to register them somewhere in the British Commonwealth; in other words they must fly the British flag. We cannot own a Pan-American, a Norwegian or a Liberian ship. Therefore I would suggest to the committee that it is imperative so far as we are concerned that you retain in this section the qualification of British as well as Canadian. That is the point I want to make.

The CHAIRMAN: That divides itself into two, does it not, Mr. Fisher? In dealing with the restricted waters I understand our departmental officials to say they intend to restrict the licensing of pilots in restricted waters to Canadian citizens; but you cannot do that; obviously, that is, licensing a Norwegian ship when it is in open waters.

Mr. FISHER: Mr. Chairman, is that not the question that you are going to have an opinion on from the Department of Justice, as to licensing non-British subjects?

The CHAIRMAN: Yes.

Mr. FISHER: I hold no brief for "or not" but I will hold a brief that this be kept open to British citizens.

The CHAIRMAN: Exclusively?

Mr. FISHER: Exclusively.

The CHAIRMAN: You would not object if a Norwegian ship came up and was licensed to operate in open waters on the Great Lakes?

Mr. FISHER: Certainly not. If this goes to the point where it is thoroughly Canadian you will work an injustice to Canadian companies in that you reduce the activities of the Canadian companies at what they can do with their assets.

The CHAIRMAN: Well gentlemen, we have heard from the shipowners. There are two gentlemen here representing various groups of pilots, one is Mr. Gerin-Lajoie representing the Association of Pilots of Quebec and below. I would take it you are not concerned particularly with the Great Lakes matters Mr. Gerin-Lajoie?

Mr. GERIN-LAJOIE: That is quite right, although I would like to point out I represent four associations, grouping pilots from Kingston to Father Point and not only from Quebec to Father Point.

The CHAIRMAN: Have you anything to observe on this particular section?

Mr. GERIN-LAJOIE: No. We will wait for section 9.

The CHAIRMAN: Gentlemen, Mr. Langlois is also here, and I understand he represents pilots from all over the country. Have you any submissions you would like to make with respect to the section we are now dealing with, section 11, Mr. Langlois?

Mr. LANGLOIS: No Mr. Chairman, not on this section.

The CHAIRMAN: Is there anybody else here who wishes to make representations with respect to section 11, dealing basically with Great Lakes pilotage?

Senator MACDONALD: We heard from one representative of the Pilots Association. I wonder if he has any comments to make now in view of the discussion that took place.

The CHAIRMAN: Captain Andrews, have you anything to say to the committee after hearing the evidence this afternoon? Captain Andrews is known at the committee already; he gave evidence this morning.

Captain ANDREWS: Mr. Chairman, there is very little I have to say at the present time except that I wish to point out that Mr. Brisset used a lot of figures which were made only for negotiation purposes, and I think you gentlemen understand that when you go into negotiations you naturally go very high.

The CHAIRMAN: In other words, when you ask for \$100 a day you do not expect to get \$100 a day.

Captain ANDREWS: No, certainly not.

Senator WALL: In all deference, what is the purpose in negotiations of asking for a totally unrealistic figure from the point of view of end result?

Captain ANDREWS: Well, management starts at the very bottom, and you work from the top. You work out to the happy medium, if you get me.

The CHAIRMAN: I think Captain Andrews is under the disadvantage that this \$100 was suggested from the United States.

Captain ANDREWS: Yes.

The CHAIRMAN: And you more or less had to go along.

Captain ANDREWS: Well, we did go along. I did not mention it at the time, but I certainly feel that with a port like Toronto or Hamilton, it is the Canadian taxpayers' money that is being spent on these ports; it is not spent by shipping interests, it is not spent by people in that locality, it is money from all over Canada; and I think it certainly should be restricted districts, and also the Georgian Bay and Little Current, as a restricted district, the most dangerous place in the Great Lakes. There are several places like that near Fort William and Port Arthur.

Senator POWER: Do you quarrel with the statement that pilots operating on the Great Lakes earn around \$8,000 a year?

Captain ANDREWS: They probably do. I don't know. But also it is stated that pilots in that group last year were very qualified pilots. But one man who had one trip on the Great Lakes was taken up as a pilot; another was up in the Great Lakes as a compass adjuster. I would like to see us get licensed people who have the experience.

The CHAIRMAN: So that you favour section 11?

Captain ANDREWS: Yes, with the exception of licensing the foreign pilots.

A SENATOR: Mr. Brisset said there had been a suggestion that two or three pilots were required on a vessel. What is the justification for suggestion more than one pilot?

Captain ANDREWS: I did not suggest it myself, but I agree with Mr. Brisset that you could not have three pilots on a ship; it would be prohibitive.

Senator REID: Did you say that one pilot, making one trip, made \$8,000?

Captain ANDREWS: He made one trip previous to last year on the Great Lakes.

Senator REID: And then he gained a licence?

Captain ANDREWS: He didn't need a licence.

The CHAIRMAN: That could not happen, presumably, once this bill got through and the Government licensed qualified men.

Senator MACDONALD: If three pilots are unnecessary, would you say that two pilots are necessary?

Captain ANDREWS: If you wanted a man on the bridge at all times it would be necessary to have two.

Senator MACDONALD: Is it necessary in your opinion to have a man on the bridge all the time?

Captain ANDREWS: Not in the open waters in good weather. In case of fog he should be there; and as for the radio-telephone, a man may speak English so that you can sit down and talk to him, but on the radio-telephone his voice is distorted, it is very hard to understand. And that is speaking from experience.

Senator MACDONALD: Of course, when you get on a ship at Kingston you don't know whether you are going to have fog when you are approaching the Welland canal. Do I understand you to say that if there were fog you would require two pilots?

Captain ANDREWS: Not necessarily. If you had fog you would call the pilot to get up.

Senator MACDONALD: Then you would have to have two pilots on the ship, to get one of them up?

Captain ANDREWS: No. Any person could call you.

Senator MACDONALD: But do you think at times it is necessary to have two pilots on a ship?

Captain ANDREWS: No. The only place I would recommend two pilots is the possibility at the present time of the Welland canal being very congested, and it might be a 24-36 hour job, and for one person to do a good job it would be too long a stretch.

The CHAIRMAN: Any further questions of Captain Andrews? Thank you very much, Captain Andrews.

Senator ISNOR: Gentlemen, as you know, I am not a lawyer, I am just a plain businessman, but I am at a loss to make sure as to one point in so far as these amendments are concerned. Naturally I am particularly interested in their effect on the Maritime provinces.

The CHAIRMAN: You mean the amendments in the bill?

Senator ISNOR: Yes. I am wondering whether these amendments apply only to the St. Lawrence Seaway and the Great Lakes?

The CHAIRMAN: Are you referring to Section 11?

Senator ISNOR: Section 11, yes.

The CHAIRMAN: I think it is perfectly clear, if you read 375A, it talks about "the waters of the Great Lakes".

Senator ISNOR: I was wondering if you could make it stronger if you added a few words to section 11; and I am going to make a suggestion for your consideration, knowing how efficient you are. The words I would suggest would be, at section 11: "and shall apply only to the St. Lawrence Seaway and Great Lakes".

The CHAIRMAN: I really think, senator, that amendment is unnecessary. It seems to me so clear that section 375, headed "Great Lakes Pilotage", only deals with the Great Lakes basin as defined.

Senator CROLL: Perhaps you could add there, "and excludes Halifax."!

Senator REID: Was Senator Isnor's question, did this bill affect just the Great Lakes and Halifax?

The CHAIRMAN: That is section 11?

Senator REID: I thought he said, "the bill".

The CHAIRMAN: No, we are only discussing section 11.

Senator WALL: I would like to point out for your consideration that section 2 defines the Great Lakes Basin.

The CHAIRMAN: Yes, subsection 2 of the proposed section 375A, does define the Great Lakes Basin as being "the Great Lakes, their connecting and tributary waters, and the St. Lawrence river as far east as the boundary line between the United States and Canada crossing the said river near St. Regis in the province of Quebec." I do not think it could be clearer, senator; I don't know.

Senator ISNOR: Thanks very much, Mr. Chairman; if you say so. Perhaps you will think it over this evening.

The CHAIRMAN: Well, I will ask the Deputy Minister to.

Senator ISNOR: We will let it stand for now.

The CHAIRMAN: I suggest that before we leave this section there are two things we should do. I mentioned before that Mr. Booth, the Assistant Deputy Minister, has been in charge of negotiations with the United States authorities, and as that is a rather important feature of this bill, as has appeared from our discussions, I wonder if the committee would not like to hear Mr. Booth tell us what the present position and prospects are in the United States with regard to their adopting similar legislation. Does that meet with the approval of the committee?

Hon. SENATORS: Agreed.

Mr. C. S. Booth Assistant Deputy Minister of Transport: Mr. Chairman, negotiations or discussions with the United States have been going on for several years but you, sir, asked for the present position and I take it you are really interested in the position we are in just now, and what has led up to it, and where we are going from this point.

The committee has already been informed that the United States Senate refused to act on this bill a year ago, and it was therefore sent down.

Senator REID: Why did they refuse?

Mr. BOOTH: Well, I think largely because of the considerable volume of objections that accrued between the time it left the house and the time it got into the Senate. Certainly the objections in the house were, I think, rather largely restricted to the Canadian Shipping Federation.

Senator MACDONALD: I thought the former witness said it was because they received a letter from the Dominion Government.

The CHAIRMAN: An *aide memoire*.

Mr. BOOTH: I do not think it should be taken that the Canadian *aide memoire* was the only factor in stopping this thing in the Senate. It was one of a number and, as you have seen, there is a whole book full of resolutions and statements that were presented at that time.

Senator CONNOLLY (*Ottawa West*): Mr. Dulles' letter indicated that the Canadian objection was a very important consideration.

Mr. BOOTH: That is right, sir, and it was taken very seriously. In any event, that was referred back to the Executive with instructions to consult. Following that we did consult but at that time, you may remember, our *aide memoire* simply objected to the inclusion of the open waters provision in the United States bill. We agreed as to the necessity in restricted waters and we agreed as to the importance of safety but we disagreed as to the necessity for having pilots on board in open waters.

Following that there were discussions here and in Montreal, which included Seaway authorities on both sides, and not so very long ago, about the time this bill was being prepared, we came to the conclusion that there was something we could go part way in to meet the American position. It was at that point we included this second-class certificate. Remember, their requirement was that in the open waters there would be on board a pilot. Our provision simply is that in the open waters there will be on board a ship's officer or other individual who has certain qualifications, namely, knowledge of the Great Lakes rules of the road and knowledge of English so he could speak over the telephone, and perhaps the experience of one or two trips over the lakes.

So we considered that we had gone quite a long way to meet the basic American point: that somebody with some qualifications was needed throughout the lakes.

Our first reaction to that was quite favourable. However, this was not general and at a meeting which we had some three or four weeks ago in Washington we found that the Coast Guard is still having some difficulty in being persuaded that what we now propose does, in fact, meet the requirements of safety. It is true that at that meeting the Commandant of the Coast Guard was not there. He was in conference in England, and it may well be that we might have made just a little more progress had he been there. These discussions were, of course, non-official in nature; that is, they were consultations for the purpose of reaching agreement and not for the purpose of emphasizing differences, and therefore it would be quite inappropriate for me to indicate in detail just what those differences were but I can assure the committee that there is quite a substantial body of opinion among those officials with whom I and my group discussed this matter who are quite sympathetic towards our position and who recognize that the economics of this problem are extremely important, and that they should only be permitted to suffer in the event there is a very clear requirement in the interests of safety.

We do believe that what we have provided here is adequate and reasonable in the interests of safety, and the unknown point at the moment is as to what the United States is going to do. If I may say a word, sir, as to the position of this United States bill, unlike the one a year ago, which was an administration bill, this one was put in by the Chairman of the Committee—I think it is—on Marine and Fisheries, apparently with the idea of getting it on the list so that they could get ahead with it and not be crowded out in the considerable rush. However, I was assured that it has ceased to be an administration bill. Under their procedure it will now be referred to the several departments and agencies concerned, particularly the Coast Guard, the State Department, and the Department of Commerce.

Senator ASELTINE: Will they hear representations from Canada before those committees or will there be any?

Mr. BOOTH: I am sure our friends in the Federation will be there. Our representations, sir, would normally be made by way of another *aide memoire*, which is in the course of preparation.

Senator ASELTINE: If those regulations are retained in the American bill and we are obliged to follow them, what would be the result in dollar cost of having pilots on these ships in open waters as well as in the restricted waters?

Mr. Chairman, you have had some evidence on that, and the scale has ranged from \$42.50 for one man per day to the suggestion of three men at \$100 a day. It depends to what extent the respective strengths of the bargaining parties are, I would assume.

Senator CONNOLLY (*Ottawa West*): Is there a big pilot lobby running in the United States?

Mr. BOOTH: It is quite powerful and Captain Rollo Johnson does spend considerable time around Washington when these things are under consideration.

Senator CONNOLLY (*Ottawa West*): How many pilots are involved in the American association with respect to the Great Lakes?

Mr. BOOTH: I am sorry, sir, but I can't tell you that. Their system is quite different from ours in this respect, that basically they have state pilotages and they are relatively small groups. Perhaps someone in the Federation can tell you the composition of Rollo Johnson's organization and how it is made up, but I am sorry, I don't know.

Senator MACDONALD: Do I understand that lobbies are encouraged in the United States?

Mr. BOOTH: I could not answer that, sir.

The CHAIRMAN: That is hardly a fair question to ask a civil servant.

Senator MACDONALD: I did not actually expect an answer.

Senator CONNOLLY (*Ottawa West*): Could I ask the witness a question, Mr. Chairman? I suppose the American authorities have copies of this proposed legislation?

Mr. BOOTH: They have it, sir.

Senator CONNOLLY (*Ottawa West*): Have they seen any drafts of the proposed regulations that Canada has agreed to?

Mr. BOOTH: We haven't seen them yet.

The CHAIRMAN: No, have they seen drafts of ours?

Mr. BOOTH: No, we haven't drafts yet. We have notes, and we could perhaps have our regulations ready within a very short time, but we haven't got them in that form for several reasons. First of all, we don't quite know what is coming out of this. Secondly, we must mesh with the Americans on the two sides if this thing is not going to produce complete chaos, so that it would be very unwise for us to so commit ourselves by regulations or otherwise until we reach the point either that the Americans are not going to do anything, or we don't know what they are going to do.

Senator CONNOLLY (*Ottawa West*): Dealing with the question of regulations, I presume you would talk to them the way you talk to this committee here, that if certain things are not covered in the Act that obviously need it, you would say, "We will cover that in the regulations." I suppose that is part of your negotiation?

Mr. BOOTH: Yes, sir. I think there is very full recognition on both sides that if we don't work together on this thing we are going to fall together, because that line has to be crossed from time to time all the way up the lakes, and if we don't co-ordinate we could end up with two sets of pilots going over the whole lake, which of course is absurd.

Senator MACDONALD: I would like to ask this witness, or someone else, what is going to happen if we pass this bill, and the United States Congress does not pass a bill, and as a result this part respecting Great Lakes pilotage does not come into effect. What will be the result when the Seaway is opened up by Her Majesty at the end of June?

Senator CAMPBELL: Operate as in the past.

Mr. BOOTH: It has been going on quite some time. It is true that the traffic has been growing, and that the matter is a little more acute, but basically there has been no change.

The CHAIRMAN: They can go on the same way as in the last three or four years under the Shipping Federation, I suppose?

Senator MACDONALD: But then there will not be any necessity to have pilots under the present Act.

The CHAIRMAN: No, it will be a matter of voluntary regulation by the Canadian Shipping Federation as it has been in the past three or four years. The deputy minister has asked me to say that we still have under consideration whether or not we will go ahead without the United States. We have under consideration in a slightly different context the question of what we are going to do about the Welland Canal-Sarnia area. Those matters are under discussion, and unfortunately the uncertainty in this side of the picture makes it just that much more difficult for the department.

Senator ASELTINE: Is it not a fact that under the circumstances outlined by Senator Macdonald, the Leader of the Opposition in the Senate, if this bill is not proclaimed we just go on as we have done in the past irrespective of what the United States does with their bill?

Mr. BOOTH: That is so, sir. We still have the powers under Part IV, that we could establish pilotage districts, although for obvious reasons when you are in international waters the utility of those could be quite limited.

Senator ASELTINE: Is there the possibility of our passing this bill if the Americans pass their bill in its present form?

Mr. BOOTH: Yes, sir. We could have proclaimed this either with or without the complementary United States legislation.

The CHAIRMAN: Any further questions to Mr. Booth? If not, then is the committee ready now to deal with the other amendments suggested by Mr. Brisset?

Senator REID: May I ask how long you intend to sit this evening?

The CHAIRMAN: Well, I think we are almost at the end of section 11, unless further representations are to be made, or some member of the committee wishes to hear further evidence about it. I think the only thing that now stops us from dealing with section 11 are these amendments proposed by Mr. Brisset, other than the last one which we have accepted.

Senator MACDONALD: I understood we were going to give consideration to the wording of the amendment.

The CHAIRMAN: That is right.

Senator MACDONALD: Are they prepared to present it now?

The CHAIRMAN: I do not think so. Then there was the question of further opinion from the Justice Department.

Mr. BALDWIN: That is most unlikely.

The CHAIRMAN: Do you think the committee can now deal with Mr. Brisset's other suggested amendments? They were explained by him and commented on by the deputy minister. We have this document headed Part VI(A). Now, his first suggestion is that some lines be added in the second line of the new section 375(a)(1), which starts out by saying, "Notwithstanding anything in this Act," and then he suggests the additional words, "from the time the regulations contemplated under subsection (4) come into effect". What is the committee's view on that, or do you wish to have some enlightenment from the deputy minister as to what he feels about that?

Mr. BALDWIN: I did not comment on this when it was raised before. Here again I have no particular objection, but we consider it is quite unnecessary,

because we have full control over the timing of our actions through the fact that this Part has to be proclaimed by the Governor in Council, and we would not do that until we had the regulations ready and authorized.

The CHAIRMAN: Well, then it would seem that is quite a logical statement. What does the committee feel about this amendment? It seems rather unnecessary.

Senator CONNOLLY (*Ottawa West*): I would think, with the understanding the committee now has from the deputy minister, that after all Mr. Brisset said, that the ships cannot operate if there are no regulations and no licences; and the department says, "We won't proclaim the Act until first of all we have the regulations and until we issue the licences". It seems to me to be unnecessary to add the words.

The CHAIRMAN: Is that the general view of the committee?

Some SENATORS: Agreed.

The CHAIRMAN: Then we reject Mr. Brisset's first suggested amendment.

Now, you will recall his second suggested amendment was this subsection (5), and I think we have to wait to deal with that until we get the opinion of the Department of Justice as to whether the department can effectively license a non-British officer; so I think we will have to leave that over for further consideration.

Mr. Brisset's third suggestion was an amendment to the former section 5, which he now re-numbers section 6, containing various exceptions which he thought might be of use in the case of a strike. I think the deputy minister said there that he felt that this was a matter which was intended to be dealt with by regulation, and could perhaps more properly be dealt with by regulation.

Senator POWER: I would say that is unnecessary.

The CHAIRMAN: What is the feeling of the committee about it?

Senator MACDONALD: Even if it were accepted, I think consideration would have to be given to the words "Government pilot".

The CHAIRMAN: Yes, because it is not defined anywhere, and I could not find in the evidence any definition as to it being sufficient to accomplish what the object was.

Senator CAMPBELL: It seems to me very important to have such a provision as this proposed here either in the bill or in regulations. After all, it is a relieving section, which relieves the owner and master of a penalty if under certain special circumstances he is obliged to handle the ship without a pilot. We all know that if these ships are held up unreasonably by strike or otherwise the operating cost is exceedingly heavy, and it could be a very severe penalty on the part of the owner if he was not able to handle the ship under certain conditions.

Senator ASELTINE: \$500 a day.

Senator CAMPBELL: \$500 a day. I suppose he can violate the rule and pay the penalty, except that it is payable for every day he does violate it. I think if there was an undertaking to cover this by regulation, it can probably be more adequately done that way than in the statute.

Mr. BALDWIN: Mr. Chairman, I think we would be quite prepared to make a commitment that we will cover this in the ministerial regulations.

Senator CONNOLLY (*Ottawa West*): In any event you have subsection 3 of that same section, which authorizes the minister to do so.

The CHAIRMAN: Under those circumstances does the committee feel it is not necessary to have this proposed amendment?

Agreed.

Senator MACDONALD: Would it be fair to add we accept it in principle but think it should be done by regulation?

The CHAIRMAN: Yes, and we have received the ministerial undertaking so to do.

Is there anybody else in the room who has any further representations to make to us on section 11 of the bill? If not I think we have exhausted that section, and have considered it very thoroughly.

I wonder whether we could proceed now with one or two sections. So far we have been rather lucky in that we have not had to deal with section 9, which is the one Senator Kinley wishes to deal with. And this is a section which Mr. Gerin-Lajoie and Mr. Langlois wish to deal with is it not?

Mr. GERIN-LAJOIE: Yes, Mr. Chairman.

The CHAIRMAN: What about section 8? Section 8 seems to be a very simple one. It simply gives the governor in council the right to create further pilotage districts and takes away the limitation to alter the existing pilotage districts of Quebec and Montreal.

Mr. LANGLOIS: I have some representations to make on that, Mr. Chairman.

The CHAIRMAN: Could we deal with that now? I do not think it would take long.

Senator POWER: I would think it would take some time.

The CHAIRMAN: Shall we start and see?

Mr. LANGLOIS: Mr. Chairman, could I say that I would first like to discuss my points of view with the officials of the department. I was engaged on this case only last Saturday and I have an appointment with Mr. Baldwin to see me after this sitting.

The CHAIRMAN: Then perhaps you might revise your representations and be prepared to make them when we reconvene on Thursday morning, in the light of your discussions with the department.

We had better leave section 8 then.

Honourable senators will remember at our last meeting we had been considering and we had got through quite a number of non-contentious sections. There are several others—sections 14 to 18 inclusive are ones on which nobody has any very strong views. If there is any witness in the room who has anything to say on those sections please make your views known.

Shall we try and see if we can get rid of those? On section 14—appointment of persons to act as wardens at ports not designated by governor in council.

Would you be good enough to explain that amendment Mr. Slocombe.

Captain Slocombe is in charge of Nautical Services in the Marine Department.

Captain SLOCOMBE: Mr. Chairman, the port warden is an official who is in charge of the administration of the regulations made under the Canada Shipping Act covering the loading and carriage of grain cargoes, of concentrates and timber deck cargo. Now where grain is regularly shipped we have port wardens. This is for cargoes for overseas. We have regular port wardens at those places where the port warden is required regularly and also in the case of concentrates and timber deck cargoes, but there are more and more ports opening up. We are finding that concentrates, for instance, are being shipped at places we never even heard of, and we find the services of a port warden are necessary at these points. A port warden is appointed by

order in council which takes time, and we would like to have this amendment through so that in those cases where it has not been found necessary to appoint a port warden we can have a departmental official act as such. I think that explains the situation Mr. Chairman.

Senator ISNOR: Would that position be filled by an official from Ottawa or from some other part?

Captain SLOCOMBE: It might be. It might be a departmental official whom we know is capable of performing the functions.

Senator ASELTINE: Does that section apply to the Maritimes?

Captain SLOCOMBE: Yes, sir. We have a port warden at Halifax.

Senator POWER: Yes, but you do not say that in the bill. You say "a person". That is any person, not necessarily an employee of the department.

Captain SLOCOMBE: Of course we would have to be satisfied that whatever person it would be would be a competent person.

Senator POWER: Would he become a civil servant after appointment?

Captain SLOCOMBE: He might or he might not. If we had no civil servant available we might be able to get somebody to fill in temporarily.

Senator POWER: Would this man come under the Civil Service Act?

Captain SLOCOMBE: Not necessarily, if we used someone who was already in the Civil Service.

Senator POWER: Is this a permanent job?

Captain SLOCOMBE: No sir, it would not be a permanent job.

Senator McKEEN: You are only asking authority to appoint someone temporarily as a port warden. Is that all you want by this?

Captain SLOCOMBE: Yes. To appoint him to carry out the duties of a port warden.

Senator CONNOLLY (*Ottawa West*): The explanatory note says, "where the appointment of a full-time port warden is considered unnecessary."

Captain SLOCOMBE: Yes. There are ports which have only one or two loadings in a year.

Senator CAMPBELL: I suppose an illustration is a loading of concentrates at Rankin Bay where you would not have a permanent port warden and you would appoint someone to act as such.

Captain SLOCOMBE: Yes, we have some place on the Pacific Coast that has brought this to light, where the port is not with a port warden's district. We have a port warden at New Westminster, one at Vancouver and one at Victoria, but there are little places not within these districts.

Senator POWER: What have you done up to now?

Captain SLOCOMBE: We have sent somebody to act as port warden.

Senator POWER: Up to now were these people remunerated by fees? I see you have authority to say that the fees shall be paid to the Receiver General. Certain port wardens are paid by fees are they not?

Captain SLOCOMBE: Yes, generally they are, but we have a few on salary.

Senator POWER: Up to the time this act comes into force anyone appointed at this particular locality mentioned by Senator Campbell would have received fees for his remuneration?

Captain SLOCOMBE: The fees would be paid but if he were a civil servant he would not get them.

Senator POWER: But if you appointed someone not a civil servant the fees would go to him, before you pass this section.

Captain SLOCOMBE: Yes.

Senator CONNOLLY (*Ottawa West*): Who pays the fees?

Captain SLOCOMBE: The shipowners.

Senator McKEEN: At some of these outlying ports cargo is not sufficient to make the fees attractive, is that not the case?

Captain SLOCOMBE: That is the trouble.

Senator CONNOLLY (*Ottawa West*): I think section 615 of the existing act provides for the appointment of port wardens by governor in council and I assume that it is a full-time port warden; and section 616 says that he can appoint deputies. This amendment you are seeking is for a sort of *ad hoc* appointment that you are proposing here?

Captain SLOCOMBE: Yes. This a sort of *ad hoc* system.

The CHAIRMAN: Not by the Governor in Council, but by the Minister.

Senator CONNOLLY (*Ottawa West*): By the Minister.

The CHAIRMAN: It sounds reasonable enough.

Senator MACDONALD: There is nothing to prevent this appointment from being a permanent appointment or a fulltime position.

Captain SLOCOMBE: It might be, Senator Macdonald. Say that a civil servant, an official at one of our main ports, might be able to be used in this respect for two or three smaller places where they are just required infrequently.

Senator MACDONALD: Then it would be fulltime.

Captain SLOCOMBE: Then it would be fulltime employment. In this respect he would be acting only temporarily.

Senator SMITH (*Queens-Shelburne*): Captain, in the explanatory note you make mention of appointing an "authorized surveyor". What does that phrase actually mean?

Captain SLOCOMBE: That is just a loose term. The port warden is a surveyor; he surveys arrangements for the loading of the grain.

Senator McKEEN: Might you not get an authorized surveyor from one of the authorized companies, or Lloyd's, or some agency who have authorized surveyors?

Captain SLOCOMBE: That could be done.

Senator McKEEN: I mean, when you are working, you have no set-up for this authorized surveyor other than those who are employed in business now.

Captain SLOCOMBE: That is right, but we have departmental officials such as examiners and masters and mates, and nautical steamship inspectors, who could be used in that capacity if we required them, for the convenience of the shipowner.

Senator CONNOLLY: Section 615 contemplates the appointment of a fulltime port warden. Section 16, in effect, the way it stands now, authorizes the Minister to appoint a port warden who could be a fulltime port warden, because there is nothing in the section as drafted that carries through the idea that is expressed in the explanatory note, that it has to be done when a fulltime port warden is considered unnecessary.

Captain SLOCOMBE: It covers the situation. It does not place any restriction on it, as you see, but obviously if it were a place which required the continual service of a port warden, then the natural thing to do would be to appoint a port warden.

Senator McKEEN: In some cases it would be because the port would not be sufficient for a permanent man, but then it might grow rapidly to the place

where you needed a port warden, and then he could be appointed under the other section as a permanent port warden.

Captain SLOCOMBE: He could be, yes.

Senator McKEEN: So he could be left under this section, as far as I can see.

Senator CONNOLLY (*Ottawa West*): An appointment under section 615, I suppose, would be subject to the jurisdiction of the Civil Service Commission, would it?

Captain SLOCOMBE: No, sir, it would not. It is a fee position now. Under 616A, I think, that is under the amendments, the Governor in Council may declare a port one at which a port warden is on a salary.

Senator SMITH (*Queens-Shelburne*): This section gives you the opportunity to do something much more quickly than you can now do by order in council; is that the sum and substance of it?

Captain SLOCOMBE: Yes, it is. That is the whole point.

Senator SMITH (*Queens-Shelburne*): Is that the sum and substance of it?

Captain SLOCOMBE: Yes.

Senator SMITH (*Queens-Shelburne*): You are doing the same thing now under order in council and you want to do it quickly sometimes?

Captain SLOCOMBE: That's right. If we had advance information that there would be a port warden required, then of course we could always get an order in council to act to appoint such a port warden. As has been pointed out, these ports are opening up gradually. On the Great Lakes a few cargoes have already gone out from the head of the Lakes for overseas. That is going to increase. There was one cargo that went recently from Prescott. Of course, there had never been a cargo leaving Prescott for overseas before and we did not have a port warden there, so we had to send an official to act as a port warden, which is irregular.

Senator ASELTINE: Could that not be from Montreal?

Captain SLOCOMBE: Montreal is not under our jurisdiction. Part of this act does not apply to Montreal.

The CHAIRMAN: Section 614 of the act says:

This part does not apply to the harbours of Quebec or Montreal.

Senator POWER: Montreal and Quebec have a special position.

Senator WALL: For the purposes of clarification, the explanation says that the purpose of this amendment is to enable the Minister to appoint an authorized surveyor.

I gather the intention is to use as much as possible personnel that is already in the service. Is that right?

Captain SLOCOMBE: Yes.

Senator WALL: But could it be a developing point to have a person appointed by section 616(b) on a *pro tem* basis, which is not stated? I don't know if it is going to be for a year or five years or ten years. Nothing is specified at all, so I would like to ask what the intention is so far as the term is concerned. It may be that that person could then be made a full-time warden with the development of business, and never be appointed under section 615.

Captain SLOCOMBE: Our thought is that this amendment would permit us to send an official from Ottawa, for instance, to fill a gap. Now, that official is already fully employed in other ways. If there is going to be a lot of work for a port warden there, obviously it would not be that official who would do it.

Senator WALL: I will not pursue it.

Mr. BALDWIN: I could perhaps give an additional explanation that the protection lies in a different field. No one, I would suspect, but an official already in the service could be appointed under this, because the fees are retained by the Receiver General, so therefore no one other than an official would be interested to take it on. That being the case, you can rest assured the Treasury Department, which keeps a close eye on our department, would not allow a position to be used for other than a temporary purpose without requiring us to clarify it on a continuing basis.

The CHAIRMAN: Is that a sufficient explanation of section 14? Shall section 14 carry?

Section 14 agreed to.

On Section 15: Observance of regulations.

The CHAIRMAN: Section 15 deals, as the note says, largely with motor boats, and it has to do with the observance of regulations.

Captain SLOCOMBE: The present section of the act, section 647, provides that all owners and masters of vessels and rafts shall obey the collision regulations. Now, any vessel at all, including a motor boat, is subject to the rules of the road, but if you have a small motor boat rented out for the afternoon, and the person who is renting this boat does not comply with the rules and a policeman gets after him, it is very difficult to say that he is the master of the vessel.

The CHAIRMAN: All that you are doing in this amendment is to add the words, "and persons having the conduct of"?

Captain SLOCOMBE: Exactly, sir. We are making clear that there is a responsibility on anybody running a vessel to obey the collision regulations.

The CHAIRMAN: Even if he is not the owner or master?

Captain SLOCOMBE: Exactly, sir.

Senator CAMPBELL: I wish something could be done with regard to motor boats, requiring them to obey regulations, to carry lights, and so forth, because it has become a very serious matter in so far as our inland waters are concerned.

Captain SLOCOMBE: Yes, Senator Campbell. The department is engaged on a very strong campaign in that direction now.

Senator CONNOLLY (*Ottawa West*): The same applies to the noise of some of these boats, too.

The CHAIRMAN: Will section 15 carry? I take it nobody else has any representations to make on that section?

Senator CONNOLLY (*Ottawa West*): This is really equating the law, the same law as you have under the Motor Vehicles Act, is it not?

The CHAIRMAN: Yes, with regard to a man driving a motor vehicle.

Section 15 agreed to.

—On section 16: Appeal.

The CHAIRMAN: Section 16 has to do with appeals of persons summarily convicted, and I see that the note says:

"The purpose of this amendment is to permit an appeal by a person convicted summarily under the act regardless of the amount of the fine imposed or the sum ordered to be paid."

The only difference from the preceding section is that under the present section there can only be an appeal if the amount ordered to be paid exceeds \$25. Is that not so?

Senator SMITH (*Queens-Shelburne*): Now what is the reason for the change?

The CHAIRMAN: The deputy minister will explain that.

Mr. BALDWIN: The R.C.M.P., which are responsible for the enforcement of this Act, said that if this change were made they saw no objection to it.

Senator POWER: Why? Are they becoming more human all of sudden?

Senator MACDONALD: But why not?

Senator PEARSON: Would it not have a tendency to keep the thing below \$25?

Mr. BALDWIN: Maybe.

Senator MACDONALD: I think that is the answer.

The CHAIRMAN: Shall the section carry?

Section 16 agreed to.

—On Section 17—Certified copies admissible.

The CHAIRMAN: This seems unimportant; it has to do with certified copies of various documents which will be admissible. This amendment is consequential upon section 5 which we carried at our last meeting, gentlemen, so I suppose we can carry section 17?

Section 17 agreed to.

—On Section 18—Application of penalties.

The CHAIRMAN: Will you explain that, Captain Slocombe?

Captain SLOCOMBE: That amendment has the same effect generally as the amendment provided for in clause 13, which applies only to fines under Part VII of the act.

The CHAIRMAN: Oh, yes, that is where a judge may order that the fine be paid to the local authority?

Captain SLOCOMBE: Yes.

The CHAIRMAN: We discussed that under section 13. Any objection?

Section 18 agreed to.

Now, gentlemen, that leaves us with sections 6, 7, 8, 9 and 10, and also, I think, subsection (2) of section 1, which has certain definitions relating to those sections. Are there any public representations with regard to sections 6 and 7?

Have you anything on sections 6 or 7, Mr. Brisset?

Mr. BRISSET: No, sir, we have nothing.

The CHAIRMAN: Is there anybody else in the room with any representations on section 6 or 7? Very well, supposing we take them as they come. Who will speak on them? Captain Slocombe will explain section 6 of the bill to us.

Captain SLOCOMBE: Section 6 of the bill deals with section 16 of the act, Mr. Chairman, in which are set up the different grades and classes of certificates of competency for masters and mates. Now we have there a certificate for a licensed ferry steamship and this licensed ferry steamship can be used in the minor waters or in the home trade. But the problem here is that if a man is given a certificate to run a little ferry across the Ottawa River, for instance, a small scow that transports a couple of automobiles, with a motor back of it, then he has a minor waters ferry steamship certificate which entitles him to act as master of a large ferry, for instance at Quebec City or in Halifax Harbour. We feel that that is difficult, it causes difficulties for the examiner. Further, we find that on the West Coast particularly the province there licenses vessels as ferry steamships which are in fact large passenger ships going on extensive voyages around the coast. The purpose of this ferry steamship certificate was to handle an operation which, as you might say, would take the place of a bridge, which is shuttling to and fro across a very

narrow bit of water. By this amendment we will be able to equate the certificate to the actual candidate, the actual operation for which the candidate wants a certificate. It will be an added safety measure, we believe.

Senator MCKEEN: What is your definition of a ferry?

Captain SLOCOMBE: It is not laid out anywhere.

Senator MCKEEN: We have these ferries on the West Coast going from Vancouver to Nanaimo that came out from England under their own steam.

Captain SLOCOMBE: That is just the point. This will tie it down to the waters described in the certificate.

Senator CONNOLLY (*Ottawa West*): Are these licences expensive to obtain? Does it cost a man much to get one of these ferry steamship licences?

Captain SLOCOMBE: I think it is \$10 for an examination.

Senator CONNOLLY (*Ottawa West*): What I was thinking about is this envisages, I suppose, a ferry licence to cross at Masson on the Ottawa River, but suppose he moves up to Pembroke and takes a similar operation on there would he have to obtain another certificate for that?

Captain SLOCOMBE: It would depend upon the experience which he had. We could endorse his certificate if we felt that he had enough experience.

Senator CONNOLLY (*Ottawa West*): A \$10 fee might be pretty important to that fellow.

Senator MACDONALD: I think you are thinking of a different kind of ferry.

Captain SLOCOMBE: The kind of ferry we are worried about is the one we want to make it easier for the operator to get a certificate to run.

Senator CONNOLLY (*Ottawa West*): But you do not want to allow him to get a certificate that perhaps would allow him to run a ferry at Quebec?

Captain SLOCOMBE: No, we want to tie the certificate down to a location.

Senator POWER: The word licence is dropped and it just makes it ferry steamship.

Captain SLOCOMBE: Yes, and also makes it possible for us to restrict the certificate to particular waters.

Senator CONNOLLY (*Ottawa West*): Well, you could license him for the Ottawa River.

Captain SLOCOMBE: Yes, we could certificate him for whatever experience he had had.

The CHAIRMAN: In whatever particular waters he had worked in.

Senator MCKEEN: In the waters that I have already talked about, would it be a regular passenger steamship certificate that he would require?

Captain SLOCOMBE: Yes. There has been a claim that a licensed ferry steamship certificate is valid on these large passenger ships, and that we have disputed.

The CHAIRMAN: Shall section 6 carry?

Carried.

On section 7—Recognition of certificates.

The CHAIRMAN: Captain Slocombe, will you explain this amendment?

Captain SLOCOMBE: Before the Republic of Ireland became separated from the commonwealth we had this provision under which we could enter into a reciprocal agreement by order in council with a commonwealth country for the reciprocal recognition of certificates of competency as master, mate and engineer. In view of the new status of the Republic of Ireland as not being part of the commonwealth there is no question of our inability to enter into an agreement with them.

The CHAIRMAN: Can you ever agree with the Irish?

Captain SLOCOMBE: Yes, I think in this we can. We know that their examinations are on a par with ours, that they keep them on a par with those of the United Kingdom, the same as we do. There is no practical reason why we should not accept the validity of their certificates on Canadian ships, provided they in turn accept Canadian certificates as valid on Irish ships. This would merely permit us to do that.

The CHAIRMAN: So all we are doing is taking out the words, "any part of Her Majesty's Dominions" and substituting the words, "any country of the Commonwealth or the Republic of Ireland"?

Captain SLOCOMBE: Yes.

Senator WALL: Are we used to equate the phrase "Any country of the Commonwealth" with "Her Majesty's Dominions"?

Captain SLOCOMBE: This is an External Affairs matter.

Senator POWER: It was recognized in the past that Ireland was part of Her Majesty's Dominions. I take it that we, being in the Commonwealth, are part of Her Majesty's Dominions at the present time, or are we?

Senator MACDONALD: I am sure the senator is speaking to prove that we can never agree with the Irish.

Senator POWER: That is jealousy, because the Scots are not mentioned in this bill at all. We get a mention, anyway!

The CHAIRMAN: I think we have now reached the position, honourable senators, where we have only sections 8, 9 and 10 to deal with. Do I take it that the only representations that other people wish to make to us are in respect of sections 8, 9 and 10?

An Hon. Senator: Has section 12 been passed?

The CHAIRMAN: Section 12, I understand, is one on which the department has some suggestions to make for amendments. Shall we deal with that section? I do not think it is contentious.

Senator ASELTINE: The department has an amendment.

The CHAIRMAN: The department has an amendment, and I think perhaps we had better circulate their suggested amendment.

Senator MACDONALD: It is a quarter to six, and if there are only these few sections left we would have plenty of time to deal with them on Thursday.

The CHAIRMAN: Well, that is in the hands of the committee. We have made wonderful progress today.

Senator PEARSON: I think we should adjourn.

The CHAIRMAN: There was some question raised as to whether we should sit this evening to accommodate some of the witnesses who come from Montreal. I believe the majority of these witnesses have had most of their matters dealt with. Mr. Brisset, some of them are clients of yours, are they not?

Mr. BRISSET: Yes, they are.

The CHAIRMAN: Is there any way we could accommodate them by doing anything more tonight, before adjourning, as we have to adjourn, until Thursday morning?

Mr. BRISSET: Not as far as the other sections are concerned.

The CHAIRMAN: I think we have covered most of what they are interested in, have we not?

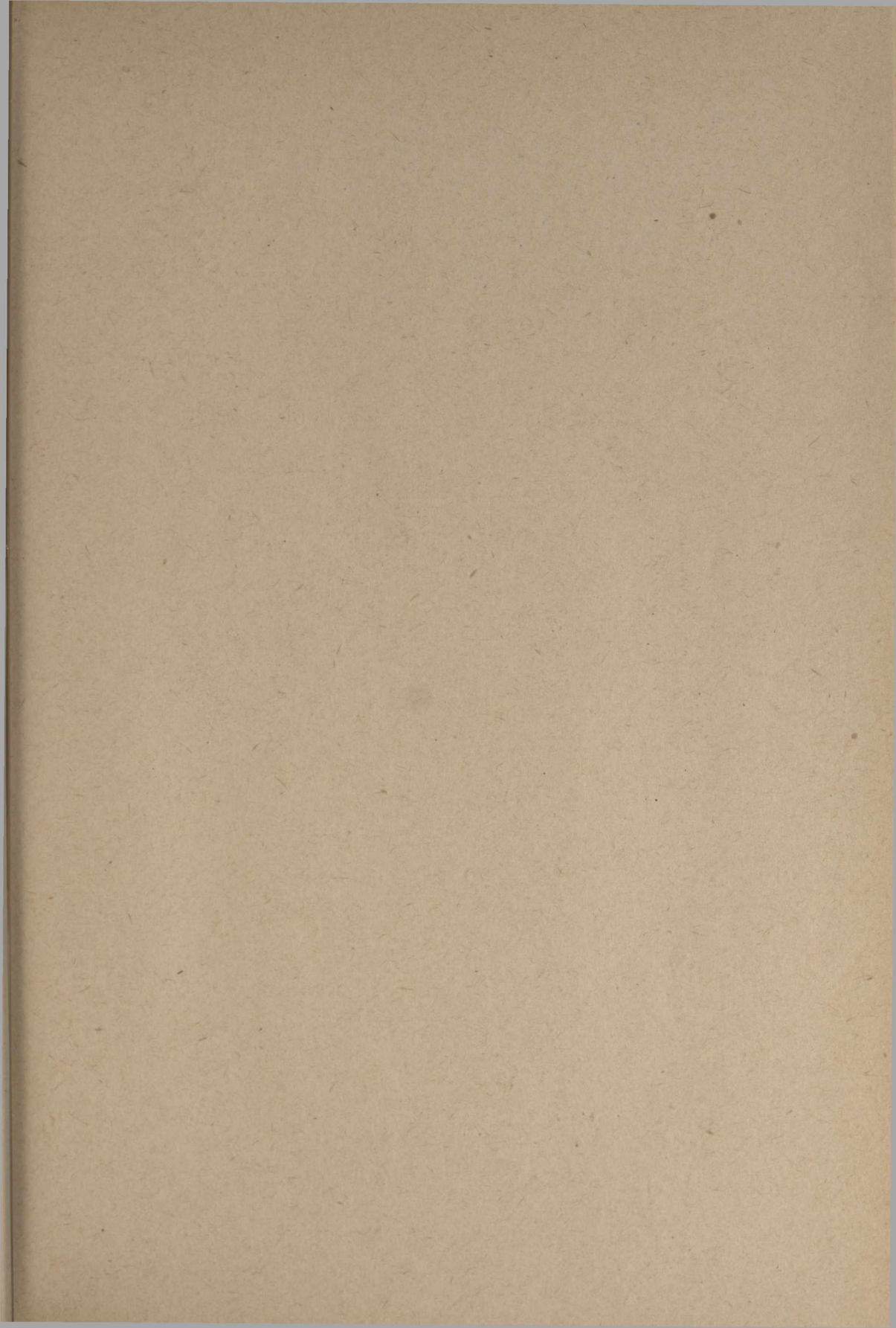
Mr. BRISSET: Yes, you have covered the sections in which we are interested.

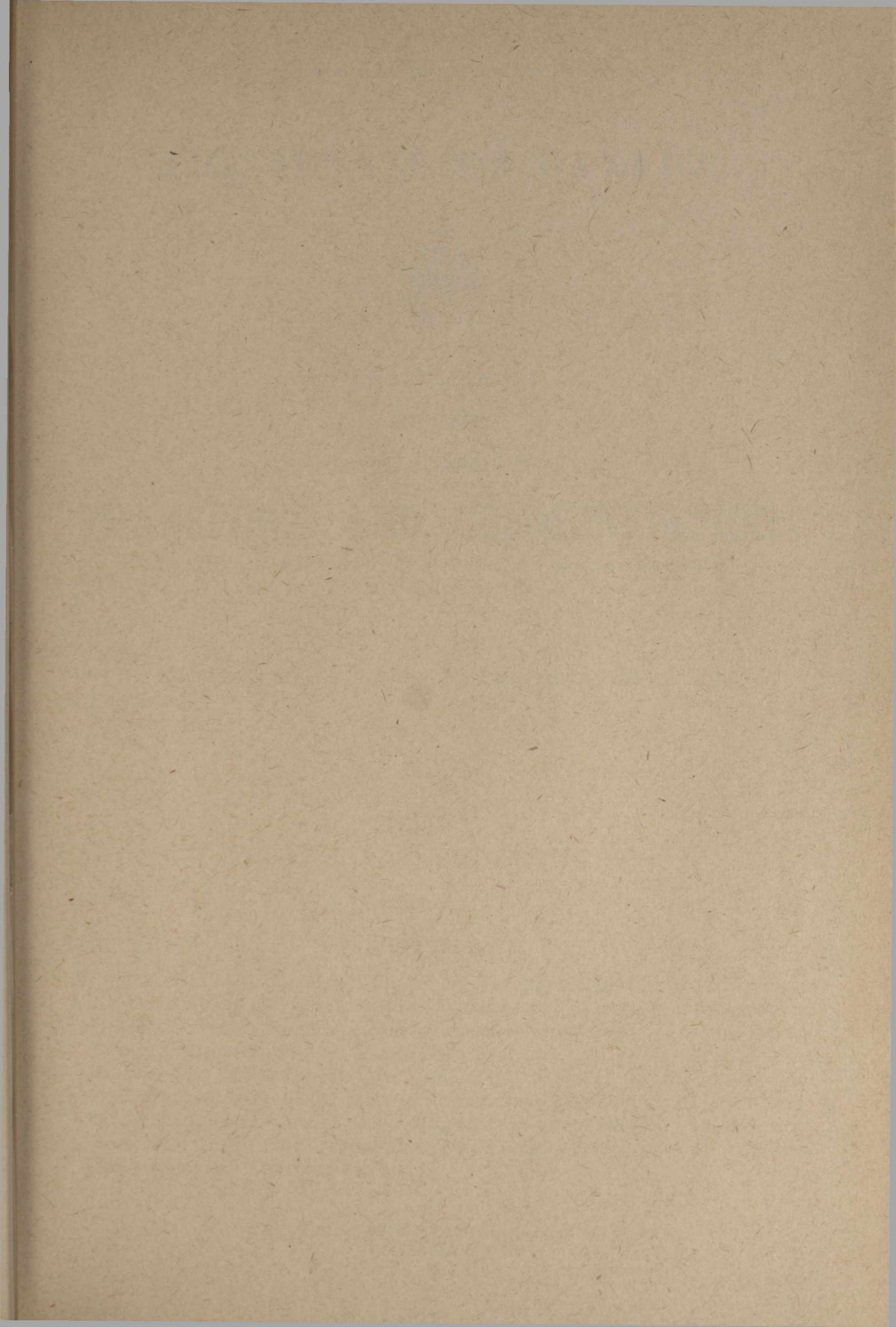
Senator ASELTINE: I move that we adjourn until Thursday morning.

Senator SMITH (*Queens-Shelburne*): Seconded.

The CHAIRMAN: Then we meet at half-past ten on Thursday morning.

The committee thereupon adjourned, until 10.30 a.m., Thursday, February 12.





FEB 20 1959

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill S-3, An Act to amend the
Canada Shipping Act.

The Honourable Adrian K. Hugessen, Chairman.

No. 3

THURSDAY, FEBRUARY 12, 1959.

WITNESSES:

Mr. J. R. Baldwin, Deputy-Minister of Transport; Mr. H. C. Kingstone, Legal Division, External Affairs Department; Mr. Andre Bissonnette, Legal and Treaty Section, External Affairs Department; Mr. Paul Gérin-Lajoie, representative of Pilot Organizations; Mr. Leopold Langlois, representing The Canada Merchant Service Guild Incorporated; Mr. Alan Cumyn, Director of Marine Regulations, Department of Transport; Mr. J. S. Slocombe, Chief of the Nautical Division, Department of Transport; Mr. G. G. S. Guthrie, Chief Registrar of Shipping for Canada, Department of Transport.

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman.*

The Honourable Senators

*Aseltine	Gouin	Molson
Baird	Grant	Monette
Beaubien	Haig	Paterson
Bishop	Hardy	Pearson
Bouffard	Hayden	Power
Bradley	Horner	Quinn
Brunt	Hugessen	Raymond
Buchanan	Isnor	Reid
Campbell	Jodoin	Robertson
Connolly (<i>Halifax North</i>)	Kinley	Roebuck
Connolly (<i>Ottawa West</i>)	Lambert	Smith (<i>Queens-</i> <i>Shelburne</i>)
Dessureault	Lefrançois	Stambaugh
Emerson	*Macdonald	Veniot
Euler	McGrand	Vien
Farris	McKeen	Wood
Gershaw	McLean	Woodrow—(48).
Gladstone	Methot	

50 members

(Quorum 9)

**Ex officio member.*

ORDER OF REFERENCE

WEDNESDAY, January 28, 1959.

Extract from the Minutes of the Proceedings of the Senate.

“Pursuant to the Order of the Day, the Honourable Senator Aseltine moved, seconded by the Honourable Senator Brunt, that the Bill S-3, intituled: An Act to amend the Canada Shipping Act, be read the second time.

After debate, and—

The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Emerson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.”

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, February 12, 1959.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.30 a.m.

Present: The Honourable Senators: Hugessen, *Chairman*; Aseltine, Bouffard, Bradley, Brunt, Buchanan, Connolly (*Ottawa West*), Dessureault, Euler, Gladstone, Grant, Haig, Horner, Isnor, Jodoin, Kinley, Lefrançois, Macdonald, McGrand, McKeen, Molson, Pearson, Power, Reid, Robertson, Smith (*Queens-Shelburne*), Stambaugh and Woodrow—28.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill S-3, An Act to amend the Canada Shipping Act was further considered clause by clause.

Heard in explanation of the Bill were:

Mr. J. R. Baldwin, Deputy Minister of Transport;

Mr. H. C. Kingstone, Legal Division, External Affairs Department;

Mr. Andre Bissonnette, Legal and Treaty Section, External Affairs Department;

Also heard:

Mr. Paul Gerin-Lajoie, Attorney representing the Association of Pilots for the Harbour of Quebec and below, United Montreal Pilots, Corporation of the Montreal Harbour Pilots, Corporation of the St. Lawrence-Kingston-Ottawa Pilots;

Mr. Leopold Langlois, Attorney representing The Canada Merchant Service Guild Incorporated;

It was RESOLVED that the Bill be amended as follows:—

1. Page 6, lines 38 to 40 inclusive: Delete "The Minister may, upon such terms and conditions as he deems advisable, exempt any owner or master from the requirements of subsection (1)." and substitute the following therefor: "The Minister may make regulations exempting owners or masters from the requirements of subsection (1)."

2. Page 7, lines 15 to 18 inclusive: Delete "(e) authorizing a person holding a pilot's licence issued by the Government of the United States to navigate any of the Canadian waters of the Great Lakes Basin described in his licence." and substitute the following therefor: "(e) authorizing an officer or pilot holding a pilot's licence issued by the Government of the United States to navigate any of the Canadian waters of the Great Lakes Basin described in his licence, if he is satisfied that under the laws of the United States pilots or officers holding licences or certificates issued by Canada are authorized to navigate the United States waters of the Great Lakes, their connecting and tributary waters, and the St. Lawrence River."

Further consideration of the Bill was postponed.

At 1.00 p.m. the Committee adjourned to when the Senate rises today.

At 4.30 p.m. the Committee resumed.

Present: The Honourable Senators: Hugessen, *Chairman*; Aseltine, Baird, Buchanan, Connolly (*Ottawa West*), Gladstone, Haig, Isnor, Kinley, Lefrançois, Macdonald, Power, Reid, Smith (*Queens-Shelburne*), Stambaugh—15.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill S-3, An Act to amend the Canada Shipping Act was further considered clause by clause.

Heard in explanation of the Bill were:

Mr. J. R. Baldwin, Deputy Minister of Transport;

Mr. Alan Cumyn, Director of Marine Regulations, Department of Transport;
Captain J. S. Slocombe, Chief of the Nautical Division, Department of Transport;

Mr. G. G. S. Guthrie, Chief Registrar of Shipping for Canada.

It was RESOLVED that the Bill be amended as follows:—

Page 7, lines 26 to 34 inclusive: Delete section 12 and substitute the following therefor:

“12. Section 481 of the said Act is repealed and the following substituted therefor:

‘481. Steamships not in excess of five tons gross tonnage *and not carrying more than twelve passengers*, and pleasure yachts propelled by mechanical power but not fitted with boilers for propelling purposes, are exempt from annual inspection and from the regulations made under *section 410* except those respecting equipment and precautions against fire.’”

Further consideration of the Bill was postponed.

At 5.30 p.m. the Committee adjourned to Thursday, February 19, 1959, at 10.30 a.m.

Attest.

Gerard Lemire,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, February 12, 1959.

The Standing Committee on Transport and Communications, to which was referred Bill S-3, to amend the Canada Shipping Act, met this day at 10.30 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, I would ask the committee to come to order.

Honourable senators will recall that at the conclusion of our proceedings on Tuesday afternoon there were two matters, and two matters only, outstanding with reference to section 11 of the proposed bill. The first was a matter that we had referred to the deputy minister to get an opinion from the Department of Justice as to whether under subsection 4 of the proposed section 375A the Governor in Council could, without legislative authority, properly grant what are called second-class licences to navigate open waters of the Great Lakes to persons other than British subjects.

I understand that the deputy minister is now in a position to give us the information he has received from the Department of Justice on that point.

Mr. J. R. Baldwin, Deputy-Minister, Department of Transport: We have consulted on that point with the Department of Justice and the answer, briefly, is: yes. It does contain such an authority and we are not limited in the sense that some honourable gentlemen suggest we might be.

The CHAIRMAN: That deals with the amendment that was proposed by Mr. Brisset to section 375A, to make that clear. We have already rejected that amendment and now that it is confirmed that it can be done by the Governor in Council, we are satisfied on that point. The second point, you will remember, honourable senators, was that the committee agreed to amend subparagraph (4)(e) of the proposed section 375A on page 7 which now permits the Governor in Council to make regulations authorizing a person holding a pilot's license issued by the Government of the United States to navigate in Canadian waters on the Great Lakes basin described in his licence. We were going to amend that to make it retroactive, to limit the power of the Governor in Council to make such a regulation with respect to cases in which the United States Government equally gave a similar right to a Canadian pilot. It was left in the hands of the department and of our Law Clerk to draft the necessary change. Is that available yet?

Mr. BALDWIN: It has not come from the Department of Justice yet, sir. The Department of Justice is preparing it, but it is not yet ready.

The CHAIRMAN: Then we might defer that for the time being. That leaves us with only a very few parts of the bill which have not been considered. There is subsection 2 of section 1, which is a definition clause, and I think we might leave that until we consider the others.

There is section 3, which we have not carried. That relates to the qualification for owning British ships. Then there are those sections—8, 9 and 10—which were held over, partly because Senator Kinley wished to make some representations in regard to one or more of them, and partly because counsel for various pilots and pilotage associations who wished to make representations were not ready.

I suggest that probably the best course to follow now is to consider 8, 9 and 10 more or less in general and start with an explanation by the deputy minister or some officer designated by him of the purport of these amendments. Does that meet with the approval of the committee? If so, I will ask the deputy minister to give that explanation. The deputy minister points out to me that it would be advisable to take section 8 separately because the reasons for requesting that amendment are different from those given for the other sections, and he understands that there are different representations to be made about section 8. If it is your wish, we will start with that section.

Senator ASELTINE: Does this refer to the Montreal and Quebec districts?

The CHAIRMAN: In effect, yes.

Mr. BALDWIN: Mr. Chairman and honourable senators, the Shipping Act as presently drafted defines therein specific boundaries of two pilotage districts which we know as Quebec and the Quebec, and Montreal districts, the first extending from Quebec to Father Point, and second from Quebec to Montreal.

All other pilotage districts have their boundaries subject to definition or adjustment by the Governor in Council. These two districts do not. We have been for some time of the opinion that changing circumstances in relation to those districts may make what is in effect an adjustment of boundaries necessary in the immediate or the longer-term future, and we should be in a position to deal with those questions of boundaries in the same manner as in the case of any other districts, that is, by order in council.

The purpose of the amendment is therefore to give us the authority to make this adjustment of boundaries. However, it could take the form of something rather more drastic than the minor adjustment of boundaries, and perhaps I can best give an example on that score by indicating the type of thing that is happening in the Montreal district.

There, with the increasing problems and complexities in navigation in regard to the harbour itself, and with the normal and understandable desire of the pilots themselves not to be required to work excessive hours, there has been a tendency to break that district up; in fact, this has taken place already although we are afraid it is on a doubtful legal basis, in the sense that we have established a separate unit of pilotage for Montreal and also for the harbour itself.

Ships used to come from Montreal to Quebec in a single operation and now there is a separate unit for Montreal harbour alone and the general pilots take over and go to Quebec or come up that far. The matter of working conditions has led to the working arrangement introduced by the pilots themselves whereby the majority if not all of the pilots now transfer at Three Rivers so that they do not go all the way down or up through the pilotage district.

This is moving pretty close to the establishment of three pilotage districts where one existed before, and yet the boundaries of that district are set by statute.

We took this matter up with the Department of Justice when the problem of Montreal harbour and the change of pilots at Three Rivers was before us. We questioned the department on this, and the Deputy Attorney General replied as follows. I will read his letter:

“With further reference to your letter of April 2, I have examined the relevant provisions of the Canada Shipping Act and have to advise

you that, in my opinion, the substitution by the Governor in Council of three pilotage districts in place of the existing Montreal pilotage district is not authorized by the statute and if it is intended to accomplish this result, an amendment should be sought to the legislation."

The basis of our discussion with the Department of Justice—and we have had a further discussion with them in the last day or so on this very subject—is that a change of the sort I have indicated does not in effect constitute a minor adjustment of boundaries. This is a radical change in the nature of the pilotage district, and for that reason, we are told, we should have an amendment in the sense suggested in our section 8, which gives the Governor in Council general power in regard to these two districts of Montreal and Quebec, as he has in other districts, to fix limits and to rescind any district. In effect, if we were to move to formalize—I apologize for the verb—the arrangements now in effect on a working basis between Montreal and Quebec, we would have to actually abolish the Montreal district and set up three new districts.

The problem is not quite eminent nor is it so clear with regard to the Quebec district, but we believe the problem could arise there. In fact, we have under way some discussions regarding the furthestmost outer boundaries of that district, with the pilots themselves; and with the changes that may occur, with the desire of the pilots for shorter working hours and so on, it may be that some similar requirement may arise with regard to the Quebec district.

I think, sir, that is about the explanation at the moment.

Senator MACDONALD: Is there anyone opposed to this suggestion?

Mr. BALDWIN: I believe Mr. Langlois is.

The CHAIRMAN: Are there any questions?

Senator WALL: May I ask, what are the advantages of organizing three pilotage districts? This would be one pilotage district which is now statutorily set up, subdivided into three operational sub-departments of one pilotage district. What is the basic advantage?

Mr. BALDWIN: It becomes a much more complicated management problem with regard to dispatching, pooling of revenue, keeping accounts and so on, and in fact, pilot confidence becomes specialized as well.

I have heard it suggested—the pilots themselves or their representatives may be able to confirm or deny this—that pilots doing the run from Three Rivers to Quebec may not feel now or in the future that their confidence between Three Rivers and Montreal is as great as it should be, and that there should be specialized groups for a week for each one. There is also the problem of pooling revenues, which is more complicated if you subdivide the districts instead of having an individual self-controlled unit.

I should correct one mis-statement I made in the earlier introduction. I said that the Montreal district pilots now pick up ships at the harbour boundary and take them on down, and that the Montreal harbour pilots take care of the harbour area itself. Captain Slocombe points out that at present the Montreal harbour group do the movage within the harbour and the other pilots take the ships directly into the harbour.

The CHAIRMAN: Are there any further questions? I understand that Mr. Gerin-Lajoie wishes to make some representations. Will you be good enough, Mr. Gerin-Lajoie, to tell us whom you represent. We are dealing with section 8.

Mr. Paul Gerin-Lajoie: I am, sir, Paul Gerin-Lajoie, counsel, of Montreal, and in connection with this particular section of the bill I am representing the Association of Pilots for the harbour of Quebec and below, and also United Montreal Pilots, the two groups comprising all pilots licensed for Montreal

and Quebec districts in addition, I should say, to those licensed exclusively for the harbour of Montreal as mentioned a moment ago by the deputy minister.

Senator MACDONALD: Are there any pilots in this district of Montreal-Quebec whom you do not represent?

Mr. GERIN-LAJOIE: There are not, sir. I should like to mention to the committee only a few things in connection with this proposed amendment to section 324 of the Canada Shipping Act.

Sections 322 and 323 define the boundaries of the Quebec pilotage district and the Montreal pilotage district. Under section 324 the Governor in Council may create further pilotage districts and fix their limits. That was done in practice in connection with other districts, for instance, the St. Lawrence-Kingston-Ottawa district, which extends from the harbour of Montreal to Kingston.

Section 324 also authorizes the Governor in Council to rescind any district other than the districts of Quebec and Montreal. Of course, these provisions sections 322, 323 and the exception to 324, in the Canada Shipping Act, with respect to the district of Montreal and Quebec, were intended to protect the special historic positions in those two districts.

These have been in existence, not as legal districts, but in practice, for about 200 years, and the pilots, hearing of the proposed amendments to section 324, may have felt some concern about the proposal to leave in the hands of the Governor in Council the power to abolish entirely their districts or to change the limits thereof.

However, they realize that there are changing events, and actually they themselves have asked the Department of Transport for some changes in the present limits of their districts.

The deputy minister has explained some aspects of those discussions which have resulted in some practical changes in the past, particularly as regards the change of the pilots at Three Rivers and the constitution of a separate group in the harbour of Montreal for the purpose of moving ships from one place to the other in the harbour of Montreal, but not yet to bring a ship to her berth and to take her away from her berth when the ship is engaged in the voyage to and from Three Rivers.

The CHAIRMAN: So, generally speaking, your clients are in favour of this amendment?

Mr. GERIN-LAJOIE: In these circumstances, Mr. Chairman—I am sorry to have taken so much of your time—they agree with the proposal, having confidence that the department will usually consult with those immediately interested to control changes as regards the limits of the districts.

The CHAIRMAN: You have no amendment to suggest?

Mr. GERIN-LAJOIE: No amendments to suggest.

The CHAIRMAN: Mr. Langlois represents a certain pilots' association. Do you have any representations to make, Mr. Langlois?

Mr. Leopold Langlois: Yes, Mr. Chairman.

The CHAIRMAN: Would you be good enough to come forward?

Mr. Langlois, as some honourable senators will remember, was the former parliamentary assistant to the Minister of Transport. He sustained an unfortunate accident at the last general election!

Mr. LANGLOIS: The one before last.

Mr. Chairman, honourable members of this committee, I appear here as counsel representing the Canadian Merchant Service Guild, which is a national association of masters, mates and pilots on both the east and west coasts of

Canada. The Canadian Merchant Service Guild is affiliated to the Canadian Labour Congress. They have a membership of some 1,200 members on the west coast, and about an equal number on the east coast, of Canada.

I should first express, Mr. Chairman, to you personally and to members of this committee our appreciation of your courtesy in allowing us to make representations before you on the proposed amendments to the Canada Shipping Act. You have heard the explanation given by the Deputy Minister of Transport, Mr. Baldwin. After having heard what he said this morning my views in connection with this proposed amendment to section 324 are somewhat changed. When I first came here I had nothing else to guide me in the consideration of this amendment but the explanatory note opposite the proposed amendment to section 324. This explanatory note reads as follows:

The purpose of this amendment is to permit the Governor in Council to change the boundaries of the pilotage districts of Quebec and Montreal in the same manner as for other pilotage districts in Canada.

When you read this explanatory note and the proposed amendment you find that the amendment goes much further than the explanatory note, because the amendment gives the Governor in Council the power to abolish these two districts of Quebec and Montreal, while the explanatory note does not say that. The explanatory note only provides, as I mentioned a while ago, for a change in the limits of these two districts, and it is a power which the Governor in Council already has under section 324 as it exists today. I would point out that this section reads as follows:

The Governor in Council may create further pilotage districts and fix their limits and rescind any district created either by or under this or any other Act and may alter the boundaries of any pilotage district.

That is why I say if the only purpose of this amendment is to change the limits of any district, then we do not need any amendment. But since I have come here I have had brief but interesting discussions with Mr. Baldwin and I have been given a further explanation about this proposed amendment. He told me—and he repeated it here this morning to you gentlemen—that eventually, if necessary, new districts will be created, having in mind particularly the pilotage district between Montreal and Quebec. I am still of the opinion, however, that this could probably be achieved without making such a drastic amendment as the one that is proposed today.

The CHAIRMAN: Well, Mr. Langlois, I would like to discuss that with you. Sections 322 and 323 create two pilotage districts: one being Quebec and the other Montreal. If we left section 324 as it is, there would have to be those two districts alone. It is true that under the amendment, as under the original act, the Governor in Council could alter the boundaries of those pilotages, but supposing he wanted to create three districts out of two or four out of two, as apparently he does, I think we would have to insert these words "and rescind any district . . ." in the proposed amendment. Is that not the object of the bill?

Mr. LANGLOIS: Yes, Mr. Chairman, but that all depends what the department really has in mind. If the department wants to create separate pilotage authorities of this same district, probably they would have to do what you just said, but the same end could be achieved by adding to this proposed amendment, that the Governor in Council may alter the boundaries of any pilotage district or subdivide any pilotage district, without having the power to rescind—to abolish.

The CHAIRMAN: Well, it is just another way of doing the same thing, after all, is it not?

Mr. LANGLOIS: Well, what we are doing, you see, for the time being, and apparently all that is contemplated is to make some changes in the district between Quebec and Montreal. As a matter of fact, we don't quarrel with this with regard to Montreal, because it has been divided for the past three or four years, and even more, because pilots change at Three Rivers. But even if it is necessary to do it in Montreal, why do it in Quebec?

Senator BRUNT: I asked the witness a question. I don't know how you can subdivide districts to create a new district, using part of each of the old district.

Mr. LANGLOIS: If I may be allowed to answer that. It could be done under the same pilotage authority.

Senator BRUNT: No, using the word subdivide—you said "subdivide"; I do not think they would have the power, using that word, to take part of the Quebec district and part of the Montreal district and put it into a new district. You could divide the Quebec district into three new districts, and the Montreal district into four new districts, but to subdivide would not permit you to put part of each together to form a new district.

Mr. LANGLOIS: Probably "subdivide" is not too well chosen, but something to that effect.

Senator BRUNT: I think we should be very careful, because we don't want to put the department in the position where their hands are tied, when they would like to do something that would improve shipping in this country, and I think we have always to keep that in mind.

Senator POWER: As I understand the witness, he said that the intention of the proposal is not to have parts of two districts put together to form a third district, but simply to divide the Montreal-Quebec district at Three Rivers. Subdivide might do, in that case.

Senator BRUNT: If that is all they have in mind.

Mr. LANGLOIS: That is all I have in mind.

Senator BRUNT: I think that is too limiting.

Senator POWER: And the witness had in mind to divide Montreal and Quebec at Three Rivers?

Senator MACDONALD: That is all they have in mind at the moment, but as the witness says this might give them powers to do other things.

Senator CONNOLLY (*Ottawa West*): I wonder if I could go back to the remark, Mr. Chairman, that you made a minute or two ago? Suppose under the proposed new section 324 there is a re-arrangement of areas within either the Quebec or Montreal district, what happens then when you have sections 322 and 323 in the bill? They set the limits of two districts as they now exist.

The CHAIRMAN: Yes, but section 324 is broad enough to permit the Governor in Council to rescind any district under this act, so he could first of all rescind the present Montreal-Quebec district and, secondly, create further pilotage districts out of those he had rescinded.

Senator CONNOLLY (*Ottawa West*): I realize that. Suppose he does that, then you have the situation—and this is the only way you could describe it—that in effect by order in council he would be deleting from the act the whole or part of sections 322 and 323.

The CHAIRMAN: That is right.

Senator CONNOLLY (*Ottawa West*): Is that sound procedure?

The CHAIRMAN: I wonder if this is sound procedure? I do not know. This is doing away with the one hand, section 324, what you created with the other hand, section 323.

Senator CONNOLLY (*Ottawa West*): I just make this suggestion. I have no interest than to see that the legislation is properly drafted. But perhaps sections 322 and 323 should not be in the act, if section 324 goes in, but I think section 324 would have to be changed a bit if we are going to do that.

Mr. BALDWIN: Mr. Chairman, we did consider that possibility and realize there is an important point of procedure involved. I think that we decided on this course because we did not wish to create the impression that we were really setting out to abolish the Quebec and Montreal districts. We have no intention of doing that. We only seek enough flexibility to adjust pilotaging in that area to meet changing conditions.

Senator CONNOLLY (*Ottawa West*): Well, if the movement as proposed is a good one might it not be as well in this committee to consider an amendment that would affect sections 322 and 323 as well?

The CHAIRMAN: Would it not be a good thing perhaps to refer the point back to the Department of Justice and ask Justice if it feels the thing could be better expressed? Did you consider that particular point with the Department of Justice, Mr. Baldwin?

Mr. BALDWIN: We would not object to doing it that way. We were purely trying to achieve this with a minimum of disturbance to the existing sections of the act.

Senator CONNOLLY (*Ottawa West*): I realize your problem. The only point I want to make is, supposing in section 324 you do make changes in the limits set by sections 322 and 323 by order in council, you still have some confusion because you have a statute saying this shall be the limits and then you have an order in council saying it shall not be.

The CHAIRMAN: Did you submit that question to the Department of Justice, Mr. Baldwin?

Mr. BALDWIN: We did not ask them to draft it on that basis. We considered this question ourselves and reached the conclusion to proceed as we are doing.

Senator CONNOLLY (*Ottawa West*): There are a lot of reasons for doing it but I think it is most proper you should do it this way.

The CHAIRMAN: In view of the question that has been raised does the committee feel we should refer this question back to the Department of Justice in conjunction with the Deputy Minister and our own Law Clerk, and ask them if they do not feel, supposing the principle is agreed to, that the matter can be better dealt with by perhaps deleting sections 322 and 323 as well as section 324. Does the committee so feel?

Hon. SENATORS: Agreed.

The CHAIRMAN: I think in the meantime we should perhaps hear any further representations that Mr. Langlois or anyone else wants to make as to whether we should go on with section 324 at all. Have you anything further to say Mr. Langlois?

Mr. LANGLOIS: Mr. Chairman, I wish to make clear that we are not opposed to what the Department of Transport wants to do when they suggest that the districts of Quebec and Montreal should be subdivided or that the limits even of the district of Quebec should eventually be altered. We understand that the department will have to meet changing conditions, but our point is that this could be achieved without destroying these long established districts. My learned friend Mr. Gerin-Lajoie mentioned a while ago that the districts of Quebec and Montreal have existed for over 200 years. As a matter of fact the district of Quebec which then included that of Montreal existed since 1731, when under the governorship of Governor Murray the first pilots were appointed to do pilotage on the St. Lawrence. After that, these districts came under the

jurisdiction of Trinity House, Quebec, which later on was subdivided—if I may say so—by creating a separate Trinity House for Montreal. Later on these two Trinity Houses were put under the authority of the Harbour Commissioners. Still further, the authority of the Harbour Commissioners was passed along to the Department of Marine and Fisheries. That was in 1911. Several acts of Parliament have been passed since dealing with these two historic pilotage districts. This is the reason why the legislature has deemed it necessary to create or establish by statute the limits of these two important pilotage districts in Canada; and we feel that if today this is abolished it might create among pilots, among those who have the ambition of becoming pilots one day, some uncertainty and perhaps destroy their ambition to become pilots,—to take these long years of apprenticeship to acquire the experience necessary to qualify them as pilots in either district. This is the main reason why, though we do not quarrel with the Department of Transport when they want to create these sub-divisions, we hope it will be possible to do it without destroying these long-established districts.

The CHAIRMAN: Your argument is one for historical continuity.

Mr. LANGLOIS: Yes, if possible, to maintain this incentive to young mariners to train to become pilots in these two important districts; because they are not only the oldest districts in Canada, they are the largest.

Senator BRUNT: I want to be very clear on this. Do you think that if, in the course of time, traffic increased greatly and the department were of the opinion that we needed three districts—Montreal, Three Rivers and Quebec—there would be any objection to that?

Mr. LANGLOIS: No, there would be no objection.

Senator BRUNT: No objection so long as we leave the Montreal district and the Quebec district. But for the progress of shipping, there would be no objection to creating a third district if necessary, even though it cut down on the other two? Very well.

Mr. LANGLOIS: If you will bear with me a few moments longer, I would like to give you the number of pilots in the district. In Quebec there are 70 pilots, in Montreal 118. As I have said, they are the largest pilotage districts in Canada. I will give you the figures for the other districts: Halifax, 22, Saint John, N. B., 10; Sydney, 15; St. John's, Newfoundland, 12; Vancouver, 50; Fraser River, 4; New Westminster, 10, and Victoria, 30.

So you can see that these districts are large districts and ones where navigation is not too easy. I was pleased the other day to hear what my learned friend, Mr. Brisset, had to say, when speaking on behalf of the Shipping Federation, about the high standard of qualifications of the Quebec and Montreal districts. If we want to preserve this high standard of qualification, it is my humble opinion that it is necessary to keep the status quo as regards the very fundamental, the very basis, of these two important districts.

I want to add this comment, Mr. Chairman, that the narrow channel of about 54 miles between Quebec and Montreal is a dangerous one, and between Quebec and Cape Goose, a distance of 11 miles, the width of the channel is something like a few thousand feet only. You are dealing also with tidal waters where the currents change with the tides. You are dealing with a district where you have difficult weather conditions. For example, in the spring you have snow and in the summer you have fog; in the fall you have snow again. You have to have pilots who have extensive knowledge of local conditions, besides having lengthy experience as seamen.

Mr. Chairman, for these reasons I respectfully suggest that our representations be given every consideration by this committee as I know they will. Again I wish to thank you for this opportunity of expressing our views before this committee.

Senator POWER: What are the qualifications of a pilot?

Mr. LANGLOIS: In the Quebec district?

Senator POWER: Yes.

Mr. LANGLOIS: Surely the officials of the department are more qualified than I to answer this question, but I would say that for the Quebec district the minimum qualifications are that a pilot has to hold at least a mate's certificate. He has to have 12 months' experience and to have served an apprenticeship of not less than five and not more than six years, I think it is.

Senator ISNOR: Do these dangerous conditions you have spoken of in respect to the Quebec and Montreal districts exist the year round?

Mr. LANGLOIS: Yes; we have some winter navigation now too.

Senator MCKEEN: You say a pilot must have served an apprenticeship of not less than five years and not more than six. Does that mean that a person who has been on a run for 20 years could not qualify as a pilot?

Mr. LANGLOIS: I did not get the point, I am sorry.

Senator MCKEEN: If you have a skipper or captain who has been running on a river for some private line regularly for 20 years, could he not get a pilot's licence? Out on the west coast I know that some skippers and captains have been years in service and they take ships from ocean waters right into Vancouver.

Mr. BALDWIN: The situation on the west coast with regard to qualifications differs from the situation in the district Mr. Langlois has referred to.

Senator BRUNT: Is it a minimum of five and a maximum of six years?

Mr. BALDWIN: When you have finished your period of apprenticeship you do not necessarily become a pilot, for the number of pilots is limited by a controlled device.

Senator REID: If the proposed regulations are carried out would it be possible in future for the Governor in Council to grant a licence to a pilot in the Great Lakes district which would authorize him to go down river, say, to Quebec? This is not the case at the present time. There are several pilotage districts as well as the Great Lakes. If the act goes through in this form would a pilot being licensed on the Great Lakes be permitted to go from, say, Quebec to Montreal?

Mr. LANGLOIS: They could even go farther than that. The districts of Quebec and Montreal could be abolished.

Senator REID: I think this is very important.

Mr. LANGLOIS: When I was asked about the qualifications of pilots I neglected to give one. There is an age limit of 30. You cannot become a pilot if you have not qualified before the age of 30.

Senator BRUNT: If you do not apply?

Mr. LANGLOIS: What I mean is that you may have the qualifications and have served your time, but if you are not called before the age of 30, you can never become a pilot.

Senator MACDONALD: It is just the opposite in the Senate, I might point out.

Senator BRUNT: Touché!

Senator MOLSON: While we are on the subject of qualifications I would like to ask the witness whether apprentice pilots, during that period of five or six years, receive any pay.

Mr. LANGLOIS: Only a gratuity from the shipowner. It is not a fixed amount.

Senator MOLSON: It is not fixed, but do they receive anything?

Mr. LANGLOIS: They do receive a gratuity from the shipowners.

Senator MOLSON: Or is the pilot paid by the shipowner who in turn pays a gratuity to the apprentice who is serving with him?

Captain SLOCOMBE: Under the statutes and regulations there is no payment for apprentices but the majority of shipowners voluntarily make a contribution to the apprentice pilot.

Senator BRUNT: Just a goodwill gesture.

Captain SLOCOMBE: Just a goodwill gesture. They don't have to do it.

Senator MOLSON: There is no obligation on their part whatsoever?

Mr. LANGLOIS: No, sir.

Senator McKEEN: Do they have to have an apprentice on their ship?

Mr. BALDWIN: No, there is no requirement that they must have an apprentice on the ship. The apprentice is dispatched by the Superintendent of Pilots in the way that will give him the widest experience.

Senator WALL: May I ask, apropos to this little point, how do these apprentices exist? To me it seems to be a shocking situation.

Mr. LANGLOIS: They have to make sacrifices. That is why we want to safeguard these districts. That is one reason why I said I am afraid we are going to kill the incentive. These apprentices have to make sacrifices to qualify without remuneration, and if they are not sure that the districts are going to exist for any period of time they will say, "What is the use of serving these long years of apprenticeship if my district disappears?"

The CHAIRMAN: I believe the Deputy Minister wants to make a statement at this time.

Mr. BALDWIN: Honourable senators, I would like to interject an explanatory comment here as to the basis upon which this system exists, for I am a little afraid the conclusions that may be drawn might be misleading. As honourable members know, we collect in a compulsory district a certain fee from every ship that goes through the district, the fee being set according to a scale relating to size of cargo, and so on. This is then pooled and divided among the pilots. We do not necessarily consider this is the best solution to the problem of providing pilotage, but it is the traditional solution which the pilotage groups themselves have preferred to keep in existence, and it is part of this general situation that has led to the traditional apprenticeship programme being maintained, with all the hardships that go with it that we recognize; but it is also with the desire of the pilots groups themselves to keep a limit on the number of pilots that are licensed and relate that to the traffic offering as a means of ensuring income.

Senator PEARSON: What is the average age of the pilots when they start in?

Mr. BALDWIN: Because of the age limit referred to it has to be fairly low. The average age of the pilots themselves is quite high. But we work under a situation of consultation with the pilots committee in a district, and based upon their judgment and in consultation with the department, in our judgment we may determine that in a given year we should add three more pilots to the pool, or not add any at all. Then the apprentices at the head of the list would qualify in the examination.

Senator MACDONALD: Who issues the licence?

Mr. BALDWIN: The Minister of Transport has pilotage authority.

Senator MACDONALD: Is there a Board of Examiners?

Mr. BALDWIN: Yes, sir; it is composed, if I remember, of both departmental officials and pilots.

Senator MACDONALD: And if a young man wants to be a pilot, does he register with the Board when he commences his training?

Mr. BALDWIN: Yes, through the pilotage district.

Senator BRUNT: Then it would be quite possible under this system, would it not, for an apprentice to take the entire period of training, pass all examinations, become qualified to act as a pilot, and there being no vacancy he would not be appointed, and he would go past the age of 30?

Mr. BALDWIN: This does happen upon occasion.

Senator BRUNT: That actually happens?

Mr. BALDWIN: That happens upon occasion.

The CHAIRMAN: Are there any further questions of Mr. Langlois, gentlemen? Thank you, Mr. Langlois.

Now, are there any other gentlemen who wish to make representations with respect to section 8? Does Mr. Brisset want to say anything?

Mr. BRISSET: We have no representations to make, Mr. Chairman.

The CHAIRMAN: Is there any one else representing pilots or others here who wishes to make further representations with respect to section 8 of the bill? Is the committee ready now to consider section 8?

Senator BRUNT: I thought section 8 was to stand.

The CHAIRMAN: I beg your pardon. We will have section 8 stand to refer to the Department of Justice as to whether it should be re-drafted in connection with sections 322 and 323 of the present act.

Senator MACDONALD: Also, I would suggest that section 325 should be considered.

The CHAIRMAN: Well, the deputy minister tells me this, and perhaps we might reconsider this, that the reason the department did not feel it wise to suggest striking out the present sections 322 and 323 creating the pilotage districts of Quebec and Montreal was precisely for the reason Mr. Langlois gave, that these are old historic districts and they did not want to strike them out entirely, they wanted to have the right to subdivide or reconstitute them according to necessity under the powers conveyed in section 324.

Senator BRUNT: But they would have the powers under 324?

The CHAIRMAN: They would.

Senator BRUNT: Yes, that is the very thing that they are trying to avoid, which they have got.

The CHAIRMAN: Well, they haven't got it in such a blatant public way as by striking out those sections creating those districts; that is what the deputy minister tells me.

Senator BOUFFARD: It seems to me that everybody would be happy if the Quebec and Montreal districts were maintained, whether their limits be altered or not.

Senator HAIG: It would be much better to keep them in the sections. You would have an argument right in court if Parliament struck the sections out. Montreal is entitled, by all the arguments, to keep them right in the book.

The CHAIRMAN: Yes.

Senator BOUFFARD: So if the committee feels that keeping sections 322 and 323 would give the assurance of the maintenance of these two districts, it seems to me they should remain in the act.

The CHAIRMAN: Is that the sense of the matter, that we do not need to refer it to Justice, but that we can deal with 324 as it stands?

Some SENATORS: Agreed.

—Section 8 agreed to.

Senator MACDONALD: I am not objecting to it carrying, but I think we must all agree that Senator Connolly raised quite an important point that by carrying this section we are allowing this statute—the two clauses in the statute to be of no effect by an order in council. Powers will be given to the Governor in Council to declare the sections to which he referred of no effect whatever.

Senator BOUFFARD: Unless we cover that in section 324.

Senator MACDONALD: The only way you could do it would be by saying “Notwithstanding”. But I am just pointing that out.

The CHAIRMAN: Would the committee mind going back to what we left over at the beginning of this sitting, that is, the amendments suggested by Justice to section 11 of the bill. Perhaps the copies could be distributed. Now, have these amendments been circulated to all honourable members? The committee will see that there are two suggested amendments. If you do not mind, I think we will deal with the second one first, because that is the one we considered and instructed to be prepared at our last meeting.

If the committee will turn to page 7 of the bill, paragraph (e) of subsection 4 we will see what change is suggested.

Subsection 4 starts “The governor in council may make regulations”, and then paragraph (e) as now suggested, reads.

Authorizing an officer or pilot holding a pilot's licence issued by the Government of the United States to navigate any of the Canadian waters of the Great Lakes Basin described in his licence...

Which is substantially as it was before. It continues.

... if he is satisfied that under the laws of the United States pilots or officers holding licences or certificates issued by Canada are authorized to navigate the United States waters of the Great Lakes, their connecting and tributary waters, and the St. Lawrence River.

You will see that gives power to the Governor in Council to make such regulations upon being satisfied that there is reciprocity in that respect. I might add that our Law Clerk has looked over this wording and he quite approves of it.

Has any honourable senator any observations to make on this proposed amendment, paragraph (e) of subsection 4 of the new section 375A?

Senator MCKEEN: If we authorized these pilot licences and then subsequently the United States authorities withdrew our pilot licences, would this cover the point that those licences would automatically be cancelled?

Mr. BALDWIN: Yes. Power would be vested in the minister to take action immediately.

The CHAIRMAN: Are you satisfied Senator McKeen?

Senator MCKEEN: Yes, Mr. Chairman.

The CHAIRMAN: Is the committee willing to consider a vote on this proposed amendment to paragraph (e) of subsection 4?

—Paragraph (e) as amended of subsection 4 of section 375A carried.

The CHAIRMAN: Now, the first amendment which we have been given is as follows. We have been given this, we did not ask for it, but the Deputy Minister tells me it follows from certain others that arose from our last meeting. Will you explain this, Mr. Baldwin?

Mr. BALDWIN: Mr. Chairman, you will recall that in the course of the evidence given by counsel for the Shipping Federation of Canada on Tuesday last certain amendments were submitted by the Shipping Federation and discussed at that time. One of them, the amendment to what is numbered subsection 5 of section 375A of the printed bill, was a proviso which read as follows:

- ... except that any person may without subjecting himself or his employer to any penalty navigate the waters designated under paragraph (a) of subsection (4)
- (a) when the Minister has indicated to the master of the ship that a Government pilot is not available; and
 - (b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time.

You will recall that was the subject of some considerable discussion. Members of this committee expressed themselves, generally speaking, as I recall it, as being in sympathy with the objects of that proposal but felt that it was not necessary to include it in the bill itself. At that stage I indicated that it was our firm intention, as it was, to deal with this matter in the form of regulations and make the necessary coverage in that fashion.

On further examination of the matter after the discussion on this particular point in the committee, and consultation with the Department of Justice, we came to the conclusion that we would be well advised if we were to be in a position to properly carry out our commitment to deal with this matter by regulation to request the amendment to subsection 3, which has now been circulated to you, which specifies the power of the minister more clearly to deal with this matter by ministerial regulation.

The CHAIRMAN: I think there is a good deal to be said for that. The original subsection 3 read as follows:

"The minister may, upon such terms and conditions as he deems advisable, exempt any owner or master from the requirements of subsection (1)."

Well, he might have an individual dealing theoretically with some particular owner or master and say you do not have to do this but I think if he is going to do it, it should be done by regulation applicable to everyone in the same category, and this amendment so provides. It says that the minister may make regulations exempting owners or masters.

Senator CONNOLLY (*Ottawa West*): That is better.

Senator MACDONALD: I quite agree with this amendment. I raised the question during consideration of this clause as to the powers of the minister and I had in mind what you said just now, but I did not press the point. I felt then that the clause was not clear enough.

The CHAIRMAN: It is cleared up now.

Shall the amendment to subsection 3 of section 375A carry?

—Subsection 3 of section 375A as amended agreed to.

The CHAIRMAN: Now, honourable senators, we return to the sections we have to consider. The first one is section 9, exempted ships.

I suppose we had better start, as is customary, by asking the deputy minister or someone designated by him to explain this section to us.

Mr. BALDWIN: Mr. Chairman, section 9 deals with the question of exemption from payment of compulsory pilotage dues. As I think was explained

when these clauses were described briefly as a whole, the normal pilotage district in which the compulsory dues are required to be paid operates on the basis that once the governor in council has defined a district as a compulsory dues district any ship passing through that district must pay pilotage dues. The ship does not necessarily have to take on a pilot, that remains within the master's discretion. However, clause 346 as presently drafted in the existing act, and which is to be found in the explanatory notes in the small print on the right-hand side of the proposed amendment, defines certain specific exemptions to the requirement regarding payment of compulsory dues.

The situation has been that these exemptions which are statutory may not be added to but the Governor in Council has the authority to actually withdraw these exemptions. As I pointed out he may not add to them. This particular and rather curious situation has led to some difficulties both on the matter of flag discrimination and technical competence, and it was first brought to our attention on the former point by the Department of External Affairs. Mr. Chairman, with the consent of the committee and your approval, I think the most helpful method of proceeding on this would be to ask the representative of the Department of External Affairs, who is here, to make a statement on the point that they have taken exception to in the present statute and then, if necessary, we can amplify it from the departmental point of view.

The CHAIRMAN: Honourable senators, we have here this morning representing the Department of External Affairs Mr. H. C. Kingstone of the Legal Division of that department.

Mr. Kingstone, would you come to the table, please.

Mr. H. C. Kingstone, Legal Division, Department of External Affairs, called.

Mr. KINGSTONE: Mr. Chairman our purpose today is to discuss the treaty obligations of Canada vis-a-vis the new section 346 of the Canada Shipping Act. In our opinion the proposed new section would bring provisions of this particular piece of legislation in conformity with our treaty obligations.

An analysis of our shipping treaties show that Canada is under an obligation to permit ships of a great number of countries to navigate as freely within Canadian waters as would be the case with Canadian shipping excepting in so far as the coastal trade is concerned.

There are actually in force between Canada and other states approximately 22 treaties affecting 16 countries, excluding Commonwealth countries. I think that is all we need to say by way of a preliminary statement. If any honourable senators wish to ask questions we shall be glad to try to answer them.

Senator MCKEEN: Why is it that in the coastal trade the reciprocal arrangement is not carried out in other countries? Why does Canada allow another country, by the formation of a company in Canada, to engage in coastal trade in Canada when we cannot do so in another country? Why is there not a reciprocal arrangement in that respect?

Mr. KINGSTONE: I am not quite sure that I completely understand the question.

Senator MCKEEN: Let us take a specific case. A Canadian cannot form a company in the United States and engage in coastal trade in that country, but a United States citizen can come to Canada and form a company here and engage in coastal trade in Canada.

Mr. KINGSTONE: I am afraid the scope of our attention is limited to the question of actual treaty obligations vis-a-vis Canadian and British Commonwealth shipping. This question of the internal part could better be discussed by the Department of Transport.

Senator McKEEN: How is it that these arrangements were reciprocal except in the coastal trade?

Mr. KINGSTONE: As far as coastal trade is concerned, only members of the British Commonwealth can engage in such trade.

Senator McKEEN: Americans could come into Canada and, under this act, form a company.

Mr. KINGSTONE: Only British Commonwealth shipping can engage in coastal trade.

Senator McKEEN: But an American can come here and form a company and own 100 per cent of the stock, whereas a Canadian, if he goes into the United States, cannot own more than 25 per cent of the stock and he cannot be an officer, director, or manager of the company.

Senator ASELTINE: Are there such cases?

Senator McKEEN: Yes, many of them.

The CHAIRMAN: What you are suggesting, senator, has not anything to do directly with the section we are considering in the process of determining whether we in our Shipping Act should insert restricted provisions similar to those that obtain in the United States.

Senator McKEEN: Mr. Kingstone said they were reciprocal except in regard to coastal trade.

The CHAIRMAN: He was talking about certain treaties that Canada has with other countries.

Mr. KINGSTONE: I did not say reciprocal. I said that Canada had by treaty granted other states the right to trade, at least to navigate freely in Canadian waters. I was not talking about anything reciprocal; I was speaking of the obligations we have assumed concerning other states so far as Canadian waters are concerned, under our treaty obligations.

Senator McKEEN: I will not press it any further.

Senator REID: What is the reason for dropping subparagraph (iv)—“... between any port in the province of British Columbia and the port of San Francisco”? Why is that complete clause dropped from the act? When no explanation is given I become suspicious.

Mr. KINGSTONE: I would refer that question to the Department of Transport.

Senator REID: I should like to know why we single out that province.

Mr. BALDWIN: In the re-draft, the waters specifically defined were basically defined to Canadian waters and to the extent that it becomes necessary to deal with United States waters we can do so under the proposed provision.

Senator KINLEY: Speaking of the 20 treaties with different countries, may I ask whether we actually have treaties of that kind, or is this something that comes from the interpretation of the British Commonwealth Merchant Shipping Agreement?

Mr. KINGSTONE: Basically, there are two types of treaties, the types we have inherited, as it were, as a member of the British Empire, and the modern type of treaty which we have entered into ourselves. There are those two basic categories. I could supply a list of the shipping treaties that are in force between Canada and foreign states if you are interested in seeing it.

Senator KINLEY: I was interested in Article 27 of the British Commonwealth Merchant Shipping Agreement, being the last paragraph in the agreement. In addition to equal rights, the agreement in Article 27 makes this statement—

The CHAIRMAN: Is it speaking of documents?

Senator KINLEY: It talks about treaties.

The CHAIRMAN: What document are you referring to?

Senator KINLEY: The British Commonwealth Merchant Shipping Agreement signed at London on the 10th day of December, 1931, and passed concurrently with the Statute of Westminster. Article 27 of that agreement, in addition to referring to equal rights, says:

This Agreement shall apply to all territories administered under the authority of the Government of any Part of the Commonwealth and to ships registered there, or in any foreign port of registry, and fulfilling the requirements as to ownership set out in Article 2(1).

The question of ownership, as set out in Article 2, is the requirement which Senator McKeen was discussing when he spoke of incorporated companies.

Mr. KINGSTONE: May I borrow that for a moment?

The CHAIRMAN: I think the committee should bear in mind, in considering this section, that it has nothing to do with the right to trade; it has to do only with the right of navigation in Canadian waters.

Senator KINLEY: But the witness has brought up the subject of treaties.

The CHAIRMAN: The treaties in relation to the right to navigate.

Senator KINLEY: Treaties with relation to the bill which is before the committee.

The CHAIRMAN: But this section deals only with the right to navigate in Canadian waters; it has nothing to do with trade.

Mr. KINGSTONE: Article 27 states that the agreement shall apply to all territories administered under the authority of the Government of any part of the Commonwealth and to ships registered there, or in any foreign port of registry, and fulfilling the requirements as to ownership set out in Article 2(1). The honourable senator has read that provision. Now article 2 provides:

“Article 2—(1) No ship shall be registered in any port within the British Commonwealth so as to acquire the status and recognition mentioned in paragraph (2) of this Article unless it is owned wholly by persons of the following description, namely:—

(a) Persons recognized by law throughout the British Commonwealth of Nations as having the status of natural born British subjects;

(b) Persons naturalized by or in “pursuance of the law of some part of the British Commonwealth;

(c) Persons made denizens by letters of denization; and

(d) Bodies corporate established under and subject to the law of some part of the British Commonwealth and having their principal place of business within the British Commonwealth.”

My attention has not been drawn to this before, but subject to what the Department of Transport may have to say about it, it seems to be the technical matter. The aim seems to cover British shipping in cases where it is registered in a foreign port of registry. I am not familiar with the technical aspect of the matter, but perhaps the Department of Transport might comment upon it.

I should like to stress that our aspect of the matter has a very narrow connotation as far as the technical side is concerned. We are simply interested in making sure that this legislation conforms with our treaty obligations, and about that aspect we feel we are experts. When you get us off that, however, we have to confer with the Department of Transport.

Senator KINLEY: While dealing with that feature of it, may I quote another section of the statute which is pertinent? This section deals with equal treatment.

The CHAIRMAN: Equal treatment in what respect?

Senator KINLEY: I shall have to read it.

The CHAIRMAN: Any questions as to ownership of ships are not brought up in this section, which deals solely with rights of navigation in Canadian waters.

Senator KINLEY: Yes, but the law deals with the matter and we are amending that law. May I quote from Part IV which deals with "Equal Treatment". Article 10 reads as follows:

"Each Part of the British Commonwealth agrees to grant access to its ports to all ships registered in the British Commonwealth on equal terms and undertakes that no laws or regulations relating to seagoing ships at any time in force in that Part shall apply more favourably to ships registered in that Part, or to the ships of any foreign country, than they apply to any ship registered in any other Part of the Commonwealth."

Now this bill has to do with pilotage dues, and who shall pay pilotage dues. I suppose it will be argued that under "Equal Treatment" British ships—and this bill does extend to other ships—shall not pay pilotage dues.

I must remind committee that Canadian shipping must pay taxes in this country, and it helps to pay pilotage dues. That is point No. 1. Point No. 2 is this: I do not believe that pilotage in this country is self-sustaining; it is a charge upon the public treasury, and if you exempt ships outside Canada, I should like to know what will be done to the revenues of the pilot commissions. I do not think that equal treatment means that you cannot charge pilotage dues, because it is a different situation altogether. Coasting trade here is exempted.

I think it would be wise to find out what Australia does. I know, from captains of experience that there are difficulties in Australia. The difficulties there are great—they are also great in South Africa—and I believe Australia has a means of licensing, and other means whereby they can meet this kind of a treaty.

I have here a submission by the Dominion Marine Association, and they say it was never intended that this section should stand—since 1931. It was passed on the same day as the Statute of Westminster. The mother country is a good trader, and when we got our emancipation through the Statute of Westminster they saw the value of shipping, and we entered into this agreement, which has been detrimental to Canada over the years, so that now Canadian shipping is prostrate and there is nothing left except what can find refuge in what is called a registry of convenience, which is down in one of the Central American countries and in Nigeria. This opens the door further and shows the intention of letting other ships in without paying dues.

Mr. KINGSTONE: If I might make a few remarks in clarification, the British Commonwealth Shipping Agreement is certainly not the key to this—that is all. The history behind that agreement is very simple. After the British Merchant Shipping Act of 1894 gave the dominions more or less autonomy, as far as shipping goes, to legislate on their own, there was a feeling throughout the years that as within the British Commonwealth itself there should be a uniformity of approach to this problem, and as a result, in the Imperial Conference of 1926, this question of trying to develop a uniform approach was discussed and it resulted in the Merchant Shipping Agreement of 1931.

As far as foreign states are concerned, I would point out that this is only an arrangement within the British Empire itself, between the dominions and the United Kingdom, and our obligation concerning foreign ships does not stem

only from that agreement; it stems from a great number of agreements going back into the nineteenth century and concluding in the thirties. So that, really, the basic fact is that in a number of shipping treaties we have undertaken to give national treatment for vessels coming to and going from Canadian ports and navigating in Canadian waters.

This means that if we allow section 346 to stand in its present form there is a danger that we shall be considered to be discriminating against the ships of these countries with whom we have these treaty obligations.

As you will recall, from the study of this section, the main difference between section 346 as it now stands and section 346 as contained in the proposed legislation, is that section 346 as it now stands is a discrimination in favour of British Commonwealth Shipping, whereas the new section has dropped the discriminatory feature; and if we are to conform to our treaty obligations and give national treatment to those other countries to whom we have an obligation by reason of treaty commitments we do have to amend the section so as to drop this feature of discrimination.

Senator KINLEY: Extending even into our coasting trade?

Mr. KINGSTONE: No, not with our coasting trade. Let me explain that. As far as our coasting trade is concerned we have from the beginning very carefully, in all our treaties, excluded coasting trade. So, so far as coasting trade is concerned, Part XIII, which deals with coasting trade and limits it to British ships, is perfectly in conformity with our treaty obligations. We have never given national treatment in so far as coasting trade is concerned.

Senator CONNOLLY (*Ottawa West*): Ships engaged in salvage operations are not in the coasting trade?

Mr. KINGSTONE: No. The definition of coasting trade is "Trading between two ports in Canada".

Senator MCKEEN: Then a British ship going from Sept Isles to Chicago would come under the international regulations for pilotage?

Mr. KINGSTONE: That is right.

Senator CONNOLLY (*Ottawa West*): In view of our definition, what about subparagraph (ii) of (e) of the present section 346? These are voyages which are presumably voyages within the definition of "coastal voyage".

Mr. KINGSTONE: That is absolutely correct, Senator Connolly, and what you have to do there is to refer to Part XIII to see whether the ship can actually engage in that voyage, and obviously, if it cannot engage in that voyage, it cannot be entitled to the exemption.

Senator KINLEY: Mr. Chairman, you are dealing with salvage operations. How could a salvage operation be interpreted as anything but a coastal operation?

The CHAIRMAN: Well, surely, Senator Kinley, you don't want to provide that no ship can engage in salvage operations other than a British ship.

Senator KINLEY: It has been the law for many years, and it is the law now.

Senator CONNOLLY (*Ottawa West*): But the witness says under the treaty obligation we cannot continue to do that.

Senator KINLEY: He says there is a danger; he does not say we cannot.

Mr. KINGSTONE: I am saying that we are under the obligation to give national treatment in regard to these countries with whom we have treaty obligations, navigating in Canadian waters, with the exception of the coastal trade. That is the position.

Senator MCKEEN: I would like to be clear on this. I understand that we cannot do salvage in American waters nor can the Americans do salvage in our waters, at the present time.

Mr. BALDWIN: That is correct. But that is not a navigational operation, which is what we are concerned with here.

Senator KINLEY: A salvage operation is an operation for profit, and, maybe, an outside contractor will come in on that operation in some part of Canada. Do we want that sort of thing? Should it not be reserved for Canadian construction people, for Canadians?

Mr. BALDWIN: The right to engage in trade is not in any way affected by this clause. This clause has no bearing on the right of a ship to carry traffic, whether coastal or international. These rights are completely unaffected; they are neither added to nor taken away from. This relates only to the navigation of ships in Canadian waters.

Senator KINLEY: The section is unadorned. It says, "Ships employed in salvage operations."

Mr. BALDWIN: Yes, the clause deals with pilotage. It has nothing to do with whether or not they may do business in Canadian waters.

Senator KINLEY: But he does not have to pay pilotage. Why should he be exempt from pilotage? That is what we are dealing with.

The CHAIRMAN: You mean, any ship?

Senator KINLEY: It says in the act, any ship employed in salvage operations shall be subject to section 347, and the Governor in Council has wide powers under that section.

Mr. BALDWIN: Any ship engaged in salvage is now excluded. There is no change being made.

Senator CONNOLLY (*Ottawa West*): Do you mind saying that again? At the present time ships registered in any part of Her Majesty's Dominions while employed in salvage operations are exempt from the payment of pilotage. The proposal is that all ships employed in salvage operations shall be exempt from pilotage. But then, as I understood someone to say, no ships but ships registered in any part of Her Majesty's Dominions are entitled to engage in salvage operations in Canada.

Mr. BALDWIN: That is correct. So that the change in the wording has no effect on what will happen. If I may just amplify here: what has been done in the redraft is to eliminate the so-called flag discrimination in the matter of compulsory exemptions, and substitute for that a general statement which is unrelated to flag and nationality; because when you have a flag discrimination it runs into conflict with treaty obligations with other countries.

The CHAIRMAN: It has no practical effect.

Senator CONNOLLY (*Ottawa West*): It won't have any practical consequence. I am using subsection (d) only as an illustration. It might conceivably, if there was a salvage ship on an American portion of Lake Superior and it was taken to Fort William. But it is such a rare occurrence.

Senator REID: It might happen on the British Columbia coast. A Canadian vessel might salvage 1,500 miles out at sea and take the salvage to a Canadian port.

The CHAIRMAN: It would not be likely to happen very often.

Mr. BALDWIN: We also think there is a good reason for exempting a salvage ship from compulsory pilotage, because, firstly, a great deal of its work is in a fixed area, and secondly, to the extent it is moving around it is likely to be a ship that knows its way around the waters. The captain of a salvage tug on the British Columbia tug is going to know the British Columbia coast.

Senator CONNOLLY (*Ottawa West*): In the case the Chairman describes, where a ship engaged in salvage was on the American side of the Great Lakes

and has to move into Canadian waters, where normally a pilot is required, would the ship be required to take on a pilot?

The CHAIRMAN: This clause does not deal with pilots, but only with pilotage dues.

Senator CONNOLLY (*Ottawa West*): Must it take on a pilot, or would it be exempt from paying the dues?

Mr. BALDWIN: You have to refer back to Part VI on that question. If the example given by the Chairman took place, and a United States ship entered Canadian waters, it would have to conform with Part VI; it would have to have on board a licensed pilot whose licence we recognize.

Senator CONNOLLY (*Ottawa West*): It would not have to pay the dues?

Mr. BALDWIN: Not if there was a United States licensed pilot and reciprocity existed.

Senator CONNOLLY (*Ottawa West*): That is on the Great Lakes. That is not on the coast.

Senator MCKEEN: The evidence given the other day was that any mate—and certainly a ship would not be running without a mate—has a pilot's licence, and so they would have a licensed pilot aboard.

Senator ISNOR: I would like to ask Mr. Baldwin one question on that particular clause. The interpretation in so far as the Halifax pilots are concerned is that this is a very much broader section than applies under the present act in relation to Her Majesty's ships only. Now they contend that American or foreign salvage ships can operate under this section.

Mr. BALDWIN: No, that would not give the foreign ships the right to do any commercial operation. It only relates to the rights of navigation. I think the misunderstanding that has arisen there has been partially clarified by the explanation given by the representative of External Affairs. We are attempting to eliminate the flag discrimination which is inconsistent with treaty obligations. In doing that we have tried to give a position where the Governor in Council can from there on—and this is where the Department of Transport comes into the picture—deal with the matter whether or not an exemption is justified on the grounds of technical competence. In other words, if this amendment is passed our objective in the department would be to attempt to deal with compulsory pilotage dues, and the right of exemption therefrom, solely on the basis as to whether the ship in question has a master or mate who has sufficient technical competence to pass through the waters or whether in fact he does not have such technical competence, in which case pilotage would come into play.

We now have the right to withdraw exemptions and this would give us the right to add exemptions. We do not anticipate that this would be used to make any radical changes in the present situation. Any changes that might take place would undoubtedly be slow and gradual because, if for no other reason, we would not want to make a compulsory adjustment that was going to knock the props out from under the pilots and their whole income; but we feel we will be in a much better position if we do not have to deal with freedom from dues in relation to the flag that is flown, and we can deal with it in relation to whether or not the master is competent to take the ship through the waters.

Senator REID: I would like to go back to my previous question when I asked why subparagraph (iv) would be left out. Why is that being dropped from the act?

Mr. BALDWIN: This is a drafting change and it may or may not be a good one. We thought it was a good one. To the extent we define specific waters in the new section we are attempting to limit it to Canadian waters, and we

eliminate the two references to United States waters. We thought it would be better to refer to waters in our own jurisdiction. But if it is necessary to deal with the matter of exemptions in the area you have referred to down into United States waters, if that situation should arise, we still have ample power to do that under section 346 (c), under the general order in council.

Senator REID: That is the reason for the retention of paragraph (e) (ii)?

Mr. BALDWIN: That is right.

Senator REID: I wondered why the Governor in Council could in one instance declare an exemption in British Columbia and not elsewhere.

Mr. BALDWIN: We were trying to indicate our feeling that we should retain our right of exemption which now exists as far as Canadian waters are concerned, in that a ship plying only with respect to Canadian trade is exempt from compulsory dues because the master of that ship will know what he is doing, as he is in familiar waters.

Senator ISNOR: Thinking along the same line, would you say that the proposed paragraph (c) is broader than paragraph (c) in the present act?

Mr. BALDWIN: Yes.

Senator ISNOR: There is no limit as to tonnage in the proposed amendment, and there is at the present time.

Mr. BALDWIN: It authorizes the Governor in Council to exempt and, as indicated before, the standard would be technical competence, whereas at the present time the Governor in Council can withdraw exemptions but cannot add to them.

Senator ISNOR: Are we going to hear Mr. Langlois on this section?

The CHAIRMAN: If the committee has finished with Mr. Kingstone and the Deputy Minister.

Senator KINLEY: No. I was interested in what the legal representative from External Affairs said about coastal shipping not being affected by this bill. Am I right in that?

Mr. KINGSTONE: Yes.

Senator KINLEY: Section 9 of the bill provides that section 346 of the act is repealed and the following substituted therefor:

“(1) Subject to section 347, the following ships are exempt from the payment of pilotage dues: . . .”

In the present act subparagraph (e) reads:

“steamships registered in any part of Her Majesty’s dominions

(i) employed in voyages between ports in the same province, or employed in any one port or harbour,

(ii) employed in voyages between any one or more of the provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island or Newfoundland and any other or others of them, or between a port in any one of the said provinces and any port in or beyond Hudson Strait or between a port in any of the said provinces and any port in the United States of America on the River St. Lawrence or the Great Lakes.”

That is the present law. The proposed amendment provides as follows:

(e) ships employed in voyages

(i) between ports in the same province, or in any one port or harbour.

It just takes out the words “any part of Her Majesty’s dominion”.

The CHAIRMAN: That is right.

Senator KINLEY: Which means that under the amendment we open our coastal trade to the world.

Mr. KINGSTONE: I think Senator Connolly raised the same question a little bit earlier. The answer is that under the proposed section 346 the idea is to try and present a general statement so as to drop the flag distinction in these cases in order to conform with our treaty obligations. This is a sort of particular case you have mentioned. This simply says that ships engaged in coastal trade will under these conditions have this exemption, but to find out which ships are engaged in the coastal trade you have to refer to Part XIII of the act. Part XIII, of course, restricts the character of ships engaged in coastal trade to Commonwealth shipping. So the mere fact that the exemption is granted in this new section does not authorize coastal shipping. You have to go to the part of the Shipping Act which specifies which shipping can engage in coastal trade. In other words, if a ship can engage in coastal trade it will, under section 346 of the act, have this exemption. But there is a big "if" and you have to go to Part XIII for the definition of which ships can engage in coastal trade.

Senator KINLEY: What do you say about the law as it stands?

Mr. KINGSTONE: It refers to Commonwealth shipping.

Senator KINLEY: And this amendment refers to ships?

Mr. KINGSTONE: That is right.

Senator KINLEY: If that referred to Commonwealth shipping wouldn't that section you have mentioned apply?

Mr. BALDWIN: Part XIII still applies only to Commonwealth shipping, so that by amending this section in this way you have still to pass the test of Part XIII, and a non-Commonwealth ship would not pass that test.

Senator BOUFFARD: There is no change between the old order and the new one.

Mr. KINGSTONE: They still have to comply with Part XIII. All that section 346 means is that if the ship can engage in coastal trade then under the conditions of the new 346 it can get the exemption, but must meet Part XIII. In other words, it is a basic rule that you have to consider the two sections together; you cannot take one isolated section by itself; and when you consider Part XIII and 346 this is the result you get.

Senator BOUFFARD: Why make the change, then, if it does not give any practical solution?

Mr. KINGSTONE: Well, there are other cases of course where it is necessary to drop a discrimination because it refers to shipping not engaged in coastal trade. Our treaty obligations, as I say, with respect to shipping other than coastal trade, is another matter, and the main purpose of the new section 346, or one of the purposes, is to meet this flag problem, but in so far as coastal shipping is concerned it does not exist.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, we are making these amendments here to bring our statute into conformity with our treaty obligations. Now, in these treaties are there any discriminations against Canada which have not been cleared up by other national comparable legislation like the Canada Shipping Act?

Mr. KINGSTONE: I have with me a colleague who is very versed in the technical details—Mr. Bissonnette, of the Department of External Affairs—if he would like to answer the question?

Mr. BISSONNETTE: Would you mind repeating your question?

Senator CONNOLLY (*Ottawa West*): To put it simply, what we are doing here is making our statute conform to our treaty obligations. Have other countries with whom we have treaties been doing the same thing?

Mr. BISSONNETTE: As far as we know there is no similar discrimination against our own ships; that is as far as we are aware.

Senator KINLEY: Are you acquainted with Australia?

Mr. BISSONNETTE: Not with their shipping act, no.

Senator KINLEY: No, but with their coastal conventions. Who can do business in coastal waters of Australia, or Africa?

Mr. BISSONNETTE: Well, our treaties do not include the national treatment as far as coastal trade is concerned.

Senator KINLEY: The British Commonwealth agreement refers to coastal trade. Now, they take advantage of that agreement. What about Australia and South Africa?

Mr. KINGSTONE: British Commonwealth shipping can engage in coastal trade off the Canadian coast; that is provided by Part XIII, and that is in conformity with the Commonwealth Shipping Act.

Senator SMITH (*Queens-Shelburne*): I should like to draw the attention of the witness to the old subsection (i) which says, "ships registered in any of Her Majesty's Dominions engaged in fishing." I wonder if you would like to comment on that change? Why was that necessary? Does that conflict with some other international treaty?

Mr. KINGSTONE: Well, as the deputy minister pointed out, our navigation treaties refer to the question of movement of shipping. The only exclusion relates to coastal trade, so that any other operation which does not come within that exclusion we are required, as far as navigational shipping is concerned, to give these countries with whom we have treaty obligations, national treatment, and that would include of course ships engaged in fishing.

Senator SMITH (*Queens-Shelburne*): Would you like to comment on the fact that Russian fishing trawlers are now coming into our ports on the east coast? Are we going to extend to them the special privileges we have in the past reserved for members of the Commonwealth?

Mr. KINGSTONE: Well, I have in front of me an agreement between Canada and the U.S.S.R., signed February 29, 1956, which in Article IV says:

The merchant vessels of each contracting party and the cargoes, of such vessels shall upon arrival at and departure from the seaports of the other contracting party and during the time spent in such seaports enjoy the treatment accorded to the most-favoured-nation.

So that, on the particular question you raise, I am not in a position to comment, naturally, at this time, and it will have to be studied; but there is the general provision in the treaty between ourselves and Russia.

Senator KINLEY: Have our most-favoured-nation treatment agreements anything to do with pilotage dues?

Mr. KINGSTONE: Oh, yes.

Senator KINLEY: We agree to surrender pilotage dues?

Mr. KINGSTONE: No, no. Pilotage dues is considered an essential feature of navigation because it affects the free movement of shipping, and therefore it is incidental to our treaty obligations involving the free movement of shipping in Canadian waters; and therefore, if this shipping was discriminated against despite treaty obligation regarding freedom of movement of ships or pilotage dues, it would have that restricting effect, it would be a matter falling clearly under those treaties.

Senator KINLEY: I think you said pilotage dues was considered a reasonable charge of the marine industry.

Mr. KINGSTONE: No, I did not say that.

Senator KINLEY: Well, do you make the statement here, with confidence and authority, that the coasting trade of Canada cannot be carried on by ships which do not pay pilotage and are not British ships?

Mr. KINGSTONE: I am simply saying that the Part XIII of the Canada Shipping Act is not inconsistent with our treaty obligations.

Mr. BALDWIN: I think, Senator Kinley, if I might add a supplementary answer, mine would be that ships which are not of Commonwealth registry would not be able to carry on in the coasting trade. There would be no change in that situation. In fact, if they were passing through Canadian waters, not negotiating in the coastal trade but passing through Canadian waters, and whether they were exempt from or required to pay pilotage dues would be a matter for determination by the pilotage authority based upon whether the pilotage authority felt they needed a pilot for safety reasons or otherwise.

Senator KINLEY: Thank you, Mr. Chairman, I am dealing with the section of the act having to do with pilotage, and I contend that these ships have a clear right so far as this section of the act is concerned. I realize that I am not a lawyer.

The CHAIRMAN: Senator Kinley, I think you have to look at it this way, and this is the way a lawyer would look at it, that this section of the act does not purport primarily to deal in any shape or form with what kind of ships are authorized to carry on coasting trade or not, it is solely concerned with the question of pilotage dues; and the mere fact that you take out, as this section proposes to take out, certain words in subsection (e)—that is, "registered in any part of Her Majesty's Dominions"—does not in itself create any new right to a foreign ship to engage in the coasting trade of Canada which is specifically prohibited, and continues to be specifically prohibited in the other sections of the act.

Senator KINLEY: But this distinctly states the ships employed on voyages between ports in the same province.

The CHAIRMAN: But this section deals only with pilotage dues; it does not deal with the right of a ship to carry on trade in any particular way.

Senator KINLEY: I submit, Mr. Chairman, that this section distinctly states, "ships employed in voyages between ports in the same province," and that means in coastal voyages. And then it says that the following ships are exempted from the payment of pilotage dues.

The CHAIRMAN: That is the point. It has nothing to do with what rights they may have to trade in any part of the world.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, it seems to me that this subject is also related to the historical rights of the two pilotage districts that were discussed earlier this morning, and I think it is more vis-a-vis the situation with regard to putting a clause in this bill exempting all ships from the payment of pilotage dues when those ships are engaged in fishing. It seems to me that some of us on the coast are going to be injured, considering the troubles we have had with ships of foreign nations fishing within the 12 mile limit; and in making this gesture, we think we are making it possible for Russian trawlers, American trawlers and others to come into our ports without paying pilotage dues. I feel injured because from a historical point of view that has some practical application. I think that putting this new sub-clause (i) in the bill is going to be looked on by some of our people on the coast as if we are trying to foster further what has been going on for years, their right to fish on the continental shelf.

That is my opinion of the matter but I would be glad to have someone make a comment on it.

The CHAIRMAN: I don't know who would comment on that.

Senator SMITH (*Queens-Shelburne*): The change is that the old sub-clause (i) provided that ships registered in any of Her Majesty's dominions engaged in fishing is now going to be changed to read, "ships engaged in fishing", which will have the possible effect of allowing all ships to be exempted from pilotage dues when they come into St. John's, North Sydney or into Senator Kinley's famous port of Lunenburg.

The CHAIRMAN: Would any of the officials care to comment on this?

Mr. BALDWIN: Mr. Chairman, I think the answer there is that the reason for this was the reason given by External Affairs, the matter of flag discrimination. The implementation, however, is something you have to leave to the Department of Transport or the pilotage authority, the Minister of Transport, in so far as facilities are concerned, and safety of navigation would be our basic consideration.

My reading of section 347 of the act leads me to believe that if we pursue this concept and came to the conclusion that a foreign trawler coming into coastal waters had on board a master that was not capable to pilot these waters, restricted waters, this particular exemption could be withdrawn under section 347 and he would be compelled to pay pilotage dues.

Senator SMITH (*Queens-Shelburne*): I can quite understand that, but maybe a lot of other people will not. There is sentiment attached to my passing objection to the amendment, and sentiment sometimes is stronger than reason.

Senator KINLEY: Mr. Chairman, may I ask if I am correct in assuming that all traffic on the St. Lawrence would be obligated to pay pilotage dues? That is, they cannot be required to take on a pilot, but are they compelled to pay dues?

Mr. BALDWIN: Under Part VIA they are required to carry a pilot, but the concept is a different one. It has nothing to do with the payment of dues. If we wanted to arrange a system of pilotage similar to what is arranged in other districts we would have to go back to Part VIA and establish a district. Part VIA has nothing to do with the payment of dues; it has only to do with the requirement of carrying a pilot.

Senator KINLEY: I think it is correct to say there is no obligation to carry a pilot on the coast, yet you are putting this in.

Mr. BALDWIN: That is correct.

Senator KINLEY: On the St. Lawrence there is an obligation to take a pilot.

Mr. BALDWIN: There is no payment involved unless a pilotage district is set up. There is a different approach in the Great Lakes by saying that emphasis will be on compulsory carriage of a pilot and not compulsory payments, and that is because of the nature of the reciprocal arrangements we have to make with the United States.

Senator KINLEY: You must carry a pilot on the lakes and in the Quebec pilotage areas.

Mr. BALDWIN: Only the payment of compulsory pilotage dues on the existing basis.

Senator KINLEY: With regard to these fishing boats—what was the reason for extending the fishing to all nations instead of having it restricted like it was before?

Mr. KINGSTONE: I think we have to make a distinction here. This only relates to the question of pilotage dues.

Senator KINLEY: That is all we are talking about.

Mr. KINGSTONE: I have a feeling that you have some idea that this automatically gives a green light to all shipping to fish. That is something different. This simply deals with the movement of shipping having a particular purpose in mind within Canadian waters; and, as I pointed out before, the only way we have protected ourselves from giving national treatment to these ships of other countries with whom we have treaty obligations is in relation to coastal shipping. So if we amended the present provision regarding shipping we would have this flag problem again.

Senator KINLEY: But now you want to include all ships engaged in fishing. That is not the way it was before.

Well now, let us go to the next section 2. What do you say about that section?

Mr. KINGSTONE: Again, from the point of view of External Affairs there is no distinction made there as to flag.

Senator KINLEY: Why do you say, "ships of not more than 250 tons?"

Mr. KINGSTONE: I think the Department of Transport could answer that.

Senator KINLEY: That is the reverse of what you say in the other. You say all ships in the other, and when you come to Newfoundland, which is part of Canada, you say ships of more than 250 tons.

The CHAIRMAN: I think Mr. Baldwin should answer that, Senator Kinley.

Mr. BALDWIN: This particular section was put in because we have what I think is a rather unique situation with regard to the Harbour of St. John's, and that is what this particular clause is intended to deal with. We feel that, with all the larger fishing vessels, that is over 250 tons, there is a special local harbour movement involved. The major users are fishing vessels, and it was necessary therefore for us to deal with this particular harbour on a very special basis, because we are approaching a period later this year when we expect to proclaim Part VI A of the act as valid in Newfoundland. We will have to take responsibility for the pilotage district in that harbour, and we feel that we must keep control over fishing vessels' movements because they are a fundamental harbour movement.

Senator ISNOR: Why don't you use the term, in the fourth line, "Atlantic provinces" instead of one province?

Mr. BALDWIN: That particular type of problem I described at St. John's does not exist in anything like the same proportions in other harbours. That is where you have to have a federal pilotage operation.

Senator ISNOR: Not to the same extent we have it in Halifax.

Senator KINLEY: Does not that rather throw the flag discrimination argument away?

Mr. BALDWIN: No, sir, because there is no discrimination between flags. This is the point. This is all-embracing.

Senator KINLEY: Well, as a matter of fact I think this is discrimination between flags.

Mr. BALDWIN: Not the way I would read it. There is no discrimination as to flag mentioned in this new subsection 2.

Senator KINLEY: It is not mentioned, but it is there.

Mr. KINGSTONE: I don't see it there.

Senator KINLEY: Well, why did you make the difference between Newfoundland and Nova Scotia?

Mr. KINGSTONE: I think Mr. Baldwin has given an answer to that one.

Senator ISNOR: It is not a very good reason.

The CHAIRMAN: You think there is discrimination between Newfoundland and Nova Scotia?

Senator KINLEY: No, I don't think Nova Scotia would be hurt by this Newfoundland thing, but I think Newfoundland might be hurt. I don't know. They know their problems.

Mr. BALDWIN: I think what you are intending to indicate, Senator Kinley, is that at St. John's the impact of this clause 2 will fall particularly on foreign trawlers, because they are the major users of that port, but the law itself is not discriminatory.

The CHAIRMAN: That results from the fact that it is largely foreign trawlers that use it.

Senator KINLEY: When you come to coastal, you say it is only 250 tons; it looks as if it was discriminatory.

Mr. BALDWIN: We feel that, if we used the formula for Newfoundland for the rest of the provinces, the impact would be harder on Canadian fishing vessels.

Senator WALL: May I ask for clarification of the impact of section 347 on the clause we are now discussing, that it is 346? I am not a good expert on definitions, but section 347 gives the powers, under the approval of the Governor in Council, to pilotage authorities to withdraw certain exemptions; and it says there "steamships", because the former section, 346, under paragraph (e) dealt with steamships. Now we have in section 346 enlarged the word "steamships" to "ships", and yet we have made no change in the power of the exemption. So that, in effect, now section 347 does not give the power of exemption to the whole of (e), as it has in the past. In other words, you have circumscribed your exemption power.

The CHAIRMAN: That is quite a point, I think.

Mr. BALDWIN: The definition of "steamship", sir, which is the governing one, is "any ship propelled by machinery and not coming within the definition of a sailing ship". On an offhand ruling I would be inclined to think that that would cover all our requirements in the modern age.

Senator WALL: Very well. I bow!

Senator KINLEY: Mr. Chairman, may I refer again to the situation in Newfoundland, where ships of more than 250 tons registry engaged in fishing are not exempt from the payment of pilotage dues in pilotage district of the province of Newfoundland, and of course in the Atlantic provinces all ships engaged in fishing. Now with regard to fishing vessels, Senator Smith brought up the case of the Russian ship, which, I think, was in Halifax some time ago. So far as Newfoundland is concerned, the one fishing fleet that has any beneficial effects on the economy of the country is one we are trying to exempt. It is a hook and line fleet. I know the fleet very well; I have been aboard it in Europe. This fleet must buy bait, and they buy caplin and squid in Newfoundland, and they buy supplies.

The CHAIRMAN: Are you referring to the Portuguese fishing fleet?

Senator KINLEY: I am not mentioning them. I am referring to the one it is desired to exempt. They are about 150 strong; they come over every year.

The CHAIRMAN: That is the Portuguese fishing fleet, is it not?

Senator KINLEY: Well, anyway, if they can't go into St. John's they are going into St. Pierre Miquelon; and the Spanish and the French go to St. Pierre and Miquelon now. I know, because we do business with them. I am not concerned about this in Newfoundland except they may have said that we are

discriminating against Newfoundland as to the Maritime provinces, and there may be many people in Newfoundland who say it is a good thing for that fishing fleet to come in here. Last year they bought a lot of bait in Newfoundland, and it was necessary to import it. Our boats are all draggers; there is hardly any hook and line; and these ships are a market for caplin and squid, which they produce in immense quantities. I am not going to say what Newfoundland wants; I am only going to point out that I think they are being discriminated against.

Mr. BALDWIN: I think the answer to that is that if we found, with the impact of this particular clause which refers to the province of Newfoundland, that more compulsory dues had to be paid there than elsewhere, and it was harming the business of the port, the authority would be vested in the Governor in Council to grant additional exemptions, always assuming the safety of navigation is maintained.

Senator KINLEY: That is true. But it is a poor way—to make a law and say that the Governor in Council can change it.

Senator ISNOR: Are you going to call Mr. Langlois?

The CHAIRMAN: I was going to ask if every honourable senator had finished asking questions of the Deputy Minister and Mr. Kingstone. If they have I was going to ask if anybody else here, including Mr. Langlois, Mr. Gerin-Lajoie, Mr. Brisset, or a representative of the Dominion Marine Association had any representations to make about this section. Mr. Brisset, do you want to say anything?

Mr. BRISSET: No, we have no observations to make, Mr. Chairman.

The CHAIRMAN: Mr. Langlois, have you anything to say about Section 9?

Mr. LANGLOIS: Yes.

Mr. GERIN-LAJOIE: Do you mind if I make a representation first?

The CHAIRMAN: Come along. We have heard Mr. Gerin-Lajoie before and we know who he represents and we do not need to repeat that.

Mr. GERIN-LAJOIE: Except I would point out that as regards my representations with respect to section 9 of this bill, I represent four associations instead of only two. These are the Quebec Pilots and Below, the Montreal-Quebec Pilots, the Montreal-Harbour Pilots, and the group from Montreal to Kingston.

The CHAIRMAN: You have widened out since you were here this morning.

Mr. GERIN-LAJOIE: For the convenience of the committee, Mr. Chairman, I have prepared a number of copies of a brief which I intend to submit to the committee and elaborate a bit on it, if possible.

The CHAIRMAN: Are you likely to take long, because obviously we are not going to complete our deliberations this morning? Would you like to carry on with your brief now?

Mr. GERIN-LAJOIE: As you like, Mr. Chairman, but in view of the importance of the matter to the groups I represent I would appreciate the opportunity of explaining as thoroughly as possible the problem as the pilots see it.

The CHAIRMAN: I do not want to cut you short or anything, but here we have a ten-page memorandum and we have been sitting all morning. Do you feel it would be better to adjourn now and start afresh with the consideration of section 9 at our next meeting?

Senator HAIG: What about tomorrow morning?

The CHAIRMAN: I am afraid you would have to have another chairman tomorrow morning.

Senator ASELTINE: I think we will have to adjourn until Tuesday morning, the same as we did last week.

The CHAIRMAN: When are you adjourning the Senate to?

Senator ASELTINE: Until Tuesday night, I believe.

The CHAIRMAN: How would Wednesday or Thursday morning suit, Senator Aseltine?

Senator HAIG: We want to get through with it before Easter.

The CHAIRMAN: I think another sitting will finish it.

Senator HAIG: I don't think so unless we proceed faster than we did today.

Senator ASELTINE: Perhaps we could sit this afternoon when the house adjourns.

The CHAIRMAN: Is there much business in the house this afternoon?

Senator ASELTINE: We have two fairly long addresses on the Speech, but not much in addition to that.

The CHAIRMAN: We could sit after the house adjourns for a couple of hours.

Senator KINLEY: Today?

The CHAIRMAN: Today, after the Senate adjourns. Does that suit honourable senators? We are anxious to let these gentlemen get away as soon as possible.

Senator HAIG: I don't think you could sit this afternoon. A lot of the members will be going to Toronto and Montreal and the rest of us will not want to handle it alone.

The CHAIRMAN: There is a train that leaves at 7 o'clock for Montreal, the *Canadian*, and those of us going to Montreal could take that, which would give us an hour and a half or two hours in which to sit after the Senate adjourns.

Senator HAIG: It is up to you.

Senator ASELTINE: I think we should adjourn until such time as the business of the Senate finishes, and we might possibly get an hour or an hour and a half in.

The CHAIRMAN: All right.

Senator KINLEY: May I make a statement before we adjourn? If it were not that this is a bill that has behind it all the consideration of the department, I would like to make an amendment to section 346 to the effect that the word "Canadian" be written in front of the word "ships". I forego doing so because this is only a preview of this legislation. It is a bill that came to the Senate instead of going through the House of Commons first, but I would like to put it on record so that when it gets to the House of Commons my intention will appear for them to see. I would not put my opinion against those of the experts, and for that reason I will not make the amendment here.

The CHAIRMAN: Thank you, Senator Kinley. Is it agreed, gentlemen, that we adjourn to reassemble when the Senate rises this afternoon?

Hon. SENATORS: Agreed.

—The meeting thereupon adjourned until the conclusion of the sitting of the Senate this day.

—On resuming at 4.30 p.m.

The CHAIRMAN: Honourable senators, if the committee will come to order, may I say that it has been strongly urged upon me that the number of people from Montreal and Quebec who wish to make representations in connection

with the bill would prefer to have the hearings on section 9 postponed until our next meeting. The suggestion has been made therefore that we should adjourn until Thursday morning of next week at half past 10.

Senator ASELTINE: Is there no other part of the bill we could go ahead with now?

The CHAIRMAN: That I do not know.

Senator KINLEY: There is the little amendment with regard to the steamships not in excess of five tons. There is an amendment from the department on that.

The CHAIRMAN: That is an amendment to section 12 which we have not considered.

Senator KINLEY: Could not that be considered now?

The CHAIRMAN: Would the committee like to go ahead with that? I am in the hands of the committee.

Senator ASELTINE: Senator Power is quite capable of representing all those from Quebec.

Senator POWER: I have been asked by some persons to resign from that important position of representing all Quebec in order to allow others to have their say. I would suggest therefore that we adjourn now unless we can deal with the subsection of section 12 that is involved. Would it involve dealing with the remainder of the section if we dealt with the proposed amendment?

The CHAIRMAN: We have not dealt with section 12 at all, senator. I do not know whether it interests the Quebec people or not.

Senator POWER: Section 12, generally speaking, does, I think.

The CHAIRMAN: Perhaps we could defer consideration of section 9 in order to suit the convenience of most of Quebec and proceed with other sections in which they are not interested.

Senator POWER: I am agreeable to that.

The CHAIRMAN: Section 122 of the bill is the section relating to steamships not over five tons and pleasure yachts, which are exempted from certain regulations. I assume we would start, as before, with an explanation from the departmental officials as to the reason why this amendment is suggested.

Mr. BALDWIN: This is a clause on which a further amendment in mimeographed form, a purple sheet, has already been circulated.

Senator ASELTINE: We all have copies of it.

The CHAIRMAN: Mr. Cumyn, the Director of Marine Regulations, will speak to this section 12 and to the proposed amendment.

Mr. ALAN CUMYNN: The purpose of this amendment is to bring under steamship inspection passenger boats that are carrying more than 12 passengers but are under the present limit of five gross tons. At present, all passenger boats under the five gross ton limit are not subject to inspection irrespective of the number of passengers they carry. The department has arranged with the R.C.M.P. to bring craft in this category under their spot-checking system.

These craft are presently required to carry only certain lifesaving and fire-extinguishing equipment, and the R.C.M.P. examine them for that purpose. But the R.C.M.P. are not officially competent to decide on the number of passengers that craft in this category should carry, and we are finding that there is a tendency on the part of certain owners of small ferry boats to carry too many passengers on boats of this size.

Our purpose therefore is to bring them under inspection by the steamship inspector, who by virtue of his examination, and by his judgment based upon their dimensions and condition, will decide whether or not they can carry 12 passengers, or what number they should be allowed to carry, and that limitation will be entered on their steamship inspection certificate.

This new clause also contains two other minor amendments which take care of errors that have crept into the section over the years. You will notice that the wording now reads "are exempt from annual inspection and from the regulations made under this part", and the part referred to is Part VII. These boats should not be exempt. We only require these boats to be exempt from certain parts of section 410 and therefore we are proposing that the words "under this part" be replaced by the words "under section 410".

Senator ASELTINE: That is in this amendment.

Mr. CUMYN: Yes, sir.

There is a further minor amendment. You will notice the clause at present reads "under this part except those respecting lifesaving equipment, fire-extinguishing equipment, and precautions against fire". In our new small-vessel regulations we have found it necessary to require small boats to carry equipment other than lifesaving equipment and fire equipment. We are thinking of anchors and certain signals, flares, and so forth. We therefore propose that the words "lifesaving equipment, fire-extinguishing equipment" be replaced by the simple word "equipment", which is defined in the act and which includes the other items of equipment which we are entering into the small-vessel regulations.

Senator ASELTINE: It refers to the carrying of not more than 12 passengers. Does that cover passengers who are carried for remuneration or hire?

Mr. CUMYN: No, sir. That refers to passengers as defined in the act on page 7.

Senator ASELTINE: What is the definition?

Mr. CUMYN: May I read it, sir? I am reading from page 7 of the original act:

(62) "passenger" means any person carried on a ship, but does not include

(a) a person carried on a Safety Convention ship who is

(i) the master or a member of the crew, or a person employed or engaged in any capacity on board the ship on the business of that ship,

(ii) a child under one year of age;

(b) a person carried on a ship that is not a Safety Convention ship who is

(i) the master or a member of the crew, or a person employed in any capacity on board the ship on the business of that ship,

(ii) the owner or charterer of the ship, a member of his family or a servant connected with this household,

(iii) a guest of the owner or charterer of the ship if it is used exclusively for pleasure and the guest is carried on the ship without remuneration or any object of profit, or

(iv) a child under one year of age; or

(c) a person carried on any ship in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled;

Senator ASELTINE: That answers the question.

Senator KINLEY: All these people could be carried on a ship, and they are not passengers.

Mr. CUMYN: Yes.

Senator KINLEY: And you take 12 passengers besides that?

Mr. CUMYN: What type of craft are you referring to, sir?

Senator KINLEY: I am referring to this kind of craft, steamships not in excess of five tons gross tonnage and not carrying more than 12 passengers.

Mr. CUMYN: If you have a ship of under five gross tons, under the proposed amendment she will be able to carry 12 passengers without coming under steamship inspection.

Senator KINLEY: But under the definition of "passenger", these people are all excluded.

Mr. CUMYN: Yes. If she is carrying any of the people excluded here, they of course are not listed as passengers.

Senator KINLEY: They could be taken and you could overload your own commitment.

Senator MACDONALD: You might have a man with a large family.

The CHAIRMAN: You could take all your friends and relations and sink them.

Mr. CUMYN: If you wanted to carry eleven people on a pleasure trip, and then one or two passengers,—

Senator KINLEY: Is there any penalty liability as in the case of a motor car? Is there any such thing in the case of a yacht, if a man drowns?

Mr. CUMYN: I should think you would come then under civil law and the question of negligence would come in.

Senator KINLEY: The same as in an automobile.

Mr. CUMYN: Yes sir.

Senator KINLEY: But there is an obligation on the passenger, and these fellows are not all passengers. It seems to me people could overload boats. Boats have been overloaded by people who should know. Men who enforced the law, members of the Mounted Police, overloaded a boat and were drowned in Ontario not long ago. This question of overloading boats is important.

Mr. CUMYN: Yes, that is true. But if we endeavoured to prevent the overloading of pleasure boats not carrying passengers as defined in this subsection, it would mean that we would have to go into the inspection of all pleasure boats.

Senator KINLEY: You have to have a life preserver for every passenger.

Mr. CUMYN: Under the regulations, pleasure boats are required to carry certain equipment, life saving equipment.

Senator REID: Should not the word "passengers" be changed to "persons"—12 persons in a boat.

Mr. CUMYN: That would mean that you would have to go into the inspection of pleasure boats to decide how many persons they would allow to be carried on a boat, and that I submit, sir, would involve a tremendous task of administration and a considerable cost to the country besides inconvenience, and the disadvantages involved would outweigh any advantages that might accrue.

Senator POWER: As a result of the drowning incident which has been referred to, involving members of the R.C.M.P., there was a good deal of criticism of the regulations. I do not remember precisely what it was. I believe it was a police boat.

Mr. CUMYN: That was an R.C.M.P. police boat.

Senator POWER: They had taken passengers on?

Mr. CUMYN: No, sir. Actually, they were R.C.M.P. police on patrol. It was supposed that they had not used the proper judgment going out that night in that sort of weather and in that type of craft.

Senator POWER: Was there any question of overloading the vessel?

Mr. CUMYN: That was a technical question, sir. We in the department have arranged to put on all boats a plaque setting out the recommended number of passengers. There was some lack of clarity in the plaque at that time and the R.C.M.P. claimed that their understanding was that they could carry the number of passengers they did, which as a matter of fact was against the recommendation.

Senator POWER: Neither this amendment nor any provision in the act as it stands would have done anything about that particular accident.

Mr. CUMYN: No, sir, because that was not a pleasure craft, not a passenger craft, and this amendment is intended to deal with passenger craft. We hope to take care of the situation with regard to pleasure boats and non-pleasure boats by means of our public education campaign, the main part of which consists in the safety booklet which this year is coming out to the extent of 250,000 copies.

The CHAIRMAN: Administratively, you cannot legislate for all pleasure boats.

Mr. CUMYN: No sir.

The CHAIRMAN: That sounds reasonable.

Senator CONNOLLY (*Ottawa West*): Is the difference between a safety convention ship and one that is not of that class roughly: that in the second case you have a pleasure boat and in the first case a boat carrying passengers for hire?

Mr. CUMYN: No. A safety convention ship is a ship which is subject to the regulations of the international convention for safety at sea and that is aimed at large passenger ships engaged in international voyages.

Senator CONNOLLY (*Ottawa West*): I suppose the insurance side situation described in section 481 has a good deal to do with seeing that the section and the regulations shall be observed. I daresay the insurers always take the view that the insurance runs so long as you do not offend against the act and regulations.

Mr. CUMYN: Yes.

Senator CONNOLLY (*Ottawa West*): So that once they do overload they are voiding their insurance.

Mr. CUMYN: I think they would be more careful about insurance if they came under steamship inspection, obtaining a certificate of inspection limiting the number of passengers, than if they were allowed to use their own judgment as regards the number of passengers they could carry.

Senator KINLEY: But there are so many exemptions as to who are not passengers. They can take 12 passengers and as many of their friends as they want to. It is wide open.

Senator WOODROW: Are there not regulations to cover the weight carried in a boat of a certain size? If so, would it not cover this?

Mr. CUMYN: No. The steamship inspector, in deciding on the number of passengers, decides on the basis of the size of the ship, the construction of the ship, the nature of the voyage which it has to undergo and so on. If lifesaving equipment is to be carried in the way of lifeboat or life raft, then the size of the equipment is based on so many pounds per passenger to be carried.

Senator WOODROW: In the case of the Mounted Police boat, did the policemen claim that they did not include the outboard motor in calculating the weight? If they included it, they were overloading, and if they did not include it they were not. There must be some regulation with regard to weight.

Mr. CUMYN: The plaque that was carried on that boat was put there in the form of a recommendation and we arrive at the weight to be carried on the basis of the size of the boat, the capacity of the boat, basing it upon so many pounds per passenger.

Senator WOODROW: Are you going to put that on all boats on the lakes?

Mr. CUMYN: We are not enforcing that, but are trying to bring it about by working with the boat manufacturers in the way of a joint effort with them rather than by compulsion, and we are meeting with success in that campaign.

Senator WOODROW: The new boats will have this, but nothing will be done with regard to those already in use.

Mr. CUMYN: We arrange to place the plaque on any boat, irrespective of age, at the request of the owner.

Senator KINLEY: All that this does under the new legislation is to relieve them from ship inspection. Twelve passengers will be carried without the boat being subject to steamship inspection.

Mr. CUMYN: They are not subject to steamship inspection now if under five gross tons.

Senator KINLEY: They are not subject and I do not think they should be under steamship inspection; but the question of passengers is another thing. There is the matter of overloading the boat; that has to be considered. There is nothing you can do about that?

Mr. CUMYN: We believe, sir, that boats that are carrying less than 12 passengers can be checked sufficiently by the R.C.M.P. We do not think we should go into the inspection of boats carrying less than 12 passengers.

Senator CONNOLLY (*Ottawa West*): Senator Kinley has a real problem, and it bothers many of us, but perhaps you have put your finger on it. You have two kinds of inspection: the inspection of steamships and you have boats that are not subject to that classification. Are they subject to R.C.M.P. inspection?

Mr. CUMYN: There is the R.C.M.P. check, and the boats not subject to steamship inspection are subject to regulations which require them to carry certain equipment. The condition of boats, the number of passengers—speaking about pleasure boats—the number of people they can carry, are all left to the owner of the boat or the person operating the boat.

Senator MACDONALD: Does the plate which you put on the boat refer to the number of passengers or to the weight?

Mr. CUMYN: I believe, sir, that refers to weight.

Senator MACDONALD: It does not refer to the number of passengers?

Mr. CUMYN: The weight, including the motor.

Senator KINLEY: Would it not refer to the capacity of the boat?

Mr. CUMYN: In determining the weight which it is recommended that the boat shall carry, we go into capacity.

Senator MACDONALD: You do not go into the question of weight, but figure from the capacity of the boat?

Senator WALL: I am disturbed by the explanatory notes, and I would refer you to the second sentence in which you state:

However, small boats under five tons carrying on a commercial passenger service are frequently overloaded and the exemption from inspection leaves with the operators of such boats the discretion of deciding the number of persons they will carry.

When you say "however", evidently you are stating a point which concerns the department. What is the purpose of the sentence except to alarm us into suggesting that there should be inspection? Where does this magic 12 come from when you have all the exemptions that have been referred to by Senator Kinley? As a matter of fact, on a boat like that there might be 20 persons, and all that is left to the discretion of the owner. As I have suggested, you evidently show some concern in the explanatory notes, but that is not reflected in the amendment.

The CHAIRMAN: You realize, senator, that this does impose a further restriction. Under the old section they had to be not in excess of five tons to be exempt; now they have to be not in excess of five tons and not carry more than 12 passengers. It is a further restriction on the ability of small boats to carry passengers.

Senator WALL: Why 12? Why was it not 10?

Mr. CUMYN: Well, we have to arrive at some criterion and 12 is the figure used by the Coast Guard in similar legislation; and 12 is also the figure used in the Safety Convention; and from our experience we have decided that if a five-ton boat carried more than 12 then it is time it was brought under inspection.

Senator WALL: You have passengers and persons who are not passengers; you have persons in two different classes and you might have 7, 8 or 10 persons in addition to the passengers.

Mr. CUMYN: In the practical application of this provision, sir, I do not think you will find the type of boat we are aiming at, which is the ferry boat, will be engaged carrying passengers and at the same time carrying non-passengers.

Senator KINLEY: I am not worried about the five-ton boat; that is a good boat. But you might have a three-ton boat with 12 passengers on board.

Mr. CUMYN: You can carry less than 12 passengers at the discretion of the owner. The problem is how far down are we to enter into this.

Senator KINLEY: I suppose people must take some chances themselves.

Mr. CUMYN: We must leave some responsibility to the owner.

The CHAIRMAN: Are there any further questions to be asked of Captain Cumyn? I think we have had a clear explanation of the section. Does anyone else wish to make representations in regard to section 12.

Senator WOODROW: I think the explanation was very reasonable.

The CHAIRMAN: Are you ready to vote on section 12?

Senator MACDONALD: As amended.

The CHAIRMAN: Yes, as amended.

Section was agreed to.

The CHAIRMAN: We might proceed to another non-controversial section—subsection 2 of section 1. This has to do with the definition of "international voyage". I understand there is no conflict over that. Is that so, Mr. Baldwin?

Mr. BALDWIN: I am not aware of any, sir.

The CHAIRMAN: Perhaps we might have an explanation of what is intended by subsection 2 of section 1. If there is a conflict it will appear in the discussion that ensues. It will be found on page 1 of the bill. We have carried subsection 1 of section 1 and we are dealing now with subsection 2.

Mr. CUMYN: It is rather difficult to explain this, sir, without reading from the sections of the act. I will try to avoid reading if I can, but I thought it might be well to read them so that we would keep in step.

The purpose of this amendment, sir, is to correct or remove a difference which has crept into the act, as between the act and the safety convention, that is to say, the international convention for the safety of life at sea, with respect to the application of that convention to ships making certain voyages in the St. Lawrence River below the Lachine Canal. The Safety Convention will be found on page 317 of the act, sir, in the form of Annex "A".

Senator KINLEY: Well, the International Convention excepts only ships on the Great Lakes at present, does it not?

Mr. CUMYN: Yes.

Senator KINLEY: Now it is going to bring them down to the Lachine canal.

Mr. CUMYN: As I have said, the Safety Convention will be found on page 317 in the form of Annex "A", and Canada of course is a signatory to that convention. On page 333 it will be seen, under subsection (a) of Regulation 1 that the convention applies only to ships making international voyages; and under subsection (d) of Regulation 2 will be found the definition of an international voyage as provided in this convention. If we look at page 334 we will note that Regulation 3 (b), at the top of the page, excepts from the regulations of this convention,

"ships solely navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the Lachine Canal at Montreal in the province of Quebec, Canada."

Then if we turn to page 5 of the act we see under subsection (43):

"'international voyage' when used with reference to... Safety Convention means a voyage (not being an inland voyage as herein defined) from a port in one country to a port in another country..."

And that is the pending phrase "not being an inland voyage"; because if you look at subsection (41) on the same page you will note that it reads as follows:

"'inland waters of Canada' means all the rivers, lakes and other navigable fresh waters within Canada, and includes the River St. Lawrence as far seaward as a straight line drawn from Cap de Rosiers through West Point Anticosti Island extending to the north shore;"

The CHAIRMAN: Oh, I see, you have gone further than the lower limits of the Lachine canal.

Mr. CUMYN: So that the ships plying on the Great Lakes and international waters are, in accordance with the convention, only excepted from the convention so long as they do not proceed below the Lachine Canal, but this definition would allow them to proceed down to Anticosti Island; and it is the purpose of this amendment to correct the definition in subsection (43) and bring it in line with the Safety Convention.

The CHAIRMAN: It sounds rather complicated, although it is clear.

Senator ASELTINE: It is a good explanation.

The CHAIRMAN: Shall subsection (2) of section one carry, gentlemen?

Subsection (2) of section 1 agreed to.

—On subsection (3) of section 1—Minor waters of Canada.

The CHAIRMAN: Subsection (3) on top of page 2 of the bill, with the definition, "Minor waters of Canada", is sought to be changed. We have not dealt with that. Will you speak on that, Captain Slocombe?

Captain SLOCOMBE: Mr. Chairman, this amendment has to do with examinations of masters and mates. Under the present definition Lake Winnipeg, for the purposes of examinations of masters and mates, is included in the inland waters of Canada; it is now minor waters.

The CHAIRMAN: Is Senator Haig here?

Senator WALL: Minor waters?

Captain SLOCOMBE: Yes, the purpose is to make Lake Winnipeg minor waters.

Senator ASELTINE: Lake Winnipeg is a pretty large lake.

Captain SLOCOMBE: Yes, sir, but now it is grouped with Lake Superior and the rest of the inland waters down to Anticosti.

Senator MACDONALD: We are back to tradition.

Captain SLOCOMBE: While the minor waters include Great Slave Lake, the Mackenzie River, and other Northwest Territories waters. Now, the point is that when we have a ship on Lake Winnipeg which is a passenger ship and the master of the ship must have the same certificate as the master of the biggest vessel on the Great Lakes, this is very difficult for the owners of that ship, as one instance, to comply with. There are other vessels there which have a lesser problem, but the fact is that they find it difficult to find men with the necessary experience on the inland waters who are also able to pass the necessary examination. This amendment is suggested as a result of representations made to us by the ship owners, vessel owners, on Lake Winnipeg, and also from the Fisheries Council of Canada, which, as honourable senators know, represents the fishing industry right from coast to coast.

Senator MACDONALD: What words are changed?

Captain SLOCOMBE: It just takes out Lake Winnipeg from the exceptions. You will notice that the subsection, as it presently reads, says: "minor waters of Canada' means all inland waters of Canada other than Lakes Ontario, Erie, Huron (including Georgian Bay), Superior and Winnipeg and the River St. Lawrence", and so on.

The CHAIRMAN: And "Winnipeg" is taken out?

Captain SLOCOMBE: We have taken out "and Winnipeg", which in effect will make Lake Winnipeg minor waters. As Mr. Baldwin says, the point is that in the minor waters it is easier to obtain a master's certificate, but we are convinced that a minor water's certificate is quite sufficient for the safety of navigation on Lake Winnipeg.

The CHAIRMAN: Any questions? Does subsection (3) carry?

Subsection (3) of section one agreed to.

—On section 3—Qualification for owning British ship.

The CHAIRMAN: Is there any conflict about this, so far as you know, Mr. Baldwin?

Mr. BALDWIN: No, sir.

The CHAIRMAN: Well, perhaps we had better hear from Mr. Guthrie, the Registrar of Ships.

Mr. GUTHRIE: Mr. Chairman, and honourable senators, this is a simplification of the existing wording. There is no basic change in the effect of the section. We merely remove any reference to denizens and to the difference between a natural born and a naturalized British subject, and also make provision for inclusion of the Republic of Ireland. This follows almost word for word the provisions of section 1 of the Merchant Shipping Act, 1894, by arrangement, and the British Commonwealth Merchant Shipping bill that was mentioned this morning. After the British Nationality Act in 1948 the

United Kingdom amended and modified their section and now we, too, are doing the same. Our Citizenship Act repealed the Nationality Act, which did make provision for denizenization, or letters of denizenization although apparently it was never used. The Citizenship Act no longer makes provision for that, and it is therefore needless in this section. The main effect of this amendment will be to, as we say today, restrict ownership of British ships registered in Canada to British subjects or to Commonwealth bodies corporate having their principal place of business within a Commonwealth, or a body corporate established under and subject to the laws of the Republic of Ireland.

The CHAIRMAN: Are there any questions to be asked of Mr. Guthrie on this section? I think that is a good section.

Senator CONNOLLY (*Ottawa West*): I am glad you are taking "denizens" out, Mr. Chairman. I do not know what it means.

Senator HUGESSEN: I have never heard of "letters of denizenization", have you Senator Connolly?

Senator CONNOLLY (*Ottawa West*): I have never heard of them.

Mr. GUTHRIE: I understand in 1939 the then Secretary of State said they had never been issued in Canada although there is one existing case. It is apparently a royal prerogative issued under the great seal and was originally for merchants in London in the Fourteenth and Fifteenth Century. It was one step before naturalization. I think that the denizen had the rights of citizenship but could not transmit that right to the heirs on his body.

The CHAIRMAN: So that a merchant residing temporarily in the city of London became a denizen for that purpose but could not transmit the right to his heirs.

Mr. GUTHRIE: No, he held the letters patent.

Senator MACDONALD: I at least look up the dictionary to see what the word meant.

Senator CONNOLLY (*Ottawa West*): What is its meaning?

Senator MACDONALD: If I remember correctly, "denizen" means an inhabitant not native to the country in which he is residing but is permanently established without having become a citizen of that country.

The CHAIRMAN: That seems to tie in with what Mr. Guthrie has said.

Senator KINLEY: Mr. Chairman, in (b) it would appear that the Republic of Ireland would only come in by being a body corporate.

Mr. GUTHRIE: Provision is already made for citizens under section 23 of our Citizenship Act which grants to the citizens of the Irish Republic the status in Canada of a British subject. The United Kingdom has covered that in its Ireland Act of 1949. It covered it as it did the others, Pakistan and India.

Senator KINLEY: Are they British subjects in England?

Mr. GUTHRIE: They are given the rights of one. They are not British subjects but they are given the rights, for instance, to own a ship.

The CHAIRMAN: Is the committee satisfied with section 3? Those in favour.
—Section 3 agreed to.

The CHAIRMAN: Honourable senators we have very little else. We have agreed to hold over section 9 for our next meeting. Section 10 is the only section we have not dealt with up to now, and it deals with the licensing of pilots who are licensed in the United States. The Deputy Minister informs me that in his view it is noncontroversial and flows largely from what we have already dealt with in section 11. Shall we take section 10?

—On section 10—pilots licensed in the United States exempted.

The CHAIRMAN: Mr. Baldwin would you be good enough to explain section 10?

Mr. BALDWIN: Mr. Chairman, section 10 proposes a new section which would have a bearing on sections 354, 355 and 356 of the present act. Those three sections make it an offence and provide a penalty for an unlicensed pilot to hire himself out as a pilot in a duly constituted district and also make it a penalty for any master to employ such an unlicensed pilot. This is where a district has not been constituted. However, a complication does arise where a district forms part of boundary waters, where ships are likely to be going back and forth across the boundary; and accordingly, we have proposed a new section 356A which provides that in boundary waters of a duly constituted district the United States pilot may act on the Canadian side of the border without committing an offence as outlined in the three sections I referred to above. The best example I can give of course is in the existing district in the River St. Lawrence between Cornwall and Kingston where the boundary follows the river and where it has always been necessary for Canadian pilots to cross and re-cross the boundary. And there is a necessity for reciprocity in this particular river.

Senator POWER: Does reciprocity in that respect exist at the present time?

Mr. BALDWIN: Yes. Our pilots have never been questioned on the United States side in that respect.

Senator POWER: On a crossing from Prescott to Ogdensburg is a pilot required?

Mr. BALDWIN: No. This refers to ships going up and down the river where it is necessary to cross and re-cross the border between Cornwall and Kingston. Legally we should question a United States pilot if he came down the Canadian side of the river, but this amendment will take care of that situation.

The CHAIRMAN: Are there any representations from counsel for the pilots in connection with this section Mr. Gerin-Lajoie?

Have you any representations to make on behalf of the Shipping Federation, Mr. Brisset?

Mr. BRISSET: No, Mr. Chairman.

Mr. GERIN-LAJOIE: Mr. Chairman, on behalf of the corporation of the Montreal-Kingston, Ottawa pilots I have no objection to raise but I wonder if I could be allowed to ask a question of the Deputy Minister to clarify the situation. Would that mean, Mr. Chairman, that in principle all persons licensed by an American authority could do pilotage work in the river, I mean to the point of putting out of work the whole group of present Canadian pilots? That is the only question my clients have in mind and perhaps a clarification would be in order.

Mr. BALDWIN: I am not quite sure how to answer that question because it does depend upon the arrangements we will work out with the United States; but perhaps the best answer I could make at the present time is that under the present arrangement we are in receipt of representations, for example, from a United States master who considers himself a pilot, saying that the Canadian pilots are putting all the United States pilots out of work and that they should be given a share of the work.

The CHAIRMAN: Are there any further representations?

Senator CONNOLLY (*Ottawa West*): It could go the other way too, I suppose.

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): Does the department contemplate in working out reciprocal agreements with the United States that there would be some discussion about the employment of Canadian and United States pilots? I suppose, as the traffic increases the problem becomes more important?

Mr. BALDWIN: Yes, I think the answer, Senator Connolly, is we contemplate such discussions in due course but they would be rather fruitless until it is clearer what type of legislation the United States is likely to put forward. In the meantime we are going to maintain the existing pilotage arrangement in that part of the river.

Senator CONNOLLY (*Ottawa West*): In practice they come into that purely Canadian section of the river, and they take the pilots they can get in the Canadian section?

The CHAIRMAN: I think we have the edge on that.

Senator KINLEY: Could an American ship take on a Canadian pilot at Montreal or Kingston?

Mr. BALDWIN: Not under existing legislation, no.

Senator KINLEY: If they took on a pilot at Chicago he could go right through?

Mr. BALDWIN: That is the normal practice, yes.

Senator CONNOLLY (*Ottawa West*): And if you take on a Canadian pilot at Montreal he can go right through to Chicago?

Mr. BALDWIN: Yes.

The CHAIRMAN: Any further questions or representations on section 10? Shall section 10 of the bill carry?

Section 10 agreed to.

The CHAIRMAN: Gentlemen, we have section 9 remaining to be dealt with.

Senator ASELTINE: Have we dealt with every section except 9?

The CHAIRMAN: I have a copy of the bill and I have put "carried" against each section as we have dealt with it; and as far as my understanding goes we have now carried every section. We amended sections 11 and 12. We have carried every section now except section 9.

Senator POWER: Have we carried section 8?

The CHAIRMAN: Yes, we carried it this morning, after considerable discussion, you will remember, about the pilotage districts.

Senator POWER: I understood that number 8 had been held over.

The CHAIRMAN: We decided finally that we would not hold it up; we would leave in the bill sections 322 and 323, which created the Montreal pilotage districts, because there might have been a good deal of public feeling if we took out any reference to those old districts.

Senator POWER: I was not here, then.

The CHAIRMAN: It came up at the end of the morning's discussion, after you left.

Senator POWER: I understand the representations some attorneys wish to make were with respect to section 8.

The CHAIRMAN: They were made.

Senator POWER: There were some more, I gathered.

The CHAIRMAN: I don't think so. Are there further representations to make you hope to make on number 8?

Mr. GERIN-LAJOIE: Not as far as I or my friends were concerned.

Senator CONNOLLY (*Ottawa West*): I think the same applied to Mr. Langlois.

The CHAIRMAN: Yes; we finished the discussion of number 8 in committee, and I have been trying very hard to have a fair hearing.

Senator ASELTINE: Then number 9 is left.

The CHAIRMAN: We have number 9 left. And the suggestion is that we meet next Thursday morning, at half-past ten.

Senator ASELTINE: I so move.

The CHAIRMAN: I would hope, honourable senators, that we can finish with section 9 on Thursday morning, so that I can submit a report to the Senate on Thursday afternoon, and we can adopt it the following week. You want to get through reasonably fast, Senator Aseltine?

Senator ASELTINE: It has to go to the other place.

The CHAIRMAN: It is moved that we adjourn until next Thursday, at 10.30 a.m.

Hon. SENATORS: Agreed.

The CHAIRMAN: Carried. Thank you.

The meeting thereupon adjourned until Thursday, February 19, at 10.30 a.m.

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill S-3, An Act to amend the
Canada Shipping Act.

The Honourable Adrian K. Hugessen, Chairman.

No. 4

THURSDAY, FEBRUARY 19, 1959.

WITNESSES:

Mr. Paul Gerin-Lajoie, Q.C., representative of Pilot Organizations;
Mr. J. G. Chartier, President of the Corporation of the St. Lawrence-
Kingston-Ottawa Pilots; Mr. H. C. Kingstone, Legal Division, External
Affairs Department; Mr. Andre Bissonnette, Legal and Treaty Division,
External Affairs Department; Mr. J. R. Baldwin, Deputy-Minister of
Transport; Mr. John Mahoney, representing the Dominion Marine
Association.

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, Chairman.

The Honourable Senators

*Aseltine	Gouin	Molson
Baird	Grant	Monette
Beaubien	Haig	Paterson
Bishop	Hardy	Pearson
Bouffard	Hayden	Power
Bradley	Horner	Quinn
Brunt	Hugessen	Raymond
Buchanan	Isnor	Reid
Campbell	Jodoin	Robertson
Connolly (<i>Halifax North</i>)	Kinley	Roebuck
Connolly (<i>Ottawa West</i>)	Lambert	Smith (<i>Queens- Shelburne</i>)
Dessureault	Lefrançois	Stambaugh
Emerson	*Macdonald	Veniot
Euler	McGrand	Vien
Farris	McKeen	Wood
Gershaw	McLean	Woodrow—(48).
Gladstone	Methot	

50 members

(Quorum 9)

**Ex officio member.*

ORDER OF REFERENCE

WEDNESDAY, January 28, 1959.

Extract from the Minutes of the Proceedings of the Senate.

"Pursuant to the Order of the Day, the Honourable Senator Aseltine moved, seconded by the Honourable Senator Brunt, that the Bill S-3, intituled: An Act to amend the Canada Shipping Act, be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Emerson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, February 19, 1959.

Pursuant to adjournment and notice of the Standing Committee on Transport and Communications met this day at 10.30 a.m.

Present: The Honourable Senators: Hugessen, *Chairman*; Aseltine, Beaubien, Bradley, Buchanan, Connolly (*Ottawa West*), Dessureault, Gladstone, Haig, Hardy, Hayden, Horner, Isnor, Kinley, Lambert, Lefrancois, Macdonald, McGrand, Molson, Monette, Power, Reid, Smith (*Queens-Shelburne*), Stambaugh, Veniot and Woodrow—26.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill S-3, An Act to amend the Canada Shipping Act was further considered.

Heard in explanation of the Bill were:

Mr. H. C. Kingstone, Legal Division, External Affairs Department;
Mr. Andre Bissonnette, Legal and Treaty Section, External Affairs Department;
Mr. J. R. Baldwin, Deputy-Minister of Transport;

Also heard:

Mr. Paul Gerin-Lajoie, Q.C., Attorney representing the Association of Pilots for the Harbour of Quebec and below, United Montreal Pilots, Corporation of the Montreal Harbour Pilots, Corporation of the St. Lawrence-Kingston-Ottawa Pilots;

Mr. John Mahoney, representing the Dominion Marine Association;

Mr. J. G. Chartier, President of the Corporation of the St. Lawrence-Kingston-Ottawa Pilots.

Further consideration of the Bill was postponed.

At 1.15 p.m. the Committee adjourned to Wednesday, February 25th, 1959, at 10.30 a.m.

Attest.

Gerard Lemire,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, February 19, 1959

The Standing Committee on Transport and Communications, to which was referred Bill S-3, to amend the Canada Shipping Act, met this day at 10.30 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: The committee will come to order.

Honourable senators will recall that we have one section of the bill to amend the Canada Shipping Act still remaining for consideration, section 9. At the termination of our last sitting we had completed the examination of Mr. Kingstone, counsel for the Department of External Affairs, who had given evidence to us with respect to the international implications of the amendment proposed by section 9; and Mr. Gerin-Lajoie, counsel for the various pilot organizations from Father Point up to Kingston, was about to make his submission to the committee. Before I ask Mr. Gerin-Lajoie to go on with his submission, I think I should indicate to the committee what has happened since our last meeting.

On Thursday last I received two telegrams in similar language, one from North Sydney, Nova Scotia, signed "Sydney Pilots", and the other from Saint John, New Brunswick, signed "Saint John Pilots" both of which state that they oppose section 9 of the bill and support the view put forward, or to be put forward before the committee by the St. Lawrence River Pilots and by the Canada Merchant Service Guild.

Yesterday morning I received a telegram from Vancouver signed by G. F. Bullock, National Secretary, Canadian Merchant Service Guild, in the following terms:

British Columbia pilots and Fraser River Pilots request that they be given opportunity study proposed amendment to Canada Shipping Act section 346—

That is section 9 to which I referred.

concerning pilotage stop. As representative association Canadian Pilots Guild desires your intervention on behalf all Canadian pilots in order that representation may be made to the Senate Committee on Transport and Communication stop Your assistance will be much appreciated stop Will be Ottawa next week for discussion this subject

Similar telegrams were received by Senator Reid and Senator Farris and I think one or two other British Columbia senators. After discussing the matter with the Leader of the Government (Hon. Mr. Aseltine), the Clerk of Committees, and with Senator Reid, I sent the following reply telegram yesterday to Mr. Bullock:

Your telegram yesterday Senate Committee on Transport and Communications has been considering bill to amend Canada Shipping

Act during last fortnight stop Committee had expected to hold its final meeting tomorrow but in view your request committee will be willing to hold further meeting Wednesday morning next 25th instant at 10:30 a.m. to hear any representations your guild desires to make stop Please telegraph immediately whether your guild desires to be heard at this meeting.

I may say I arranged for a further meeting of this committee for next Wednesday morning, subject, of course, to the approval of this committee. This morning I had a reply telegram from Mr. Bullock from Vancouver, as follows:

Reurtel concerning proposed amendment Canada Shipping Act Stop Appreciate opportunity to appear Wednesday February twenty-fifth before your Committee Stop Will arrive Ottawa twenty-third to obtain copy proposed amendment in order study and consider intended application of proposed amendment to act Stop Will call you on arrival there.

I would like the committee, if they will, to endorse the action I took yesterday in arranging for a further meeting of this committee next Wednesday to hear the representations from the British Columbia pilots.

Senator ASELTINE: It looks as though they will be here for sure?

The CHAIRMAN: Yes. I did not want to convene a meeting for next Wednesday without making sure they would be here to make their representations, for it is conceivable they might have decided not to come. That is why I asked him to reply.

Senator ASELTINE: Do you think it would be possible to complete the work before the committee next Wednesday?

The CHAIRMAN: That I do not know, Senator Aseltine. It depends upon what further representations we will have to consider in connection with section 9, and it depends, of course, on the extent of the evidence that is given next Wednesday. We have a whole morning before us and I think we can make good progress this morning.

Senator ASELTINE: The reason I asked the question was because of the fact we have been considering this bill now for some two or three weeks and I would like to complete our investigation as soon as possible.

The CHAIRMAN: I would hope we would have completed all the local evidence by the end of today and just leave whatever the British Columbia people have to say to next Wednesday, but that is out of my hands.

Senator MACDONALD: It is a very important bill and we should give most careful consideration to it. I do not think it is necessary to have any target date in view.

The CHAIRMAN: Quite.

Senator POWER: I think I suggested at the last meeting that I proposed to move to re-open consideration of section 8.

The CHAIRMAN: Do you think we might go on with section 9 now? I am quite sure the committee will agree to your motion. It is a matter of courtesy, Senator Power. You do not want to consider section 8 before 9, do you?

Senator POWER: I do not want to interfere with the routine proceedings but if there is to be any discussion on the question of re-opening and reconsidering this section, perhaps we had better have it now. If the committee is willing to re-open section 8, I am at your disposal as to when the matter should be discussed. I do not mind the committee going on with section 9 providing I know section 8 is to be reconsidered. That is all I want to know at the moment.

The CHAIRMAN: Well, I think perhaps we can deal with that procedural matter right away. I am sure the committee will agree with Senator Power that we re-open section 8 after first considering section 9. Do I hear a motion to that effect?

Some SENATORS: Agreed.

The CHAIRMAN: Mr. Gerin-Lajoie has a brief to submit to the committee.

Senator KINLEY: Mr. Chairman, before Mr. Gerin-Lajoie proceeds, may I make a correction in the verbatim report of the Standing Committee in Report No. 3, of February 12, 1959, at the foot of page 125. In that paragraph I am quoted as saying:

I am not concerned about this in Newfoundland except they may have said that we are discriminating against Newfoundland as to the Maritime provinces, and there may be many people in Newfoundland who say it is a good thing for that fishing fleet to come in here."

I think it was my own mistake that the statement is incomplete and misleading. I continued by saying:

Last year they bought a lot of bait in Newfoundland, and it was necessary to import it."

Now, I checked this and my information as to what Portugal bought is as follows:

Portugal

Light Salted Cod	1957	412,000 lbs.
	1958	3,734,500 lbs.
	(to end of November)	
Heavy Salted Cod	1958	29,400 lbs.
Bait	1957	2,569,000 lbs.
	1958	None

In 1958 they bought none, because there was a failure of bait in that year. This is as far as the statistics go.

I said "it was necessary to import it." I think the bait came from other sections and was delivered to the fleet in Newfoundland; they bought no bait in Newfoundland in 1957. Then I said, "Our boats are all draggers". The deep sea fishing fleet are mostly draggers. And then I went on to say, "there is hardly any hook and line". The Portugese fleet is hook and line, as you know. Then I said, "and these ships are a market for caplin and squid, which they produce in immense quantities. I am not going to say what Newfoundland wants; I am only going to point out that I think they are being discriminated against."

Mr. Chairman, that is the correction I would like to make.

The CHAIRMAN: The record will be corrected, then. Thank you.

Now is the committee ready to hear Mr. Gerin-Lajoie, who as I said before represents all the various representations of pilots as far as Kingston and the port harbour of Montreal.

Mr. Paul Gerin-Lajoie, counsel for the Association of Pilots for the Harbour of Quebec and below, United Montreal Pilots, Corporation of the Montreal Harbour Pilots, Corporation of the St. Lawrence-Kingston-Ottawa Pilots:

Mr. Chairman, honourable senators, with your permission I might refer to a brief which I have prepared in writing with my clients, and which is before you. I hope there are copies available.

The CHAIRMAN: The brief is dated Ottawa, February 12, 1959 and is submitted to the Standing Committee of the Senate on Transport and Communications by a Joint Committee of the St. Lawrence River Pilots set up by the four bodies of pilots which include all pilots licensed for the St. Lawrence River between Father Point and Kingston, namely: Association of Pilots for the Harbour of Quebec and below, United Montreal Pilots, Corporation of the Montreal Harbour Pilots, Corporation of the St. Lawrence-Kingston-Ottawa Pilots.

May I be allowed to point out that all through this submission the word "pilot" is used in the technical sense as given to it by the Canada Shipping Act. In Canadian common language as well as in United States official language the word "pilot" refers to any person who has the conduct of a ship whether he be a member of that ship's crew or not. On the contrary the Canada Shipping Act, section 2, subsection 64 defines a pilot as, "any person not belonging to a ship who has the conduct thereof". In practice therefore a navigator specializes in the conduct of ships in specific and restrictive waters.

Senator MACDONALD: May I interrupt a moment. At the end of the first paragraph you refer to the Corporation of the St. Lawrence-Kingston-Ottawa Pilots. Are pilots required on the Ottawa River or around the city of Ottawa?

Mr. GERIN-LAJOIE: No, Senator Macdonald. At some time in the past there was some pilotage to a very restricted extent on the Ottawa River, but it was not compulsory pilotage and there was no compulsory payment of pilotage dues. At the present time there is no pilotage at all on the Ottawa River, and despite the misleading name, pilotage is carried out by this group only on the St. Lawrence River between Montreal and Kingston.

Pilotage on the St. Lawrence, particularly within the limits of the present Quebec and Montreal pilotage districts—that means from the Harbour of Montreal to Father Point—dates back to the origin of the colony and it has been on an organized basis for nearly 200 years. For a long time access to pilotage associations, as well as to training of pilots was largely on a family relationship basis, handed down from father to son, uncle to nephew and so forth. In fairly recent years, however, the requirements for admission to apprenticeship have become more and more definite and they now include marine school as well as general school education.

We make mention of that point in our brief because pilotage on the St. Lawrence River may have been construed in the past, let us say during the last century, more or less like a family compact affair, but it has to be drawn to your attention, if I may respectively say so, that the situation has very largely changed in the course of the present century and now there are definite rules made first by the pilotage authority, who is the Minister of Transport, and confirmed by the Governor in Council. Definite rules for admission to the practice of pilotage have been drawn up and now any young man who wishes to enter into the pilotage service may apply. The profession, if I may say so, of the pilot is open to any person who goes through the requirements provided by the by-laws of the pilotage authority for the district.

Senator REID: Do they go through a form of apprenticeship, so to speak?

Mr. GERIN-LAJOIE: They do. Actually, the apprenticeship covers a period of five years.

Senator BUCHANAN: Are there any restrictions as to the number?

Mr. GERIN-LAJOIE: There is restriction as to the number of pilots, but no restriction as to the number of persons on the list waiting for admission to apprenticeship. There are three stages, if I may point out, to becoming a pilot. One applies to be put on a list of those who aspire to become apprentices. Then there is a list of apprentices. The number of apprentices is

limited according to the needs of the service, and that number is determined not by these private associations or groups which I happen to represent today, but by the by-laws of the pilotage authority, or by the decision of the pilotage authority.

Senator ISNOR: There is one other restriction, is there not, as to age?

Mr. GERIN-LAJOIE: Yes, the restriction that was mentioned at the last meeting, and upon which the Leader of the Opposition made some pleasant or unpleasant remarks.

Actually, Mr. Chairman and honourable senators, the restriction varies from district to district, and in some districts, as Mr. Baldwin reminds me, there is no age limit at all. The age limit of 30 years which was mentioned at the last meeting of this committee applies to the Montreal and Quebec district, but that does not apply in the Montreal-Kingston district, for instance, where the system is entirely different. The apprenticeship is not on the same basis; it is more of a probation system in the Montreal-Kingston district than it is in the Montreal-Quebec district.

Senator BUCHANAN: What is the reason for the difference?

Mr. GERIN-LAJOIE: The system in the Montreal district and Quebec district has an historical background. The Montreal-Kingston district is a fairly recent district, having been created before the last war, but became very active only during the last war, on account particularly of the restrictions imposed on the dimensions of the ships by the existing canals up to the present time; as you know, in recent years ships which have been going up the river from Montreal to Kingston have been very limited in tonnage, and it is conceivable that they wanted to take possession of the market to a certain extent and be ready to do some shipping of a larger extent when the Seaway opens.

If I may, with your permission, revert to the brief, paragraph 4: the pilots' associations or corporations, on their own initiative, without being in any way compelled or invited to do so by the Government, by the public or by ship operators, are continuously working to improve the professional standards and efficiency of their group, thus showing a high sense of responsibility as professional bodies.

That goes with the remarks I made a few moments ago concerning the transformation and evolution of the group from the former type of family relations basis to the present type of professional group, with definite rules and with a determination to improve the standards and to achieve a truly professional status.

5. The importance of the role played by the pilots in the development of navigation on the great waterway which is the St. Lawrence River can hardly be over-estimated. Pilots thus have contributed immensely to making Montreal the major port which it has become over the years, and they have proved to be a significant factor in the development of Canada's national economy.

6. St. Lawrence River pilots handle each year many thousands of ships of all types. These include modern super-tankers and large passenger ships, whose individual value run in the twenty million dollar figure and which often involve multi-million cargo values and hundreds of human lives.

7. The pilots perform and have always performed their duties with great skill and to the entire satisfaction of ship operators and of the Canadian pilotage authorities. They provide an efficient service and ensure the security of navigation.

8. On the other hand, the pilots' working conditions have kept improving over the years, and pilots up to now have looked at the future with confidence.

9. The present situation as regards security of navigation, efficiency of service and improving working conditions for pilots is the result partly of the internal set-up of pilots' associations or corporations—actually two of them are constituted as corporations under Part II of the Canada Companies' Act—and the other two groups are associates or partnerships under the Civil Code of the province of Quebec. These associations or corporations provide for the pooling of revenues among the pilots, security in case of illness, and so forth, and those factors which I mentioned before,—security of navigation, efficiency of service and improving working conditions for pilots,—are also the result of the compulsory payment of pilotage dues, as will be explained in subsequent paragraphs. The abolition of compulsory payments, either in whole or in part, would compromise, I would go as far as to say, jeopardize the present fairly satisfactory situation which has slowly developed over the years.

Senator CONNOLLY (*Ottawa West*): May I ask the witness if he would say something about marine accidents in these pilotage districts? I do not suppose he has figures with him. But it may be important.

Mr. GERIN-LAJOIE: In reply to Senator Connolly's question, I must confess that we do not possess the extensive figures, and the department would no doubt be in a position to supply more complete figures. But I have here a record of accidents which occurred in the St. Lawrence-Kingston-Ottawa district, and I might point out that this particular district is a very good one for the examining of what might happen if the compulsory payment of pilotage dues was to be abolished in the Ontario and the Quebec districts, because in the district between Montreal and Kingston there is no compulsory payment of pilotage dues. As I mentioned earlier in reply to one question, this district is a fairly recent one, the ships are of relatively small dimensions, and a ship is not obliged under the law either to take a pilot on board or to pay pilotage dues. I might also mention that nearly all ocean ships, and as far as we know, all ships crossing the ocean and coming into this district, do take a pilot, but a number of so-called lake ships, that is ships coming from the Great Lakes and going down the river, do not always take a pilot on board, and from time to time are navigated down the river in that section by their own masters. In that particular district I have a record of 15 ships that have gone aground during that season. This does not take into account an accident as between ships. I have not a record of that here.

The CHAIRMAN: Is that for the 1958 season?

Mr. GERIN-LAJOIE: Yes, Mr. Chairman. Fifteen ships went aground, of which only three had pilots on board. The great majority of ships plying those waters did actually use a pilot. I have not got exact figures, but I should say, offhand, perhaps 75 per cent.

Senator ASELTINE: How many went aground that did have pilots?

Mr. GERIN-LAJOIE: Three with pilots went aground and 15 without pilots went aground. The total is 18.

Senator HORNER: Is that for a one-year period?

Mr. GERIN-LAJOIE: Yes.

The CHAIRMAN: The 1958 season.

Senator CONNOLLY (*Ottawa West*): Have you any estimate of the number of ships that went through those waters?

Mr. GERIN-LAJOIE: No, I am afraid not, senator.

Senator KINLEY: Were there any serious groundings or was it just a case of the ships touching the bottom and backing off?

Mr. GERIN-LAJOIE: I could not say what amount of money was involved.

Senator KINLEY: I know that many just touch the bottom and back away.

Senator MACDONALD: What about lives? Were any of them passenger ships?

Mr. GERIN-LAJOIE: Not to my knowledge, sir. There are no regular passenger ships going up that section of the St. Lawrence River. Some cargo ships, as you know, carry a small number of passengers from time to time, 10 to 20, but there are no regular passenger ships plying those waters.

Senator REID: Are there any courts of inquiry held following those accidents?

Mr. GERIN-LAJOIE: Yes. I am quite sure the department investigates every accident that is reported to it.

The CHAIRMAN: Would you be good enough to give us the source of these statistics you have just referred to.

Mr. GERIN-LAJOIE: This is a list that was drafted by the office of the St. Lawrence-Kingston-Ottawa Pilots Association. That is why I took the precaution of mentioning that I had a record here but I could not say it was a complete record at all.

Senator ASELTINE: Mr. Chairman, these waters we are speaking about now seem to be more dangerous to navigate than Hudson Bay.

Senator HORNER: Much more.

Senator ASELTINE: Where they have had practically no accidents.

Senator HAIG: What is the port on Hudson Bay they use?

Senator ASELTINE: Churchill.

Senator HAIG: They ought to find out how they get out of Churchill without any accident. I thought the same principle was used on the St. Lawrence River.

Mr. GERIN-LAJOIE: Possibly the answer would be to have pilots on all those ships and there would be no more accidents.

Senator HAIG: Why don't you say so then?

Senator KINLEY: How long is the season in Hudson Bay?

Mr. GERIN-LAJOIE: I am afraid I am not in a position to speak on that point. I am not authorized to do so.

Senator MACDONALD: Let us get back to the St. Lawrence River. I am more interested in lives than in dollars. I notice on page 2 of your brief you refer to, "modern super-tankers and large passenger ships, whose individual value run in the \$20 million figure and which often involve multi-million cargo values and hundreds of human lives." Isn't that an understatement, "hundreds of human lives"?

Mr. GERIN-LAJOIE: An understatement, but I meant per ship.

Senator MACDONALD: Does not every passenger ship that goes up the St. Lawrence River require a pilot?

Mr. GERIN-LAJOIE: Yes, sir.

Senator MACDONALD: And each passenger ship would carry, I suppose, a thousand people?

Mr. GERIN-LAJOIE: That is right, sir. I mentioned "hundreds" in the plural form, so it might be two or three or nine or ten hundred people.

Senator MACDONALD: I thought it would include many thousands.

Mr. GERIN-LAJOIE: On each ship.

Senator MACDONALD: Oh, no, not on each ship.

Mr. GERIN-LAJOIE: I don't know if it is correctly drafted but I meant per ship. It is a \$20 million figure for one ship and involves multi-million cargo values for one ship.

Senator KINLEY: Could you designate any passenger ship that goes up the St. Lawrence River without a pilot?

Mr. GERIN-LAJOIE: Without a pilot?

Senator KINLEY: Yes, without a pilot.

Mr. GERIN-LAJOIE: No, sir, there are none.

Senator KINLEY: It is the cargo boat that does not take a pilot?

Mr. GERIN-LAJOIE: That is right, sir.

The CHAIRMAN: These accidents you mentioned, you said they were groundings?

Mr. GERIN-LAJOIE: Groundings.

The CHAIRMAN: How many of them were serious? Very often in narrow waters like that a ship will go slightly aground for an hour or two and then float itself off, will it not?

Mr. GERIN-LAJOIE: That is quite possible. I admitted that a minute ago. Anyway, I think it is significant that out of 18 ships that went aground, whether it was serious or not, 15 of them had no pilots on board.

The CHAIRMAN: It does not affect your point.

Senator HORNER: Could you tell us the resulting damage? What did it amount to? Did they just back off without any damage occurring?

Mr. GERIN-LAJOIE: I would not care to make any statement on that point, for I have not got that information.

Senator HORNER: That is very important.

Senator KINLEY: And the size of the ship is important too. There may be a lot of little ships going aground.

Mr. GERIN-LAJOIE: That is possible. My point is that ships without pilots have been more easily subject to deviating from the channel.

The CHAIRMAN: I think we probably agree with you there, Mr. Gerin-Lajoie.

Senator ASELTIME: How many of these ships that went aground were complete wrecks?

Mr. GERIN-LAJOIE: I doubt if there was a single one that was a complete wreck.

The CHAIRMAN: Would you go on with your submission?

Mr. GERIN-LAJOIE: If I may mention now the reasons for the compulsory payment of pilotage dues, Mr. Chairman, and honourable senators, I will proceed to paragraph 10 of the brief which is before you.

10. The security of navigation is the first reason for the compulsory payment of pilotage dues. Such security does not involve only the security of ships, but also the security of passengers, of cargoes, of crews, as well as the security of harbour installations and of communities living along the river shore. Such installations and communities would be greatly endangered by a ship disaster involving explosive or inflammable cargo.

I might also add at this point that the security of navigation also involves the protection of river banks against erosion. As you know, there are many communities, buildings, developments, and so on, along the St. Lawrence River and when a ship goes close to the river bank at a high speed it causes erosion

to take place. Over the years that could be a very serious matter. This is another reason for having competent men navigate the ships that ply up and down the river.

Moreover, the security of a ship is not only dependent upon the handling of that particular ship, but also upon the handling of all other ships which it may meet.

11. In order to ensure such security of navigation, ships should be handled by competent men, who must be pilots as defined at the outset of this submission, and as defined, of course, in the Canada Shipping Act. The difficulties of the channel and of the harbours require navigators who do not only possess the knowledge and experience of those waters, but who also keep continuously familiar with them. This situation was most clearly put by a French Captain in a letter to the Honourable Jacques Bureau, P.C., which dates from November 28, 1922, when he wrote:

Un pilote, Monsieur le Ministre, c'est un marin qui s'est spécialisé dans la connaissance approfondie d'un petit coin d'eau, par rapport à l'Océan. Il faut que ce marin connaisse les courants, contre-courants, les influences de la marée et du vent, les roches, les bancs en formation, les changements dans le chenal, il faut que ce marin sache qu'il y a huit jours ou un jour, telle bouée, qui signale un danger, s'est déplacée par le fait d'un accident quelconque et qu'elle ne marque plus, exactement, l'endroit où le navire peut passer. Vous comprendrez aisément, Monsieur le Ministre, que le Capitaine, si capable soit-il, s'il arrive d'Angleterre ou de France, ne peut avoir la révélation des différentes variations que le chenal du Saint-Laurent a pu subir: c'est là le rôle du pilote.

Senator REID: I wonder if the witness could translate that quotation for us? I will be sending copies of this transcript to the west coast.

Mr. GERIN-LAJOIE: Yes, I will be pleased to do that.

Senator MACDONALD: The Chairman is completely bilingual, and I am sure you are too, Mr. Gerin-Lajoie.

Mr. GERIN-LAJOIE: I will do my best, sir, to translate that quotation:

A pilot is a seaman who is specialized in the deep knowledge of a small part of water as compared to the ocean or as opposed to the ocean. That seaman must know all the currents and counter-currents, the influences of the tide and of the wind, the rocks, the bars, the changes in the channel. It is also necessary that this seaman or navigator knows that eight days ago or one day ago that a buoy, which is the signal or indication of a danger, has been displaced as a result of an accident, and that it does not show exactly the place where the ship may pass. You will easily understand, Mr. Minister, that a captain however able and skilled he may be, if he comes from Great Britain or France, cannot have the knowledge of those diverse variations in the channel in the course of the past days or weeks. That is the role of the pilot.

Further on, the author of that letter had these very appropriate remarks to make in support of pilotage for small ships. I will proceed in the same way:

Small ships with a restricted draft do often forget that taking into account their small size, they have to give way to large ships. Having nothing to fear themselves they too often forget to observe the strict or the elementary rules of prudence, and that to the detriment

of large ships, which or who cannot always act with the same freedom. Captains of small ships come to consider that the river is theirs, and they don't give way to other ships; they anchor as they see fit, and when the large ship arrives, well, the small ship very often makes damages to the large one or to herself.

Senator REID: Just like trucks or cars on the road today.

Senator HORNER: Surely, witness, it is possible to map the intricacies, with all the modern facilities available? Surely the masters and mates are not just staggering along the bank as though they were in danger on the road?

Mr. GERIN-LAJOIE: Well, I would agree, Mr. Senator, that the situation in this regard may be better today than say 30 or 40 years ago at the time that letter was written; but as regards the banks, for instance, an able master or skipper will have the tendency to go too fast so as to arrive as soon as possible at the destination of the ship, and that happens from time to time, that they do go fast and damage the river banks. Perhaps I might be allowed to give the following quotation, sir, which is by Mr. J. T. Behan, a member of the Canadian Board of Marine Underwriters, as reported by the *Montreal Gazette*, November 1, 1957:

The name "St. Lawrence" to the underwriter evokes a picture of one of the most hazardous navigation rules in the world. In many places the river is no more than 35 feet deep. In some of the areas, the depth is no more than 500 feet. Fog is a threat during the entire navigation season and is prevalent during June and July. Throughout most of its length the St. Lawrence is characterized not only by shoals and bars but by tides, currents and counter-currents which are sometimes unpredictable, even for the seasoned and skilled pilots.

And further on:

Weaknesses in the human factor are no different in the St. Lawrence than elsewhere in the world. The difference is that navigation in the St. Lawrence allows for no second guessing. The first course a ship is committed to is frequently the last. If bad judgment has been used the result is inevitable and swift.

Senator ISNOR: I agree with that.

Mr. GERIN-LAJOIE: I certainly do as far as navigation is concerned, and that is the experience of my clients, sir.

13. Such reasons have brought about, or more or less similar reasons have brought about, compulsory pilotage in all important channels, canals and harbours of the world without any exception known to us.

14. In Canada the law does not provide for compulsory pilotage as such, but it reaches the same result by providing for the compulsory payment of pilotage dues. We need not enter into historical reasons for this peculiarity, if I may so, of the law, but we wish to stress the point that a fundamental reason for the compulsory payment of pilotage dues is that such payment amounts in practice to compulsory pilotage, which we consider as essential for the security of navigation.

I might interject here, Mr. Chairman, and honourable senators, that at one period, about 1903, the compulsory payment of pilotage dues was abolished on the St. Lawrence River, and it had to be restored about five years later, on account of the numerous accidents which had happened during that period, which was between 1903 and 1908 approximately. If we look to a more recent period now we might refer to a situation which I had mentioned a

moment or two ago, that is, in the St. Lawrence-Kingston district, where there has been a number of ships that went aground during the last navigation season, a great majority of which were ships without a pilot on board.

Senator REID: Do you find on the St. Lawrence the same as we have found on the Pacific coast, that generally speaking the captains of the ships are delighted to have a pilot to take the responsibility of navigating?

Mr. GERIN-LAJOIE: All captains are certainly of that view, sir, but should I say, without playing on words, that captains of ships are not always their own masters.

Senator KINLEY: 1903 and 1904 were still the days largely of the sailing ships, and the transition was going on. The internal combustion engine was not so well developed as now. There would be more sailing ships in 1903 than now.

Mr. GERIN-LAJOIE: That would be a safe statement to make, Mr. Senator.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, I wonder if the witness would say a word at this point about compulsory pilotage as against compulsory payment of pilotage dues? Are they the same thing?

Mr. GERIN-LAJOIE: Well I think in Canada we do not have any compulsory pilotage except that there may be one case in the Great Lakes section following the amendments which have been adopted by this committee. Actually I see no reason to have compulsory payment instead of compulsory pilotage itself. I might ask the question: Why is the provision in the statute for the compulsory payment of dues? Possibly the explanation is that at that time a ship wanted to be free to take or not to take the first pilot coming to offer his services to the ship. At that time, let us say 50 or 100 years ago, pilotage was not organized on such an extensive basis as it is now, it was not under Government control to the extent that it is now, and pilots perhaps did not provide as efficient service as they do now; and it is possible that the provision in regard to the compulsory payment was inserted in order to leave the master of a ship free to take a pilot or not, or to take the pilot of his choice. But, that is only a suggestion that I am making; I have no firm statement to make as to the historical reason for that provision in the act.

Senator CONNOLLY (*Ottawa West*): In your submission do you leave the master free to take on a pilot of his choice?

Mr. GERIN-LAJOIE: No, not under the present system, Senator Connolly, because we have to a large extent what is called a *tour-de-rôle* system. Up to now we had two systems in the Quebec and Montreal districts, one being what is called by the statute special pilots. They are pilots attached to a company or an agent. An application is made just prior to the opening of the shipping season by a company or an agent for a special pilot and that company or agent is always entitled to have his or its special pilot. But there is, apart from that, a *tour-de-rôle*, that is a list of all pilots, and they are called one by one; the first on the list is called when a ship asks for a pilot, and actually the special pilots also go on the *tour-de-rôle* but they are free to wait for their ship if there is one coming within 24 hours or so.

Senator CONNOLLY (*Ottawa West*): In your submission what you propose is that every ship that navigates these waters should take on a pilot and pay him?

Mr. GERIN-LAJOIE: Well, we do not insist that a ship take on a pilot. We are satisfied with the present state of the law which uses an indirect way to arrive at compulsory pilotage.

Senator CONNOLLY (*Ottawa West*): I have just one more point about the problem and it is this: Is there any danger that when you have this form of compulsory pilotage that the pilots organization could tie up navigation by refusing to work in these waters?

Mr. GERIN-LAJOIE: That is of course a possibility as, I suppose, in any industry or trade.

Senator CONNOLLY (*Ottawa West*): Has that ever happened?

Mr. GERIN-LAJOIE: It has happened that navigation has been tied up by a stoppage of work.

Senator CONNOLLY (*Ottawa West*): Are these organizations organized the way a union is and can they do this kind of thing?

Mr. GERIN-LAJOIE: Well, when you say, Senator Connolly, the way a union is—it is in a different way because these associations I happen to represent today, which group all pilots, are not a union in the technical and legal sense of the word.

Senator CONNOLLY (*Ottawa West*): They have never applied for certification anywhere?

Mr. GERIN-LAJOIE: No, sir.

Senator CONNOLLY (*Ottawa West*): Do you know if they have done so in other districts?

Mr. GERIN-LAJOIE: Not to my knowledge; of course I cannot speak for the other districts but I doubt it.

Senator CONNOLLY (*Ottawa West*): In the absence of certification under labour laws, can they then go on strike, no matter what happens in the St. Lawrence, and thereby prevent the ships going on through the waters that you are talking about?

Mr. GERIN-LAJOIE: If you will allow me, I would not care to use the word "strike" which has a technical meaning, but, let us say, the members of one corporation or association could agree to go to a meeting of their own and not work during that period of time; and of course during that time ships would be deprived of the services of those pilots, that is, of the pilots licensed for that particular district.

Senator CONNOLLY (*Ottawa West*): So the ships would be tied up?

Mr. GERIN-LAJOIE: For all practical purposes they would be, but from a legal standpoint the ship is never obligated first of all to take on a pilot.

Senator CONNOLLY (*Ottawa West*): That is the point.

Mr. GERIN-LAJOIE: The second point is that a ship is never obligated to pay pilotage dues if there is no pilot available.

Senator POWER: That is the difference that exists between compulsory pilotage and compulsory payment of pilotage dues. Under compulsory pilotage the master could not take the ship up the river without a pilot but under the compulsory payment of dues the master could leave the pilot aside and not use him.

Mr. GERIN-LAJOIE: That is right.

Senator CONNOLLY (*Ottawa West*): Could he act in the same circumstances if there was no pilot available?

Mr. GERIN-LAJOIE: He could, under the present state of the law.

Senator POWER: In the case of a disturbance it would be very easy for the department to say that for the time being we will not insist on the compulsory payment of dues because there are no pilots available, and the

masters could themselves try to take the vessels up the river; so, it is not inconceivable that there would be no stoppage of navigation, that navigation could continue.

Mr. GERIN-LAJOIE: That is right, Senator Power, and that is a very important difference from the union system where there is the picketing of the company, and a firm cannot, legally speaking, employ other persons, from a practical standpoint.

Senator CONNOLLY (*Ottawa West*): Picketing of a ship, I suppose, would have its own problems—for instance, a ship lying in midstream.

Senator KINLEY: Is a pilot not obliged under the act, to serve when called? Is that not imperative?

Mr. GERIN-LAJOIE: I believe it is.

Senator KINLEY: For instance, the captain of a ship might say that he can save a lot of time without waiting for a pilot. Can he proceed?

Mr. GERIN-LAJOIE: That is possible.

Senator HORNER: I would like to know if a pilot is taken aboard does he continue to be paid during the time that the ship is loading or unloading? That is to say, is the payment of compulsory dues necessary under those circumstances? Or, under compulsory pilotage would the pilot only be paid for the time when the ship is operating, and not loading or unloading.

Mr. GERIN-LAJOIE: In the district I happen to represent there is no question of having a pilot on board while a ship is loading or unloading because distances are small. A pilot is taken on to go from Kingston to Montreal where there is hardly any loading or unloading in between, and the same applies between Montreal and Three Rivers. However, if a ship were to stop at Contrecoeur to load or unload at that point the pilot would be discharged and another pilot would be called upon to take the ship when the ship is ready to leave Contrecoeur.

Senator HORNER: We were told by the pilots association when they were before us that the pilot would be paid while the ship is loading or unloading.

Mr. GERIN-LAJOIE: Well, Senator Horner, that may apply in the Great Lakes areas, not in the area between Father Point and Kingston. The situation is of course different on the Great Lakes, where a ship is making a long trip around the Lakes, and takes several days to do it.

Senator KINLEY: But if the pilot ship was hovering, waiting for ships night and day, the pilot would be on duty then and would get paid anyway? He gets his pay, does he not, from the small Pilotage Commission?

Mr. GERIN-LAJOIE: On the east coast?

Senator KINLEY: At any place—does he not get his pay?

Mr. GERIN-LAJOIE: They get paid for any particular trip; the pilots' dues vary in different places, and the time factor is not in any way involved in determining the dues.

Senator KINLEY: Are the pilots' wages wholly controlled by dues?

Mr. GERIN-LAJOIE: Yes.

Senator KINLEY: He does not get more than he earns on the ship?

Mr. GERIN-LAJOIE: That is right. It is entirely controlled by dues, although in practice there may be a gratuity given by some companies or agents to their special pilots from time to time, but that is a different matter.

Mr. KINLEY: I am surprised to hear that is his only remuneration. You are sure of that, are you?

Mr. GERIN-LAJOIE: Certainly sir.

Senator MONETTE: Mr. Gerin-Lajoie, may I ask a question? It may appear to the ordinary mind strange and not easily understandable that pilotage dues should be paid while the law does not require the ships to make use of pilots. Why should ships be obliged to pay pilotage dues when they are not obliged to take on pilots?

From the reason you have given earlier it appears that in the public interest pilots be on board on those ships in the St. Lawrence, and yet the legislators have not felt obliged to require ships to take on pilots, but only to pay pilotage dues.

In answer to the questions put by Senator Connolly and Senator Power, it was mentioned that perhaps the question of a strike was the reason for this situation. If ships are required to take on pilots, and if the pilots are on strike and therefore not available, the law would not permit the ships to proceed without pilots; but if the ships are not obliged to take on pilots, and if they are not available, they can still proceed. That is of course an advantage to navigation, although there might in such circumstances be a greater risk of accident.

Mr. GERIN-LAJOIE: That is right.

Senator MONETTE: Is that the reason for this rather strange situation, that by law ships are obliged to pay pilotage dues but are not obliged to take on pilots?

Mr. GERIN-LAJOIE: Those reasons mentioned a moment ago, plus the possible historical reason, are the only ones I know of.

Senator MONETTE: You cannot explain otherwise the origin of this curious situation?

Mr. GERIN-LAJOIE: I am afraid I cannot.

Senator MACDONALD: Mr. Gerin-Lajoie, in order that we will keep before us the problem with which we are faced, and also to refresh our memories on this section, I wonder if you could tell us in a general way the difference in the law as it stands presently from that proposed by the amendment?

Mr. GERIN-LAJOIE: I could do it now, if you so desire, but I intend to come to it.

The CHAIRMAN: Mr. Gerin-Lajoie is at present at page 6 of his submission; it is not until page 8 that he comes to deal specifically with the amendment before us. I was going to suggest that he might skip a little more quickly over the next page and come to deal with the actual section with which we are concerned.

Senator MACDONALD: He might be able to do so if fewer questions were asked.

Mr. GERIN-LAJOIE: Perhaps the following paragraph of the brief would be an additional answer to Senator Monette's question. There is another reason for the compulsory payments.

15. The efficiency of the pilotage service and the well-being of the pilots are two other strong reasons for the compulsory payment of dues inasmuch as it amounts to compulsory pilotage. If there were to be no compulsory payment, many ships would use the services of a pilot only irregularly, according to weather conditions, or to the state of fatigue of their first officers, or their ability in local waters. Such would conceivably be the case, in particular, of a good number of lake ships.

16. Apart from endangering the security of navigation for the reasons already mentioned, such a situation would produce a state of chaos in the pilotage service.

17. Delays in the handling of ships would result from a possibly insufficient number of pilots at peak periods. A raise of the tariff of pilotage dues would become necessary to compensate the pilots for the loss of revenue at periods of low demand. Moreover, these hardships would fall more heavily upon the one sector of the shipping industry (representing the "steady users" of the pilotage service) which has no desire to change the present regime of compulsory payment.

18. The pilots, on the other hand, would suffer worsening working conditions in the form of possibly smaller revenues and repeated periods of overwork. Such conditions would not only be unacceptable for present pilots, but they would keep away from pilotage a number of good candidates.

19. It should be pointed out that any decrease in the pilots' revenue would have a corresponding adverse effect on the pilots' pension fund, which involves not only the active pilots, but all its beneficiaries.

Senator MACDONALD: I suggested earlier that you were not presenting your brief very quickly because of the number of questions asked; now may I transgress by interrupting you again? In the closing part of your paragraph 17, you state that the steady users have no desire to change the present arrangement?

Mr. GERIN-LAJOIE: That is right. To be more precise, Mr. Senator, I am referring here to the ocean ships—ships that cross the Atlantic, come up the river, and go down the river and cross the Atlantic again, not to ships that go only to the coast.

All ocean ships are at present using pilots, and their representatives, or agents, or federation, from the information we have, are all satisfied with the present situation. On the other hand, lake ships or lake operators would like to have a relaxing of the present compulsory payment system. Actually, they have taken that position in public, for instance at their convention; as recently as last November or December there were reports in the newspapers in this connection.

From our private contacts with representatives of those shipping interests we have also every reason to believe that the shipping interests would like to have pilotage services which would not imply any compulsion in any form; they would like to have pilotage service available for them whenever they want to use it.

Senator CONNOLLY (*Ottawa West*): Do the lakers ever use them?

Mr. GERIN-LAJOIE: Yes, they do. Of course under the present law in the Montreal and Quebec district they are obliged to have them. In the Quebec-Father Point district they are exempt to a certain extent according to tonnage; and between Montreal and Kingston they are not obliged at all by the law. In actual practice they use pilots a certain percentage of the time—possibly 50 per cent, I could not say.

Senator MONETTE: A proportion of those who are not obliged to take them, do take them?

Mr. GERIN-LAJOIE: That is right.

Senator MONETTE: Is that a small proportion?

Mr. GERIN-LAJOIE: Well, roughly speaking I would suspect that about half of the lake ships do use pilots. The chairman of the St. Lawrence-Kingston-Ottawa Pilots Association, Mr. J. G. Chartier, is in this room.

Mr. J. G. CHARTIER: I would say that about 90 per cent of the oil tankers and maybe 20 or 30 per cent of the cargo ships do use pilots.

Senator REID: One short question. Will the insurance companies require the companies who own ocean-going ships to use pilots?

Mr. GERIN-LAJOIE: I could not answer that question directly, sir, but I suspect that the insurance premiums might be different from what they are now if the ships were not using pilots. But I cannot answer more precisely and definitely your question.

Senator CONNOLLY (*Ottawa West*): These figures of 90 per cent of oil tankers and 20 per cent of cargo ships apply only in the Kingston area?

The CHAIRMAN: Montreal-Kingston-Ottawa, yes.

Mr. GERIN-LAJOIE: And that is the proportion of lakers, because all ocean-going ships, apart from those lakers use a pilot, in practice.

There has been a suggestion, Mr. Chairman and honourable senators, that with the opening of the Seaway the situation might be different and some change in the system of compulsory pilots and pilotage dues might be advisable. The position of the groups I represent before you is that the opening of the Seaway in the spring will be far from lessening the reasons for the compulsory payment of pilotage dues. On the contrary, as ships will increase in number, in tonnage, in dimensions and in speed—possible speed at any rate, if not actual speed—the necessity of employing specially-trained men, that is pilots in the technical sense, to handle them will be so much more imperative.

21. It should be kept in mind also that river navigation is done more and more by night, and that the navigation season is being extended progressively at both ends, at which times of the year the conditions of navigation are specially perilous.

Now with your permission, Mr. Chairman, and honourable senators, we will revert to the precise sections of the bill which you are considering at the present time.

The CHAIRMAN: Section 9.

Mr. GERIN-LAJOIE: As a very brief introduction to this, I will refer you to the Canada Shipping Act, and particularly to section 326, though it is not the only one, which empowers the Governor in Council to declare that, in any pilotage district, there shall be or shall not be compulsory payment of pilotage dues.

Then, when we come to section 346 of the Canada Shipping Act, we note that:

The following ships are, subject to section 347, exempt from the payment of pilotage dues.

That is, the first operation is for the Governor in Council to declare that there shall be compulsory pilotage dues in the particular district.

Senator POWER: Except Quebec and Montreal.

Mr. GERIN-LAJOIE: The situation of Quebec and Montreal is different, but it is not as clearly set out in these provisions.

Senator MONETTE: Before you proceed further with your explanation of article 346: what is the implication of the reference "subject to section 347"?

Mr. GERIN-LAJOIE: Well, section 346 provides for exemptions, and section 347 provides for the power in the hands of the Governor in Council to withdraw those exemptions.

Senator KINLEY: Or modify them.

Mr. GERIN-LAJOIE: Or modify them.

Perhaps I might refer to section 345 to make the matter more easily understandable. That section provides that:

Every ship that navigates within any pilotage district within the limits of which the payment of pilotage dues is, for the time being, made compulsory under this Part,

That is, by the Governor in Council.

—shall pay pilotage dues, unless—

(a) such ship is on her inward voyage and no licensed pilot offers his services as a pilot after reasonable notice of expected time of arrival has been given,

That is the point we mentioned a short time ago.

Or

(b) she is exempted under the provisions of this Part from payment of such dues.

And section 346 goes on to provide for these exemptions. Then 347, as I mentioned a moment ago, allows the Governor in Council to withdraw or modify in any way those paragraphs in (c) or (e).

Paragraph (c) provides:

The CHAIRMAN: Line 21, following page 5.

Mr. GERIN-LAJOIE: On the righthand side, for the present state of the law. The following ships are exempt from payment of pilotage dues:

(c) 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 dues in such district.

That is, ships not exceeding 250 tons registered tonnage. And (e), to which we shall refer in a moment.

Now, if I may refer to section 22 of our brief:

22. If we turn now to section 9 of Bill S-3 under consideration by the Senate committee and if we refer to the explanatory notes which accompany that section, it would appear that, apart from a reference to a specific Newfoundland problem, section 9 purports only to eliminate a discrimination which exists in favour of British ships in the Canada Shipping Act and which is said in many cases to be in violation of Canada's long-standing treaties with other nations. Such discrimination relates to the exemption from the compulsory payment of pilotage dues.

Senator MONETTE: From where do you read now?

Mr. GERIN-LAJOIE: From my brief. Paragraph 22, page 8. In that paragraph I was referring to the explanatory notes of the bill at page 5.

Senator MACDONALD: The explanatory notes are opposite page 6.

The CHAIRMAN: You say that that bill, in certain of these subsections, goes further than the explanatory notes?

Mr. GERIN-LAJOIE: That is what I am saying.

The CHAIRMAN: For instance, in subparagraph (c) of subsection 1, the change takes out the limitation of ships not exceeding 250 tons.

Mr. GERIN-LAJOIE: That is right, sir. You will have noted, of course, that the former paragraph (c) does not mention ships of British registry at all. There is no question of registry or flag. So we do not see any explanatory note as regards that particular part of the proposed amendment.

In paragraph 25 of our brief we point out that the amendment to paragraph (e) of subsection 1 of section 346 refers to ships employed in specified types of voyages, particularly from ports—either Canadian or American—in the Great Lakes to ports in the St. Lawrence River and the Atlantic Coast. This amendment drops the reference to ships registered in “any part of Her

Majesty's dominions". By doing so, it extends the present exemption to ships of any flag, thus including, possibly, the large number of American lakers which may be coming down the river after the opening of the Seaway.

Senator CONNOLLY (*Ottawa West*): Could I just ask a question there? As I understood the explanation given by the people from External Affairs the other day, in their view we were required to make these changes because we had treaty obligations. Is that right?

Mr. GERIN-LAJOIE: That is what I understood from the department's representatives.

Senator CONNOLLY (*Ottawa West*): So that while our law was to a certain extent in violation of a treaty that now exists, all that is purported to be done now is to bring it up to date.

The CHAIRMAN: Bring the law into conformity with the treaties?

Senator CONNOLLY: Yes.

Mr. GERIN-LAJOIE: That is right, as regards paragraph (e). That does not apply, as far as I see, to paragraph (c).

The CHAIRMAN: No, you are right there.

Senator POWER: That is to say, with respect to the 250 tons?

The CHAIRMAN: Yes, it takes out the present restriction.

Mr. GERIN-LAJOIE: It takes out the tonnage restriction and it does not make any reference to flag discrimination. There is no flag discrimination in paragraph (c) as it stands now.

Senator CONNOLLY (*Ottawa West*): That is right.

Senator KINLEY: What about paragraph (f), "ships of not more than 250 tons register tonnage"?

Mr. GERIN-LAJOIE: That is another paragraph. That is of minor importance to us.

Senator KINLEY: Well, it includes the 250-ton ship that has been left out.

Mr. GERIN-LAJOIE: That is right.

Senator MACDONALD: Any treaty arrangement we have can only affect paragraph (e)?

Mr. GERIN-LAJOIE: It would affect all paragraphs where there is mention of Her Majesty's dominions or British ships; in other words, it would affect paragraphs (a), (b), (d), (e), (f), and (i).

Senator CONNOLLY (*Ottawa West*): Do you say that the removal of the tonnage limitation in subparagraph (c) is done for reasons other than to make the law conform to treaties?

Mr. GERIN-LAJOIE: That is the opinion I submit to you, sir.

Senator POWER: Unless the treaties cover ships not exceeding 250 tons.

Mr. GERIN-LAJOIE: Well, we were not given to understand that the last time the people from External Affairs appeared before this committee.

The CHAIRMAN: Perhaps Mr. Kingstone could settle that point for us right away. He is here. Have you anything to say on the proposed paragraph (c) of section 1? Does that affect you?

Mr. KINGSTONE: No, sir.

The CHAIRMAN: It has nothing to do with the treaties you mentioned to us the other day?

Mr. KINGSTONE: No, that particular subsection does not raise any treaty problem.

The CHAIRMAN: Good. Is that your answer, Senator Power?

Senator POWER: Yes.

The CHAIRMAN: Thank you, Mr. Kingstone.

Mr. GERIN-LAJOIE: If I may refer to paragraph 26 of our own brief, Mr. Chairman and honourable senators:

26. At present, under the authority of section 347 of the act, the bylaws of the pilotage authority have largely taken away the exemption provided by section 346 in favour of British ships employed in the voyages specified therein.

Actually, that exemption was entirely taken away, or almost entirely taken away, as regards the Montreal-Quebec district. As regards the Quebec-Father Point district, the exemption was withdrawn only to a certain extent. Ships under 2,000 tons net, I believe, employed in the voyages mentioned in paragraph (e) are exempted in practice. That applies only to British ships employed in the voyages mentioned in paragraph (e) of section 346 of the act.

Senator MACDONALD: Are the bylaws in conflict with the provisions of the act?

Mr. GERIN-LAJOIE: No, sir, the bylaws are passed under the authority of section 347, which authorizes the Governor in Council to take away or modify the exemptions provided by section 346. To my mind it looks a bit awkward that the law in one section gives an exemption or a privilege, and in the following section gives to the Governor in Council the power to take away that privilege or exemption. Anyway, that is the way the statute is made.

Senator MACDONALD: Are the bylaws passed by the port authority?

The CHAIRMAN: Have you a copy of the original act?

Senator MACDONALD: No. Unfortunately, most of the copies of the act seem to have disappeared.

Mr. GERIN-LAJOIE: Actually those bylaws are passed by the pilotage authority, which happens to be the Minister of Transport. They are subject to confirmation by the Governor in Council and they are not in force until they are approved by the Governor in Council.

Senator CONNOLLY (*Ottawa West*): In fact, Mr. Gerin-Lajoie, what you are saying is this: by the amendment proposed in section 346 (c) the limitation of 250 tons is removed and what will happen is that American lakers going through these waters may be exempted under this section from the payment of compulsory pilotage dues, and you say we are not bound to do that by treaty but it could be that the department could do it by regulation?

Mr. GERIN-LAJOIE: That is so.

Senator POWER: Couldn't they do it anyway under section 347?

The CHAIRMAN: No, because section 347 only permits the Governor in Council to derogate from subsection 1(e) and not from the other subsections. That is so, isn't it?

Senator CONNOLLY (*Ottawa West*): I wonder if I could follow the practical point just one step further, Mr. Chairman?

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): I suppose that masters who are navigating these waters in lakers, and who presumably would not be going on an ocean voyage anytime, would become pretty familiar with these waters, wouldn't they?

Mr. GERIN-LAJOIE: They would no doubt become somewhat familiar but the point of view of the pilots is that a navigator is not really fully competent

to navigate a ship in any of these particular waters—Montreal-Quebec, Quebec-Father Point—unless he constantly navigates them, even to the extent of more than once a week, so that he gets to know them and keeps aware of all changes that may take place, and becomes really an expert in navigating them.

Senator CONNOLLY (*Ottawa West*): This is the pith and substance of your argument?

Mr. GERIN-LAJOIE: That is the pith and substance. In addition may I say that even if the master of a lake ship were competent, which we do not admit—competent in the way I mentioned a moment ago, of course—

Senator CONNOLLY (*Ottawa West*): Yes, I know.

Mr. GERIN-LAJOIE: Even if he were competent to navigate in these particular waters, his certificate of competency would, in effect, be a certificate in the hands of any member of his crew because that particular master would not always be on deck to navigate the waters. He could not physically speaking, of course, be sitting on the deck from Kingston to Father Point. He will be going down to have a sleep, to have a drink, or to have a meal. He will be looking after his other duties. Well, what happens during that time? The first or the second or third officer will be in charge of navigating the river, and in practice a pilot or person in charge of conducting a ship in those waters between Montreal and Quebec, Quebec and Father Point, and even between Kingston and Montreal, has to be constantly on the spot: the ship has to change direction very often.

Senator CONNOLLY (*Ottawa West*): How often would it have to change pilots between Kingston and Father Point?

Mr. GERIN-LAJOIE: At present they do change three times; they take four pilots.

Senator POWER: They might change four times; they might change at Three Rivers.

Mr. GERIN-LAJOIE: That is right, they might change four times.

The CHAIRMAN: Let us get quite straight what your objection is to the proposed amendment to subsection (c). Your organization of course naturally wishes to retain compulsory payment of pilotage dues as much as possible?

Mr. GERIN-LAJOIE: That is right, Mr. Chairman.

The CHAIRMAN: And your objection to the proposed subsection (c) is that it will enable the Governor in Council to exempt many more ships from payment of pilotage dues, if he so desires, because he will no longer be bound by the limit in the present subsection (c), that he can only grant such exemption if the ship is not more than 250 tons?

Mr. GERIN-LAJOIE: That is correct, sir.

The CHAIRMAN: That crystallizes your objection to (c)?

Mr. GERIN-LAJOIE: That is so, Mr. Chairman.

Senator KINLEY: I suppose you are not interested in paragraph (e) (iii) and (iv) of subsection (1)?

Mr. GERIN-LAJOIE: No, we are not interested, sir.

Senator KINLEY: That is a coast problem.

The CHAIRMAN: I gather that your objection to the proposed change in sub-paragraph (e) in general is that by taking out the present limitation in favour of ships registered in any part of Her Majesty's dominions, that would as you say permit a great number of other ships which are not registered in any part of Her Majesty's dominions, and which now have to pay pilotage dues, to escape from paying those pilotage dues?

Mr. GERIN-LAJOIE: That is so, Mr. Chairman.

The CHAIRMAN: Those are your two objections to (c) and (e)?

Mr. GERIN-LAJOIE: That is right.

Senator CONNOLLY (*Ottawa West*): With regard to the amendment to subsection (e) the department tells us it must be made because of treaty obligations?

The CHAIRMAN: Yes.

Mr. GERIN-LAJOIE: The amendment to subsection (c) is made for other reasons.

The CHAIRMAN: Other reasons, yes.

Mr. GERIN-LAJOIE: Which have not been placed, as far as I know, before this committee.

Now, I should like to mention that the pilots are greatly concerned about this bill. First of all, because they wonder what is the real purpose of the bill.

The CHAIRMAN: Do you mean of this section?

Mr. GERIN-LAJOIE: Yes, of section 9 of the bill, of course. When I refer to the bill I shall always be referring to section 9, to avoid any misunderstanding, for the record.

The pilots are greatly concerned because they wonder what the real purpose of the bill is. First of all, as regards paragraph (c) to which we have referred, there is no question of deleting there any flag discrimination.

The CHAIRMAN: No.

Mr. GERIN-LAJOIE: Secondly, the only purpose which has been mentioned before this committee arises from our obligations under our treaties with several nations.

The CHAIRMAN: You are dealing with subsection (e) now?

Mr. GERIN-LAJOIE: Yes. Well, the pilots wonder what are the intentions of the Government in regard to that whole problem of pilotage. We have had no policy statement either from the Government as a whole or from the minister or his officials, and we have had no official statement as to their policy for the future. For instance, there is a question of the Montreal-Kingston district in connection with which section 10 of the bill was passed the other day by this committee introducing a new section 356(A) in the Canada Shipping Act, and under which there were to be no additional bylaws by the Government under which American citizens would be allowed to pilot—and I mean "pilot", not only conduct—a ship down to Montreal in exclusively Canadian waters.

I should mention before this committee that in private conversations I had with officials of the department I was given to understand that it was considered by the department to dissolve the present Montreal-Kingston district, create a new one which would be purely Canadian, from Montreal to St. Regis, and create a second one which would be international from St. Regis to Kingston; but there has been to my knowledge and the knowledge of my clients no official statement in this regard. That is a subject of concern.

The CHAIRMAN: I think it is only fair, is it not, to the departmental officials, in connection with this part of their statement, that they have made it quite clear that some sections of this proposed bill they wish to leave fairly open and subtle so as to be able to deal with the American legislation and tie in with that as and when it becomes operative. I mean, doesn't that make it rather difficult for them at the moment to give any definite statement of what policy is going to be until they know what their American counterparts are going to do or are not going to do?

Mr. GERIN-LAJOIE: That is quite so, sir, although I must confess that the Seaway being opened in two months from now or so—and here I do not know what qualification I should use, because I do not want to be offending in any way, but it seems surprising, and it is a subject of concern to the pilots, that no statement of policy can be made, and I wonder why we should wait for the Americans to take any decision, particularly as regards purely Canadian waters. That is a subject I wish to stress for this particular point. We have entirely Canadian waters from Montreal to St. Regis.

The CHAIRMAN: Where is St. Regis?

Mr. GERIN-LAJOIE: Close to Cornwall, and that is why I raised this point in connection with the clauses of the bill which we are discussing at present, and this is even regarding the situation between Montreal and Quebec, and Quebec and Father Point. Are the Americans going to be allowed to pilot our ships in those waters? That is an important question I wish to place before this committee.

Senator CONNOLLY (*Ottawa West*): I do not say this now to create a difficulty for you, but by the same token will there not be occasions when ships carrying Canadian pilots will be piloting in American waters and the Seaway system, too?

Mr. GERIN-LAJOIE: That is possible. Although the way we look at the problem is this: From Montreal to St. Regis it is purely Canadian waters, as the harbour of Chicago will be purely American waters, and in between there are international waters, waters where a ship will be crossing the border or the dividing line between the two boundaries from time to time. That will happen between Cornwall and Kingston, and from Kingston up in the Lakes. Well, those we consider as international waters because the ships will be going from one side to the other from time to time. But I suspect that the American Government, or the Michigan Government, will not consult Canadian authorities before imposing compulsory pilotage or any form of compulsion as to pilotage in the port of Chicago. I submit that the situation between Montreal and Cornwall is exactly the same as it is in the port of Chicago, and that these waters should be considered as purely Canadian waters. That is why I take the position, and I respectfully submit to this committee that before any change is made in the legislation, and before what I might call, without being offensive or intending to be so, a blank cheque from the Parliament of Canada is given to the Government as regards purely Canadian waters, a long look should be taken at this. I have always taken for granted of course that Parliament has only the interest of Canada at heart, but also that they want to keep Canadian ships for Canadians as much as possible, and Canadian territory under exclusive Canadian control.

The CHAIRMAN: May I perhaps summarize for you, Mr. Gerin-Lajoie, what you are putting before the committee. I think what you have been saying lately really means this, that you are not so much objecting to these particular clauses in this amending section 9, but what you are trying to do is to put a caveat against a possible change of policy which the department might take with respect to compulsory payment of pilotage dues as a result of the authority we grant them by this amendment. Is that it?

Mr. GERIN-LAJOIE: That is so, and having that in mind I would like to see no amendment made to the present law.

The CHAIRMAN: Would you speak to paragraph 28 of your brief, which I think is really the crux of your submission?

Mr. GERIN-LAJOIE: Pilots vigorously oppose any assumption that any new foreseeable situation—as a result of the opening of the Seaway—might

justify such a change in policy, that is, abolishing in part or in toto the compulsory payment of pilotage dues. Moreover, even if such an assumption were to be taken for granted this committee of the St. Lawrence River Pilots respectfully submits that the question of the compulsory payment of pilotage dues is much too important for the security of navigation and for the public in general, as well as for the well-being of an entire professional group to be left at the complete discretion of the executive part of the Government, to be decided otherwise than by the Senate and by the peoples' representatives in the House of Commons, after a thorough public discussion of all aspects of the question—all aspects not being available at the present time.

I wish to stress the point, Mr. Chairman, and honourable senators, that the treaty obligations of Canada have not up to now forced or brought this Parliament to make a change in the Canada Shipping Act. I have in my hand a copy of the treaty between the Government of the United Kingdom and the Government of Spain passed in 1924 and made applicable to Canada in 1928, under which there is a so-called obligation of Canada to allow any other country to have its ships navigate in our waters under the same conditions and terms as Canadian ships. Well, for the past 30 years we have not done anything about that treaty obligation. So I submit respectfully to this committee that there is no rush to comply with those so-called obligations.

We are at present in a state of complete uncertainty as to the future which will follow the opening of the Seaway. That is what the representatives of the Department of Transport have put before the Senate Committee. We do not know what the attitude of the American Government will be. We do not know what the trend of navigation will be. So, I submit respectfully on behalf of the pilots of the St. Lawrence River that no change as regards section 346 of the Canada Shipping Act be made at all. It is our respectful submission that we leave the reference to British ships or Her Majesty's Dominions in that statute for some time to come.

The CHAIRMAN: And with the limitation of 250 tons?

Mr. GERIN-LAJOIE: The whole section 346 of the Canada Shipping Act, if I may respectfully submit, Mr. Chairman, should remain as it is until some such time, either a year from now or five years from now when this Parliament can have placed before it a more definite situation than is possible at the moment. Why should Canada be the first country of the two, as between the United States and Canada, to take a step forward and give a blank cheque to the executive branch of the Government? I believe it is the responsibility of Parliament not to leave in the hands of the executive the full authority to decide upon such matters.

The executive branch of the Government may enter into treaties without consulting Parliament, but Parliament has to be consulted as to the ratification of those treaties. In this particular case we have a very different situation under which the Government would be given the power to enter into any agreement with the Government of the United States without having to come back before Parliament to ask for ratification of what has been done. I submit very respectfully that the rights, the privileges, and the welfare of our country and of a very important professional group in our country, the trade and commerce—and that not only refers to the St. Lawrence Valley, but takes in the whole country, including the whole economic problem of the Prairie provinces—should all be taken into consideration very seriously, and that such important developments which would be made possible without any subsequent confirmation or ratification by Parliament, should not be made.

That is the submission of the pilots Mr. Chairman and honourable senators. I shall be glad now to answer any further questions which you may have. But perhaps I might add that if it was felt either by this committee or by the

Government that there would be changes needed in the future, and in the near future, may I suggest that such a matter should be discussed and considered more openly other than only within departmental circles.

May I submit the matter should be discussed and considered either by a Senate Committee especially appointed to study technical problems, which can hardly be considered in detail by a committee like this with the time at its disposal and its size, or by a departmental commission or committee before which all interested parties would be allowed to be represented. But, Mr. Chairman, that is only an alternative proposal or a suggestion as to what might be done to take care of future developments.

But the crux of our submission is that the interests of the whole of Canada require that the Senate and Parliament of Canada have more details before them before they make a decision.

The CHAIRMAN: Thank you very much, Mr. Gerin-Lajoie.

Senator KINLEY: Mr. Chairman, at the last meeting a statement was made by a representative of the External Affairs Department that referred to Part XIII of the act, dealing with coasting trade of Canada. I refer to page 120, to a conversation between Mr. Kingstone and myself.

Senator KINLEY: Which means that under the amendment we open our coastal trade to the world.

Mr. KINGSTONE: I think Senator Connolly raised the same question a little bit earlier. The answer is that under the proposed section 346 the idea is to try and present a general statement so as to drop the flag distinction in these cases in order to conform with our treaty obligations. This is a sort of particular case you have mentioned. This simply says that ships engaged in coastal trade will under these conditions have this exemption, but to find out which ships are engaged in the coastal trade you have to refer to Part XIII of the act. Part XIII, of course, restricts the character of ships engaged in coastal trade to Commonwealth shipping. So the mere fact that the exemption is granted in this new section does not authorize coastal shipping. You have to go to the part of the Shipping Act which specifies which shipping can engage in coastal trade. In other words, if a ship can engage in coastal trade it will, under section 346 of the act, have this exemption. But there is a big "if" and you have to go to Part XIII for the definition of which ships can engage in coastal trade.

Senator KINLEY: What do you say about the law as it stands?

Mr. KINGSTONE: It refers to Commonwealth shipping.

This would indicate that these ships are not entitled to coastal shipping. The act says:

No foreign-built British ships, whether registered in Canada or elsewhere, after the 1st day of September, 1902—

The CHAIRMAN: You are referring to section 669, which has to do with foreign-built British ships. The reference is to 671.

Senator KINLEY: Subsection 1 of that section reads:

No goods shall be transported by water or by land and water, from one place in Canada to another place in Canada, either directly or by way of a foreign port, or for any part of the transportation in any ship other than a British ship.

It is confusing, because you have to go to another section to find out what is the meaning of the first section. We heard Senator Farris express his opinion yesterday about the confusion caused by a conflict between two sections of an act.

The CHAIRMAN: I was going to ask if one of the witnesses wished to speak on that point.

Senator CONNOLLY (*Ottawa West*): Mr. Gerin-Lajoie has raised a question as to whether or not we have treaty obligations which in effect compel Parliament to make these changes so that the law will conform to the treaty obligations. We had a general statement the other day from the Department of External Affairs representative to the effect that we should do this, but we did not examine the treaties. I do not know whether the treaties were approved by Parliament. Perhaps, some time in the course of the work that we do, we should have that kind of information.

The CHAIRMAN: Perhaps Mr. Kingstone could give us some information on that.

Senator POWER: The case in point mentioned by Mr. Gerin-Lajoie was the treaty signed between the United Kingdom and Spain. Was that ever approved by us? It bound us under the old United Kingdom navigation laws, but since the passage of the statute of Westminster we were no longer bound. I am curious to know whether this treaty was ever approved by Canada.

The CHAIRMAN: Mr. Kingstone, do you know whether the treaty you referred to when you gave evidence before us the other day was approved by this Parliament.

Mr. KINGSTONE: Mr. Bissonnette will answer that question.

Senator POWER: In other words, are we bound by such treaties since we declared our so-called independence?

Mr. Andre Bissonnette, (*Legal and Treaty Section, Department of External Affairs*): Mr. Chairman, on this particular point we cannot make a full statement at this time. We have a great many treaties, some of which date back to 1660, and down to 1825 and 1850. Of course these treaties were never approved by the Parliament of Canada. They are United Kingdom treaties.

Among the modern treaties we have for instance the French one. This we could check on at the luncheon adjournment, and have the information this afternoon.

The 1909 boundary waters treaty with the Americans has been implemented by Parliament, by I believe, the statutes of 1920 or 1921.

The Polish treaty has been approved and implemented by Parliament.

The U.S.S.R. trade agreement has not been implemented by Parliament, but if I remember right, it was approved by resolution of both houses.

What we have to do is look up each agreement and see the way in which the terms of the agreement become the force of law in Canada. The Spanish treaty, to which Mr. Gerin-Lajoie referred this morning, is a United Kingdom-Spanish agreement, and contained a clause which permitted Canada to become a party to the agreement. This was done at the request of the Canadian Government in 1928, but I do not think it was implemented by Parliament. This agreement of 1928 was confirmed to a certain extent in 1954 by the trade agreement between Canada and Spain. I do not think this one was implemented by Parliament. When I say that it was confirmed, it is because the 1954 one deals strictly with commerce.

Senator REID: Is it not a fact that until 1924 Great Britain signed all the treaties for Canada; that is, until the Halibut treaty was passed? The Halibut treaty was the first one that Canada signed, was it not?

Mr. BISSONNETTE: Yes; but treaties do not necessarily have to be passed by Parliament.

Senator MACDONALD: My understanding is that Canada is bound by a treaty from the time that Canada enters into a treaty. It is not necessary to bring the treaty to Parliament, but as a matter of practice, in recent years treaties have been brought to Parliament.

Mr. BISSONNETTE: Yes,—some of them.

Senator REID: Especially when we started as a nation to sign our own treaties.

The CHAIRMAN: I think the actual fact is, as Mr. Bissonnette says, under the British system it is the Crown that has the right to make a treaty with foreign countries; but in cases where a treaty made by the Crown with a foreign country affects legislative matters which the Parliament of Canada has to deal with, it is the practice to ask Parliament to ratify that treaty, because Parliament is not bound otherwise to give legislative effect to a treaty which the executive has entered into. Is that not right?

Mr. BISSONNETTE: Yes.

The CHAIRMAN: So there might be quite a number of treaties which are entered into by the executive which do not need Parliamentary sanction, but there are quite a number which do, and I think the modern practice of your department has been to submit practically all treaties for sanction to Parliament.

Mr. BISSONNETTE: Yes: they are all tabled in Parliament. Some of them depend on a decision that the Government will take. Some are approved by resolution.

The CHAIRMAN: Some are approved by resolution, and some by special act.

Mr. BISSONNETTE: Some are tabled, some approved by resolution, and some are also implemented by legislation.

Senator SMITH (*Queens-Shelburne*): I wonder if the witness could tell us whether or not they have recently, or at any time in the past, had representations from these countries with which we have treaties requesting the Canadian Government to make changes such as are in this proposed bill?

The CHAIRMAN: Section 9?

Senator SMITH (*Queens-Shelburne*): Section 9, yes.

Mr. BISSONNETTE: As far as our department is concerned, no. I am not aware of any.

Senator SMITH (*Queens-Shelburne*): This is purely a matter of External Affairs drawing this matter to the attention of the Department of Transport and suggesting on their own that these changes be made?

Mr. BISSONNETTE: I would think so.

Senator MOLSON: In view of the fact that these amendments are dependent on treaties, could we be told which treaties, and in what way the necessity arises to amend the act? I think that is what Senator Connolly was asking for. I don't think we got an answer.

Senator CONNOLLY (*Ottawa West*): Could I enlarge it just a little? The Canada Shipping Act was ratified and passed *de novo* in 1934. Presumably the sections affected by treaties at that time were brought up to date. Now apparently there have been intervening treaties which give rise to the amendments which are proposed for section 346. Now we pointed out those sections here generally: I think perhaps they are subsections (b) (e) (f) and (i).

The CHAIRMAN: Right.

Senator CONNOLLY (*Ottawa West*): I think the committee should know what treaties there are that impel these amendments, and what kind of approval has been given, if any, to these treaties by Parliament.

The CHAIRMAN: Well, I think that is what the department has undertaken to furnish us with at our next meeting.

Mr. BISSONNETTE: Yes. We already have a list of all these treaties. I think we will simply add the Parliamentary approval which you request.

The CHAIRMAN: I think that should satisfy us, should it not?

Senator CONNOLLY (*Ottawa West*): Yes. We probably may want to ask one or two questions about it.

Senator POWER: Which affect specific sections and subsections of this bill.

Mr. BISSONNETTE: All these treaties vary, of course. Some of them have very broad provisions. I could give you the text of all these provisions, but the document would be about 50 pages long.

Senator MOLSON: There must be something in these treaties as to the treatment of ships with regard to navigation in Canadian waters.

The CHAIRMAN: Do you not think it will be better if we were to ask the department officials to prepare a statement at leisure, and they can give us a brief reference to the type of clause which is included in these treaties which, they say, makes it advisable to have these amendments. I do not think they need quote them all in detail, but if they would give us the dates of the treaties, the countries with which they were made, the steps if any that have been taken to obtain Parliamentary ratification of those treaties, and a sort of very general reference to the language contained in the particular part of those treaties which they consider makes these amendments advisable, don't you think that would be sufficient?

Senator CONNOLLY (*Ottawa West*): Much better, I would think.

The CHAIRMAN: And could we have it in the form of a mimeographed statement which could be circulated to all members?

Senator CONNOLLY (*Ottawa West*): Yes. We do not want too long a statement.

Senator MONETTE: Also, if I am not wrong, since Canada has acquired the status of a nation, the British North America Act has not a particular section to provide for the power of making treaties in the colonies, and there has been a decision, I think, of the Privy Council, bearing on what authority could pass a treaty for Canada under the new status. Perhaps a reference could be given to us so that we might consider that at the same time, as to whether a treaty is properly made.

The CHAIRMAN: Would that not be going a little further than we should? We would be getting into constitutional questions.

Senator MONETTE: I would not insist.

Senator KINLEY: With respect to section 346(e), subparagraphs (iii) and (iv) are a little different. I wonder if we could find out if there is any treaty agreement that would be affected in connection with them?

The CHAIRMAN: I think the Deputy Minister explained that.

Senator KINLEY: I don't think he touched those two subparagraphs.

The CHAIRMAN: Yes, he did. He gave us the reasons he was asking to take this out. I do not think you were here.

Senator KINLEY: No, I was not.

Mr. BALDWIN: It was explained in reply to a question by Senator Reid.

Senator REID: Yes.

Senator KINLEY: I will read the transcript before the next meeting.

Senator CONNOLLY (*Ottawa West*): Before we leave this section might I ask one further point? Mr. Gerin-Lajoie has made it quite clear, I think, that the amendment with reference to ships not exceeding 250 tons register tonnage in subsection (c) is not made by reason of a treaty obligation.

The CHAIRMAN: No.

Senator CONNOLLY (*Ottawa West*): It may be that Mr. Baldwin has dealt with that but in the new context and in view of the way it has been raised this morning, perhaps after we hear from the Department of External Affairs on the other phase of section 346 we could have the Department of Transport's reason for removing that limitation.

The CHAIRMAN: The Deputy Minister informs me that he is willing to give the explanation now.

Mr. BALDWIN: With the consent of the chairman of the committee I can not only attempt to answer Senator Connolly's question but perhaps include two or three other comments as well which I think may be helpful to honourable senators in dealing with the very sincere representations that have been put forward by Mr. Gerin-Lajoie on behalf of the pilots. If I do put certain facts on the record it is not intended to be taken necessarily as a rebuttal of anything they have put in as evidence, but rather as a clarification of the factual background.

There were two or three matters leading up to Senator Connolly's question that do deserve a little amplification. First of all, as to the matter of the accident record, which was of interest to some honourable senators, I do not think too much stress should be placed on the statistics because the type of accident itself is important and because the emphasis upon which the statistics are taken can vary so much. You heard a set of statistics relating to the St. Lawrence-Kingston-Ottawa district. I have asked for our records on those. This would not necessarily be everything that happened in that district, but what was reported to us during 1958, and there were 69 accidents with pilots and 8 without pilots being on board. But these I consider are incidents and not accidents in the majority of cases. This is not intended in any way to be a slur on the capabilities of the pilots but rather an indication that the figures put in have to be reviewed with some care.

The second point I would like to deal with is stoppage of navigation. I feel Senator Connolly was somewhat interested in the problem and I think I can indicate the legal position very quickly as to the matters that may arise with regard to a stoppage of navigation.

It is quite possible for pilots in a given district to refuse to take ships. This has happened. When that does happen the legal advice I have is that under the terms of employment by which they have entered into the pilotage service and have become pilots under the bylaws of the district, they are legally in violation of these regulations and bylaws and could be subject to penalty. To the best of my knowledge it has not been customary to penalize them and I am sure there have been no actual incidents where penalties have been imposed, for the simple reason that the public, as I am sure honourable senators will recognize, has a tendency to interpret anything we may do in such circumstances as an attempt to punish people for going on strike. It may or may not be a strike. Mr. Gerin-Lajoie preferred to describe it in other ways, but the fact is they can stop work in that case.

While the position in law is that a master may proceed without a pilot, he does not have to take the pilot anyway and he just has to pay compulsory dues normally, the net result is that in a pilotage district as crucial and as important as the Quebec-Father Point district or the Montreal-Quebec district, where pilots are really essential and where shipping has to be kept moving, the shipping is tied up if there is a stoppage. That is the net effect.

Turning more generally to the point raised by Senator Connolly, I attempted to indicate in my testimony at the third meeting of this committee that this amendment did contain certain points relating to technical competence that went somewhat beyond the actual points raised by the Department of External Affairs.

Senator CONNOLLY (*Ottawa West*): May I interrupt to ask a question at this point? Are you finished with the question of the stoppage of navigation because of labour?

Mr. BALDWIN: Yes.

Senator CONOLLY (*Ottawa West*): Could I ask a question?

Mr. BALDWIN: Yes.

Senator CONOLLY (*Ottawa West*): If you have compulsory pilotage and there is a strike among pilots, you say that navigation would be tied up?

Mr. BALDWIN: In effect, yes. There might be some limited movement but basically in a major pilotage district it would be a very serious thing.

Senator CONNOLLY (*Ottawa West*): Would you prefer it if you did not have compulsory pilotage

Mr. BALDWIN: Not necessarily.

Senator CONNOLLY (*Ottawa West*): In other words, if the pilots decided they were not going to work they would tie up the system for practical purposes?

Mr. BALDWIN: That is correct.

Senator CONNOLLY (*Ottawa West*): There is nothing in this legislation, then, that is going to affect that overall position they now have?

Mr. BALDWIN: No.

Senator CONNOLLY (*Ottawa West*): No matter which way you go, whether it is compulsory or not?

Mr. BALDWIN: That is my interpretation, sir.

Senator MACDONALD: Would it be easier to deal with the pilots if there was compulsory pilotage?

Mr. BALDWIN: I am not quite sure what you mean by the words "deal with the pilots", sir.

Senator MACDONALD: Well, there is an organization of pilots and there is no law requiring them to go on the ships. Now, if they decide not to go on the ships is there anything you can do about it?

Mr. BALDWIN: In law, yes; in practice it is very difficult to do for the reasons I indicated, sir.

Senator MACDONALD: Supposing the law was that there had to be compulsory pilotage, and you have an organization which is required to pilot ships. Would it not be easier to deal with those pilots if they were compelled to go on ships than if they were not compelled to go on ships?

Mr. BALDWIN: You are speaking about compulsory pilotage as distinct from compulsory dues?

Senator MACDONALD: Yes.

Mr. BALDWIN: I find that a somewhat difficult question to answer. It might in some circumstances, but if the pilots themselves refused to work I am not sure the position would be much different from what it is now in similar circumstances.

Senator CONNOLLY (*Ottawa West*): Will this help Senator Macdonald—and I want the help, too? If the pilots decide not to work, whom do they strike

against, the authority in the department which fixes dues, or against shipowners, and say, "We want more money for the work we do"?

Mr. BALDWIN: Well, I am not sure that in the legal sense it is a strike, because as I said, they do—

Senator CONNOLLY (*Ottawa West*): If they stop work, whom do they complain against?

Mr. BALDWIN: It all depends on the subject of the complaint. If it is over a matter of the level of dues it may be against both the pilotage authority, the department or minister, and the shipping federation, or the shipowners, or whoever the shipping group may be. It may be that the pilots feel that the tariff for pilotage should be raised, and that the department may feel it should not be raised, or raised to the extent that they wish. Basically, it is a refusal to work, and I think that the circumstances could vary from case to case. One of the incidents that developed was related to a completely different set of circumstances that, if I remember rightly, had nothing much to do with tariff levels, but rather with jurisdictional sympathy, which was a matter I mentioned previously.

Senator CONNOLLY (*Ottawa West*): It may be working conditions?

Mr. BALDWIN: Yes, it may be working conditions.

Senator REID: In any of those cases, have captains of the ships taken charge themselves?

Mr. BALDWIN: Yes, but this depends entirely on the district. This is easier to do in some districts than in others.

Senator CONNOLLY (*Ottawa West*): Other than their own internal organization, have the pilots contracts in these areas with shipowners or representatives of the shipowners?

Mr. BALDWIN: Not under pilotage authorities or pilotage districts set up under this act, sir.

Senator CONNOLLY (*Ottawa West*): The organization provides that they work out their arrangements with the pilotage authority and with the shipowners, but without a contract?

Mr. BALDWIN: Terms of work are laid down in the bylaws, which are approved by the Governor in Council as to conditions.

Senator POWER: I understood you to say, Mr. Baldwin, that there would be a legal claim, although you did not care to enforce it?

Mr. BALDWIN: Yes.

Senator POWER: What legal claim would there be?

Mr. BALDWIN: Under the bylaws they are required to move a ship if they are directed so to do by the superintendent of pilots of their district.

The CHAIRMAN: I suppose also that the pilotage authority has this sanction that they collect the pilotage dues and that they do not pay the pilot if the pilot misbehaves?

Senator CONNOLLY (*Ottawa West*): Is there anything like it anywhere in the world, Mr. Chairman?

Senator MACDONALD: I was going to refer to that. Mr. Gerin-Lajoie referred to it in his brief. In paragraph 13 he said:

Such reasons have brought about compulsory pilotage in all important channels, canals and harbours of the world without any exception known to us.

What do you say about that?

Mr. BALDWIN: There are many pilotage organizations throughout the world, and they vary widely in their constitutions, set-up and rules. The type

that has emerged here is based, as much as any, I suppose, on British traditions and practice; but you can find organizations in any marine country which do make pilotage arrangements; there may be state pilotage; the Suez Canal has a pilotage arrangement, and the Panama Canal has a pilotage arrangement; they all vary.

Senator MACDONALD: But I suppose it is compulsory pilotage?

Mr. BALDWIN: Some are compulsory, and some not.

Senator MACDONALD: Mr. Gerin-Lajoie statement was that compulsory pilotage was in effect in all important channels, canals and harbours throughout the world.

M. BALDWIN: Not all.

Senator MACDONALD: But do you recall anywhere where it is not?

Mr. BALDWIN: Well, I think you would find that the compulsory dues system does exist as distinct from the other, in other areas, and I suppose it is a matter of definition whether it is all important.

Senator CONNOLLY (*Ottawa West*): Perhaps I should not ask this question of Mr. Baldwin, but are there any areas where pilots are organized with a trade union affiliation?

Mr. BALDWIN: Offhand I would find that very difficult to answer without checking. There might be in the United States—I would expect there might be.

Senator CONNOLLY (*Ottawa West*): That is interesting. Would there be any pilots organized with a trade union affiliation in the Great Lakes system in the United States?

The CHAIRMAN: I think we were given evidence to that effect at the first sitting, of a pilotage union which had affiliation with the A.F. of L.-C.I.O.

Senator CONNOLLY (*Ottawa West*): Here is another question that perhaps I should not ask Mr. Baldwin. Is there any tendency that the pilots should get organized in affiliation with a trade union in the river section?

Mr. BALDWIN: Well, I will not answer your question as to whether it has a tendency to happen, I can merely state that approaches have been made by a U.S. labour organization, who was mentioned, I believe, previously. The success of the approaches I do not wish to comment upon.

Senator POWER: They are not any more likely to join a labour union than the bar associations or the medical associations. These fellows are a profession, and they pride themselves on it.

Senator CONNOLLY (*Ottawa West*): In some sections.

The CHAIRMAN: Have you anything more to say on section 346?

Mr. BALDWIN: I had not answered the original question Senator Connolly raised, sir, and will try to do so. In dealing with section 346, Mr. Chairman, in the testimony which I gave last Thursday, appearing on pages 112, and again on pages 118 and 119, I did attempt to indicate—and I apologize for not making this sufficiently clear—that the Governor in Council now has the power to withdraw exemptions as they may be set up in the act, but does not have the power to add to that. He has power to abolish compulsory pilotage as a whole, but not to grant or add specific exemptions, and this would be added by clause 346. The reasons I think are quite simple, and here there may have been a wrong impression by prior evidence; this is not in any way related to a move for the abolishment of compulsory pilotage dues. We have the power to abolish them now if we want to. It is related only to the power of the Governor in Council to deal with the questions of exemptions from dues by type or class, or individual case. It is quite different from the case of abolition. When I say it is not a case of abolition of compulsory dues, we agree with Mr.

Gerin-Lajoie that pilotage is essential and must be maintained, and in districts that were mentioned it is exceedingly important, and we want to protect it and see it remain on an efficient basis; but we do believe that quite apart from the matters that interested External Affairs there are good grounds for having in the Governor in Council the right to deal with matters of exemptions, because we are faced with a flexible and changing situation, and we are trying to deal with both the pilotage welfare and shipping welfare, and there are occasions when shipping people have represented to us that they feel it is unreasonable, where a master has full technical confidence in waters, for them to be required nevertheless to pay a pilotage fee when a pilot is really not required.

The objections that were raised by the pilots, and that Mr. Gerin-Lajoie raised, are related to two points, as I understand it. First, he was afraid this would lead to dangers in the shipping field, and affect every day standards, and things of that sort. Well, I can quite categorically state this is not the case.

There are many fields of federal legislation where the maintenance of safety standards is imposed upon a department of Government. Aviation is another, shipping we have before us, and I could think of others as well. Where such an obligation is placed upon the Government or a department of the Government, that safety standards are to be maintained, the fact that it may have a reasonable amount of flexibility to deal with the situation under changing technical conditions, does not mean that is going to go out and embark on a course that leads to public danger. If we did I think this body would be on our heels very shortly.

The second point was raised that this could be used to ruin the welfare and financial security of the pilots themselves, and again I can only state that this is certainly not the objective of the legislation because we believe that this pilotage service must be maintained and we have an interest to see that the pilots are maintained with adequate security and income. The best supporting information I can give to back up my statement that this legislation is in no way to be used to injure the welfare of the pilots is in explaining this proposed legislation to this very pilotage group the Minister of Transport categorically assured them that it would not be used to injure their personal and financial welfare, and if at any time they thought that it was developing along those lines he would be quite prepared to bring forward to the house a recommendation to provide them with a basis of Civil Service employment comparable to what they presently enjoy. This was not an easy matter to bring forward because some of the pilotage districts enjoy incomes higher than that of the Civil Service. I can only repeat then, that apart from the matter raised by External Affairs we did feel that we have very good reasons for saying that we think it would be desirable for the Governor in Council not to have the limited power merely to withdraw exemptions that are stated in the act but the general power to deal flexibly with exemptions as may be required, and secondly, that the operation of the scheme is not infallible in any way, because we have the authority to abolish compulsory pilotage in a district now if we wish to do so.

Senator MONETTE: Can you tell us where that assurance was given by the minister to the pilots?

Mr. BALDWIN: Yes, when he met with the Pilots Association in connection with this matter.

Senator MONETTE: Is this undertaking published somewhere.

Mr. BALDWIN: No, it is not, but I did speak to the minister about this and I had the minister's permission to state what I said.

Senator ASELTINE: It will now be published.

Mr. BALDWIN: Yes.

Senator MOLSON: In connection with subsection (c), do you feel that there could be a condition where foreign flags—if this relates to foreign flags—foreign flag officers would have a standard of competence in the St. Lawrence between Montreal and Father Point that would justify their sailing without a pilot.

Mr. BALDWIN: Most likely not, Senator Molson. But this could apply to a master who is very familiar in operating on the Great Lakes and the river, masters on this side of the Atlantic rather than a foreign master coming from Europe. At the present time I doubt if many even of the Canadian masters could qualify on that ground.

Senator MOLSON: Yes, but this relates to foreign masters and I suppose what we are really talking about there is American masters who could attain that state of competency mentioned.

Mr. BALDWIN: I think there is a possibility it would be easier for them but even there I think it would be difficult because we consider that in the Montreal and Quebec districts a very high competency is required indeed.

The CHAIRMAN: Thank you Mr. Baldwin.

Have you any representations to make in connection with section 9, Mr. Langlois?

Mr. LANGLOIS: Yes, Mr. Chairman.

The CHAIRMAN: It is now getting on to five minutes to one. We have arranged another meeting of this committee on Wednesday morning next.

Senator ASELTINE: Could we not meet again when the Senate rises this afternoon?

The CHAIRMAN: If that is the will of the committee, we could.

Senator ASELTINE: There may be other representations to be made that could be made this afternoon.

The CHAIRMAN: Are there any others besides Mr. Langlois who wish to make representations?

Mr. John Mahoney (Dominion Marine Association): We would like to make representations, Mr. Chairman.

The CHAIRMAN: That makes two representations we have to hear. Then of course there is the gentleman from Vancouver.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, I would like to point out that the attendance may not be very full this afternoon if we were to hold another meeting today. I have heard that quite a number of senators had planned leaving after the sitting of the house today. This is a very important question and I would like to see as large an attendance at our meetings as possible so I would prefer that we adjourn until next Wednesday.

The CHAIRMAN: To be perfectly frank I had intended to leave this afternoon myself.

Senator MOLSON: Would there be any objection to meeting at 2 o'clock?

The CHAIRMAN: How long do you think you would take Mr. Langlois?

Mr. LANGLOIS: Anywhere from 20 to 30 minutes, Mr. Chairman.

The CHAIRMAN: Do you think we could deal with you between 2 o'clock and 3 o'clock? Or do you think it would be convenient for you to come next Wednesday? What have you to say to that Mr. Mahoney?

Mr. MAHONEY: I will make it convenient, Mr. Chairman.

The CHAIRMAN: I really think it would perhaps be better to wait until Wednesday for our next meeting.

Senator MACDONALD: I was going to suggest Mr. Chairman that we meet on Wednesday morning. We cannot meet Wednesday afternoon because the house will be sitting. But is there any objection to meeting on Tuesday morning?

The CHAIRMAN: The only objection is that we have set Wednesday morning for our next meeting, and we have notified the Vancouver people of that.

Senator MACDONALD: Yes, and I think we will require more than Wednesday to hear all the representations. I do not think it would inconvenience Mr. Langlois to be here on Tuesday, nor Mr. Mahoney.

Senator POWER: There is no reason we cannot meet Tuesday afternoon.

Mr. MAHONEY: May I point out Mr. Chairman, that the St. Lawrence Seaway Authority is holding a meeting next Tuesday in Montreal to discuss shipping regulations.

The CHAIRMAN: Suppose we agree now to set aside the whole of Wednesday for this purpose: We will meet Wednesday morning at half past 10, meet again after the Senate adjourns, and again Wednesday evening.

Mr. GERIN-LAJOIE: Mr. Chairman, I take it from what you have said it would not be convenient for this committee to meet on Thursday next. It so happens that on Tuesday and Wednesday, the Quebec Pilots are holding their two-day annual general meeting. I quite realize that this committee has to make its own decisions in this respect.

Senator ASELTINE: Why could we not sit a little later now and hear Mr. Gerin-Lajoie?

The CHAIRMAN: I think the general feeling is that we have at least three gentleman who are going to speak at considerable length on this one section. I would be disposed to take them together. If we agree to sit all day Wednesday, except during the sitting of the Senate, we should get through.

Senator MONETTE: Could Mr. Gerin-Lajoie be dispensed with at the meetings in Montreal, and attend here next Wednesday?

Mr. GERIN-LAJOIE: I am in the hands of the committee.

Senator MONETTE: Could you be here next Wednesday?

Mr. GERIN-LAJOIE: I will try and manage it.

The CHAIRMAN: We will adjourn now until Wednesday next at 10.30 a.m.

—Whereupon the committee adjourned.

THE SENATE OF CANADA



PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill S-3, An Act to amend the
Canada Shipping Act.

The Honourable Adrian K. Hugessen, Chairman.

No. 5

WEDNESDAY, FEBRUARY 25, 1959.



WITNESSES:

Mr. John Mahoney, General Manager of the Dominion Marine Association; Mr. G. F. Bullock, National Secretary of the Canadian Merchant Service Guild Incorporated; Mr. Leopold Langlois, Q.C., representing The Merchant Service Guild Incorporated; Captain J. O. Fleury, Treasurer of the Canadian Merchant Service Guild, Eastern Division; Mr. Horace Arcand, President of the United Montreal Pilots Association; Mr. J. R. Baldwin, Deputy-Minister of Transport; Mr. H. C. Kingstone, Legal Division, Department of External Affairs; Mr. Paul Gérin-Lajoie, representing several Pilot Organizations.

APPENDIX "A"

Canada's Treaty obligations with respect to pilotage charges and Treaties in force between Canada and other states dealing with navigation matters.

TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman.*

The Honourable Senators

*Aseltine	Gouin	Monette
Baird	Grant	Paterson
Beaubien	Haig	Pearson
Bishop	Hardy	Power
Bouffard	Hayden	Quinn
Bradley	Horner	Raymond
Brunt	Hugessen	Reid
Buchanan	Isnor	Robertson
Campbell	Jodoin	Roebuck
Connolly (<i>Halifax</i> <i>North</i>)	Kinley	Smith (<i>Queens-</i> <i>Shelburne</i>)
Connolly (<i>Ottawa West</i>)	Lambert	Stambaugh
Dessureault	Lefrançois	Veniot
Emerson	*Macdonald	Vien
Euler	McGrand	Wood
Farris	McKeen	Woodrow—(48).
Gershaw	McLean	
Gladstone	Methot	
	Molson	

50 members

(Quorum 9)

**Ex officio member.*

ORDER OF REFERENCE

WEDNESDAY, January 28, 1959.

Extract from the Minutes of the Proceedings of the Senate.

“Pursuant to the Order of the Day, the Honourable Senator Aseltine moved, seconded by the Honourable Senator Brunt, that the Bill S-3, intituled: An Act to amend the Canada Shipping Act, be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Emerson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.”

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

WEDNESDAY, February 25, 1959.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.30 A.M.

Present: The Honourable Senators: Hugessen, *Chairman*; Aseltine, Beau-bien, Connolly (*Ottawa West*), Dessureault, Farris, Gouin, Haig, Hayden, Isnor, Kinley, Lambert, Lefrançois, Macdonald, McGrand, Methot, Paterson, Pearson, Power, Reid, Smith (*Queens-Shelburne*), Veniot and Woodrow—23.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. The Official Reporters of the Senate.

Bill S-3, An Act to amend the Canada Shipping Act, was further considered clause by clause.

Heard in explanation of the Bill was: Mr. J. R. Baldwin, Deputy-Minister of Transport.

Also heard were: Mr. John Mahoney, General Manager of the Dominion Marine Association; Mr. G. F. Bullock, National Secretary of the Canadian Merchant Service Guild; Mr. Leopold Langlois, Q.C., representing The Merchant Service Guild Incorporated; Captain J. O. Fleury, Treasurer of the Canadian Merchant Service Guild, Eastern Branch; Mr. Horace Arcand, President of the United Montreal Pilots Association.

At 1.00 P.M. the Committee adjourned.

At 8.00 P.M. the Committee resumed.

Present: The Honourable Senators: Hugessen, *Chairman*; Aseltine, Buchanan, Connolly (*Ottawa West*), Dessureault, Farris, Gouin, Haig, Isnor, Kinley, Lefrançois, Macdonald, Methot, Monette, Power, Reid and Smith (*Queens-Shelburne*)—17.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel and the Official Reporters of the Senate.

Heard in explanation of the Bill: Mr. J. R. Baldwin, Deputy-Minister of Transport and Mr. H. C. Kingstone, Legal Division, Department of External Affairs. Copy of treaties etc., referred to by Mr. H. C. Kingstone, Legal Division, Department of External Affairs was ordered to be printed as Appendix "A" to these proceedings.

Also heard: Mr. Leopold Langlois, Q.C., representing The Canada Merchant Service Guild Incorporated; Mr. John Mahoney, General Manager of the Dominion Marine Association; Mr. Paul Gérin-Lajoie, Q.C., representing Pilot Associations.

Further consideration of the Bill was postponed.

At 10.00 P.M. the Committee adjourned to Thursday, February 26th, 1959, at 11.00 A.M.

Attest.

Gerard Lemire,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Wednesday, February 25, 1959

The Standing Committee on Transport and Communications, to which was referred Bill S-3, to amend the Canada Shipping Act, met this day at 10.30 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Will the committee please come to order?

Since our last meeting I have had two further communications, of which I think I should inform the committee. The first is a letter addressed to me by Claude Jodoin, President, Canadian Labour Congress, dated the 18th instant, and reads as follows:

The Canadian Labour Congress has been following with great interest the hearings being conducted by your Committee on the subject of amendments to the Canada Shipping Act, and wishes to record its support for the position taken by the St. Lawrence River Pilots and the Canadian Merchant Service Guild.

It is our view that section 5 of the Bill before the Committee, which would amend the Act to eliminate compulsory pilotage between Montreal and Quebec on the St. Lawrence River, should not be approved by your Committee. The Canadian Labour Congress is in agreement with the opinion expressed by the organizations of officers concerned that elimination of compulsory pilotage would endanger shipping in the river, particularly after the St. Lawrence Seaway opens and the volume of traffic increases. We feel very strongly that the cost factor should not be given precedence over adequate safety provisions for the protection of life and property.

Yours very truly,

(Sgd.) Claude Jodoin,

President, Canadian Labour Congress.

The Canadian Labour Congress have not been following our proceedings with sufficient interest to enable them to ascertain that the section to which they refer has nothing whatever to do with compulsory pilotage, which is section 12. That section relates to fees for inspection of register. However, that is the letter, and I think I should put it before the committee.

Senator MACDONALD: I think, Mr. Chairman, there is a typographical error.

The CHAIRMAN: Which section do they refer to?

Senator MACDONALD: I am under the impression it is section 9.

The CHAIRMAN: I have not been able to discover that section 9 has anything to do with eliminating compulsory pilotage between Montreal and Quebec.

There is another communication I have received in the form of a telegram dated the 19th instant, from the St. Johns Pilots Committee, P. Linegar Chairman.

The telegram reads:

The St. Johns pilots respectfully protest against abolishment of compulsory pilotage in established districts as reported being sought by Dominion Marine Association and American Lakes Carriers Association stop. Compulsory pilotage universally recognized as in the best interests of safety shipping and pilots stop. Abolishment would result in deterioration of pilotage services and increased accident rates.

St. Johns Pilots Committee P. Linegar Chairman.

You will recall, Honourable Senators, that when we adjourned we were still considering section 9 of the bill. We have three witnesses who desire to give evidence before us and they represent various pilot associations. These witnesses are Mr. Langlois, who represents the Canada Merchant Service Guild; Mr. Mahoney, representing the Dominion Marine Association; and Mr. G. F. Bullock, the gentleman who sent us the telegram from Vancouver which I communicated to the committee at the last meeting. Is Mr. Bullock here?

Mr. BULLOCK: Yes.

The CHAIRMAN: I suggest that we should hear these witnesses, and they ask that the order be as follows. First Mr. Mahoney, from the Dominion Marine Association, secondly, Mr. Bullock, and thirdly Mr. Langlois. Is the committee agreeable to this arrangement? This will be on section 9. Following that, I think we should take into consideration the memoranda which we asked for from the Department of External Affairs, which was circulated to members. Mr. Kingstone and Mr. Bissonnette are here and when we have disposed of that we can turn to the consideration of clause 8 of the bill, which, as the committee will remember, Senator Power asked for at the last meeting.

Is Mr. Mahoney here?

Senator ISNOR: Before you call witnesses, Mr. Chairman, may I refer to the minutes of Thursday, February 19, on which you put on the record telegrams received from the North Sydney Pilots and from the Saint John, New Brunswick Pilots.

I should like to put on the record these two telegrams, one under date February 2, from the Halifax Harbour Pilots Committee, E. K. Hartling, and the other from the Sydney Pilots under the same date and of a similar nature, both protesting against the proposed change so far as pilotage dues are concerned.

The first telegram reads:

Strongly protest amended Canada Shipping Act proposed but not yet adopted granting to Governor in Council full powers to abolish compulsory payment of pilotage dues for any vessels employed in any type of voyages stop Cannot see any reason why this district which is operating efficiently and satisfactorily should be upset stop. Your support our protest urgently requested to assure no change in present system.

Sydney Pilots.

The next telegram is as follows:

Halifax Harbour Pilots protest proposed change Canada Shipping Act altering present WWS governing compulsory payments pilotage dues stop this port now functioning effectively and we see no advantage portwise or Canadawise by changing existing law stop the Halifax Harbour Pilots respectfully request your support this protest.

Halifax Harbour Pilots Committee E. K. Hartling Chairman.

The CHAIRMAN: Shall I call upon Mr. Mahoney now? Mr. Mahoney, you represent the Dominion Marine Association?

Mr. MAHONEY: Yes.

The CHAIRMAN: You might start off by telling us what the Dominion Marine Association is, whom it represents, and how many members it consists of.

Mr. John Mahoney (Dominion Marine Association): Honourable senators, my name, as the honourable chairman has stated, is Mahoney, and I am speaking for the Dominion Marine Association, of which I am general manager.

The association consists of 22 steamship companies and these are Canadian companies operating Canadian-registered ships and employ Canadian seamen. Last year our companies operated approximately 270 ships on the great lakes, the St. Lawrence river and the gulf of St. Lawrence and, in fact, as far as Hudson Bay.

Now, I lay special stress on the fact that these are Canadian registered ships employing Canadian seamen and I want to describe to you, if I may, the sort of job that these ships do. They are constantly engaged in trade on the great lakes, the St. Lawrence river and the gulf of St. Lawrence.

They employ masters and ships officers who have been engaged in this sort of work for the most part of their lives. Many of the shore-based pilots come from the ranks of these ships officers so that the background is very similar.

Now, to understand the pilotage situation on the great lakes and the St. Lawrence river, I think you should look first at the old situation in the Montreal-Kingston district.

As Mr. Gerin-Lajoie told you last week, that is not an old district as far as pilotage districts go in Canada, especially on the St. Lawrence river, but so far as the shipowner is concerned I think it is a good example of what has happened in the past and what can happen in the future.

In that district, some lake ships used pilots, or have used pilots, and some have not. The percentage of ships which use pilots was stated last week to be 20 per cent—

The CHAIRMAN: Ninety per cent is the oil tankers total.

Mr. MAHONEY: Yes, and these are 20 per cent of the whole. The fact is, however, that in recent years the percentage of ships in that area which have used pilots has been probably less than 5 per cent. I think it is true that most of the oil tankers have used pilots, possibly 90 per cent of them, but the other ships with very few exceptions do not use pilots.

There is a sound reason why pilots are not used by lake ships in that area. The first reason is that the masters and officers of these ships are equally familiar with the area as are the pilots. The second reason is that the shipowner has found through the years that he had a lower accident rate by not using pilots in this area. In fact, in one of the large companies in the area, when they ceased to use pilots their accident rate dropped from a fairly high figure to zero, and their accident rate has been good ever since.

I bring up this matter of accident rate which was mentioned last week, and I believe Mr. Baldwin explained the situation there, so that you are all familiar.

I would like to add to what Mr. Baldwin said by stating that even the small number of groundings which lake ships had in that area in the 1958 season were due to circumstances which would not have been absent even if a pilot had been on board the ship. These circumstances, to the best of my recollection, were around the new Iroquois lock where, through certain manipulations of the gates of the Iroquois dam, the Long Point dam on the American side, the currents in the river were changed in such a manner, and

in so many ways, that no pilot, no master, no ship's officer had the slightest idea what current would be prevailing on any particular day; and in addition, our vessels, which are low-powered ships, were not able to stem that current.

So that even those few accidents are quite explainable; and, in addition, the groundings would have occurred had there been 100 pilots on board the ships, because there is nothing a ship can do without adequate power to stem the current.

I have mentioned the accident rate. The next point which persuaded our companies to do away with pilots on ships in that area through the years was the matter of strikes.

That word has been avoided, has been talked around at these meetings, or they were last week, so that actually the word "strike" was avoided. But strike is the only word that can be used. You can call it stoppage of work or anything you want, but the fact is that the pilots in that area simply refused to go on board ships and act as pilots. That has happened a number of times in recent years.

Senator CONNOLLY (*Ottawa West*): In what area?

Mr. MAHONEY: Montreal-Kingston. There have been a number of incidents in the past few years. The last one, to my recollection, and perhaps Mr. Baldwin will correct me if I am wrong, was in the spring of 1958, or the fall of 1957. At that time our ships ceased almost entirely to use pilots. In fact, at the particular time of the strike they kept going without any difficulty and did not use pilots at all.

Senator CONNOLLY (*Ottawa West*): Is there union affiliation for pilots in that area?

Mr. MAHONEY: Not publicly; but, as was mentioned last week, there have been rumours, at least discussions between pilots and unions in that area. We found that even ships which had normally been using pilots, for the convenience of the masters and for other reasons, were able to get along very well without them in the area; and the reason, honourable senators, is this, that the men we employ on these ships are fully capable of taking the ships through the area and are entirely familiar with the area, with the whole great lakes area, including the St. Lawrence-Kingston district. That area, therefore, holds no surprises for them any more than for the shore-based pilots.

Mr. Gerin-Lajoie has stressed the fact that pilots are continually in the river. That is also true of masters and officers of great lakes ships. They make as many as 150 trips in a year through the river in some cases.

Because of these three factors, the use of pilots in the Montreal-Kingston area has dropped almost to zero and I think it is almost perfectly safe to say that no great lakes ships will use pilots in that area, probably including tankers. It is extremely doubtful, the reasons being as I have said, that if we have to depend on pilots in that area we have difficulties. There are accidents, work stoppages and expenses which we cannot afford, expenses being by far the least consideration. The safety factor is, as has been said, the prime consideration; but as far as safety is concerned, it is our experience that our ships are often safer in that area without pilots.

The CHAIRMAN: You confine your remarks solely to lake vessels?

Mr. MAHONEY: Yes, so far to lake vessels and to the particular area between Montreal and Kingston.

Senator MACDONALD: Does your organization represent all the ships having Canadian register sailing on the great lakes?

Mr. MAHONEY: They represent probably over 90 per cent of them. There are about three companies owning perhaps from seven to ten ships which are not members of our organization, and there are a few smaller companies owning one or two ships; but basically the Dominion Marine Association represents the great majority of Canadian-registered ships and, as I think I pointed out earlier, last year we operated over 270 ships in the great lakes.

Senator SMITH (*Queens-Shelburne*): Tankers and dry cargo ships, both?

Mr. MAHONEY: Yes; and, of course, the numbers of these ships may not be so great in future years. That is why I particularly mentioned the number in the past year. That is a subject I want to deal with at a slightly later stage.

Senator CONNOLLY (*Ottawa West*): In cases where you do not use pilots in these various districts, do you pay dues?

Mr. MAHONEY: May I point out that in the Montreal-Kingston area there is no compulsory payment. That is not a compulsory payment area because there is no compulsory pilotage in that area. If a ship owner feels that a pilot is necessary he takes on a pilot and, as I understand it, this bill which is before the committee would make no change whatsoever in that respect.

It has been said that the Dominion Marine Association is against compulsory pilotage, and that is quite true so far as Canadian ships are concerned—Canadian lake ships. But this bill, in spite of the fact that representations have been received from Halifax to Vancouver, would not change the picture as far as compulsory pilotage is concerned.

Senator CONNOLLY (*Ottawa West*): You are not using the right word now, are you?

Mr. MAHONEY: No, sir. What I am trying to point out is the difference between compulsory pilotage and the compulsory payment of pilotage dues. The only case in Canada so far as lake ships are concerned where the compulsory payment of pilotage dues is a factor is the area below Montreal.

Senator POWER: I understand you are leaving the Montreal-Kingston district and going on below. May I ask what the object of the representations is at the moment with respect to Kingston. Do you want to abolish the Montreal-Kingston district?

Mr. MAHONEY: No, I am merely using the Montreal-Kingston district as an example of how pilotage has affected the Canadian shipowner over the past several years, and I have to conclude by saying that in our experience the use of pilots in that area was superfluous so far as our ships were concerned, because our men were equal, as pilots, if not better, from our accident rate, to the shore-based pilots.

Senator POWER: You have no representations to make with respect to that district?

Mr. MAHONEY: No.

Senator POWER: The *statu quo* satisfies you?

Mr. MAHONEY: Yes.

Senator POWER: You don't want any change of compulsory pilotage or compulsory payments in that district.

Mr. MAHONEY: No. We would of course object very strenuously to any extension of the compulsory payment feature into that area, or any area, because our main argument is against the compulsory payment feature.

Dealing with the area below Montreal, we find that roughly the same factors exist that exist in the Montreal-Kingston area. That is, our companies have been operating ships in that area for many years. They are the smaller ships, the canal fleet which operates in the north St. Lawrence and up through

the Montreal-Kingston area, through the small canals which, as you know, will no longer be of importance next year. Now, in the area below Montreal, with the use of these small ships we have had no difficulties in the past, and our men are equally qualified in that area as they are in the area above Montreal. The safety record of that fleet in the river below Montreal is extremely good. There have been some accidents in the river below Montreal, but to the best of my knowledge no serious accident in that area has involved a lake ship. Some of our vessels have had accidents in that area. In any event, in every case that I am able to find, those accidents have occurred when there has been a pilot on board; and our vessel owners feel exactly the same about that district as they feel and have felt for years about the Montreal-Kingston district. That is, that their men are fully qualified to operate in that area and that their safety record would, if anything, be better than it is now without the use of pilots. Gentlemen, this matter of safety record is an important thing. The safety record in general on the Great Lakes is probably the best in the world considering the fact that the traffic on the Great Lakes is probably the heaviest ship traffic in such a concentrated area.

Senator MACDONALD: On the Great Lakes the sailing of a ship is not as hazardous as on the St. Lawrence River.

Mr. MAHONEY: If one considers the open waters of the Great Lakes, sir, that might be true, although even there I would question it because of the converging courses.

Senator MACDONALD: I take it you are coming to the Great Lakes situation later on, are you?

Mr. MAHONEY: Yes, sir. But as far as danger is concerned, the channels of the Great Lakes are very similar to the channels of the St. Lawrence River. I would not think there would be any difference between the danger in one area and in the other. The fact is in speaking of the dangers of navigation in the St. Lawrence River, that area is probably one of the best marked sailing routes in the world. Dealing only with aids to navigation, the Department of Transport over the past ten years—although I do not suggest nothing was done before that time—has made that area one of the safest in the world for sailing in spite of the dangers which inherently exist in that area. But the point remains that the men we employ in that area are equally qualified to sail their ships as are the shore-based pilots, and that has been proven through the years by the safety record they have achieved.

Senator MACDONALD: Is there anything in the qualification papers of captains which gives them authority to traverse any of these waters without pilots?

Mr. MAHONEY: I think you must bear in mind, sir, that we have never had compulsory pilotage in any of these areas, compulsory pilotage as such, and that the certificates of our ships' officers allow them to sail in that area either with or without a pilot. A pilot actually has nothing to do with the captain's certificate. If their certificate is, for example, a home-trade certificate then they can take their ship so far. If it is an inland certificate then they cannot take their ship any farther, but that certificate has nothing to do with whether or not they shall take a pilot.

The CHAIRMAN: All you do have to do in that area is pay the pilotage dues.

Mr. MAHONEY: That is right, sir.

The CHAIRMAN: Whether you take a pilot or not.

Mr. MAHONEY: Whether you take a pilot or not, yes.

Senator CONNOLLY (*Ottawa West*): In both districts?

The CHAIRMAN: Yes.

Senator KINLEY: A home-trade certificate would cover your operations?

Mr. MAHONEY: Yes, sir.

Senator MACDONALD: I would like to get this straight. There is no compulsory payment of dues in the Montreal-Kingston area, as I understand it.

Mr. MAHONEY: No, sir.

Senator MACDONALD: But there is in the lower area?

Mr. MAHONEY: That is right. Because of these factors which we say apply equally in the St. Lawrence River and in the Great Lakes region itself the Canadian ship owner does not feel that the safety factor would be in any way affected by the fact he did not carry a pilot in that area. In fact, it has sometimes happened, although I really see no reason for it, that our vessels have not taken a pilot and have paid the dues in some areas simply because they did not want to take a pilot, and, as I say, the safety record has been extremely good.

Senator PEARSON: May I ask a question? Has the fact that you have no pilot any effect on the insurance rates?

Mr. MAHONEY: Not to my knowledge, sir. I do not think it has any bearing whatsoever. I stand to be corrected on that, but I don't see how it could have any bearing. I think there is no relationship whatsoever between the insurance and the pilotage. It would be too difficult, for one thing, for the insurance companies to arrange a premium on that basis because of the fact that there is a compulsory pilotage.

Now, the number of ships which we have operating in the area below Montreal at the present time is roughly 155, and at this point the economics of Canadian transportation are a necessary element in any consideration of pilotage. As you gentlemen, I think, well know, last year the Royal Commission on the Coastal Trade of Canada tabled its report before the Government, and in that report the Royal Commission warned the Government and the people of Canada that Canadian shipping as such—that is, Canadian registered shipping, registered and built—could not hope to survive foreign competition when the Seaway was completed, and as a result not only of that foreign competition, but as a result even alone of the building of the St. Lawrence Seaway, a large number of the smaller sized ships which are owned by our members will become obsolete, and have become obsolete, as a result of the building of the St. Lawrence Seaway. The result of that will be that a large number of very well qualified ships officers and masters will be relieved of employment in the coming navigation season. How far that will spread we do not know, but how far it spreads will be affected by the competition between the foreign shipowner and the Canadian shipowner.

Senator MACDONALD: Are you suggesting that there should not be pilots on the foreign ships either?

Mr. MAHONEY: No, I am not suggesting that at all, sir. I am speaking now purely of the Canadian registered and manned ship, and of the economic difficulties with which that ship is to be faced over the next few years.

The CHAIRMAN: Lake ship?

Mr. MAHONEY: Lake ship.

Senator CONNOLLY (*Ottawa West*): Before you go to that point, could you straighten out this? Section 346 as it now stands appears to exempt from the payment of pilotage dues, Mr. Chairman, by section 1(e)(ii) ships registered in Her Majesty's Dominions—although that wording is going out—

employed in voyages in any one or more of the provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island or

Newfoundland and any other or others of them, or between a port in any one of the said provinces and any port in or beyond Hudson Strait, and so on. It would appear to me at first blush that you are not subject to the payment of compulsory pilotage dues under that section even below Quebec, or even below Montreal.

The CHAIRMAN: Senator Connolly, the Deputy Minister informs me that these exemptions were withdrawn by Order in Council some time ago.

Senator KINLEY: What is that you said, Mr. Chairman?

The CHAIRMAN: Perhaps I had better let the Deputy Minister tell it himself.

Mr. BALDWIN: Well, in answer to Senator Connolly, those two exemptions may be withdrawn under Section 347 of the act and were in fact withdrawn some years ago.

The CHAIRMAN: Does that answer your question Senator Connolly?

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, I am just looking at Section 347 to see if a regulation can be made in contravention of a clear provision of the act in Section 346. I guess it can be because it says, "not withstanding anything in subsection (e)".

The CHAIRMAN: Yes.

Mr. MAHONEY: According to the law now, those two sections must be read together so that the result, as far as a shipowner is concerned, is that what you get with one hand is taken away by the other hand, a practical result being that compulsory pilotage dues are a factor in the St. Lawrence River.

Senator CONNOLLY (*Ottawa West*): Well, could I ask this Mr. Chairman? I do not want to delay this witness because he is telling a very good and a clear story, but have these people taken up with the department the question of eliminating for their ships the payment of compulsory pilotage dues in view of the good safety record that he discusses?

Mr. MAHONEY: We have always adopted the view that there should not be compulsory payment of pilotage dues for our ships, and we have taken that up with the department over the years in both formal and informal ways. Our stand on that matter I think has always been quite clear as far the Department of Transport is concerned.

The CHAIRMAN: I gather that the pilots' associations have not agreed with you on that.

Mr. MAHONEY: That is quite correct, Mr. Chairman.

Now, with regard to the economic situation there is no doubt, and I would not wish to bore this honourable committee with the comprehensive study which was made of this subject by the Royal Commission on Coastal Shipping, but through the studies of economists and through the evidence of many, many witnesses, the conclusion was drawn that Canadian shipping could not compete against foreign competition. Now the result as far as the Canadian shipowner is concerned is this: First of all,—and this is not a concern of this committee, but must be mentioned—he may require assistance from the Government, and I should add in saying that such assistance which has been asked for, and which could be asked for, is not assistance of a type which would cost the Canadian taxpayer anything.

The second thing which he must have is the ability to operate his vessel at the best possible cost as far as he is concerned, that is at the lowest cost consistent with safety and efficiency. Now, if the principle is recognized that the Canadian shipowner must do that in order to survive then it will be

apparent I think that any cost which is superfluous to his operation is not a cost which he wants to pay or a cost he should be required by the law to pay.

We feel that the whole principal of compulsory payment is wrong. It would be much more difficult to say that the principle of compulsory pilotage is wrong, and we do not say that. But we say with regard to that, that compulsory pilotage may be a right and a proper thing for vessels which do not have ships' officers qualified to navigate their vessels safely in that area, but so far as compulsory payment is concerned we say that there is no right nor justice in a principle which requires a shipowner to pay for a service which is quite superfluous to his operation.

Senator MACDONALD: May I ask a question? Did the commission on coastal shipping, to which you referred, differentiate so far as pilotage is concerned between Canadian ships and foreign ships?

Mr. MAHONEY: The question of pilotage was not discussed by the Royal Commission on Coastal Shipping. I merely referred to the commission on coasting trade to reinforce the point which I make, which was that a Canadian shipowner cannot afford to pay any cost which is not necessary, and this, we feel, is a cost which is not necessary to our operation.

Senator CONNOLLY (*Ottawa West*): Can you give us some idea of what the cost is, either per ship or otherwise?

Mr. MAHONEY: Yes, I think I can, but perhaps the department could do it even better.

I can say this, that a pilot in the Quebec district—if I am wrong, I am sure the department will correct me—last year earned over \$13,000 as a pilot in that district.

Senator CONNOLLY (*Ottawa West*): Yes, but some of that was earned on ocean-going ships.

Mr. MAHONEY: Yes. But very little, or a much smaller amount, was earned by pilotage on our vessels.

Senator CONNOLLY (*Ottawa West*): If I understand your argument, you are saying this is an additional cost for the lakers that will ply these waters?

Mr. MAHONEY: Yes.

Senator CONNOLLY (*Ottawa West*): I think we are entitled to ask how much the pilotage increases the cost, by percentage.

Mr. MAHONEY: I am afraid I can't give you the percentage figure of how it is increasing our cost. I can say, I know of one instance where a ship operated by one of our companies did not sail last year because the difference in paying the cost of pilotage and not paying it was enough to put that ship in the loss category instead of the profit category.

The CHAIRMAN: Perhaps, Mr. Mahoney, if you will allow me, what Senator Connolly was asking is this: taking an average sized ship, one of your lakers, going, say, from Montreal to Seven Islands through two compulsory payment districts, how much would it have to pay for pilots between Montreal and Father Point?

Mr. MAHONEY: I think the department can answer that.

The CHAIRMAN: That is what you were asking, Senator Connolly?

Senator CONNOLLY (*Ottawa West*): Yes, Mr. Chairman.

The CHAIRMAN: Mr. Baldwin informs me the department can give us an example on that.

Senator KINLEY: Mr. Chairman, may I ask this question? As between compulsory pilotage and compulsory payment, you as a shipowner would rather have compulsory payment when you have a crew equipped to do the work?

Mr. MAHONEY: That is true, if compulsory pilotage meant that a shore-based pilot had to be carried. But the point we have been trying to make is that a compulsory pilot is not necessary for a Canadian ship which has on board people equally qualified with the shore-based pilot.

Senator KINLEY: But still you are better off with compulsory payment than compulsory pilotage. For one thing, you are saving time with your ship. And there is this factor from the company's standpoint, that a ship pays for the upkeep of the port, which is a public charge.

Mr. MAHONEY: The ships pays for the upkeep by entering the port.

Senator KINLEY: A Canadian ship?

Mr. MAHONEY: A Canadian ship.

The fact is, to continue with Senator Connolly's question, and perhaps to amplify what Mr. Baldwin said to the Chairman, it would be most difficult for me here to give an exact figure on pilotage because of the fact it is on a sliding scale and depends on the size of the vessel and other factors.

The example I was giving was of a ship which did not sail simply because the cost of the pilotage in a particular area—and I am speaking here of a ship which is constantly in that area—meant the difference between profit and loss. Every time that happens there are 32 Canadian seamen unemployed. Over the next few years there are going to be many Canadian seamen unemployed, and many of them will be extremely well qualified men—men who know the St. Lawrence River as well as any of the pilots; and yet those men will not have an opportunity to make a living because they may or may not be able to become pilots by reason of age or other lack of qualifications.

The point I am trying to make is this: if our ships cannot sail because of these additional costs, many more men will be out of work than would be placed on the unemployment list by the contribution which we make the support of less than 100 pilots. The fact is that the amount which we now contribute by way of compulsory pilotage—I am afraid I don't know what percentage of the whole income of a pilot that is—but the fact is that the fleet which we have in that area will be much smaller even next year than it has been in the past years, because of the type of ship which has been in that area, and because of the fact that it will be obsolete by reason of the opening of the St. Lawrence Seaway. So that the number of ships which we have in that area will be much smaller. On the other hand, some of the ships which we have in the area will be much larger, and there the cost of operating with a pilot again becomes increased and is an even more important factor than it is in the other operation.

Senator SMITH (*Queens-Shelburne*): Are you now talking of a ship that employs 32 men including officers?

Mr. MAHONEY: Yes.

Senator SMITH (*Queens-Shelburne*): If you were required, when you entered one of these pilotage districts, to take on an extra cost of \$40 a day, would you be satisfied, or would you be in such a position that you could not economically carry on?

Mr. MAHONEY: I am saying that I know of one ship where that actually did happen last year. I think you have to remember that in many cases the ships I am talking about are constantly in the area. Their trips may be a matter of two or three days; and they are constantly in the pilotage area.

Senator SMITH (*Queens-Shelburne*): In other words, you have pilots on all the time?

Mr. MAHONEY: Or you are constantly paying pilotage dues. I know of one particular instance where a ship didn't sail one year.

Senator SMITH (*Queens-Shelburne*): Is that the only one you have knowledge of?

Mr. MAHONEY: I am merely using that as an example.

Senator SMITH (*Queens-Shelburne*): The worst one you can think of!

Mr. MAHONEY: Quite right. But it is an effective one,—if a ship doesn't sail and 32 men are employed.

Senator REID: I am rather interested in finding out what is behind this regulation of compulsory pilotage dues. If you don't use a pilot and don't need one, why have compulsory dues?

Mr. MAHONEY: You mean, the original reason for the compulsory feature?

The CHAIRMAN: The Deputy Minister dealt with that at some length at one of our previous sessions.

Senator REID: He might have. I was not listening, then.

The CHAIRMAN: That is an historical thing, apparently.

Senator REID: It seems a rather strange idea to compel a captain to pay pilotage dues if he does not need a pilot.

The CHAIRMAN: Apparently it is a system which has grown up over the years.

Senator CONNOLLY (*Ottawa West*): And there must be a formula for the 10,000 ton ship, for instance, as to how much she pays. I think it is important to know that.

The CHAIRMAN: The Deputy Minister has just undertaken to present samples of what it will cost.

Mr. BALDWIN: We are working that out on some samples now.

Senator KINLEY: You in the lakes won't be land-locked when the waterway gets through.

Mr. MAHONEY: We are not land-locked now.

Senator KINLEY: You are, pretty well, by the sills of the lakes, but you will be under the same hazards as we are at the coast after the waterway is completed, as far as competition is concerned; and you are afraid of that foreign competition?

Mr. MAHONEY: Very much afraid. I read that in ten years' time a very large number of Canadian deep-sea ships will disappear; and we are told by a very high source that that is going to happen to us, if something is not done. The economics of the situation are most important, but they are only important in considering security or safety features. In other words, if we were merely asking that the compulsory payment feature be done away with because we felt we could not afford to pay it, that would be wrong; but when we have vessels which are fully capable of operating safely in an area without those pilots, and where payment of pilotage dues is something superfluous to our operations, then we feel we are right.

The CHAIRMAN: To summarize what you are saying, Mr. Mahoney: first of all you object to the introduction of compulsory pilotage or compulsory payment of dues in the Montreal-Kingston area; secondly, you would be in favour of the abolishing of compulsory pilotage dues payments in the areas below Montreal?

Mr. MAHONEY: That is a summary, sir.

The CHAIRMAN: I do not want to interfere with your presentation at all; it is very interesting; but I wonder if you can indicate to us what if any changes you would like to suggest in section 9 of the bill, which is the section we are considering now?

Mr. MAHONEY: If I might just discuss that for a moment, sir: we feel that section 9, as it is proposed by the department, would be a perfectly satisfactory solution of everyone's problems. In the first place, it would allow the department to consider, in particular cases or for particular classes of vessels, whether or not they were qualified to sail in the area without a pilot, and that would determine whether or not they should or should not have to pay compulsory pilotage dues.

Senator FARRIS: Would that deal with individual ships, or as a class?

Mr. MAHONEY: I could not say how the Minister would go about it, but I would think it would be both ways, both as individual ships and as a class. In our opinion the Department of Transport, being the pilotage authority, is the best qualified body to decide in particular cases and in particular classes whether a ship needs a pilot or not. This bill would allow the department to do that. On the other hand it would, by the passing of such a bill, protect the rights of both pilots and shipowners, because the ability to decide whether or not a particular class needed a pilot would remain with the Department of Transport.

Senator CONNOLLY (*Ottawa West*): It does now.

Mr. MAHONEY: Only to a limited extent.

Senator CONNOLLY (*Ottawa West*): Does not section 347 give the department the power you are now asking?

Mr. MAHONEY: No, it does not, because the department has no authority, as I understand it, to increase the class of exemptions.

The CHAIRMAN: That is right. Section 347 does not give the department the right to change the present subsection (c) which limits exempt vessels to 250 tons.

Senator CONNOLLY (*Ottawa West*): I was applying 347 to subsection (e).

The CHAIRMAN: That is right. It does only apply to subsection (e).

Senator KINLEY: Mr. Chairman, preference is sometimes better than freedom. If we could write the word "Canadian" in this section before the word "ships" it would help the difficulty.

Mr. MAHONEY: It would indeed. That is something on which I am not prepared to argue because the department apparently does not feel it should be done that way. From our point of view it would be eminently satisfactory, but I am speaking of the bill as it has been proposed to the Senate and we feel that the bill as such would relieve our difficulties for the future, or could in cases where we could prove ability, and it would preserve the rights of pilots. We are not saying anything against the pilots themselves. They perform an extremely useful function, but I think they should recognize that there are other people who have the same qualifications and who have the same high standards they have. Mr. Gérin-Lajoie pointed out the high professional standards of the pilots on the St. Lawrence River, and I think what he said is quite true, but those pilots have no monopoly on those qualifications. Even from the straight commercial view our shipowners have a very vital interest in maintaining the security of navigation in that area, and it should be remembered that if an accident does happen the responsibility for that accident and for all of the circumstances of it lie with the shipowner and with the master and crew and not with the pilot.

The CHAIRMAN: So, to summarize, you are in favour of the proposed section 9 of the bill?

Mr. MAHONEY: Yes, Mr. Chairman. We support section 9 completely because we feel it would protect both the shipowner and the pilot.

Senator MACDONALD: You might help me to understand section 346 as amended. Under the amendment, as I understand it, the ships mentioned in paragraph (e) which are employed in voyages in the same provinces or from one province to another province, are exempt from pilotage dues. You approve of that?

Mr. MAHONEY: Yes, we would approve of that, but the legislation as it now stands gives the authority—and it has been done—to remove those exemptions.

Senator MACDONALD: Is not the Governor in Council still able to remove them under section 346?

Mr. MAHONEY: That is true, but, as I think Mr. Baldwin explained last week, that can only be done by completely abolishing the thing. Now, I don't think the pilots would like that any better than anybody else would. They can do away with the whole feature, but, as I understand it, they do not want to do away with the whole feature. As far as we are concerned we are speaking for the Canadian shipowners and purely from our own point of view, so that the new enactment would solve our problem.

Senator MACDONALD: Under the new enactment would not the Governor in Council be able to make regulations which would require your ships, notwithstanding section 346(1), to employ pilots?

Mr. MAHONEY: Well, I think the compulsory pilotage feature of the new legislation comes before section 9 and has already been considered.

Senator MACDONALD: Yes. I should have said that under the bill as proposed could not the Governor in Council require your ships to pay pilotage dues notwithstanding clause 1 of section 346?

Mr. MAHONEY: Yes, I think that is true, they could. As I say, we rely only on the ability of the department to decide which ships should be exempt from pilotage payment, and which ships should not. The pilotage authority has always been, you might say, the buffer between the shipowner and pilot, and as such the pilotage authority acts in a comparable way to a judge in deciding the rights of both parties and in arriving at an answer to a question which is raised by either side.

Senator MACDONALD: So I take it you approve of this section which will require you to pay pilotage dues, in the hope that the Governor in Council will make regulations which will not require you to do so?

Mr. MAHONEY: All I am saying is that this section makes it possible for the department to assist the Canadian shipowner. The section as it was before did not leave any power with the department to do that, except by abolishing the whole system.

Senator SMITH (*Queens-Shelburne*): Does not your whole argument apply to paragraph (c), when they remove ships not exceeding 250 tons from the exemption?

Mr. MAHONEY: Yes, that is the whole thing.

Senator KINLEY: What do you say about paragraph (e) (iii) which covers ships employed in voyages between any port in the said provinces or any of them and the port of New York or any port of the United States of America on the Atlantic, north of New York? That more or less conforms to the definition of a home-trade voyage?

Mr. MAHONEY: Yes, it does, sir.

Senator KINLEY: That privilege is to be taken away in our own country, from our own Canadian ships.

Mr. MAHONEY: All of the circumstances are covered in the legislation. I am not sure what the reason was for withdrawing that particular paragraph.

Senator KINLEY: I understood it was because we did not want to put a reference to a foreign port in our law.

The CHAIRMAN: I think the Deputy Minister better explain that. He has done that once already.

Mr. BALDWIN: The reason was that purely from the point of drafting it was considered preferable to have the new clause refer only to Canadian waters in its definition, and to the extent it was still desirable, however, to maintain the U.S. waters that were mentioned in the present section for coverage purposes, we could then do that under the new clause (c). The position would not be changed.

Senator KINLEY: You still have not taken away the preference there?

Mr. BALDWIN: No, but our definition in the statute would apply only to Canadian waters, which I think is quite proper, and then the coverage so far as New York or San Francisco are concerned would be made under paragraph (c).

Senator KINLEY: You have dealt with it many times by latitude and you let them make a home-trade voyage, and if you designated one or the other you would not be dealing with a foreign country at all. But we are told the amendment is not going to eliminate this exemption. This exemption which affects Canadian shipping in this paragraph is being taken out of the act, and the next paragraph with reference to the West Coast is being taken out of the act too. Paragraph (c) is by approval of the Governor in Council. The point that occurs to me is that in Canada distances are elusive. For instance, Halifax is 44.38 north latitude. New York is 40.40 north latitude. Yarmouth is 43.50 north latitude, and Boston is 42.20 north latitude. These are very short distances. It shows how near Nova Scotia is to American ports. Our men know these waters and they know them well and I would not like to see our Canadian ships on such a voyage paying pilotage dues leaving or arriving at our ports. I want to be sure the effect of the legislation would not bar Canadian ships from being exempt in such circumstances.

Senator CONNOLLY (*Ottawa West*): Are they exempt now?

Mr. MAHONEY: They are only exempt now in the event that the exemption is not withdrawn from them.

Senator KINLEY: By order in council.

Mr. MAHONEY: Or the other section.

Senator CONNOLLY (*Ottawa West*): Section 347.

Mr. MAHONEY: Which has been withdrawn.

Senator SMITH (*Queens-Shelburne*): Did not Mr. Baldwin say earlier that these exemptions had been withdrawn for some years?

The CHAIRMAN: Yes, several years ago.

Senator KINLEY: They have been withdrawn by order in council; and the trouble with this legislation is that no matter what you do, order in council can change it.

The CHAIRMAN: That is so now, yes.

Senator KINLEY: Of course, that may be right. The world is changing, and what the laws says today might not be good tomorrow.

Senator CONNOLLY (*Ottawa West*): There is one other question I should like to ask this witness. You have been making an argument on behalf of Canadian lakers plying the St. Lawrence Seaway. Can the same argument be made by American lakers?

Mr. MAHONEY: The position there, as far as this act is concerned, is that the department, as I understand it, could determine by investigation and in any way they saw fit whether or not a particular American ship or a class of American ships could do that. Now, from the very practical point of view the American ships are experienced on the Great Lakes, yes; they do not often appear in the St. Lawrence River, even in the upper reaches, and in fact are not a common sight on Lake Ontario even, except in the coal trade between Canadian and American ports. They keep themselves more to the upper lakes; and it is quite probable on completion of the Seaway that they will remain in the upper lakes.

Senator CONNOLLY (*Ottawa West*): What about the iron trade of Labrador?

Mr. MAHONEY: Well, that has been so far a Canadian trade because of the limitations of the old canal; that is to say, we have carried it in small ships, because the larger ships could not get through, but on the other hand that will be completely open to all ships when the Seaway is completed, because the biggest portion of that ore goes to American ports and is therefore international trade.

Senator CONNOLLY (*Ottawa West*): Then they will be making the same argument that you are making here this morning?

Mr. MAHONEY: Well, it may be that they will feel that, but the legislation protects to a considerable degree by leaving the Department of Transport free to decide whether or not they should have it.

Senator CONNOLLY (*Ottawa West*): Yes, but the department is open to pressure from them, just as it is to you, notwithstanding the act, and will be in the future.

Mr. MAHONEY: That is quite true; but the American system of sailing the Great Lakes is slightly different from ours in this respect: the master of an American ship gets a pilot's licence, and really he is considered more a pilot than a shipmaster, and the licences which he gets only allow him to sail his ship within a geographical limit; the American Government would have to extend that limit through the St. Lawrence River before the American pilot or master would become qualified to sail a ship in that area.

Senator CONNOLLY (*Ottawa West*): And Canada would have to recognize that and give the exemption, if he is to have it?

Mr. MAHONEY: Well, the whole idea of the bill, as I understand it, is to enable reciprocal legislation to be passed so that if the Americans recognize our ships, we will recognize theirs.

Senator MACDONALD: May I ask a question? Could you give the committee any information with respect to the percentage of traffic on the area which you have mentioned is carried on by Canadian ships, and the percentage which is carried on by foreign ships?

Mr. MAHONEY: Do you mean in the lower river, sir?

Senator MACDONALD: I will say up to Kingston.

The CHAIRMAN: From Chicago to Kingston?

Senator MACDONALD: No, from Kingston down the river. You have only mentioned the two areas.

Mr. MAHONEY: And they have to be treated differently because different situations exist. Between Montreal and Kingston—it is really not safe to

hazard a guess, but I would say 75 per cent of the traffic is carried by Canadian ships, or has been in the past; that is simply because the larger foreign ships cannot get through the locks. Now, what that situation will be next year, no one knows, but the percentage of Canadian ships in that area next year will probably be reduced. Below Montreal in the river the percentage is probably reversed, or has been reversed in the past.

The CHAIRMAN: Because of the ocean liners, do you mean?

Mr. MAHONEY: Because of the larger ocean trade into Montreal; and our trade there has been in the pulpwood trade, with small ships. In the iron ore trade it will probably not contain them, apart from small package trade.

Senator MACDONALD: Will the traffic below Montreal be carried on as coastal shipping?

Mr. MAHONEY: Not in every case, sir, because if it is iron ore, then it is an international voyage usually to an American lake port.

Senator MACDONALD: But you have most of that business now?

Mr. MAHONEY: We have now, but how long it will remain in Canadian hands is doubtful.

Senator MACDONALD: Then your ships do considerable trade below Montreal?

Mr. MAHONEY: Yes. Of our business at the present time, about 40 per cent, or 35 per cent actually, is coasting trade between Canadian ports. 65 per cent is international trade.

Senator MACDONALD: That is below Montreal?

Mr. MAHONEY: No, that is mostly above Montreal. The Canadian industry has in the past had a certain advantage in what international trade there has been on the Great Lakes. We carry more international trade, or have done, than the Americans. That has really been the bulk of our business, in fact, 65 per cent of our business. Next year, however—and this is what the Royal Commission was pointing out—it will be open to all ships physically able to engage in it.

Senator KINLEY: The Americans have many more ships plying than we have?

Mr. MAHONEY: Considerably more.

Senator KINLEY: 502, have they not?

Mr. MAHONEY: Well, we have close to 200 ships. The biggest difference lies in the fact that about 170 of our ships are canal size, that is, small canal size, whereas the Americans are all fairly large ships.

Senator KINLEY: They cannot get through the lakes.

The CHAIRMAN: They cannot get past Lake Ontario; at least, they couldn't.

Mr. MAHONEY: The larger upper lakers. That is right.

Senator KINLEY: But they will be able to.

Mr. MAHONEY: Yes, they will be able to.

The CHAIRMAN: Any further questions of Mr. Mahoney? Have you anything further to say, Mr. Mahoney?

Mr. MAHONEY: It just remains for me to summarize, and I hardly think that is necessary, Mr. Chairman. Our points, I think, can be stated simply: We do not feel we can afford to pay for a service which we feel in most cases is superfluous.

Senator KINLEY: Would you like to tell us what a seaman gets a month on an average, on your ships?

Mr. MAHONEY: I am embarrassed, because I do not know the answer now, unfortunately. I did know when I was a seaman myself.

Senator KINLEY: I was going to ask you to compare it with Britain, and some of the other countries.

Mr. MAHONEY: It is higher than the British.

Senator KINLEY: I thought it would be so much to your advantage to tell what you do pay in competition.

Mr. MAHONEY: I would very much like to do so, but the Dominion Marine Association takes no part in labour negotiations as such, so I am not really aware of the exact figure.

Senator MACDONALD: I am more interested in the safety feature, rather than the monetary feature. I am interested in what effect it is going to have as far as the safety element is concerned, if there are no pilots on these ships. That should be an overriding consideration.

Mr. MAHONEY: I think as far as the Canadian shipowner is concerned it can be stated this way: Over the next few years there will be a smaller number of Canadian ships in the area than there are right now, and Canadian shiphands now are qualified in that trade even though in most cases they carry a pilot because they have to pay for him in any event. As I said, the number of Canadian ships in the area below Montreal will probably be smaller but they will be manned by well qualified men.

The CHAIRMAN: Thank you, Mr. Mahoney.

Now, honourable senators, we have Mr. Bullock of Vancouver. He was the gentleman who sent us the telegram last week. He is National Secretary of the Canadian Merchant Service Guild, Incorporated.

Mr. G. F. Bullock, National Secretary, Canadian Merchant Service Guild Incorporated:

Mr. Chairman, my remarks will be as brief as possible. We were concerned with some information that we had on the 20th or the 22nd of January, that there was a meeting being held in Ottawa concerning the Canada Shipping Act, and we were vitally interested because we have 2,500 members altogether in three pilotage groups in our association, licensed masters, mates and pilots.

I may say that it is my duty to inform my executive officers of what is taking place in the shipping line. I had phoned our Montreal office and I had sent telegrams to Ottawa with the result, Mr. Chairman that finally I sent you a telegram, and I might say we are very pleased as a result to be given the opportunity to be here. That was the first definite information we could really obtain. I tried to obtain some information from the Department of Transport but, I am sorry to say—the information I asked for and what I wanted to know is what this was all about—it was not until Monday afternoon, shortly after we arrived here in Ottawa, having travelled 3,000 miles to get here, that I obtained this copy of the bill to learn what was going on.

Now I may say that we discussed this until ten minutes to two this morning to try to find out just what was being done. We were concerned of course with the pilotage amendments. There are sections in the bill which we feel go pretty far. I heard some remark made this morning that perhaps we are opening the door a little, but with a look at some of the amendments it makes me shudder for fear someone is taking the door clean off the hinges.

I may say, Mr. Chairman, that we asked Mr. Langlois, whom you gentlemen know, to continue his representation on behalf of our association. We had discussed these various matters with him and he is competent to deal with these matters again with you now.

We also have from Vancouver, Captain Roy McLeese and Captain Patrick Farley.

The CHAIRMAN: Do they want to give evidence too?

Mr. BULLOCK: Only if you gentlemen want to ask technical questions on pilotage matters. We have 60 odd of them on the West Coast.

The CHAIRMAN: They will only give evidence in case we come to a technical question that Mr. Langlois cannot dispose of himself?

Mr. BULLOCK: That is correct, Mr. Chairman.

We wish to thank you very much Mr. Chairman for the opportunity of being here and I may say that if it had not been for you we would not have known when your next meeting was to take place.

Senator MACDONALD: We have an excellent chairman.

Mr. BULLOCK: You certainly have.

May I now be excused Mr. Chairman?

The CHAIRMAN: Yes, and thank you Mr. Bullock.

Honourable senators, we will now hear from Mr. Langlois who represents Mr. Bullock's association, the Canadian Merchant Service Guild, and as Mr. Bullock has said if we have any technical questions we can call on Captains McLeese and Farley to enlighten us.

Mr. Leopold Langlois, Canadian Merchant Service Guild:

Mr. Chairman and honourable gentlemen, as I mentioned the other day when I first appeared before this committee, and as your chairman repeated this morning, I represent the Canadian Merchant Service Guild, Incorporated, which is a national association of all pilotage districts of Canada exclusive of the Kingston-Montreal district.

Before I go into the remarks that I wish to make this morning, may I be allowed, Mr. Chairman, to comment briefly on the representations which were just made by the representative from the Dominion Marine Association? In his remarks, Mr. Mahoney stated that the masters and officers on ships plying the waters of the Montreal-Kingston district were as well qualified as the pilots of that district.

Well, I am not the spokesman for that district because there is a part of our national organization concerned with that, and I do not intend to comment on that part of his remarks having to do with the Montreal-Kingston district. However, when he applied the same reasoning to the districts below Montreal, that is, the districts between Montreal and Quebec, and between Quebec and Father Point, I emphatically disagree with him, and I wish to explain this further by asking you gentlemen one question. How can one claim that the master of a ship who makes, say, 15 to 20 trips a year in an area be as well qualified as pilots who ply these waters three and four times a week of the summer season? How can a master who holds a certificate of competency to command a ship, but who has not taken the extensive training that pilots are called upon to take before they do become pilots, be as well qualified as pilots are?

Let me mention here that before a pilot becomes qualified, before he gets his licence as a pilot, he has on top of the qualifications which he has the obligation of taking five years' apprenticeship, during which time he has to make, if my memory serves me—I am speaking of the requirements of the district of Quebec in particular—a minimum of 50 trips a year as an apprentice during that period of five years.

There is another requirement also before he becomes a pilot. He has to put in some two years of special studies of the particular district in which he is going to act as pilot. Those two years he has to spend at a marine school.

That is further training which, to my mind, must surely qualify him to a greater degree than the master of a ship who did not have to comply with these district requirements.

Mr. Mahoney in his remarks mentioned the good safety record of their ships below Montreal, which ships, he said, did not take pilots. However, he did not give us the number of these ships which did not in fact take on a pilot. I am told by my principals that most of these ships have taken on pilots in the past, and if they have a good safety record—

Senator ASELTINE: Are you referring to lake ships?

Mr. LANGLOIS: Yes.

Senator ASELTINE: I did not understand him to make that statement.

Mr. LANGLOIS: Perhaps I misunderstood what he said, but I took a note while he was speaking when he was referring to the district below Montreal. He feels they had as good a safety record if not a better one than they had for their ships plying in the Montreal-Kingston district. At any rate, my information is that for those ships which plied east of Montreal, in most of the cases, the ships have taken on board a pilot particularly in that stretch between Montreal and Quebec.

Senator MACDONALD: I do not think he was asked the question.

Mr. LANGLOIS: I do not think so; and that is why I say he did not give the number of ships.

Senator HAIG: Don't they have to pay dues whether they take on a pilot or not?

Mr. LANGLOIS: In the Montreal district they have to pay for anything with a tonnage above 250 tons. In the Quebec district it is 2,000 tons. A ship with a tonnage above 2,000 pays pilotage dues whether it takes a pilot or not.

Senator HAIG: That is Quebec?

Mr. LANGLOIS: Yes.

Senator HAIG: What about Montreal to Quebec?

Mr. LANGLOIS: Two hundred and fifty tons.

Senator HAIG: They pay whether they take a pilot or not?

Mr. LANGLOIS: That is right.

Senator HAIG: What is your record from Quebec to Kingston?

Mr. LANGLOIS: I do not represent the Kingston district. Perhaps Mr. Gerin-Lajoie could reply to that question.

Now, Mr. Chairman, there was an argument made about the part of the river contained in the districts of Quebec and Montreal as being the safest route or the safest area in the world. I agree that the river between Montreal and Quebec and between Quebec and Father Point is well provided with aids to navigation; but these aids to navigation are not of any great use when a ship is caught in fog or heavy snow. I wish to point out to the committee that there are stretches in this river, particularly between Quebec and Montreal, where the river is so narrow and the current is so strong that it is impossible for a ship to anchor. If a ship is caught in fog or snow in these extremely dangerous stretches of river, the pilot has to know his business if he is to take the ship to safety, and that is where a pilot becomes essential to the safety of shipping.

There was a question about competition from foreign shipping. Well, I agree that with Mr. Mahoney that we should do something about that, and if we have to do something about foreign competition I do not think we should do it by sacrificing the safety of our shipping; it could be done in some other way. At any rate, we should not try to avoid this unfair competition, if you

wish to say to, by removing from these ships plying the St. Lawrence river the highly qualified pilots who are there to ensure the safety of shipping in general.

A question was brought up about the expense involved and Mr. Mahoney—I want to correct the record in this respect—mentioned, unless I misunderstood him, that the pilots in the districts of Quebec and Montreal made average earnings of \$13,000 a year.

Well, I have the figures for the last year for these two districts.

Senator CONNOLLY (*Ottawa West*): Did he say that district?

Mr. LANGLOIS: He can correct me if I am wrong.

Mr. MAHONEY: You are right.

Mr. LANGLOIS: Last year the average earnings of the pilots for the district of Quebec amounted to \$9,500.

Senator HAIG: Did any pilot get \$15,000?

Mr. LANGLOIS: Not to my knowledge.

Senator SMITH (*Queens-Shelburne*): Is that gross? If so, he has expenses to pay?

Mr. LANGLOIS: Captain Fleury, the treasurer of our association, could answer that question.

CAPTAIN FLEURY: We have a record of the Montreal pilots.

Mr. ARCAND: I am president of the United Montreal Pilots. That is gross—gross earnings.

Senator SMITH (*Queens-Shelburne*): Can you give the net?

Mr. LANGLOIS: It is around \$7,000.

Senator KINLEY: What is the difference?

Mr. LANGLOIS: Well, they have to pay—

Senator KINLEY: Income tax?

Mr. LANGLOIS: There is the cost of administration, and it is deducted from their gross earnings.

Senator REID: Is superannuation included?

Mr. LANGLOIS: The contributions to the pension fund is included.

Senator MACDONALD: What they get is take home pay?

Mr. LANGLOIS: That is the expression.

The CHAIRMAN: The Deputy Minister, who represents the pilotage authority, tells me they will try to get accurate figures for the committee after lunch.

Mr. LANGLOIS: The figure I have is \$9,500, for the Quebec district, and \$8,500 for the Montreal district.

Mention was also made of the cost of the owners of these ships. Well, as far as the district of Quebec is concerned, the total amount paid in compulsory pilotage dues last year was \$4,500 in that district—that is for the Quebec district—and I wish to add that this does not go direct to the pilot.

Senator PEARSON: All ships?

Mr. LANGLOIS: Yes, it includes ships represented by Mr. Mahoney and the other ships.

The CHAIRMAN: What was the \$4,500?

Mr. LANGLOIS: The total amount of compulsory pilotage dues paid by ships which did not take pilots in that district last year.

Senator HAIG: Are all the pilotage dues put in a pool and divided up?

Mr. LANGLOIS: Yes.

Senator HAIG: Some fellow might make \$15,000 as a pilot but it would go into the pool?

Mr. LANGLOIS: Yes.

Senator KINLEY: You are talking about the Quebec district?

Mr. LANGLOIS: Yes; it is the same in Montreal.

Senator KINLEY: How long do they work in the year?

Mr. LANGLOIS: Well, it varies with the district. Quebec starts roughly the 1st of April and goes sometimes to the month of January. This year we had winter navigation even in the district east of Quebec. Montreal is later, having an average around the 15th April to around the middle of December, but we had ships coming out of Montreal in January.

Senator KINLEY: There is no opportunity for employment for them in the winter?

Mr. LANGLOIS: No, sir. Now, Mr. Mahoney remarked that this year the people he represents will be using larger ships as a result of the construction of the seaway, which will accommodate larger vessels than the former canal was able to accommodate.

Those ships, I would point out, will be carrying much larger pay loads and whatever they have to pay in the way of pilotage dues will be spread over a greater number of tons of cargo which they will carry, and therefore the burden—if I may use that expression—which is placed on the owners, and I am sure Mr. Mahoney will be pleased to hear this, will be less onerous.

The CHAIRMAN: The pilotage dues are based in part on tonnage?

Mr. LANGLOIS: Yes.

The CHAIRMAN: A big ship pays more pilotage dues than a small one?

Mr. LANGLOIS: In Quebec and Montreal it is based on the draft of the ship and on tonnage. Now, sir, even if we accept for a moment the contention that the master of one of these ships is qualified to navigate in the waters between Montreal and Quebec and Father Point, will the ships—and I am speaking of the ships whose owners Mr. Mahoney represents today—take an average of fourteen hours for the eastbound trip from Montreal to Quebec and an average of 20 to 22 hours for the westbound trip from Quebec to Montreal.

Now for the trip between Quebec and Father Point, the average will be around 20—say between 20 and 25 hours, maybe less; it might be 17 hours, but the average would be, let us say, 20 hours.

The CHAIRMAN: One way?

Mr. LANGLOIS: One way. Now, how can we expect the master of a ship to stand watch on the bridge from the time he leaves Montreal till the ship goes to Quebec and from Quebec to Father Point?

Senator REID: Is not the first mate just as competent as the captain?

Mr. LANGLOIS: I shall come to that presently. This man cannot stand on the bridge from 40 to 50 hours unless we are prepared to accept the idea that these people should be required to work as slaves; and even though he is a highly qualified man he is bound to get tired so that he will not be able to pilot the ship with as much security as he otherwise would.

Now we come to the question of the first mate. The first mate will have to have the same qualifications. Since the ship uses a three-watch system, there being three watches of four hours each, it means that not only the master will have to be qualified, but you must have the first mate and the second mate qualify as well.

Senator KINLEY: How many pilots would he carry?

Mr. LANGLOIS: I am speaking of ships that do not carry pilots.

Senator KINLEY: But if he takes one pilot you still have three ships.

Mr. LANGLOIS: They do not have to be on the bridge all the time and watch the buoys and the lights; the pilot is doing that. And this pilot is taken on board at Montreal and relieved at Three Rivers to go to Quebec, and at Quebec another takes over to Montreal.

It is for this reason that the department agreed some years ago to divide the districts between Quebec and Montreal, because we were asking too much of these pilots, who had to stay on watch from the time the ship left Montreal until it reached Quebec. The result was that a man was on watch sometimes 14, 15 and 16 hours, and if the ship had to anchor or to slow down for any reason on the way down, we were asking too much of any man. That is why, as I say, the department agreed to divide the pilotage between Quebec and Montreal.

Senator CÓNOLLY (*Ottawa West*): What about the district below Quebec?

Mr. LANGLOIS: It is not divided, Senator Connolly.

The CHAIRMAN: That is easier going, generally speaking, between Quebec and Father Point than between Quebec and Montreal.

Mr. LANGLOIS: Yes. The part of it from Quebec to Goose Cape is a difficult stretch. East of that it is not so bad, but until you get to the entrance of the Saguenay river it is rough.

Senator CÓNOLLY (*Ottawa West*): How long does it take from Quebec to the entrance of the Saguenay?

Mr. LANGLOIS: An average of about 12 hours. In this connection there is this other point to be considered. We have a good buoyage system in the St. Lawrence; I grant that. But, as it happens in waters where the tides and currents are very strong, these buoys are liable to be cast adrift so that they get out of position. It happens very often, too, that the buoys are damaged and they are unlit, and the only way to warn mariners of these hazards in the buoyage system is by means of what are called notices to mariners, issued by the Department of Transport.

The master of a ship, on a trip from Montreal to Newfoundland, or Montreal to Seven Islands, cannot know of all these changes. I grant you that these notices to mariners are broadcast, but people do not listen all the time to the broadcasts. The pilot is constantly in the pilotage offices in Montreal, Three Rivers, Quebec and Father Point, where the notices to mariners are posted on the wall for everyone to see, and the pilots are required to keep informed of them so that they will be familiar with all the changes that occur so frequently in the buoyage system. In that way they are warned.

I could give an example of that. Last year a concrete crib was sunk in the St. Lawrence river off St. Nicholas, above the Quebec bridge. The sinking of this crib created a danger to navigation and a notice to mariners was issued. A ship which was coming from the Arctic was in the vicinity of Newfoundland when the notice to mariners was broadcast and it did not get the warning, it did not hear it. That ship was not using a pilot at the time and it struck the crib and sustained extensive damage.

That is an example of what may happen and what may be expected if you do not have on board constantly in dangerous waters, in these narrow channels, a qualified pilot who is well versed in the river and is thoroughly posted on all these notices to mariners.

Now that is all I wish to say in connection with this; and with your permission, Mr. Chairman, I am now going to deal with the remarks that I wish to make on the proposed legislation.

The CHAIRMAN: You are dealing with section 9 now?

Mr. LANGLOIS: Section 9. But before I do that, may I be allowed to say this. The letter received from Mr. Claude Jodoin this morning, which was read to this committee, contains an error. Mr. Jodoin wanted to refer in this letter to clause 9 of the bill.

Senator MACDONALD: That is what I said in the first place.

The CHAIRMAN: Perhaps, in justification, what Mr. Jodoin said was,—if we substitute section 9 for section 5:—"It is our view that section 9 of the bill before the committee, which would amend the act to eliminate compulsory pilotage between Montreal and Quebec on the St. Lawrence River, should not be approved by your committee."

I find nothing whatever in section 9 which eliminates compulsory pilotage in Montreal and Quebec, so it was rather difficult for me to understand to what section Mr. Jodoin was intending to refer.

Mr. LANGLOIS: Well, if I may briefly comment—and I will be coming back to this—we claim that the adoption of paragraph (c) is equivalent to the abolition of compulsory payment of pilotage.

Now, Mr. Chairman, I wish to say at the very beginning of my remarks that I make mine the plea, the excellent presentation, which was made the other day by my learned confrere Mr. Lajoie. I do not want to repeat what he said. He gave the historic background of our pilotage legislation and also the development of this legislation up to date. However I wish to point out to the committee that the legislation that we have today concerning pilotage was the work of many, many years of experience. As the committee was told the other day, our first pilotage district, which was the one of Quebec, was created under the governorship of Governor Murray; and since then many acts of this Parliament were passed to amend, to bring up to date, the legislation in respect to pilotage on the St. Lawrence, and, as well, the pilotage in the other districts of Canada.

If I may remind the committee of the legislation which was enacted, I will cite briefly all the acts which were passed up to date dealing with pilotage. The first act dates back to 1788, under the reign of George III. There was another act passed in 1797; and also acts were passed in 1805, 1807, 1811, 1812, 1822, 1832, 1834, and 1841. After an interval there followed the act of 1849; there was also the act of 1875, and, what to my mind is the most important of them all, the act of 1886, because it was the Pilotage Act which was the charter of our pilotage system in Canada. This act was later amended by another act, but the main provisions were kept in our law. After that came the act of 1906, when the authority of pilotage was vested in the Department of Marine and Fisheries. Then we had our Canada Shipping Act of 1934, and amendments which have taken place since that year.

I say this to show that what we have now as legislation concerning the pilotage of Canada has been given extensive consideration in the past. It has been the subject also of long and extended debates in both houses of Parliament. I wish also to add in this respect that, before these changes I have just mentioned were made, almost on each occasion when important changes were brought about, they were first considered by Royal Commissions. We have had many Royal Commissions and boards of inquiries dealing with pilotage matters. I have here, for example, the Royal Commission of 1913, which was appointed to inquire into and report upon the law respecting pilotage. There was also a Royal Commission regarding the pilotage system in Halifax, Nova Scotia, in 1918. Also, a Royal Commission dealing with the pilotage districts of Miramichi, Sydney, Louisbourg, Halifax, Saint John, Montreal and Quebec,

in 1919. There was also the Royal Commission of 1919 dealing with conditions in the pilotage districts of Vancouver, Victoria, Nanaimo and New Westminster. There was also the Royal Commission on pilotage to inquire into pilotage in British Columbia waters in 1929, and again in 1942. There was the Royal Commission, best known today as the Cannon Commission, which was set up to inquire into the safety of navigation in the St. Lawrence River. Lastly, there was the board of inquiry set up by Order in Council P.C. 2978, August 10, 1949, which also dealt with pilotage matters, particularly in Quebec and Montreal, and the St. Lawrence-Kingston district; also it made reference to the British Columbia district. I may add here that the board of inquiry was presided over by Mr. L. C. Audette, who is now chairman of the Canadian Maritime Commission. He was assisted by Mr. A. L. W. MacCallum of the Shipping Federation, Captain L. C. Parry, Mr. Leonce Gendron and Mr. W. A. Gosse, representing the Pilotage District of the West Coast of Canada.

The CHAIRMAN: Mr. Langlois, I gather that the argument you have been engaged in during the last few minutes is to the effect that Parliament should not make any change now in the law restricting pilotage until a Royal Commission has inquired into the matter. I am only asking you by way of suggestion. What about the fact that the Seaway is going to open this spring? Can we wait for a Royal Commission and, secondly, cannot you have a Royal Commission, after the Seaway is opened, to inquire into these matters?

It seems to me that this section 346 we are discussing now is really only permissive. It allows the Governor in Council to do these things in the meantime but does that prevent you from asking for a Royal Commission to inquire into any specific pilotage problem that might arise? On the other hand, is it not necessary for us to have some sort of legislation to deal with the opening of the St. Lawrence Seaway in a couple of months?

Mr. LANGLOIS: I will say this in reply to the remarks you have just made, Mr. Chairman. We sincerely believe it would have been the right way of doing things if a royal commission had been appointed first to go into these pilotage matters. By so doing we would have merely followed the procedure which was adopted in the past concerning amendments to acts having to do with pilotage. My idea this morning was merely to respectfully suggest that before these amendments are made the law of the land they should receive every consideration possible. I know that the St. Lawrence Seaway is going to open very soon, but this deals with only two sections of the law.

I know that the time is pressing in this respect so far as the St. Lawrence Seaway is concerned, but there again we have been talking about the Seaway for the last quarter of a century. Surely we foresaw to some extent before today what was going to happen. If it is too late to have a royal commission to inquire into these proposed amendments, at least I respectfully suggest again that very careful consideration should be given before we amend the legislation which was created after such extensive study and consideration in the past.

Senator REID: May I ask the witness whether the legislation was amended following each of the royal commissions?

Mr. LANGLOIS: Not following each, Senator Reid, but I would say that a good deal of the amendments brought about from time to time followed the recommendations of those royal commissions and boards of inquiry.

Mr. Chairman, after these preliminary remarks I wish to turn to the bill itself, particularly clause 9. The purpose of section 346 of the Canada Shipping Act is to create exemptions from payment of pilotage dues in favour of certain ships. That is the purpose of the section as it stands today.

The CHAIRMAN: Right.

Mr. LANGLOIS: And these exemptions cannot be enlarged upon and cannot be withdrawn except as provided in section 347 of the same Canada Shipping Act. These exemptions have to do with voyages between certain parts of the provinces mentioned in paragraph (e) of section 346. Now, the effect of the proposed amendment to that section is to broaden, to enlarge, these exemptions. First, we are keeping exactly the same exemptions that are presently in the act under paragraph (a), ships belonging to Her Majesty. There is no change there. The same thing applies under paragraph (b), Government ships except ships entrusted for operation and management to an agency of Her Majesty; then under paragraph (g), ships entering a harbour for refuge, and finally ships of war—

The CHAIRMAN: That is paragraph (h).

Mr. LANGLOIS: Yes, under paragraph (h), ships of war and hospital ships belonging to such foreign nations as may be specified by the pilotage authority. For these four classes of ships no change is being sought.

We come now to the first change which is being suggested. It is the amendment to paragraph (c), and to my mind it is the broadest change that is being sought in all these amendments. Paragraph (c) now reads:

“Ships of such description and size not exceeding 250 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 dues in such district.”

It is limited to ships of 250 tons. Today we are asking Parliament to do away with this 250 ton requirement.

Senator PEARSON: Isn't that covered in paragraph (f), ships of not more than 250 tons register tonnage? It is eliminated in paragraph (c) but it is also covered in paragraph (f), is it not?

Mr. LANGLOIS: But we are in paragraph (c) giving power to the Governor in Council to create new exemptions. I do not know if you see my point, sir. Under paragraph (c), for example, the pilotage authority may say tomorrow that the voyage between Halifax and Montreal is such a voyage for which a ship should be exempt from paying pilotage dues. A new way of creating additional exemptions is being given to the pilotage authority.

Senator PEARSON: Is the \$4,500 in pilotage dues being paid annually now so important that you have to worry about this amendment?

Mr. LANGLOIS: I was talking only about the district of Quebec when I mentioned the \$4,500, but it is very important because this can be largely increased by the authority given under this new paragraph (c), for it can be made applicable to all kinds of ships, no matter what their size or description is. It can be made applicable to any ship employed in any voyage as determined from time to time by the pilotage authority. This is a very broad power. As a matter of fact, it is almost equivalent to taking out of the act the other provisions dealing with the payment of pilotage dues. It makes it possible for the Governor in Council to exempt almost any ship. The first reason that was given the other day by the officials of the department was that this change was sought because the department wishes to be in a position to meet changing conditions and to give exemptions in the future on the basis of qualifications of those in charge of any particular ship, rather than on the basis of the size or character of the ship. This is in passing. The explanatory note of the bill with respect to section 346 says:

The granting of exemption from the compulsory payment of pilotage dues to British ships only is discriminatory against ships of other

countries and in many cases is in violation of long standing treaties with other nations.

This paragraph of the explanatory notes has nothing to do whatsoever with the so-called flag discrimination, and it applies to all ships irrespective of nationality or flag.

The second reason advanced by the officials of the department is that the Governor in Council already has the power to do away with compulsory payment of pilotage dues. I am not in accord with the views of the department in this respect.

The CHAIRMAN: What section of the act does that refer to, Mr. Langlois?

Mr. LANGLOIS: Well, I take it that the Deputy Minister when he said this the other day was referring to section 326 of the act. If I am wrong, I can be corrected.

The CHAIRMAN: Yes. Section 326 says:

The Governor in Council may, from time to time, make the payment of pilotage dues compulsory or not compulsory, within the limits of any pilotage district created by the Governor in Council under this Part.

Mr. LANGLOIS: My contention is that this section does not apply to the districts of Quebec and Montreal, because they were not created by Order in Council under this Part.

Senator CONNOLLY (*Ottawa West*): They were created by sections 322 and 323.

The CHAIRMAN: I see your point there, Mr. Langlois; but is there anything in the act as it stands now which says that pilotage dues are compulsory within the districts of Quebec and Montreal?

Mr. LANGLOIS: No, sir.

The CHAIRMAN: Well, is there any authority either to make the dues compulsory in those two districts or to abolish them? What is your position there?

Mr. LANGLOIS: I am pleased to answer that. My position is that the payment of pilotage dues was made compulsory for the Quebec and Montreal districts under the authority of the acts which preceded the Canada Shipping Act of 1934, and then that these orders in council remain in operation by virtue of the operation of section 19 of the Interpretation Act, which reads as follows:

Where any act or enactment is repealed, or where any regulation is revoked, then, unless the contrary intention appears, such repeal or revocation does not, save as in this section otherwise provided,

(a) revive any act, enactment, regulation or thing not in force or existing at the time at which the repeal or revocation takes effect,

(b) affect the previous operation of any act, enactment or regulation so repealed or revoked, or anything duly done or suffered thereunder,

I shall dispense with reading the remainder, because this paragraph (b) contains what I have in mind in support of my contention.

The CHAIRMAN: You might let us know which section of preceding legislation you are referring to.

Mr. LANGLOIS: It was by order in council, sir, under the previous act.

The CHAIRMAN: Your suggestion is that the payment of compulsory pilotage dues in the districts of Montreal and Quebec was enacted under order in council in the preceding legislation?

Mr. BALDWIN: I would not question the order in council position. I would merely state that this particular situation, which is one that has emerged through our study of the present bill, was that there was under the 1927 version of the Canada Shipping Act a specific provision which supported the payment of compulsory pilotage dues in those two districts, for reasons not known to me, as this antedates our field of study. This subsection was omitted in the 1934 revision of the act, and our legal opinion after checking other statutes is that it is exceedingly questionable in law, therefore, whether there is any legal basis at the present time for the compulsory payment arrangements that exist now in those two districts.

Mr. LANGLOIS: I agree with Mr. Baldwin that section 718 of the Canada Shipping Act of 1934 was declared as being spent by the revision of 1952.

Mr. BALDWIN: Section 337, and now section 345.

Mr. LANGLOIS: Anyway, section 19 of the Interpretation Act remains, and there is no contrary intention mentioned in this act here; and these preceding orders in council should have no operation today. It should have been done in this act, and it was not. Then section 326 limits the authority of the Governor in Council to declare payment of pilotage dues compulsory or not, for these districts only, which are created under an order in council passed by virtue of this act only. So since Quebec and Montreal districts were not created by such an order in council passed under the authority of this act, I say section 326 does not apply to either district.

Senator CONNOLLY (*Ottawa West*): Can we simplify this—because we are not all lawyers here? What you are saying in effect is this, that by section 326 the Governor in Council can impose compulsory payment of pilotage dues in any district, except districts which are set up by order in council?

The CHAIRMAN: No, just the reverse; except the Montreal and Quebec districts.

Senator CONNOLLY (*Ottawa West*): I am sorry, I said it just the opposite way I had intended. Sections 322 and 323 set up the districts of Montreal and Quebec by statute, and therefore section 326 does not apply to those districts.

Mr. LANGLOIS: That is right.

Senator CONNOLLY (*Ottawa West*): I do not think Mr. Baldwin quarrels with that.

Mr. BALDWIN: No, I do not quarrel with that. I am only reporting the legal ruling that was given.

The CHAIRMAN: Apparently, as I understand Mr. Baldwin, Senator Connolly, compulsory payment of pilotage dues in the Quebec and Montreal districts was established by order in council under the authority of a section in a former shipping act, but which was not continued in the 1934 revision. So the question is whether that order in council is still valid.

Senator CONNOLLY (*Ottawa West*): Do the words under this part, at the end of section 326, not mean something?

The CHAIRMAN: No. They are created by the Governor in Council under this part but that does not apply to what is created under the statute, section 322 and 323.

Senator MACDONALD: Let us get this abundantly clear, Mr. Chairman.

The CHAIRMAN: I do not know how much it means in the context of what we are dealing with at the moment—section 346 of the act. There is some doubt apparently as to whether or not the compulsory pilotage dues now levied in the Montreal and Quebec districts are legally levied or not.

Senator MACDONALD: Is there any question that the Quebec and Montreal districts are set up by statute?

The CHAIRMAN: No.

Senator MACDONALD: And not by Governor in Council?

The CHAIRMAN: That is right. They are created by statute, sections 322 and 323.

Senator MACDONALD: I believe the argument is this, that not having been set up by Governor in Council the provisions regarding the compulsory payment of dues cannot be changed by an order in council.

The CHAIRMAN: No, that is not quite the argument. The argument is a little more complicated than that. The argument is that section 326 only empowers the Governor in Council to make pilotage dues compulsory in any pilotage district created by the Governor in Council under this Part. Well, now, sections 322 and 323 set up the pilotage districts of Quebec and Montreal. They are therefore not set up by the Governor in Council under this Part. Therefore section 326 does not apply to the districts of Montreal and Quebec. And Mr. Langlois says that the authority for compulsory pilotage in these districts was established by order in council under the authority of an act which preceded this act of 1934, and the section of that act which preceded the act of 1934, under which that order in council was passed, has not been incorporated in the 1934 revision. Therefore the broad question is whether there is any legal authority now to collect compulsory pilotage dues in the Montreal and Quebec districts, but whether this is relevant or not to what we are discussing now, I do not know.

Mr. LANGLOIS: It has a relevancy, Mr. Chairman, because if you carry this argument further, and assuming that my reasoning is wrong for the moment—

The CHAIRMAN: I am not disputing your reasoning, Mr. Langlois.

Mr. LANGLOIS: —and that the orders in council which were passed making pilotage compulsory in Quebec and Montreal, under the authority of the preceding act, assuming that these orders in council have lapsed today, there is still no authority in this act for the Governor in Council to make the payment of pilotage dues compulsory in Quebec and Montreal.

The CHAIRMAN: Right. I agree with you.

Senator CONNOLLY (*Ottawa West*): That is what you are saying. And there is nothing in the act to compel it either.

Senator POWER: Have you been collecting all these dues illegally since 1932? Disgorge!

Mr. LANGLOIS: My contention is that they have taken them legally but they cannot remove them now. They cannot declare that the payment of pilotage dues in Quebec and Montreal would cease tomorrow to be compulsory, unless the act is amended, to give the Governor in Council such authority.

The CHAIRMAN: You are not asking us to amend the act in that sense?

Mr. LANGLOIS: No, I am not. That is why we are suggesting to this committee that we keep the act as is.

The CHAIRMAN: Surely that does not have any effect, Mr. Langlois on the suggested amendments to section 346 does it?

Mr. LANGLOIS: No sir, but I mention this in reply in commenting on the reasons given by the officer of the department for the reason that they are bringing this change in 346 under paragraph (c). It has a great deal to do, sir, with this other amendment to clause 8, which I briefly discussed before this committee the other day.

The CHAIRMAN: Oh yes, the Montreal and Quebec districts.

Mr. LANGLOIS: Yes, because if the Governor in Council is given the power to rescind the Quebec and Montreal districts he would then have the power to create new districts which will be created by order in council under the authority of this act and therefore will fall under section 326.

The CHAIRMAN: We are going to reconsider section 8 later, on Mr. Langlois.

Mr. LANGLOIS: I was giving this explanation in passing only, Mr. Chairman.

Senator MACDONALD: If we do not take section 8 into consideration I do not see that you are in any worse position under the proposed amendment to section 346 than you were under the wording as it stands at the present time.

Mr. LANGLOIS: Oh yes, Senator Macdonald, because under section 346 we are creating exemptions.

Senator MACDONALD: But not under subparagraph (e).

The CHAIRMAN: Under (c).

Mr. LANGLOIS: Under subparagraph (c) we are creating a new exemption.

The CHAIRMAN: You are creating the possibility of a new exemption by the Governor in Council.

Mr. LANGLOIS: We are giving power to the Governor in Council to alter the exemptions already existing.

The CHAIRMAN: And you fear that the Governor in Council would act, through the exercise of this authority, so as to prejudice the condition of the pilots in one or more districts.

Mr. LANGLOIS: I am not the only one who suggests that, Mr. Chairman. Mr. Baldwin said the other day that in the future they want to have this power in order to give the exemptions, not on the basis of the size or character of the ship but rather on the basis of the qualifications of those in command of those ships.

The CHAIRMAN: I am not criticizing. I was only trying to get at the basis of your objection to amendment (c).

Honourable senators, Mr. Langlois tells me that he has finished his representations on subparagraph (c) of the proposed section 346. He still has to deal with the other ones about British ships and so on. He is anxious, however, if he can, to make an important telephone call at the moment. I think the committee would like to go on and conclude our consideration of this matter. How would the committee feel about sitting either at 2 o'clock this afternoon for an hour and then adjourn for the sitting of the Senate, or meet this evening?

Senator PEARSON: I have a meeting at 2 o'clock, Mr. Chairman.

The CHAIRMAN: We could meet at 2 o'clock for an hour, then adjourn for the sitting of the Senate. I think we should meet again in the evening at say 8 o'clock. How does that strike the committee? Would you prefer to meet at 2 o'clock and make what progress we can for an hour?

Senator ASELTINE: I do not see how we could meet at 2 o'clock.

Senator HAIG: I suggest we meet at 8 o'clock if we are going to meet again today at all.

The CHAIRMAN: If Mr. Langlois wishes to go on at 8 o'clock that will be fine. We still have a quarter of an hour. Could we now relieve Mr. Langlois for the moment and perhaps deal with these memoranda which have been prepared for us by the Department of External Affairs.

Senator MACDONALD: Do you feel that it will be necessary to meet tonight? Can we not meet tomorrow morning?

The CHAIRMAN: There are two committees meeting tomorrow morning; perhaps three.

Senator HAIG: I hate to do it, but I think we should meet tonight.

Senator MACDONALD: If we cannot meet in the morning.

The CHAIRMAN: We may have to consider meeting both tonight and in the morning. I think the more progress we can make, the sooner we make it the better. Mr. Baldwin is going to produce statistics about earnings of the pilots and pilotage charges between Montreal and Father Point. Perhaps we could deal with that before we adjourn.

Mr. BALDWIN: This is merely to put on the record the information which we volunteered to try to obtain.

On pilotage charges, first, our staff have run off two estimates. One is for what might be called the ordinary canaler type of vessel which now plies the waterway up to the Great Lakes—14-ft. draught and 1,200 net tons; the other is for a standard type of deep-sea vessel, 4,500 net tons, 27-ft. draught, which could ply the St. Lawrence Seaway.

The one-way pilotage dues for the canaler type from Father Point to Quebec are \$98.28; for the deep-sea type of the size I mentioned, \$172.15. For the Quebec-Montreal district, \$96.60 for the canaler type; or \$182.25 for the deep-sea type, plus certain small surcharges which I will not attempt to explain. For Montreal to Kingston, the canaler only is relevant, because we have not had deep-sea vessels yet: pilotage alone, \$85, plus a canaler's fee for going through canals of \$165, or a total of \$250. If you wanted the overall, this would give, for a canal-sized vessel, round trip, let us say from Father Point to Kingston and return, \$889, or roughly \$890. Making an arbitrary estimate as to what deep-sea might be considered to be in the Canadian section, it would be \$1,200 and a few cents. This is pilotage alone, not seaway authority or other charges, of any sort.

Senator KINLEY: You did quote canal charges?

Mr. BALDWIN: No, that was for the pilotage in the Kingston section, separated between river and canal pilotage.

Senator CONNOLLY (*Ottawa West*): Would you give your total figures again?

Mr. BALDWIN: \$890 in round figures; and \$1,210, let us say.

Senator CONNOLLY (*Ottawa West*): Round figures?

Mr. BALDWIN: Round figures.

Senator POWER: Could you break those costs down, indicating the costs from Montreal to Father Point?

Mr. BALDWIN: This I did, sir, as I put it on the record. I will repeat it if you wish.

Senator POWER: You gave the round trip as \$1,000, or something like that.

The CHAIRMAN: He started from Father Point to Quebec, and then Quebec to Montreal, for each trip.

Senator POWER: One way. Between Quebec and Father Point it would be about \$190?

Mr. BALDWIN: For between Quebec and Father Point for a canaler would be \$190; for a deep-sea vessel, 4500 net tons, it would be \$350 or thereabouts. The figures for the records of pilotage earnings are, in the main, gross earnings, and I may explain that, while the practice differs from district to district, the record we have is of their gross income, from which certain deductions are taken, and vary from district to district; and again vary from district to district as the pilots may pay individual travelling expenses. But we cannot really give

a net on that, because in the districts one pilot might spend more on that item than another. So, with due apologies, I intimate that these are only gross, and we cannot in all cases give you net. The gross is recorded in our files for the 1957-58 fiscal year, which in the river itself would be the season of 1957. I don't have the next year with me. The Halifax district, gross average earnings \$9,680; Sydney district, average earnings \$8,050; Saint John district, average earnings, \$10,244; Bras d'Or, average earnings, \$7,999—say \$8,000; Quebec district, \$12,209; Montreal district, \$9,900; St. Lawrence-Kingston district, \$9,736; Churchill district, \$5,440; British Columbia district, \$18,133.

Senator ISNOR: I think you should point out that in so far as Halifax is concerned that is for the 12-month period.

Mr. BALDWIN: Twelve-month period in all ports that are open all year round.

Senator ISNOR: While in Montreal and Quebec that would be for a 7-month period.

Mr. BALDWIN: That is roughly correct.

Senator KINLEY: The pilot is entitled to bed and board while aboard the ship.

Mr. BALDWIN: Yes, sir.

Senator HAIG: I move we adjourn, to meet at 8 o'clock tonight.

The CHAIRMAN: It is moved that we adjourn until 8 o'clock.

—Whereupon the committee adjourned until 8 p.m.

—The hearing resumed at 8.00 p.m.

The CHAIRMAN: The committee will come to order. The deputy minister, at the conclusion of this morning's sittings, gave us some figures about pilots' earnings and he finds he made a slight error. He wishes now to correct his evidence.

Mr. BALDWIN: With your permission, sir, I would like to apologize and to indicate that we did run a further check on those figures after this morning's meeting to make sure that they were entirely accurate, and they were in most cases so, but in two instances I find I did misstate the position and I would now like to correct the record.

I had indicated that for the 1957-58 year the earnings were \$9,900 gross in the Montreal district, that is, Montreal to Quebec. The correct figure should be \$10,300. I had indicated that for the British Columbia district the figure was \$18,133. I apologize for this; the correct figure should be \$16,215.

The CHAIRMAN: Mr. Langlois was proceeding with his evidence. The committee will recall that he had completed his evidence on subsection (c) of section 346 and the only other point he was going to proceed to deal with had to do with changes in various subsections eliminating reference to ships registered in any part of Her Majesty's dominions. I suggest to Mr. Langlois, as well as to any other witnesses who may come before us this evening, that we should now confine ourselves to the consideration of the particular section in question.

We have, I believe, a fairly clear idea in our minds of the general views held by all parties, and what we now need to do is to get down to a consideration of this particular section.

Will you proceed, Mr. Langlois?

Mr. LANGLOIS: Mr. Chairman, if I may be allowed to do so, I would like to add a brief comment to the remarks I made this morning when I was trying to explain the position in regard to paragraph (c) of the amendment. This comment is the following:

When the departmental officials gave their second reason for amending paragraph (c) they said that they had the power already in the act to do away with compulsory payment of pilotage dues. They have this power, but it is limited by section 346, and section 346 is also connected with 347, which allows the department, the pilotage authority, to withdraw some of these exemptions.

The point I wish to make is this. If the department has the right to say whether a district is compulsory or not, this power is limited by the exemptions mentioned in 346; and these exemptions, as I said, cannot be changed except under the provision of section 347, as far as paragraph (e) is concerned.

Now we come to the other change which is suggested and which has to do with (d) —“ships employed in salvage operations”. The present section of the act limits this exemption to salvage vessels registered in any part of Her Majesty’s dominions, and here again we are doing away with the so-called flag discrimination. Now I come to (e), where you have the same flag discrimination removed for ships employed in voyages:

“(i) between ports in the same province, or in any one port or harbour, or

(ii) between any one or more of the provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island or Newfoundland or any other or others of them, or between a port in any one of the said provinces and any port in or beyond Hudson Strait or between a port in any of the said provinces and any port in the United States of America on the St. Lawrence river or the great lakes”.

Here again we are doing away with the so-called flag discrimination. Now we come to (f).

Senator REID: You are not interested in 3 and 4?

Mr. LANGLOIS: No, we are not. We are deleting exemptions here and we are not against the deletion of any exemptions, so that we are not against the deletion of 3 and 4.

Now we come to (f), which is “ships of not more than two hundred and fifty tons register tonnage”. It used to be limited to ships in any part of the dominion and we are doing away with the flag discrimination in this case. Of course, we are opposed to the removal of this flag requirement.

The CHAIRMAN: What about (i)?

Mr. LANGLOIS: That, sir, is the same for ships engaged in fishing. Again, we are doing away with the flag discrimination. Now we come to subsection (2), which is a new subsection added to section 346 where we make a particular situation of fishing vessels using Newfoundland if they are of a tonnage exceeding 250 tons. In this case we gave the right to the pilotage authority of the province of Newfoundland to waive this exception.

Now, in this respect, we do not understand why this subsection (2) was not made applicable to at least all the maritime provinces. The reason given by the officials of the department was that the pilotage in Newfoundland is more in the nature of a harbour movement.

Well, I have had on several occasions during the war, when I was an officer in the Royal Canadian Navy, to take ships into Newfoundland, into Sydney, into Halifax and into Saint John, New Brunswick; and I see very little difference between these four ports. In my opinion, if the pilotage in the St. Johns, Newfoundland district is to be considered fundamentally as a harbour movement, I believe that the same principle should apply, the same reasoning, to the pilotage carried out in Sydney, in Halifax, or in Saint John, New Brunswick. I think that if we are going to allow this to be done in connection with Newfoundland it should also be done in connection with other

ports, at least all the maritime provinces. At least we should do it for those ports because the situation is about the same. The pilotage districts of Sydney, Halifax and the district of Saint John, New Brunswick are almost exclusively limited to the harbour limits.

Take for example the pilotage district of Halifax. Going into Halifax, you have at the entrance of the harbour, George Island, and from George Island on it becomes fundamentally a harbour movement, the same as when you get into the port of St. John's, Newfoundland. For Saint John, New Brunswick, you take your pilot at Partridge Island, and after you pass Partridge Island you are in the limits of the harbour of St. John and the pilotage done there is fundamentally harbour movement.

Senator MACDONALD: Was any reason given why Newfoundland was selected and not the other ports?

Mr. LANGLOIS: Well, sir, I do not wish to put words into Mr. Baldwin's mouth, but he spoke on the subject and explained the position of the department, and I understood him to say that the main reason was that the pilotage in St. John's was fundamentally or mostly a harbour movement. Mr. Baldwin can correct me if he wishes to do so.

Mr. BALDWIN: That is not the explanation.

The CHAIRMAN: Mr. Baldwin had better give the explanation.

Mr. BALDWIN: The reason for this particular section is that the port of St. John's has a particular situation that does not apply, so far as we are aware, in terms of volume movement, to any other port including the Maritimes, in that it is used greatly by foreign fishing vessels. A very large number of foreign fishing vessels comes into the port owing to its proximity to the fishing area and the fact that it is used for supplies.

The CHAIRMAN: That would apply to the Portuguese fishing fleet?

Mr. BALDWIN: Yes, sir; and the nature of the arrangement is such that we feel that this particular fleet should continue to be subject to the pilotage dues unless specifically exempted.

Senator MACDONALD: That does not apply to other ports?

Mr. BALDWIN: No; the use would be much more on an occasional basis, whereas in St. John's it is on a high-volume, regular basis.

Senator SMITH (*Queens-Shelburne*): Are many of these foreign fishing vessels over 250 tons?

Mr. BALDWIN: Yes, indeed.

Senator SMITH (*Queens-Shelburne*): A large proportion?

Mr. BALDWIN: Yes.

Senator MONETTE: What would be the reason why the pilotage dues should be paid at such a place? Is it because it is a harbour?

Mr. BALDWIN: I beg your pardon?

Senator MONETTE: Why should pilotage dues be paid in the harbour of Newfoundland?

Mr. BALDWIN: Because, sir, we consider that these ships do require pilotage.

Senator MONETTE: Do require it?

Mr. BALDWIN: Yes.

Senator MONETTE: More than is the case in other ports where they do require pilots?

Mr. BALDWIN: Any other ports where there are fishing vessels?

Senator MONETTE: Yes.

Mr. BALDWIN: The use would be much more occasional and we would deal with that situation by the withdrawal of the exemption under the previous clause.

Senator MONETTE: What I have in mind is this. It was said the other day that on the St. Lawrence, in view of changing conditions, pilots are necessary. Is that correct?

Mr. BALDWIN: On the St. Lawrence?

Senator MONETTE: Yes, between Riviere du Loup and Father Point and up to Montreal. Is pilotage necessary there? Is it necessary to have pilots?

Mr. BALDWIN: Between Father Point and Quebec.

Senator MONETTE: Yes.

Mr. BALDWIN: In the majority of cases, not necessarily all.

Senator MONETTE: Not necessarily in all cases but in the majority?

Mr. BALDWIN: Yes.

Senator MONETTE: Is there any reason why the exemption does not apply there, as it applies, according to subsection (2), to the port of St. John's?

Mr. BALDWIN: Foreign fishing vessels would not be coming into that area normally.

Senator MONETTE: It is for fishing vessels?

Mr. BALDWIN: This particular clause that was referred to by Mr. Langlois referred specifically to fishing vessels.

Senator MACDONALD: But that section does not require a fishing vessel to take on a pilot, does it?

Mr. BALDWIN: No; it is the compulsory dues formula.

Senator KINLEY: What percentage of Portuguese vessels take on pilots, or do they pay the dues?

Mr. BALDWIN: They take pilots.

Senator KINLEY: I do not see how they can get a pilot; they all come at the same time.

Mr. BALDWIN: It is not a lengthy movement.

Senator KINLEY: It is a very narrow movement, taking one ship at a time only.

The CHAIRMAN: They do not all come together.

Senator KINLEY: About 150 of them in a week. They all leave Portugal on the same day.

Senator MONETTE: Is there any reason why pilots are more necessary for fishing vessels than for ships coming from overseas and coming up the St. Lawrence?

Mr. BALDWIN: I am not sure I can answer that directly. I can only say that in the opinion of the department the measurement of the requirement should be related to the competence of the officers and their knowledge of the waters in question.

The CHAIRMAN: Perhaps Mr. Langlois can proceed now.

Mr. LANGLOIS: Mr. Chairman, I am very sorry if I put the wrong emphasis on the remark made by Mr. Baldwin. I thought he had laid more emphasis on the harbour movement than as regards volume of traffic. Just the same, the fact remains that some of these fishing trawlers are using the harbour of Halifax or the harbour of Sydney and nobody can tell what will happen in the future. I presume we are not going to amend the Canada Shipping Act every year, and I see no reason why we should not give the same power to the pilotage authorities of Halifax, Sydney and Saint John as we are giving here

to the pilotage authority of Newfoundland. If the pilotage authorities of these other ports do not deem it necessary to use the power they will be the judges of the situation, because they know the circumstances and the conditions of shipping in their own ports, and we should at least leave the door open to them to do the same as we are allowing the pilotage authority of Newfoundland to do.

Now I come to what I stated previously in regard to the contents of the explanatory notes of the bill.

The CHAIRMAN: I think it would be preferable, Mr. Langlois, if you dealt with the bill rather than the explanatory notes.

Mr. LANGLOIS: I am coming to that. I was referring to what I stated previously regarding the contents of the explanatory notes having regard to the main reason for the proposed change, and that the law as it stands today is in violation of long standing treaties with other nations.

This position was further explained to this committee by Mr. Kingstone, of the legal division of the Department of External Affairs, when he appeared before the committee on February 12, and if I am allowed to do so I would like to quote a few paragraphs from the representation made in this respect by Mr. Kingstone. On February 12, at page 112 of the minutes of the committee Mr. Kingstone said:

Mr. Chairman, our purpose today is to discuss the treaty obligations of Canada vis-a-vis the new section 346 of the Canada Shipping Act. In our opinion the proposed new section would bring provisions of this particular piece of legislation in conformity with our treaty obligations.

He goes on to say:

An analysis of our shipping treaties shows that Canada is under an obligation to permit ships of a great number of countries to navigate as freely within Canadian waters as would be the case with Canadian shipping excepting insofar as the coastal trade is concerned.

There are actually in force between Canada and other states approximately 22 treaties affecting sixteen countries, excluding commonwealth countries. I think that is all we need to say by way of a preliminary statement.

Further, at page 116, Mr. Kingstone said:

So that, really, the basic fact is that in a number of shipping treaties we have undertaken to give national treatment for vessels coming to and going from Canadian ports and navigating Canadian waters.

This means that if we allow section 346 to stand in its present form there is a danger that we shall be considered to be discriminating against the ships of these countries with whom we have treaty obligations."

And again at page 121, and this is my last quotation, Mr. Kingstone added:

"Well, as the Deputy pointed out, our navigation treaties refer to the question of movement of shipping."

Well, to my mind, Mr. Chairman, it is therefore necessary to exempt these treaties in order to determine in what way and to what extent they are being violated by the present exemptions contained in section 346, and to my mind the whole matter then becomes a matter of interpretation of our treaty obligations.

As I said a while ago it is worth noting that in his statement Mr. Kingstone said that there was a danger we shall be considered in violation of our treaty obligations. I take it to mean that we have not been asked to do that by the signatories of these treaties. We have not, in other words, been told that we were in violation of our treaty obligations, and therefore I take it that we are acting *de proprio motu*—we are acting on our own initiative.

The CHAIRMAN: I think that is so, yes.

Mr. LANGLOIS: In this case I respectfully suggest that since some of these treaties have been in effect for some 25 or 30 years, I think at least we should have waited until such time as we would have been told by those other nations that we were violating our treaty obligations.

Senator FARRIS: Why do you say that?

Mr. LANGLOIS: I say that, sir, because I think it is agreed Canada has not been asked to do that. I am going to voice my own opinion. I do not think we are obliged to do it and that is where the second part of my argument comes in in regard to these treaty obligations. I do not think we are strictly being called upon to do it.

The CHAIRMAN: Agreed we have not been called upon to do it; proceed from there, Mr. Langlois.

Mr. LANGLOIS: It is worth noting, Mr. Chairman, that these navigation treaties refer to the question of free movement of shipping. There remains, therefore, to establish as to whether or not the imposition of compulsory payment of pilotage dues is to be interpreted as limiting the movement of shipping. In that respect it must be borne in mind that the payment of pilotage dues is not made compulsory for the sole purpose of collecting money but it is made for the prime consideration of the safety of the ships trading in our own waters and for the safety of our harbour facilities in which hundreds of millions of dollars have been invested by Canadian taxpayers.

At page 121 of the record of this committee, Mr. Kingstone gave this committee an example of these treaties. He cited the provision contained in the treaty signed between Canada and the U.S.S.R. on February 29, 1956. Perhaps, Mr. Chairman, you will allow me to quote this provision, cited by Mr. Kingstone, which reads as follows:

The merchant vessels of each contracting party and the cargoes of such vessels shall upon arrival at and departure from the seaports of the other contracting party and during the time spent in such seaports enjoy the treatment accorded to the most-favoured-nation.

Senator REID: In what year was that signed?

Mr. LANGLOIS: It was signed, sir, in February, 1956, if I am not mistaken. I understand that the treaty is to expire within a month. In my opinion, Mr. Chairman, this general provision in our treaty with Russia has nothing to do with compulsory payment of pilotage dues. It clearly states that the national treatment accorded to the most-favoured-nation is limited from the time the ship arrives at, and until such time as the same ship leaves, one of our seaports. I do not believe this can be interpreted as meaning that we are called upon to exempt ships flying the Russian flag from the payment of compulsory pilotage dues when that ship is, for example, in transit from Father Point to Quebec, or from Quebec to Montreal, when we know that the district of Three Rivers, Quebec, to Father Point, covers a distance of 158 nautical miles, and the one from Montreal covers approximately a distance of 139 miles.

It is also worth noting, Mr. Chairman, in my mind, that these treaties are limited to the liberty of movement of the ships concerned. I understand that in other treaties the provision goes farther than that. But are we going to pass an amendment which is going to exempt all ships, even the ships registered in Russia, when we know that that treaty with Russia is going to expire within a month? Because I wish to remind the committee that these are compulsory exemptions that cannot be withdrawn by the Governor in Council; and if you have, say, in two months time a Russian ship coming into Canada, and our treaty with Russia has lapsed, and that ship refuses to pay pilotage dues, how can we force that ship to pay such dues when our law says it should be exempt.

Now, reference was made the other day—and I am trying to be as brief as possible, Mr. Chairman,—to the British Commonwealth Merchant Shipping agreement signed at London on December 10, 1931. By this agreement the Commonwealth nations agreed to give a common status to their ships, and each part agreed to grant access to its ports all ships registered in the British Commonwealth on equal terms; and the other term was that no rules or regulations relating to seagoing ships at any time in force in that part should apply more favourably to ships registered in that part or to the ships of any foreign country than they apply to any ship registered in any part of the Commonwealth. However, under Article 2 of Part IV of this agreement, the right was reserved to each part of the Commonwealth, first to regulate its own coasting trade; second, to impose the custom tariff duties on ships built outside of any other part; and, thirdly, to give financial assistance to ships registered in that part, and to regulate the sea fisheries of any part.

Although this agreement goes much farther than any of the treaties mentioned in the present debate, it is my opinion—and here I should say that we are not opposing in any way the so-called discrimination in favour of British ships, but I am just using this as an example—that Canada was not obligated under this agreement to create the exemptions contained in the present section 346 in favour of ships registered in any part of Her Majesty's dominions, and this opinion was first voiced or expressed by the British author who is the undisputed authority in England on constitutional law. He wrote many books on the covenants of the dominions, on the covenants of England I am referring here, gentlemen, to Professor Berridale Keith, who wrote in the *Journal of Comparative Legislation* this comment in regard to the Merchant Shipping Agreement of 1951:

The agreement in point of fact, is deliberately so loosely worded as to leave to the Parliaments of the Dominions a wide discretion as to making applicable to British or other Dominion vessels trading in their ports domestic requirements in excess of or divergent from those deemed necessary by their own Governments and Parliaments.

And he goes on to say, always referring to the Merchant Shipping Agreement of 1931:

Even were the agreements to be given legal effect, it would still permit such action, but no such effect is to be accorded to it, it is to have only the value of an executive accord and its effect on Parliament can only be tested by experience.

This opinion was supported by Dr. Maurice Ollivier in his book on "Problems of Canadian Sovereignty", at page 141, when he wrote this in his comment on Dr. Keith's opinion which I have just quoted. Dr. Ollivier writes as follows:

It is sufficient to read the Debates of the House of Commons of Westminster in which Messrs. W. Stewart and C. Williams contended that the convention agreed to was far from guaranteeing the uniformity which had been hoped for.

I believe that perhaps with the exception of a few treaties which go a bit further than the others as regards pilotage, Canada was not obligated to do away or to remove these so-called flag discriminations as it is proposed to do under the present amendment to section 346. Moreover, I am of the opinion, Mr. Chairman, that if this amendment passes, ships of foreign registry would be placed in a more favourable position than Canadian ships, navigating Canadian waters and engaged in Canadian coasting trade, because, as you know, under the by-laws passed—for example I cite one district, the district of Quebec—a Canadian-owned ship with a net registered tonnage of over 2,000

tons plying to and from ports of its own province or to and from ports of Quebec or ports of Ontario or the Maritime Provinces, is required to pay pilotage dues whilst we will have ships engaged in foreign trade, engaged in ocean-going trade, that will be free of or exempt from paying these dues. We are going much further than the principle of the most-favoured-nations; we are even giving preferred treatment to foreign-owned ships.

Now, Mr. Chairman, I wish to point out—and I am coming to a close; I am sorry to have taken so much of your time.

The CHAIRMAN: We do not want to interfere with your presentation in any way.

Mr. LANGLOIS: I wish to make this further remark in connection with this so-called removal of the flag discrimination. Under the new subsection (2) of section 346, the section we are amending by the proposed amendment to the Canada Shipping Act, we are asking Parliament to violate in some way and to some extent our treaty obligations. When we say that fishing vessels of over 250 tons using the facilities of the ports of Newfoundland will have to pay pilotage dues unless they are exempt by the local pilotage authority, we are in some way breaking the principle which we are supposedly defending in asking Parliament to adopt this amendment.

The CHAIRMAN: I do not see that, Mr. Langlois. There is no discrimination provided in subsection (2).

Mr. LANGLOIS: In subsection (2) we say that ships of more than 250 tons going into Newfoundland will have to pay pilotage dues. We say, "You will have to pay these dues unless you are exempt by the pilotage authority". But if the pilotage authority does not exempt them we are violating the treaty obligations we have or may have in the future concerning the liberty of these ships using our own ports,—if the interpretation given by the Department of External Affairs is to be accepted.

The CHAIRMAN: I am afraid I do not understand that.

Senator MACDONALD: That provision was provided for Canadian ships also, was it not?

Senator GOUIN: There is no discrimination.

Mr. LANGLOIS: I understand there is no discrimination, but we are giving the power to the Newfoundland authority to discriminate. Supposing the Newfoundland authority says, "We are going to allow Canadian ships to go in without paying dues", while it does not extend the same consideration to ships coming from Portugal, or France, we are discriminating, unless I am grossly mistaken. I do not say we are in fact doing it, but we are giving the power to the pilotage authority to create a discrimination. In withdrawing the exemption it makes discrimination between ships registered in Canada and ships registered in other countries.

The CHAIRMAN: I suppose that the pilotage authority authorized by the Governor in Council would take the advice of the legal section of the Department of External Affairs as to whether it was violating any of our treaties, and the pilotage authority would obviously not do it if they were advised that such discriminations were violations.

Senator FARRIS: Does the exemption permit the pilotage authority to exempt some ships and not others?

The CHAIRMAN: To pick and choose?

Senator FARRIS: I don't think it does.

The CHAIRMAN: I don't think so, either.

Senator CONNOLLY (*Ottawa West*): Is your point this, Mr. Langlois, that they might exempt in violation of a treaty, and thereby discriminate?

Mr. LANGLOIS: That is the point, sir. We are giving them virtually the power of doing that.

Senator FARRIS: He is suggesting, Senator Connolly, that the pilotage authority can exempt some ships and not others, and it seems to me that this provision only gives the power to exempt some.

The CHAIRMAN: It exempts some but not on a national basis. For instance, it would not exempt a Portuguese ship and, at the same time exempt a Spanish ship.

Mr. LANGLOIS: I am sorry to have to disagree with you. They use the wording that ships of 250 tons are exempt unless the pilotage authority otherwise directs. What is to stop the pilotage authority from saying that a ship flying a certain flag will be exempt while a ship flying some other flag will not be exempt?

Senator CONNOLLY (*Ottawa West*): Surely, as the Chairman said, in that event they would be concerned about their treaty position and they would take the advice of their legal advisers.

Mr. LANGLOIS: I appreciate that, and I was just going to say that we have this overriding authority of the Governor in Council. But just the same, I am looking at the proposed amendment as it stands, and this discrimination could take place just the same. I do not want to stress that too much.

The CHAIRMAN: I think we have got your point.

Senator REID: Are you maintaining that treaties still in existence would override the present bill?

Mr. LANGLOIS: No, sir, they don't override the Canadian Law. That is why Parliament is being asked today to amend the law to conform with the treaties. Am I right in that, Mr. Chairman?

The CHAIRMAN: Yes, Mr. Langlois.

Senator CONNOLLY (*Ottawa West*): I would like to ask Mr. Baldwin a question, if I may, arising out of Mr. Langlois' discussion. Suppose that under subsection 1(c) of section 346 you exempt, let us say, an American ship whether it is in the coasting trade or the ocean-going trade—and I suppose we can assume the Americans are entitled to the most-favoured-nation treatment—would you thereby feel obligated under treaties to exempt any ships from countries that might be entitled to most-favoured-nation treatment?

Mr. BALDWIN: No, Senator Connolly, because as I attempted to explain at an earlier stage the basis upon which we feel we should proceed in any case where exemption is involved is solely on competency, and if you rely on that for your measurement then I do not believe you can say flag discrimination enters into the matter. It is purely a case of whether competency and experience exists.

The CHAIRMAN: And reading subsection (c), don't you think that negatives the idea of national discrimination? It talks about ships of such description and size and employed in such voyages.

Senator CONNOLLY (*Ottawa West*): There is no doubt about that, but Mr. Langlois makes a lot of the point that by treaty we have these most-favoured-nation provisions; and Senator Power and myself seem to be of the opinion that this is his argument, that if one nation gets most-favoured-nation treatment under that, and thereby gets an exemption, does it not automatically follow that all ships of countries entitled under treaties to most-favoured-nation treatment should qualify for the exemption?

Mr. BALDWIN: As I attempted to indicate, the answer to that, I think, is no. We would not proceed to grant any exemptions on the basis of flag discrimination or most-favoured-nation treaties. They would be related solely to whether the officer had the necessary degree of experience and competency.

The CHAIRMAN: Does that answer your question, Senator Connolly?

Senator CONNOLLY (*Ottawa West*): Yes. In other words, you are going to grant the exemption ship by ship?

Mr. BALDWIN: Individual by individual, if you will. It is the competency of the individual.

Senator CONNOLLY (*Ottawa West*): Master by master.

The CHAIRMAN: Are you finished, Mr. Langlois?

Mr. LANGLOIS: Not quite, sir.

Now, if I may be allowed to I should like to say a few words concerning the district I represent here tonight.

The CHAIRMAN: Are you dealing with section 8 now?

Mr. LANGLOIS: No. I just want to wind up my remarks, Mr. Chairman, by adding a few words about the district I am representing here, the pilotage district of the West Coast of Canada. It is a very important district and the pilots are plying in waters which present great obstacles and great dangers to navigation. The pilotage district on the West Coast of Canada is almost a coast-long or coastwise affair, and my principals from the West Coast are very emphatically opposed to any change in section 346 of the act. The same applies to these districts on the East Coast of Canada I have just mentioned: Saint John, New Brunswick, Halifax, Nova Scotia, Sydney, Nova Scotia, and St. John's, Newfoundland. The district of Saint John, New Brunswick, is also a pilotage district which offers great handicaps to navigation. One has only to bear in mind that in the harbour of St. John you have the largest tides in Canada with comparatively large and stiff currents, and who does not know about the perennial fog in the Bay of Fundy, which is another great handicap to navigation in and out of this port?

Then we have the port of Halifax which presents obstacles to navigation and where the expert hand of a pilot is required, and again in Halifax you have—I will not call it a perennial fog—a seasonal fog. The same thing applies to Sydney and to St. John's, Newfoundland.

As I mentioned to the committee a while ago, on several occasions when I was a navigating officer in the navy during the last war I had to make use of those ports and we did not always have a pilot on hand. I can tell you that quite often I wished that a pilot had been available to take me into those ports.

I conclude with the comment, Mr. Chairman, that my clients in the east and west coasts of Canada are respectfully suggesting to this committee that the law should be kept as it presently stands, for the main and prime reason of security for our ships, security and safety for our harbour installations, which, as I have said, cost millions of dollars, and for the welfare of our pilots who have served our country very well not only in pilot service on the east and west coasts in peacetime but, in the case of the majority of them, as veterans of the last world war. These men have assured the safety and the security of our territorial waters, and I think they have contributed towards the good name of Canada as a shipping nation. I think we owe a duty to these devoted servants of Canada.

I wish to add only one comment. I know that we in some quarters are putting some degree of reliance on these new aids to navigation. I am referring to these electronic aids to navigation, such as radar, L.R.N., which means "long range navigation", and the Decca system. We are living in an

electronic age, and all these advanced gadgets of science are a tremendous help to shipping. However, we are not yet prepared, to my mind, to replace the human mind by mechanical devices.

I will give you only one example of what can happen. A friend of mine was telling me the other day that he was coming up the St. Lawrence River last year in one of these very modern ships, equipped with all these electronic devices radar, L.R.N., and the Decca system. It was past midnight, in fact, 2 o'clock in the morning, a rainy, dark night, and he was in a narrow channel. All of a sudden, without warning, the power failed on the ship. Radar was of no use, nor was the Decca system or the echo sounder. There was no power on the ship to make these devices work. That is where the human mind is needed. An expert hand, a pilot trained for that particular purpose, could save that ship from disaster, and very quickly. That ship was meeting many other ships, as is often the case, because on the St. Lawrence River traffic is very heavy. If that ship had swung crosswise to the channel she would perhaps have had one or two groundings from very severe collisions.

When speaking of traffic, I want to say this, that in the Quebec district or the Montreal district we are not dealing with a few hundred ships. The number of ships between Quebec and Father Point last year was of the order of 6,100 trips in the season. The number of trips in the Montreal district was 6,800 trips in one season. And we are in the age of larger ships. We are talking of cargo vessels of 20,000 tons and 25,000 tons. We are dealing with large passenger ships of great speeds, with big draughts; and when you pilot a ship between Quebec and Montreal that has a draught of 32 or 33 feet at some spot in the river where you have barely 38 feet of water, there is not much water left under the keel; there is not much leeway for human error, or error of mechanical devices to which I have referred.

I want to conclude by saying this, Mr. Chairman, that the pilot system in Canada has existed for over 200 years; it has proven its worth, and I think that we should keep it so.

Mr. Chairman and gentlemen, thank you for having allowed me to take up so much of your time; I appreciate your courtesy in so doing.

The CHAIRMAN: Thank you very much. I know we are all very much obliged to Mr. Langlois for his evidence.

It will be remembered that at our last sitting we asked the Department of External Affairs to produce some documentation in connection with treaties. I think those have been circulated. Does anyone wish to ask questions of the departmental officials with regard to these two documents that have been circulated? Or shall we accept them as read?

Senator POWER: Are they going to be placed in the record?

The CHAIRMAN: I suppose they should be placed in the record.

Senator POWER: I would suggest that they be placed in the record.

The CHAIRMAN: If that meets with the approval of the committee we will instruct that these two documents produced by the Department of External Affairs should be in the record.

(See appendix A at end of today's report)

Senator ISNOR: I understand that there are 19 treaties, and that only 7 have received approval, so far as Canada is concerned, by action of Parliament. Is that correct?

The CHAIRMAN: I think that is correct. I believe the position is that all the old ones that were entered into when Canada was a colony have sort of gone on, that our Parliament has not approved or sanctioned them, but that

every recent treaty, since about 1925 or so, has been placed before Parliament and approved, either by resolution or by act. That is the case, is it not, Mr. Kingstone?

Mr. KINGSTONE: Yes, sir. I would like to make a few brief remarks arising out of what the previous witness said.

The CHAIRMAN: Shall we hear Mr. Kingstone?

Mr. KINGSTONE: Mr. Chairman, if there are no questions arising out of papers that have been circulated to you, I would like to make this one very brief statement.

The question has been raised as to whether there is any real need to amend section 346 for the purpose of bringing its provisions in line with Canada's treaty obligations. The argument behind this question seems to be that section 346 in its present form has existed ever since its enactment, as part of the Canada Shipping Act in 1934, without any foreign state having made any representations regarding it, and that in these circumstances there would appear to be no compelling reasons to change the status quo, at least at this time. The question that one has to face in this connection is that Canada has a duty to live up to its international obligations.

It is anticipated also that with the opening of the Seaway there will be ushered into Canadian shipping circles a new era for Canada involving an enormous increase of foreign shipping traffic in Canadian waters. Such activity will automatically bring into prominence the obligations to which Canada is bound under the terms of the shipping treaties between herself and other states. In these circumstances, it is considered most important that Canada should ensure that this weakness in her shipping legislation vis-a-vis her treaty obligations be remedied at this time, rather than after the spotlight of world shipping opinion, occasioned by the opening of the Seaway, is focused upon her.

Senator POWER: May I ask which particular treaty is being violated by the existing legislation without the amendment?

Mr. KINGSTONE: Senator Power, in the two documents that have been circulated, the first one contains a list of the treaties in force between Canada and other states dealing with navigation matters.

Senator POWER: Yes.

Mr. KINGSTONE: And all these treaties are in one form or another affected by section 346.

Senator POWER: Let us stop right there. Let us start with the Ashburton-Webster Treaty of 1842. In what way does the present legislation, without amendment, affect that treaty? That treaty dealt largely with navigation on the Saint John River, allowing shipping of both countries to enjoy equal freedom of navigation.

Mr. KINGSTONE: That is true. As a matter of fact the Ashburton-Webster Treaty dealt with a great number of things, and your attention is directed, as far as the questions under consideration are concerned, to Article VII, which is quoted in part in the second of the two mimeographed documents that have been circulated to the committee.

Senator POWER: And there is set out a decision which reads,

the words 'free and open' have been held not to be inconsistent with the levying of tolls where the charges levied were uniform for citizens of the two countries.

Mr. KINGSTONE: I would emphasize the word "uniform".

Senator POWER: That is, I presume, the levying of tolls on lumber shipments on the river.

Mr. KINGSTONE: That particular case concerned that situation, but we have interpreted the case as having a wider implication in that it refers to the importance of assuring equal treatment for the citizens of both countries concerned with the free movement of shipping through the river St. Lawrence.

Senator POWER: The St. Lawrence above Kingston, I take it?

Mr. KINGSTONE: In other words, this visualizes that if United States shipping is subject to a greater discrimination on account of flag whether it be on account of pilotage dues or a restriction of some other kind, then it would be applicable to Canadian shipping. We would interpret that as being in violation of that Article VII as quoted in the Ashburton-Webster Treaty.

Senator REID: Let us take a look at the Treaty of Peace and Commerce that was made with Denmark, and which was signed in London in 1660-61. Is that still in effect? That is a long way back, and we did not even have a country then.

Mr. KINGSTONE: Mr. Chairman, there is a more recent protocol which says the treaty to be very much alive. A protocol dated May 9, 1912 between the United Kingdom and Denmark gives the right to terminate this treaty at any time on giving 12 months' notice. No action by Canada has been taken on that.

Senator REID: That treaty just gives us the right to terminate it?

Mr. KINGSTONE: That is right.

The CHAIRMAN: If honourable senators will look at one of the modern treaties you will see what is involved. For instance, on page 3 of the first memorandum there is a convention described between Canada and Poland, signed at Ottawa on July 3, 1935. The convention was tabled in the House of Commons on July 3, 1935 and in the Senate on July 4, 1935 and declared to have the force of law in Canada by the Canada-Poland Convention of Commerce Act, 1935.

If honourable senators will look at Article II of that convention they will see,

Such vessels, their passengers and cargoes shall enjoy the same privileges as, and shall not be subject to duties or charges other or higher than, national vessels, . . .

So that is one of the recent treaties in which we clearly agree that we won't charge the vessels of the other country higher charges than we charge our own nationals.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, can't we take the further step—and I just ask this for information—and say that it is because of that treaty provision that it is desirable to eliminate the flag discrimination provided in the existing section 346? Isn't that true?

Mr. KINGSTONE: Yes, that is correct, Senator Connolly.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, does Mr. Kingstone know whether or not Polish shipping legislation permits our ships to enter their harbours and use their harbours and facilities under the same conditions as the treaty would require? I would like to make that question a general one: What about the United States and all these other countries whom we are suddenly worrying about hurting their feelings? Does their present legislation conform in all respects to the various treaties that have been entered into? Has any examination been made of that angle?

Mr. KINGSTONE: I can answer your question, Senator Smith, in this way, that no statement or complaint to my knowledge has come to the Department of External Affairs about treatment of our shipping in foreign ports.

Senator SMITH (*Queens-Shelburne*): But it seems we do not have any knowledge of what their exact legislation is on shipping matters? We should certainly have knowledge of that in regard to shipping legislation of the United States at least.

Senator KINLEY: Have we any ships running into Poland? We have no ships going to Poland?

Senator SMITH (*Queens-Shelburne*): I would like to have a little more of an answer than I have had so far to my question, particularly with regard to the United States. Has any examination been made of the present legislation of the United States to determine whether or not they have conformed in all respects to the terms of the treaties entered into?

Mr. KINGSTONE: I can really only give you the same answer as I gave to your previous question, Senator Smith, and that is that no problem in this connection has been brought to our attention.

Senator KINLEY: Do you think the Americans will agree to allowing any ships other than Canadian and the United States ships to operate freely on the Great Lakes? I understand they are very firm that Canadian and American ships should have preference on the lakes.

Mr. KINGSTONE: I have no information on that.

Senator KINLEY: The press thinks so.

Mr. KINGSTONE: I have no information on such a view.

Senator KINLEY: I think they have it, though.

Mr. KINGSTONE: I do not know. No information on that point has been brought to my attention.

The CHAIRMAN: Is that all you have to cover, Mr. Kingstone?

Mr. KINGSTONE: That is all, Mr. Chairman.

The CHAIRMAN: Thank you.

Gentlemen, we are still considering section 9, and I understand that Mr. Gerin-Lajoie had a number of words he wanted to say to you.

Mr. GERIN-LAJOIE: I would like to say a very few words, Mr. Chairman.

The CHAIRMAN: Will you proceed, Mr. Gerin-Lajoie?

Mr. GERIN-LAJOIE: Gentlemen, I do not intend to take more than five minutes of your time. A question was raised as to strikes of pilots in the past. I would just like to make this short observation, that there has been a stoppage of work once or twice in recent years and that took place only in that particular section of the St. Lawrence River where there is no compulsory pilotage or compulsory payment of pilotage dues. No such stoppage of work took place in an area where there is compulsory payment of pilotage dues, in recent years. Mr. Baldwin points out that there was one in Montreal, but that is some years ago; perhaps Mr. Baldwin could say how long ago that took place.

My second point, Mr. Chairman is that mention was made of pilots' income and expenses. I may say that that has no direct relationship with the subject under consideration, but since figures were put on record I would like to mention that those figures do not take into account what is being paid into the pilots' pension fund, and I would like to mention that this pension fund is built up only by contributions of the pilots themselves. There is no contribution by a so-called employer in this particular case.

Senator CONNOLLY (*Ottawa West*): Are those payments into the pension fund tax free contributions?

Mr. GERIN-LAJOIE: That was a question which was raised by the Income Tax Division a couple of years ago, and I am not quite sure if it has been settled. Possibly it has following legislation which was passed a year or two ago.

Senator CONNOLLY (*Ottawa West*): Under the Retirement Savings Plan legislation?

Mr. GERIN-LAJOIE: Possibly they are tax free since the recent legislation was enacted on that particular point.

Mr. Chairman, I would like to mention this point, that out of their income the pilots have to pay their own expenses to and from the points where they take over and leave the ships. That is of such importance that on the west coast, particularly, pilots are often travelling by air and have to pay their own air transportation to go on the ships, and their transportation expenses for a year amount to as much as \$4,000 in that particular section of the country. In the St. Lawrence River the expenses amount to approximately \$2,000 a year. So these amounts have to be deducted from the figures which have been tabled before this committee.

A third question was raised as regards the number of months during which the pilots happen to work. In the Kingston district it is about eight to nine months a year; in the Montreal district, about nine months a year; and in the Quebec district, close to twelve months a year, apparently.

Now we have to take into account that the pilots do not work for 40 or 48 hours a week, but they are on their ships for as much as 100 or 125 hours a week. The particular figure does not have too much importance, but it gives an idea of the time spent by the pilots on board their ships during the season of navigation.

The fourth point I would like to make, Mr. Chairman and honourable senators, is this, that the question involved in this particular clause of the bill is not a question of money for the pilots. Of course it is a question of compulsory payment of pilotage dues. But the pilots want to make it very clear that it is primarily a question of safety of navigation, and they attach very much importance to the compulsory payment of pilotage dues because, in practice, it amounts to compulsory pilotage, and in that way ensures the safety of navigation in those waters where there is such compulsory payment.

The fifth point is that most Canadian lake ships do not use pilots in some parts of the St. Lawrence River, but they do want to have the pilots available, and they do use the services of the pilots very often when there is fog, when there is snow, when there are bad weather conditions, when the buoys, for instance, are removed in early spring or in the fall; and that means that, in practice, the Canadian lake ships, if not using commonly the services of pilots, do want to have the service available and, of course, we think they should pay their share of maintaining that service permanently. But that is only a secondary point.

The most important statement I have to make in connection with the statement made this morning by the representative of the Dominion Marine Association is this, that Canadian lake ships have nothing to gain from the legislation now under consideration. Under the statute as it stands now, the Canada Shipping Act, in the Revised Statutes of 1952, as amended to date, all lake ships of British registry are exempted by section 346 from the compulsory payment of pilotage dues, and it is only by Order in Council that that exemption is removed in some of the pilotage districts of the St. Lawrence River, and to a certain extent.

So I wish to make this very clear, that the ships owned by the members of the Dominion Marine Association have nothing to gain from the legislation under consideration, and the position of the pilots whom I represent is directed only against foreign shipping. I wish to make this very clear, gentlemen, because we really feel that the interests of Canada are at stake. We have very much at heart the good of navigation and the good of the operators of ships, Canadian operators of the ships, and Canadian shipowners generally.

The seventh point I should like to make, Mr. Chairman, is this, that clause 9 of the bill, the clause now under consideration, has nothing to do directly with the opening of the Seaway. If the Seaway opens in the spring without this legislation having been passed I do not think, first, that shipping will be harmed in any way, or that any shipping interests or economic interests in our country will suffer.

In conclusion, I therefore wish to say, Mr. Chairman and gentlemen, that there does not appear to be any need to rush such legislation. No interests, particularly no Canadian interests, would be in any way harmed by postponing action on the legislation which is now before the Parliament of Canada.

Senator CONNOLLY (*Ottawa West*): You are talking now about section 9?

Mr. GERIN-LAJOIE: Section 9, senator. On the other hand, we suggest that many vital Canadian interests may be adversely affected. That would depend on the regulations which would be passed by the Governor in Council. At present, I suggest, the committee of the Senate has not been given detailed information as to what the Government has in mind; and I think I am fair to the members of the civil service in the Department of Transport when I say that they said themselves that they do not know in detail at present what they will actually do within the next few months to use the powers which the present legislation is intended to give them.

There have been some indications as to licensing masters and mates of ships according to their qualifications. That is a subject which certainly deserves serious consideration. We do not question this statement. There has been some indication that the Department of Transport or the Minister was ready to propose to the Governor in Council or to Parliament—I am not quite sure which—that the pilots be brought under the civil service of Canada. Well, that is a subject of great concern to the pilots. I do not think I have to explain in any detail why the pilots should be concerned about such a proposition, which is intended, we appreciate, for the good of the pilots.

Senator HAIG: That is not what he said at all. He said that if the pilots wanted to come under the civil service he had no objection to bringing them under.

The CHAIRMAN: This bill does not provide for that.

Mr. GERIN-LAJOIE: Certainly not, Mr. Chairman. I am just referring to any indications of possible action on the part of the Government.

The CHAIRMAN: Yes, but we have to confine ourselves to the bill before us.

Mr. GERIN-LAJOIE: Quite so, but these considerations were put before this committee. That is the only reason I refer to them, and that explains the concern of the pilots, when they see that the bill under consideration gives an entirely free hand to the Governor in Council to pass any regulations whatsoever.

Senator MACDONALD: If I remember correctly, it was a promise by the Minister, passed on to the Deputy Minister, and passed on to us, that the Minister would take them into the civil service if they wanted to be taken in.

Senator HAIG: Correct. That is correct, exactly.

Mr. GERIN-LAJOIE: That is so, Mr. Chairman, and I never intended, of course—

Senator POWER: At the same salary they are now receiving, that \$18,000 might look good.

Senator MACDONALD: That was part of the compromise.

Mr. GERIN-LAJOIE: In conclusion, Mr. Chairman, I suggest, on behalf of the pilots on the St. Lawrence River, that the whole legislation be postponed, that more detailed consideration be given to it and to all other elements by a ministerial committee or other commission of inquiry in future, and that later, in the light of further developments, and of such a study, that more detailed

plans be put before this committee to be included in the legislation, instead of leaving the Governor in Council entirely free to decide anything at all about the compulsory payment of pilotage dues.

The CHAIRMAN: Thank you.

We are still considering section 9. Is there anybody else who wishes to make representations to us about section 9?

Mr. MAHONEY: Mr. Chairman, may I speak?

The CHAIRMAN: Yes, Mr. Mahoney, but be brief.

Mr. MAHONEY: Mr. Chairman and honourable senators, I promise to be extremely brief.

I would like to thank Mr. Gerin-Lajoie for his good intentions in presenting the case of the Canadian shipowners, but I would remind you that I have been retained as counsel by the shipowners in this particular instance.

The case of the Canadian shipowners, as Mr. Gerin-Lajoie says, is we do not know that we have anything in particular to gain from this legislation, but we do know that we stand to continue to lose if this legislation does not go through. In other words as the situation is at present, the people who decide whether or not a ship shall be exempt from compulsory payment of pilotage dues are the pilots. The shipowner has nothing whatever to say about it. We do not say that we should have everything to say about it, but we say that the pilots should not have everything to say about it. In other words, there is only one objective body which can decide whether or not a ship or, as Mr. Baldwin put it, a man who is an officer on a ship, should be exempted from that compulsory payment. The only body that is capable of an unbiased decision in that respect is the pilotage authority, the Department of Transport, and it seems to us that is all the pilotage authority wants to do in this case.

We do not know whether it will help us—we hope it will—but if the legislation continues as it has done in the past we stand to suffer.

Senator ASELTINE: Would you say that I am right when I say that all this section does is to make the government of Canada the arbitrator between the pilots and the ships' owners?

Mr. MAHONEY: That is exactly so.

The CHAIRMAN: Is the committee ready to reach a decision on section 9? Does anyone wish to move an amendment?

Senator CONNOLLY (*Ottawa West*): Are we clear on one point in regard to section 9? It is the section where Mr. Baldwin proposed the reciprocal arrangements that were to be made with the Americans in connection with pilotage in the St. Lawrence system. Am I right about that?

Mr. BALDWIN: I am not sure that comes into this section. Our right to grant reciprocities to the United States is dealt with in another clause.

The CHAIRMAN: Gentlemen, are you ready for the question?

Senator SMITH (*Queens-Shelburne*): I am sorry, but I have not yet received an answer to the question whether or not we are moving first in this matter of making our own laws conform to the treaties. I would like to have some information as to what provisions exist in any shipping legislation that may be in force in the United States with regard to conforming to the treaty.

Senator FARRIS: In the United States every treaty has to be sanctioned by a two-thirds majority of the Senate.

Senator SMITH (*Queens-Shelburne*): Does that mean that the legislation necessarily is amended or is subject to ratification?

Senator REID: In the event of the United States regulations not being in accord with ours, does that mean that the act will be open to make our regulations conform to those of the United States?

Mr. BALDWIN: I am not sure I can answer the first question with any degree of accuracy and completeness such as the honourable senator would request, but to the best of my knowledge, in regard to federal legislation in the United States which would be the counterpart of federal legislation here, there is no federal legislation dealing with pilotage matters which is discriminatory against Canada; and, so far as I know, under the 1909 Boundary Waters Treaty, the United States has lived up to its obligations under that treaty.

As to the second question, the matter of reciprocity is dealt with under later sections, and as a result of the amendment which this committee made to one of these later sections, reciprocity has to be in effect both ways. We may not grant privileges to United States master or licence holder unless such privileges are in fact being granted by the United States.

Senator KINLEY: In the lakes?

Mr. BALDWIN: Yes.

Senator SMITH (*Queens-Shelburne*): The answer is satisfactory; I understand the situation.

I would like to ask this question. We have heard evidence that pilotage dues have been compulsory under circumstances where pilots are really not needed. I wonder if the department could give information as to whether in the last few years there have been many complaints of that nature and applications to the department to change the legislation in order to permit them to proceed without paying pilotage dues. Is it a large problem so far as the department is concerned, or is it an odd case that occurs once in a while?

Mr. BALDWIN: It is coming up fairly regularly on the part of shipowners. Again, I can only answer by making an extended statement, which I do not wish to make at this particular time, because circumstances vary in each district, and all I can say is that the representations that have been made by the Dominion Marine Association in this committee are not new to us.

Senator REID: Am I right in assuming that the Governor in Council has the right to make rules apart from 346?

Mr. BALDWIN: Dealing with the particular subject of compulsory dues, no. Under 347, however, we may withdraw certain exemptions. It is not an overriding right.

Senator SMITH (*Queens-Shelburne*): Is it true that all the exemptions you have the power to withdraw are included in (e)?

Mr. BALDWIN: The governing words are "employed or engaged", so under (d) we would have the right to deal with (e) and (i).

Senator SMITH (*Queens-Shelburne*): There is not much significance in the second line in 347, which says "notwithstanding anything in paragraph (e)" of 349.

Mr. BALDWIN: Our right of withdrawal is limited to things in (d) (e) and (i).

Senator SMITH (*Queens-Shelburne*): Where do you get the power to change (d), (e) and (i)?

Mr. BALDWIN: From the wording of 347. The governing phrase is "employed"; it has to be carried back from 347 to 346.

Senator MACDONALD: I am not happy about clause 9. It seems to me that under this clause a foreign ship which has never sailed the St. Lawrence before can sail up the St. Lawrence without a pilot. Am I wrong?

The CHAIRMAN: This is only pilotage dues.

Senator MACDONALD: All right; I will amend it to that extent by saying that a foreign ship which has never sailed in Canadian waters and particularly never up the St. Lawrence, can sail up the St. Lawrence without paying pilotage dues. Is that right or wrong?

The CHAIRMAN: No, senator, it is not right. It is wrong today because pilotage dues are mandatory in the districts from Father Point to Quebec and from Quebec to Montreal. It would be true only if under the power we would grant to the Governor in Council under 346 (1) (c), the Governor in Council were to say that pilotage dues for certain classes of ships sailing in that area should no longer be necessary. Is that right, Mr. Baldwin?

Mr. BALDWIN: That is correct, sir.

Senator MACDONALD: This clause distinctly says, as amended, subject to 347, that the following ships are exempt from payment of pilotage dues. Now that exemption can be taken away from them, but unless the exemption is taken away from them the foreign ship sails up the St. Lawrence.

Mr. BALDWIN: Under paragraph (c) the power that is given is an authorizing power, not an automatic right of exemption: in other words, the Governor in Council would have to declare that they were exempt. He might subsequently withdraw the exemption if he saw fit.

Senator FARRIS: Under 346 foreign ships are not exempt?

Mr. BALDWIN: No.

Senator MONETTE: It says at the beginning that they are exempt—ships of such as description and size not exceeding 250 tons. The pilotage authority of the district, with the approval of the Governor in Council, may from time to time determine that they be exempt. They will be declared exempt by the Governor in Council.

Mr. BALDWIN: He has to make the declaration.

Senator CONNOLLY (*Ottawa West*): As we look at 346, it is a bit confusing, but the governing provision is 345; that is basic, and that says that unless there is exemption—subsection (b)—then the dues apply, and then you get the details of exemptions, and in (c) there is power of relief.

Senator REID: I suggest that in view of the fact that we have been at this all day we should come back tomorrow morning to pass it. We are dealing with a controversial section and there are doubts in the minds of several persons—not only in my mind but in the minds of others. I think it is unfair that we should rush it through in this manner. I would like to see the committee come back tomorrow.

The CHAIRMAN: What is the view of the committee in that regard?

Senator SMITH (*Queens-Shelburne*): I have the same view as Senator Reid.

Senator KINLEY: A motion to adjourn would settle it.

The CHAIRMAN: There are two committees tomorrow morning and the one meeting at 10.30 will be occupying this room. We could meet at 11 o'clock.

Senator REID: I move that we adjourn.

The CHAIRMAN: Perhaps we could make some progress if the committee wishes to defer consideration of section 9 until tomorrow morning. In that event we could make some progress with the remaining section, which is 8, which amends the present section 324 of the act. That was the section which Senator Power wished to have reconsidered.

Senator MACDONALD: There is in my mind a question that I should like to have cleared up with respect to Canadian shipping. Mr. Mahoney was anxious to have this bill passed as amended because I understood him to say

that the Canadian ships would have some advantage. I do not see how a Canadian ship could have an advantage if our treaty rights are to be observed.

Mr. BALDWIN: The answer to that is that if you have a right to exemption which is vested in the Governor in Council, a reasonably flexible right of exemption, and the measuring stick is competency, then it is unreasonable to expect that the ship which is most likely to meet the standards of competency is a Canadian vessel.

Senator MACDONALD: What has the representative of the Department of External Affairs to say about that?

Mr. KINGSTONE: As long as the test is competency and not flag there is no problem.

Senator SMITH (*Queens-Shelburne*): How would an officer in the department determine whether the captain of a ship coming up the St. Lawrence to make a cruise to Chicago was competent or not? Does he examine him before he starts?

Mr. BALDWIN: If the captain were not competent he would find it virtually impossible to qualify. We would have to set standards of competency for each district and would have to have a system of examination before we could deal with that situation. It would be expensive and complicated and, as I indicated earlier I doubt very much whether the foreign-going ship master would be able to go through often enough to qualify.

Senator SMITH (*Queens-Shelburne*): I have stated the worst case I could find.

The CHAIRMAN: Does the committee wish to adjourn the consideration of section 9 until tomorrow morning?

Hon. SENATORS: Agreed.

The CHAIRMAN: I think we may be able to make some progress, as I said a few moments ago, in connection with section 8. You will remember that section 8 amends the present section 324 of the act, which reads as follows:

The Government in Council may create further pilotage districts and fix their limits and may rescind any district, other than the districts of Quebec and Montreal, created either by or under this or any other Act and may alter the boundaries of any pilotage district.

The amendment proposed takes out the reference to the districts of Quebec and Montreal and simply says the Governor in Council may create further pilotage districts, and fix their limits and rescind any district created either by or under this or any other act, and may alter the boundaries of any pilotage district.

Some honourable senators from Quebec and Montreal felt that this implied that the pilotage districts of Montreal and Quebec might be rescinded. That seems rather in conflict with the immediately preceding sections 322 and 333 of the act, which define the boundaries of the pilotage districts of Quebec and Montreal—which create them and then define them. I have been struggling with some sort of language which might meet the desires of everybody. What the Montreal and Quebec people want to do is, for historical reasons, to at all times have a pilotage district of Quebec and a pilotage district of Montreal, both of which have existed for hundreds of years.

Senator HAIG: Leave those.

The CHAIRMAN: On the other hand, the department wishes to have the right to change the boundaries of those districts and, indeed, to create new districts if they so desire.

Senator POWER: And the department also wants to rescind.

The CHAIRMAN: That is just what I was saying.

Senator POWER: In other words, you are going to conflict sections 322 and 323 by a section immediately following saying they are no good.

The CHAIRMAN: Exactly.

Senator POWER: That is not logical.

The CHAIRMAN: I have been trying to work out with the various interests some wording which might reconcile everything. The suggestion I have to make—it is partly Mr. Baldwin's suggestion and partly my own—is that we leave the present section 324(1) and then add a new subsection 2, somewhat along these lines:

Within the limits of the pilotage districts of Quebec and Montreal as set out in sections 322 and 323 the Governor in Council may create new pilotage districts and fix their limits and may alter the boundaries thereof.

Senator POWER: You strike out the word "rescind" in so far as it applies to the two districts already entrenched in the statute?

The CHAIRMAN: The word "rescind" would remain as it is in the present section 324, which excepts the districts of Quebec and Montreal. Look at the present section 324.

Senator POWER: Section 324 in the statute or the amendment?

The CHAIRMAN: In the statute.

Senator POWER: Right.

The CHAIRMAN: It says that the Governor in Council may create further pilotage districts and fix their limits and may rescind any district other than the districts of Quebec and Montreal, created either by or under this or any other act and may alter the boundaries of any pilotage district. Now, leave that as it is and make a new subsection 2, to this effect:

Within the limits of the pilotage districts of Quebec and Montreal as set out in sections 322 and 323 the Governor in Council may create new pilotage districts and fix their limits and may alter the boundaries thereof.

Senator POWER: That meets the views expressed here by everyone, that there was no objection to the creation of a district of Three Rivers, which was within the district of Quebec and Montreal?

The CHAIRMAN: Yes, and it seems to me it preserves something which you call the Quebec pilotage district and something which you call the Montreal pilotage district.

Senator HAIG: Hear, hear.

Mr. GERIN-LAJOIE: May I make representations whenever convenient to the committee?

The CHAIRMAN: Do you wish to make representations on this section?

Mr. GERIN-LAJOIE: Yes, if you please.

I would like to point out to your committee, Mr. Chairman, that it is not only a question of preserving a district of Montreal and a district of Quebec, but also a question of preserving "the" present district of Montreal and "the" present district of Quebec. It was admitted before the committee hearing this morning, I believe, that there was some legal question as to the power of the Governor in Council at the present time to abolish compulsory payment of pilotage dues in the Montreal and Quebec districts as they stand now, and as the legislation stands. The pilots in these two districts, without preventing or attempting to prevent the Governor in Council from changing the limits of

their districts or from creating inside groups—that is, different regulations for different parts of the districts—would prefer to maintain the present situation as to the provisions of the act regulating the creation and existence of their districts.

Senator CONNOLLY (*Ottawa West*): May I stop you right there for a moment?

Mr. GERIN-LAJOIE: Yes, Senator Connolly.

Senator CONNOLLY (*Ottawa West*): You are worried about the word “district” are you not? Would it help if, instead of using the words “within a district” you used some word like “subdivision” or something like that?

Mr. GERIN-LAJOIE: That should eliminate the fear we have.

Senator CONNOLLY (*Ottawa West*): What you are concerned about is this. Let us be very practical. In the district of Montreal and in the district of Quebec—and I use the word district—you have compulsory payment of pilotage dues.

Mr. GERIN-LAJOIE: That is so.

Senator CONNOLLY (*Ottawa West*): And you are afraid that if these districts are changed then perhaps the compulsory payments of pilotage dues in those districts will go?

Mr. GERIN-LAJOIE: That is right, Senator Connolly.

Senator CONNOLLY (*Ottawa West*): So the use of words other than “within those districts” would possibly satisfy you, is that right?

Mr. GERIN-LAJOIE: That is so, Senator Connolly.

I believe a question was raised as to the relationship of these two sections. Under section 326 of the present act the Governor in Council may make the payment of pilotage dues compulsory within the limit of any pilotage district created by the Governor in Council. So we wish to keep the present Montreal district and Quebec district as created by statute, not created in future by the Governor in Council, in order that the historic rights which have been recognized up to the present for those two districts will be preserved for the future until there is any definite reason for proposing to Parliament to change this situation. I believe that the present wording of the act as it stands, before any amendment, first of all, does not prevent the Governor in Council from changing the limits of the districts. It does not prevent, for instance, bringing the eastern limit of the Quebec district from Father Point to, let us say, Trois Pistoles. It does not prevent the Governor in Council from doing what the Governor in Council has done in the Montreal district, and that is to provide for a change of pilot at Three Rivers, without subdividing or dividing the district and setting up a separate group to take care of so-called moveages within the harbour of Montreal. We have on record, at any rate, no opinion from the Department of Justice that the situation as it stands now is contrary to law.

Senator HAIG: I move we adjourn.

The CHAIRMAN: Then we will adjourn until 11 o'clock tomorrow morning.

The committee thereupon adjourned until 11 a.m. Thursday, February 26.

CANADA'S TREATY OBLIGATIONS WITH RESPECT TO PILOTAGE CHARGES—
SAMPLE CLAUSES

PART I—TREATIES BETWEEN CANADA AND THE UNITED STATES

Name of Treaty	Text of Relevant Treaty Provisions
The Ashburton—Webster Treaty of August 8, 1842	<p><i>Article VII</i> provides that "the channels in the River St. Lawrence on both sides of the Long Sault Islands and of Barnhart Island... shall be equally free and open to the ships, vessels and boats of both parties."</p> <p><i>Article II</i> provides "...It being understood that all the water-communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the subjects and citizens of both countries."</p> <p>NOTE: The words "free and open" have been held not to be inconsistent with the levying of tolls where the charges levied were uniform for citizens of the two countries. (<i>Pigeon River Improvement, Slide & Boom Co. v. C.W. Fox Ltd.</i>, 291 US 138 (1934), and <i>Arrow River & Tributaries Slide & Boom Co. Ltd.</i> (1932) 2 DLR 250).</p>
The Treaty of Washington of May 8, 1871	<p><i>Article 26</i>: "The navigation of the River St. Lawrence, ascending and descending, from the forty-fifth parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea, shall for ever remain free and open for the purposes of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain, or of the Dominion of Canada, not inconsistent with such privilege of free navigation. "The navigation of the Rivers Yukon, Porcupine, and Stikine, ascending and descending from, to, and into the sea, shall for ever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation."</p> <p><i>Article 27</i>: "The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State Canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties, on terms of equality with the inhabitants of the United States."</p>
Boundary Waters Treaty of January 11, 1909	<p><i>Article I</i>: "The High Contracting Parties agree that the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation and applying equally and without discrimination to the inhabitants, ships, vessels, and boats, of both countries."</p> <p>"It is further agreed that so long as this treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line. Either of the High Contracting Parties may adopt rules and regulations governing the use of such canals within its own territory and may charge tolls for the use thereof, but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the High Contracting Parties and the ships, vessels, and boats of both of the High Contracting Parties, and they shall be placed on terms of equality in the use thereof."</p>

CANADA'S TREATY OBLIGATIONS WITH RESPECT TO PILOTAGE CHARGES
SAMPLE CLAUSES—*Concluded*

PART II—TREATY OBLIGATIONS BETWEEN CANADA AND THE COMMONWEALTH COUNTRIES

Name of Treaty	Text of Relevant Treaty Provisions
British Commonwealth Merchant Shipping Agreement of 10 Dec, 1931.	<i>Article 10:</i> "Each Part of the British Commonwealth agrees to grant access to its ports to all ships registered in the British Commonwealth <i>on equal terms</i> and undertakes that no laws or regulations relating to seagoing ships at any time in force in that Part shall apply more favourably to ships registered in that Part, or to the ships of any foreign country, than they apply to any ship registered in any other Part of the Commonwealth."

PART III—TREATIES BETWEEN CANADA AND FOREIGN STATES

ARGENTINA

Treaty of Amity, Commerce and Navigation between the United Kingdom and the United Provinces of Rio de la Plata signed at Buenos Aires, February 2, 1825	<i>Article 5:</i> "No Higher or other duties or charges on account of tonnage, light, or harbour dues, pilotage, salvage in cases of damage or shipwreck, or any other local charges, shall be imposed, in any of the ports of the said United Provinces, on British vessels of the burthen of above 120 tons, than those payable, in the same ports, by vessels of the said United Provinces of the same burthen; nor in the ports of any of His Britannic Majesty's territories, on the vessels of the United Provinces of above 120 tons, than shall be payable, in the same ports, on British vessels of the same burthen."
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COLOMBIA

Treaty of Friendship, Commerce and Navigation between the United Kingdom and Colombia—signed at London, February 16, 1866	<i>Article 7:</i> "No duties of tonnage, harbour, pilotage, lighthouse, quarantine, or other similar or corresponding duties, of whatever nature, or under whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations, or establishments of any kind, shall be imposed in the ports of the dominions and possessions of either country upon the vessels of the other country, which shall not equally and under the same conditions be imposed, in the like cases, on national vessels in general. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination."
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POLAND

Convention of Commerce between Poland and Canada signed at Ottawa, July 3, 1935.	<i>Article 11:</i> "The vessels of each of the High Contracting Parties shall enjoy in the ports of the other High Contracting Party treatment not less favourable than that accorded to national vessels or to vessels of the most favoured nation, excepting always coasting trade and river or lake traffic which each of the High Contracting Parties shall have the right to reserve to national vessels. "Each High Contracting Party shall permit the importation or exportation of all merchandise, the importation or exportation of which is permitted, as well as the carriage of passengers from or to their respective territories upon the vessels of the other. <i>Such vessels</i> , their passengers and cargoes, shall enjoy the same privileges as, and shall not be subject to duties or charges other or higher than, <i>national vessels</i> , their passengers and cargoes, or the vessels of the most favoured nation and their passengers and cargoes. "Navigation companies of either of the High Contracting Parties engaged in the transport of emigrants shall in the territories of the other High Contracting Party enjoy the same treatment in every respect as the corresponding navigation companies of the most favoured nation."
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SPAIN

Exchange of Notes with Spanish Government making applicable to Canada as from Aug 1, 1928 the Treaty of Commerce and Navigation between the UK and Spain, signed at Madrid, Oct 31, 1922, as modified by the Convention signed at London, April 5, 1927.	<i>Article 17:</i> "In regard to duties of tonnage, harbour, pilotage, lighthouse, quarantine or other analogous duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind the vessels of either contracting party shall enjoy in the ports of the territories of the other treatment as favourable as that accorded to national vessels or the vessels of any other foreign countries."
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TREATIES IN FORCE BETWEEN CANADA AND OTHER STATES DEALING WITH NAVIGATION MATTERS

PART I—TREATIES BETWEEN CANADA AND THE UNITED STATES

Name of Treaty	Parliamentary Action
1842, Aug. 8.... Treaty between Her Majesty and the United States of America, to settle and define the boundaries between the possessions of Her Britannic Majesty in North America, and the territories of the U.S.; for the final suppression of the African slave trade; and for the giving up of criminals, fugitives from justice, in certain cases (Washington). (The Ashburton-Webster Treaty).	The provisions of this Agreement dealing with extradition were implemented by the Canadian Statute 6-7 Vic. c. 76. The first schedule of the Canadian Extradition Act of 1877 (40 Vic. c. 25) which makes provision for the execution of extradition arrangements between Her Majesty and foreign states lists as one of the arrangements the Ashburton-Webster Treaty. The Treaty is also reported in force at page XXVII of the Statutes of Canada, Fifth Parliament, 1883.
1871, May 8.... Treaty between Her Majesty and the United States of America, for the amicable settlement of all causes of difference between the two countries (Washington). (Treaty of Washington).	No parliamentary action by Canada. However, Sir John A. Macdonald, then Minister of Justice and Attorney General of Canada, is one of the signatories of the Treaty.
1909, Jan. 11... Treaty between His Majesty and the United States of America relating to boundary waters and questions arising along the boundary between Canada and the U.S. (Washington). (The Boundary Waters Treaty).	The Treaty was implemented by a Canadian Statute, namely 1-2 Geo. V. c. 28. The Statute specifically states that "the laws of Canada and of the several provinces thereof are hereby amended and altered so as to permit, authorize and sanction the performance of the obligations undertaken by His Majesty in and under the said Treaty".

PART II—TREATY OBLIGATIONS BETWEEN CANADA AND COMMONWEALTH COUNTRIES

1931, Dec. 10... British Commonwealth Merchant Shipping Agreement (London).	The Agreement was tabled in the House of Commons on March 10, 1932 and in the Senate on March 15, 1932.
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PART III—TREATIES BETWEEN CANADA AND FOREIGN STATES

Argentina..... Treaty of Amity, Commerce and Navigation between the U.K. and the United Provinces of Rio de la Plata, signed at Buenos Aires on Feb. 2, 1825.	No parliamentary action by Canada. The Agreement is listed as applicable to Canada in the Canadian Department of Trade & Commerce publication "Papers relating to Commercial Arrangements between Canada and Foreign Countries", published in Ottawa by the Government Printing Bureau in 1910.
Colombia..... Treaty of Friendship, Commerce and Navigation between the U.K. and the United States of Colombia, signed at London on Feb. 16, 1866.	No parliamentary action by Canada. The Protocol of August 20, 1912 between the U.K. and Colombia gives the right to certain parts of His Britannic Majesty's Dominions, including the Dominion of Canada, to terminate the Treaty at any time on giving twelve months' notice to that effect.
Costa Rica.... Treaty of Friendship, Commerce and Navigation between the U.K. and Costa Rica, signed at San José on Nov. 27, 1849.	No parliamentary action by Canada. The Protocol of August 18, 1913 between the U.K. and Costa Rica gives the right to certain parts of His Britannic Majesty's Dominions, including the Dominion of Canada, to terminate the 1849 Treaty at any time on giving twelve months' notice to that effect.
Denmark..... Treaty of Peace and Commerce between the U.K. and Denmark, signed at London on Feb. 13, 1660-1. Treaty of Peace and Commerce between the U.K. and Denmark, signed on July 11, 1670.	No parliamentary action by Canada. The Protocol of May 9, 1912 between the U.K. and Denmark gives the right to certain parts of His Britannic Majesty's Dominions, including the Dominion of Canada, to terminate the 1660-1 and the 1670 Treaties at any time on giving twelve months' notice to that effect.

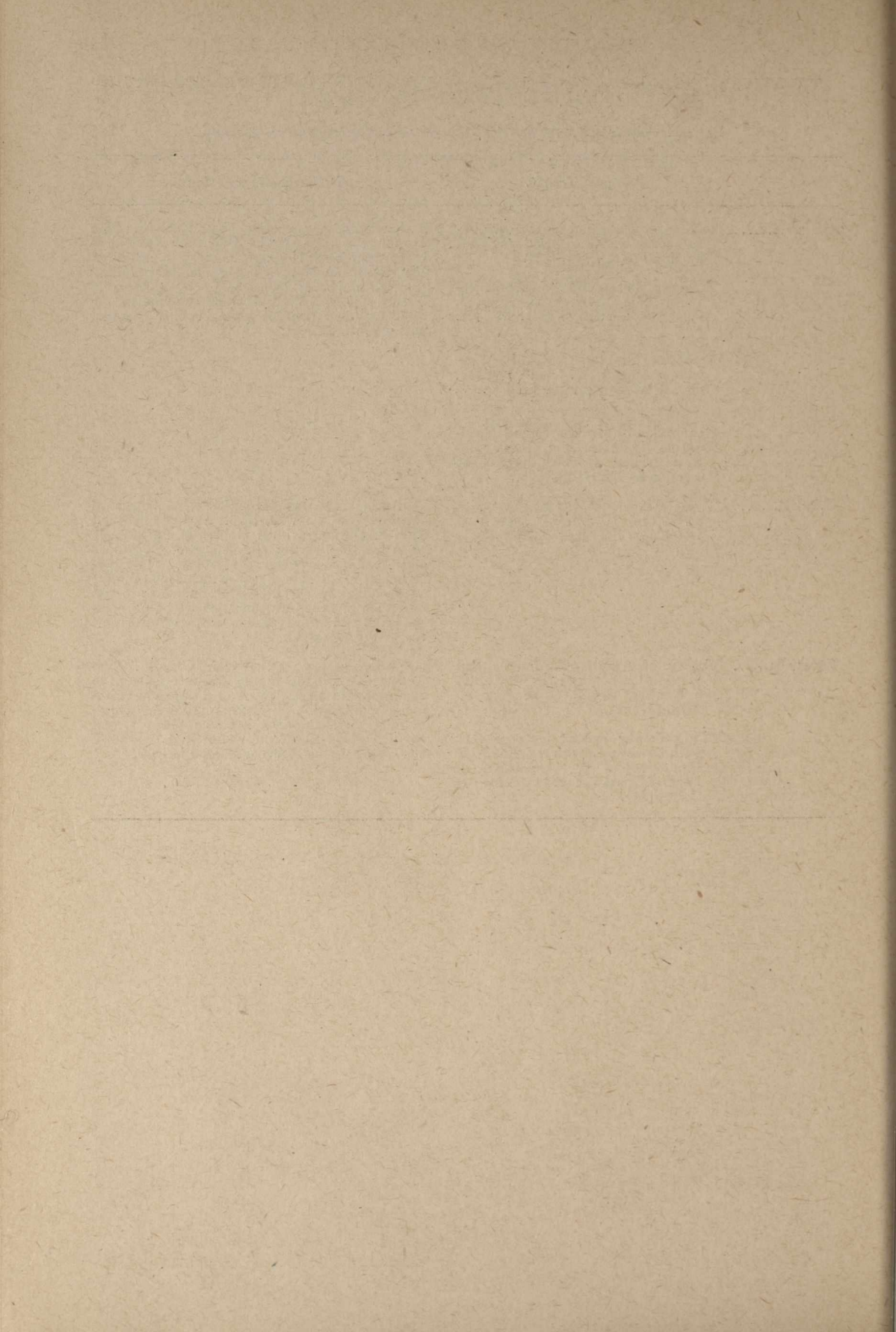
TREATIES IN FORCE BETWEEN CANADA AND OTHER STATES DEALING WITH
NAVIGATION MATTERS—*Continued*PART III—TREATIES BETWEEN CANADA AND FOREIGN STATES—*Continued*

Name of Treaty	Parliamentary Action
France..... Convention between Canada and France concerning the rights of nationals, and commerce and shipping matters, signed at Ottawa on May 12, 1933.	The Convention was tabled in the House of Commons on May 12, 1933, and in the Senate on May 16 and implemented by the Canada-France Convention Act, 1933 (23-24 Geo. V. c. 30). Section 3 of the Act provides "All laws and regulations inconsistent with this Act and the said Convention shall, to the extent of such inconsistency and in respect only of the said Convention, be suspended during the currency thereof".
Iran..... Agreement between the U.K. and Persia modifying the Commercial Convention signed at Tehran on Feb. 9, 1903 (with exchange of notes), signed at Tehran on March 21, 1920.	No parliamentary action by Canada. Canada withdrew from this Agreement on Feb. 18, 1922 but cancelled her withdrawal on March 7, 1925.
Liberia..... Treaty of Friendship and Commerce between the U.K. and Liberia, signed at London on Nov. 21, 1848.	No parliamentary action by Canada. The Agreement of July 23, 1908 between the U.K. and Liberia gives the right to certain of His Britannic Majesty's Dominions, including the Dominion of Canada, to withdraw from the Treaty at any time on giving twelve months' notice to that effect.
Morocco..... Convention of Commerce and Navigation between the U.K. and Morocco, signed at Tangier on Dec. 9, 1856.	No parliamentary action by Canada. The Convention is listed as applicable to Canada in the Canadian Department of Trade & Commerce publication "Papers relating to Commercial Arrangements between Canada and Foreign Countries", published in Ottawa by the Government Printing Bureau in 1910.
Norway..... Convention of Commerce and Navigation between the U.K. and Sweden and Norway, signed at London on March 18, 1826.	No parliamentary action by Canada. The Convention between the U.K. and Norway of May 16, 1913 gives the right to certain parts of His Britannic Majesty's Dominions, including the Dominion of Canada, to terminate the 1826 Convention at any time on giving twelve months' notice to that effect.
Peru..... Treaty of Friendship, Commerce and Navigation between the U.K. and Peru, signed at London on April 10, 1850.	No parliamentary action by Canada. The Agreement is listed as applicable to Canada in the Canadian Department of Trade & Commerce publication "Papers relating to Commercial Arrangements between Canada and Foreign Countries", published in Ottawa by the Government Printing Bureau in 1910.
Poland..... Convention of Commerce between Canada and Poland, signed at Ottawa on July 3, 1935.	The Convention was tabled in the House of Commons on July 3, 1935 and, in the Senate, on July 4, 1935, and declared to have the force of law in Canada by the Canada-Poland Convention of Commerce Act, 1935 (25-26 Geo. V. c. 51).
Spain..... Exchange of Notes with the Spanish Government (July 12/19, 1928) making applicable to Canada as from Aug. 1, 1928, the Treaty of Commerce and Navigation between the U.K. and Spain, signed at Madrid, on Oct. 31, 1922, as modified by the Convention signed at London on Apr. 5, 1927, and the Agreement between the U.K. and Spain regulating the treatment of companies, signed at Madrid on June 27, 1924.	The three Treaties made applicable to Canada by this exchange of notes were tabled in the House of Commons on April 12, 1928, in the Senate on April 18, 1928 and were declared to have the force of law in Canada by the Spanish Treaty Act 1928 (18-19 Geo. V. c. 49). The Trade Agreement of May 26, 1954 between Canada and Spain confirmed the navigation clauses of the 1922 and 1927 Agreements.

TREATIES IN FORCE BETWEEN CANADA AND OTHER STATES DEALING WITH
NAVIGATION MATTERS—*Concluded*

PART III—TREATIES BETWEEN CANADA AND FOREIGN STATES—*Concluded*

Name of Treaty	Parliamentary Action
<p>Sweden..... Treaty of Peace and Commerce between the U.K. and Sweden, signed at Upsal on Apr. 11, 1654.</p> <p>Treaty of Peace and Commerce between the U.K. and Sweden, signed at London on Oct. 21, 1661.</p> <p>Treaty of Commerce and Alliance between the U.K. and Sweden, signed at Stockholm on Feb. 5, 1766.</p> <p>Convention of Commerce and Navigation between the U.K. and Sweden and Norway, signed at London on March 18, 1826.</p>	<p>No parliamentary action by Canada. The Declaration between the U.K. and Sweden of November 27, 1911 gives the right to certain of His Britannic Majesty's Dominions, including the Dominion of Canada, to terminate the Treaties of 1654, 1661, 1766 and the Convention of 1826 at any time on giving twelve months' notice to that effect.</p>
<p>U.S.S.R..... Trade Agreement between Canada and the U.S.S.R., signed at Ottawa on February 29, 1956.</p>	<p>The Agreement was tabled in the House of Commons on Feb. 29, 1956. It was approved by a resolution of both Houses of Parliament on April 18, 1956 for the House of Commons and April 26, 1956 for the Senate. The performance of harbour services including pilotage and towing are specifically excluded from the operation of the Agreement, as well as coastal shipping. The Agreement will terminate at the end of this week.</p>
<p>Venezuela..... Treaty of Amity, Commerce and Navigation between the U.K. and Colombia, signed at Bogota on April 18, 1825.</p> <p>(This Treaty is now in force only with Venezuela which formed, at the time of its conclusion, an integral part of the State of Colombia).</p>	<p>No parliamentary action by Canada. The Agreement is listed as applicable to Canada in the Canadian Department of Trade and Commerce publication "Papers relating to Commercial Arrangements between Canada and Foreign Countries", published in Ottawa by the Government Printing Bureau in 1910.</p>



THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill S-3, An Act to amend the
Canada Shipping Act.

The Honourable Adrian K. Hugessen, Chairman.

No. 6

THURSDAY, FEBRUARY 26, 1959.

WITNESSES:

Mr. J. R. Baldwin, Deputy-Minister of Transport; Captain F. S. Slocombe, Chief of the Nautical Division, Department of Transport; Mr. O. S. Booth, Assistant-Deputy-Minister, Department of Transport; Mr. Leopold Langlois, Q. C., representing The Canada Merchant Service Guild Incorporated; Mr. Paul Gérin-Lajoie Q.C., representing Pilot Organizations.

REPORT OF THE COMMITTEE.



TRANSPORT AND COMMUNICATIONS

The Honourable ADRIAN K. HUGESSEN, *Chairman.*

The Honourable Senators

*Aseltine	Gouin	Molson
Baird	Grant	Monette
Beaubien	Haig	Paterson
Bishop	Hardy	Pearson
Bouffard	Hayden	Power
Bradley	Horner	Quinn
Brunt	Hugessen	Raymond
Buchanan	Isnor	Reid
Campbell	Jodoin	Robertson
Connolly (<i>Halifax North</i>)	Kinley	Roebuck
Connolly (<i>Ottawa West</i>)	Lambert	Smith (<i>Queens-</i> <i>Shelburne</i>)
Dessureault	Lefrançois	Stambaugh
Emerson	*Macdonald	Veniot
Euler	McGrand	Vien
Farris	McKeen	Wood
Gershaw	McLean	Woodrow—(48).
Gladstone	Methot	

50 members

(Quorum 9)

**Ex officio member.*

ORDER OF REFERENCE

WEDNESDAY, January 28, 1959

Extract from the Minutes of the Proceedings of the Senate.

“Pursuant to the Order of the Day, the Honourable Senator Aseltine moved, seconded by the Honourable Senator Brunt, that the Bill S-3, intituled: An Act to amend the Canada Shipping Act, be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

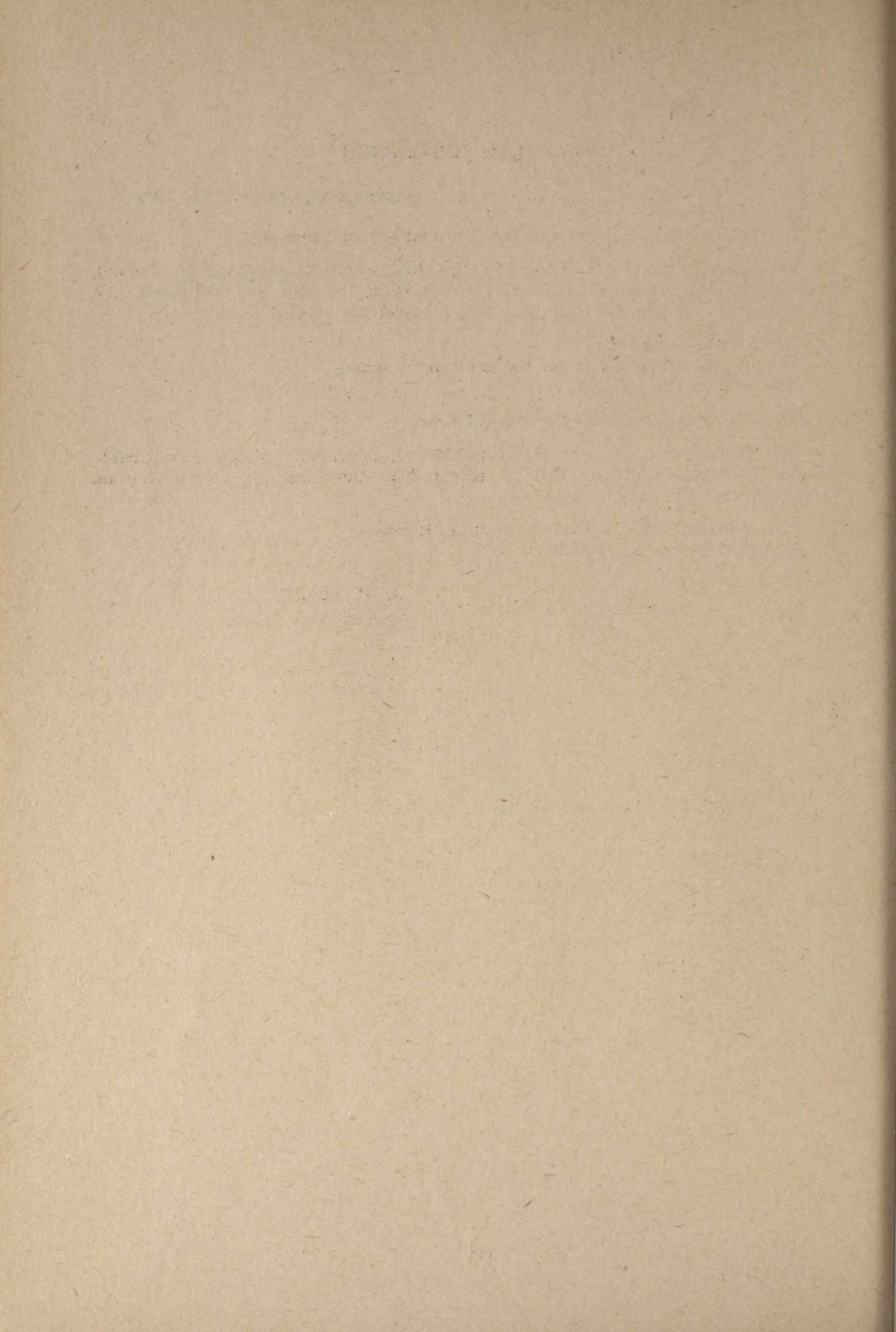
The Bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Emerson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.”

J. F. MacNEILL,
Clerk of the Senate.



MINUTES OF PROCEEDINGS

THURSDAY, February 26, 1959.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.00 a.m.

Present: The Honourable Senators:—Hugessen, *Chairman*; Aseltine, Connolly (*Ottawa West*), Farris, Gouin, Grant, Haig, Isnor, Jodoin, Kinley, Lambert, Lefrançois, Macdonald, Methot, Monette, Power, Reid, Robertson, Smith (*Queens-Shelburne*), and Woodrow—20.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel and the Official Reporters of the Senate.

Bill S-3, An Act to amend the Canada Shipping Act was further considered clause by clause.

Heard in explanation of the Bill were: Mr. J. R. Baldwin, Deputy Minister of Transport; Captain F. S. Slocombe, Chief of the Nautical Division, Department of Transport; Mr. O. S. Booth, Assistant Deputy Minister of Transport.

Also heard: Mr. Leopold Langlois, representing The Canada Merchant Service Guild Incorporated; Mr. Paul Gérin-Lajoie, representing Pilot Organizations.

On motion of the Honourable Senator Power to amend clause 9 of page 5 of the Bill, *line 21*: after the word "size" insert the following:—"not exceeding two hundred and fifty tons, register tonnage," the Committee divided as follows:—

Yeas: 5

Nays: 9

The Motion was declared passed in the negative.

The Question being put on whether clause 9 should carry, the Committee divided as follows:—

Yeas: 10

Nays: 6

The Motion was declared carried in the affirmative.

On Motion of the Honourable Senator Connolly (*Ottawa West*) it was Resolved that the Bill be amended as follows:—

Page 5: strike out clause 8.

It was Resolved to report the said Bill as amended.

At 12.30 p.m. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, February 26, 1959.

The Standing Committee on Transport and Communications to whom was referred the Bill (S-3), intituled: "An Act to amend the Canada Shipping Act", have in obedience to the order of reference of January 28, 1959, examined the said Bill and now report the same with the following amendments:—

1. Page 5: strike out clause 8.

2. Page 6: strike out lines 38 to 40 both inclusive and substitute the following therefor:—

"(3) The Minister may make regulations exempting owners or masters from the requirements of subsection (1)."

3. Page 7: strike out lines 15 to 18 both inclusive and substitute the following therefor:—

"(e) authorizing an officer or pilot holding a pilot's licence issued by the Government of the United States to navigate any of the Canadian waters of the Great Lakes Basin described in his licence, if he is satisfied that under the laws of the United States pilots or officers holding licences or certificates issued by Canada are authorized to navigate the United States waters of the Great Lakes, their connecting and tributary waters, and the St. Lawrence River."

4. Page 7: strike out clause 12 and substitute the following therefor:—

"12. Section 481 of the said Act is repealed and the following substituted therefor:

'481. Steamships not in excess of five tons gross tonnage and not carrying more than twelve passengers, and pleasure yachts propelled by mechanical power but not fitted with boilers for propelling purposes, are exempt from annual inspection and from the regulations made under section 410 except those respecting equipment and precautions against fire.'

All which is respectfully submitted.

ADRIAN K. HUGESSEN,
Chairman.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

OTTAWA, Thursday, February 26, 1959

EVIDENCE

The Standing Committee on Transport and Communications, to which was referred Bill S-3, to amend the Canada Shipping Act, met this day at 11.00 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, I will ask the committee to please come to order. We are still dealing with section 9 of the bill. I believe we have heard all the evidence that was to be tendered with respect to this section. Is the committee now ready to give a decision on section 9?

Senator GOUIN: May I ask a question? I have listened with a great deal of interest to the testimony given by Mr. Baldwin. On one occasion he explained that in the future it would be, so to speak, a test of competency that would determine whether the master or mate of a ship would be given the equivalent of a pilot's licence. He mentioned there would not be any flag distinction, but there is a good chance that the Canadian mariners would know more about the St. Lawrence River than foreign mariners. I would like to ask whether it is not likely that some United States masters and mates would pretend they know a good deal about the St. Lawrence River?

Mr. BALDWIN: Sir, on that point I can only say I believe this is a possibility. We would not accept a pretence, for we would have an examination system. I might supplement that by stating I consider it absolutely essential that we be in a position to deal with this sort of a situation because if we are not able to then the United States could quickly snarl us up in the Great Lakes, if they thought we were being unreasonable at any stage. We feel we have to be reasonable in dealing with this problem and take into account that we want our vessels to sail into United States waters. I would think from the point of view of the possibility of something happening, as I indicated previously, the level of competency in the St. Lawrence River will be so high for any exemption we might ever consider, that relatively few would be able to qualify. Certainly the most likely class would be Canadians. I would agree that next to them, but rather farther down the line, would be the United States.

Senator LAMBERT: Would it be fair to assume that the United States vessels that enter into that channel would employ Canadian pilots just as freely as our own ships?

The CHAIRMAN: Which channel?

Senator LAMBERT: The lower St. Lawrence. That is what the discussion is based on.

Mr. BALDWIN: I would think so, sir. If a United States vessel is required to pay compulsory dues and has to take on a pilot, the pilot will be a licensed Canadian pilot. That is all they can get.

Senator LAMBERT: I gathered from my friend's remarks that there was some distinction between Canadian and American ships travelling in that area as to the choice of pilots.

Mr. BALDWIN: No sir, I don't think so.

Senator SMITH (*Queens-Shelburne*): You referred a moment ago to examination of officers. What form of examination would that be? For example, would all the American captains who might intend to make voyages in these waters and pilot their own vessels have to present themselves for an examination?

Mr. BALDWIN: Yes, sir. I have emphasized throughout that I think the likelihood of exemptions in the lower St. Lawrence and lower districts is a very small one, and so small that we have not attempted even as yet to set down the standards that we would require for an exemption; but I can say that if they were so set down it would require a personal examination of the individual, as well as standards of experience and proof of competency, and so on.

The CHAIRMAN: For practical purposes, the only question where American pilots might come in would be in the Montreal-Kingston area or above Kingston; is that it?

Mr. BALDWIN: As far as the U.S. licenced pilots are concerned, yes, I think that would be true. The problem in answering your question, sir, is that they do not have any U.S. licenced pilots as such. The pilot's licence in the U.S. is issued actually to the master of the ship or the first mate.

The CHAIRMAN: You cannot see any likelihood of a change in the present system between Montreal and Father Point, where the licencing is done exclusively of Canadian pilots?

Mr. BALDWIN: No, I can't.

Senator CONNOLLY (*Ottawa West*): Except to this extent, Mr. Chairman, that perhaps if American ships engaged in coastal trade in that area should apply for exemption from the payment of compulsory pilotage dues—and I would like to get assurance from the department on this—then, I suppose if the department was going to consider that they would apply the same standards in the examinations for American masters and mates making application for the equivalent of a pilot's licence as they would to Canadian ship masters and mates who might be plying on the same waters?

Mr. BALDWIN: Oh, most certainly.

The CHAIRMAN: Well, I think that is a most satisfactory assurance, is it not?

Senator CONNOLLY (*Ottawa West*): I think so, sir.

Senator LAMBERT: What occurs to me at this very moment, as an instance, is that there might be increasing traffic to Seven Islands. Those ships would be divided between Canadian and American ships, I suppose?

The CHAIRMAN: Yes.

Senator LAMBERT: So that a very practical working relationship should be arranged?

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): May I add this, Mr. Chairman? These pilots, and the pilot association, do perform most valuable service. Everybody acknowledges that.

The CHAIRMAN: Oh, yes.

Senator CONNOLLY (*Ottawa West*): I would imagine that a certificate of competence that might be issued to such captains would be based upon a

severe examination, that their competence would have to be as high as the competence of the pilots engaged in the pilotage district in question?

The CHAIRMAN: Well, that is what the deputy said.

Senator LAMBERT: Yes.

Senator CONNOLLY (*Ottawa West*): I was only talking about comparative qualifications of Canadian and American masters and mates; and now I am talking of masters and mates, on the one hand, and pilots on the other hand; that is to say, as to the standards to get the departmental licence.

Mr. BALDWIN: I am not quite sure, again, that I can answer the senator as fully perhaps as he would like, because I find it is a little hard to determine exactly what he means by "competence."

Senator CONNOLLY (*Ottawa West*): Well, the standards you apply to the masters and mates, whether Canadian or American, if you are going to give them licences to operate there without compulsory payment of pilotage dues in certain cases, would be as high as the standard you would apply for certificates that are issued.

Mr. BALDWIN: Generally speaking, my answer would be, yes, although not identical as far as the background training is concerned; in other words, apprenticeship, 15 years training, and so on; but otherwise we would have to maintain, I would think, the general level of competence.

Senator KINLEY: And local knowledge.

Mr. BALDWIN: Certainly that is the most essential feature of the whole thing.

Senator KINLEY: Mr. Chairman, for the last few days we have been talking about section 9, and the objections, as I understand it, are that foreign ships would be allowed to have certain exemptions in Canadian ports. Now, there must be a reason why we want to change this section, and for the provisions of the section. In looking for an answer as to why it is being done, I find that the Department of Transport says, as appears in the explanatory notes of the bill, as follows:

The granting of exemption from the compulsory payment of pilotage dues to British ships only is discriminatory against ships of other countries and in many cases is in violation of long-standing treaties with other nations.

Now, from discussion here during the past few days it would appear that we were trying to show that Canada was at fault; but the explanation we get here is that the British ship is the one that is causing the trouble. Now, we naturally ask the question, where does that come from, that is, where does the complaint come from? Naturally, knowing something about these things, we would say the United States, because they are going to become a partner in the Great Lakes and inland shipping of Canada; the opening of the St. Lawrence waterway will open a new phase in navigation, and naturally they would complain. I do not know that they have, but that is what I think.

Senator FARRIS: You mean, complained with regard to treaties?

Senator KINLEY: Complained that the British have got a preference. This is what they did. They claim that the pilotage dues in respect of British ships only is discriminatory against ships of other countries. That is part of the answer to the question why they want this legislation.

Senator CONNOLLY (*Ottawa West*): That has been the evidence, in any event.

Senator KINLEY: It has, so to speak, kind of got into our minds that Canada would be at fault, that Canada is at fault because there are obscure

treaties with countries like Poland, where we never send a ship, and the only reason for the treaty would be that we want to sell them something and they would carry the goods, so we trade away our marine rights for the purpose of getting more business.

Senator LAMBERT: May I ask Senator Kinley why he presumes, from what he says, that the objection to this comes from the United States.

Senator KINLEY: I think, naturally.

Senator LAMBERT: What evidence have you to that effect?

Senator KINLEY: Well, I will put it this way: if it does not come from the United States it can be denied.

Senator LAMBERT: I will deny it now, because I happen to know that one of the strongest exceptions taken to the British coming in was from an outstanding and representative line of Canadian ships operating in the Great Lakes.

Senator KINLEY: I am talking about outsiders. I will come to that in a moment. I perfectly agree with you on that. When I am saying "other countries" I am not talking about our own people. Let me show you the extent of this treaty, passed in 1932.

Senator CONNOLLY (*Ottawa West*): What treaty is this?

Senator KINLEY: This is the Commonwealth Merchant Shipping Agreement.

Senator CONNOLLY (*Ottawa West*): In 1931.

Senator KINLEY: Yes. It was passed concurrently with the Statute of Westminster.

This treaty shall apply to all territories administered by the Government of any part of the Commonwealth and to ships registered there and to any foreign port of registration on fulfilling the requirements as to ownership set out in article 2 (1).

Now, that is quite a privilege. We do find in Canada shipowners who want to preserve this agreement because they can operate their ships more cheaply. Now it is getting so that we find that the marine interests in England are complaining about registrations of convenience, and they talk about Liberia and Panama and all these others. So it is only a matter of degree; they are offenders just as much as all the rest.

Now, to come to what my friend the senator asked earlier: I have got here the submission of the Dominion Marine Association, which as you know, is an association of the shipowners on the Great Lakes down to the Gulf of St. Lawrence; and here is appendix 1, a detailed proposal to be embodied in a treaty with the United States. You will remember that External Affairs Department representatives yesterday said that they had no knowledge that the United States would like us to combine with them in an agreement between Canada and the United States in so far as marine interests are concerned in the Great Lakes. This is very probably what they are putting up to their Congress, and which, as Senator Farris rightly said, cannot become law until the Senate of the United States passes it.

No vessel other than a vessel of the United States of America or a Canadian ship as hereinafter defined shall engage in the transportation of goods by water between a port or place in the United States of America and a port or place in Canada, within the Great Lakes, where the ports of loading and discharge are within the Great Lakes. In this treaty, "Great Lakes" means Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan and Superior, their connecting and tributary waters,

including the River St. Lawrence as far seaward as a straight line drawn from Cap des Rosiers through West Point Anticosti Island extending to the north shore.

(a) "Vessel of the United States" means a vessel built in and documented under the laws of the United States.

(b) "Canadian Ship" means a ship registered in Canada either under the provisions of the Canada Shipping Act or under the provisions of the Merchant Shipping Act before the 1st day of August 1936; and after a date to be proclaimed shall include only those ships and vessels built and registered in Canada.

These clauses have been agreed on by the Canadian and United States Associations as embodying their views, and the Lake Carriers' Association have submitted these views to the Executive of their Government.

The Lake Carriers' Association is the American opposite number of the Canadian Association.

Now, when I spoke in the chamber on second reading of this bill I said I thought the British Empire Agreement was likely the obstacle that brought about the amendment in clause 9 of this bill. The agreement has been kept going for all these years, and this brief that I am reading from indicates that it was never intended that this agreement should have been carried on for all this time. It was an agreement that was entered into many years ago, and times have changed, Canada has grown larger, and in that growing period Canada has lost her merchant marine. Canada has no merchant marine today because of the fact that this treaty puts the operation of our merchant marine in the hands of foreign countries where low wages are paid. Now I can quite understand that certain vessel owners would like to register their ships in England, even the big companies do that. But I am not concerned so much about that. What I am concerned about as a Maritimer is that Maritime citizens should have the opportunity to serve upon the sea in Canadian ships. That opportunity has passed away. Maritimers were great sailors in the days before Confederation, and now, by reason of the changes, we have no such opportunities. As a matter of fact we are the only element in this country which is not protected and cannot maintain our people on the sea. We are told our ships cost more to operate. This is because we maintain a higher standard.

Senator LAMBERT: They cost more to build too.

Senator KINLEY: Yes, and I will come to that later. Then, too, insurance costs more in Canada. Lloyd's of London have a monopoly on that business, and marine insurance costs more in Canada than it does in England.

We are also told that Canada cannot operate ships today because wages are too high. Well, I do not know about that. I find that sailors are paid about \$1 an hour. When this is figured out, they work eight hours a day and have to be on call, when the ship is at sea, for sixteen hours. In addition to that they are away from their families. I submit, that in this country a man who works on the sea should receive wages comparable to the man who works on shore. What semi-skilled workmen are there ashore in Canada who work for less?

Senator FARRIS: Senator Kinley, I agree with you but what has it got to do with what we are discussing here?

Senator KINLEY: I want to put the situation clearly on the record because this is another invasion of the rights of Canadian shipping, the fact that foreign ships will come in here without paying pilotage dues. Just look at

the wages that a Canadian seaman gets. He doesn't get as much or certainly no more than a man of the same qualifications working ashore. Every other industry in Canada is protected. For instance, if our textile industries can't compete with say that of Japan, then tariffs are raised immediately, and so on. For 30 years the merchant marine of Canada has been facing world competition and they cannot stand it any longer. We will have no merchant marine in Canada and no merchantmen working upon the sea if this treaty is continued.

Let us get down to the facts. I was asked about shipbuilding costs. The high cost of building a ship in Canada compared with the cost of building the same ship in Europe is almost entirely due to the high-cost standards of living in Canada, resulting in higher material costs. Of the total cost of building a new vessel in Canada, more than 60 per cent of the cost is paid in wages—that seems high to me—not only to the shipyard workers, but also in prices paid to Canadian makers of machinery and equipment. The average hourly wage of British shipyard workers is 50 cents. The average hourly wage of German shipyard workers is 39 cents. The average hourly wage of Canadian shipyard workers is \$1.30 to \$1.87, depending upon geographic location of the shipyard. We cannot build ships at the same cost as other countries and we either will have to stop building ships or get some consideration from the authorities.

Senator LAMBERT: What does it cost in the United States?

Senator KINLEY: The costs are higher.

Senator LAMBERT: Higher than ours?

Senator KINLEY: Yes, the wages are higher anyway. Wages is not the only consideration. The United States has a bigger turnover than we have. The replacement of men with equipment also enters into the picture.

As to the operating costs of Canadian vessels, the Canadian Maritime Commission in its sixth report issued on June 29, 1953, shows the estimated daily operating costs for 10,000 tons deadweight standard war-built vessels, ocean type, excluding fuel and depreciation.

The information appearing in the Maritime Commission's report is as follows:

Vessel Expenses	Canada Ocean Vessel	United Kingdom Ocean Vessel	Canada Lake Vessel
Total Wage Cost	\$316.50	\$140.50	\$324.00
Subsistence	66.00	48.00	70.00
Stores and Supplies	66.50	52.50	75.00
Repairs and Maintenance (including provision for surveys)	160.00	123.50	166.00
Insurance	129.50	119.00	134.00
Management	62.00	46.00	62.00
Sundries	15.50	14.00	20.00
	<hr/>	<hr/>	<hr/>
	\$816.00	\$543.50	\$851.00
	<hr/>	<hr/>	<hr/>

I would point out that the differential between \$52.50 in the United Kingdom and \$75.00 in Canada as to stores and supplies might be explained by the fact that our seamen are fed better. They do not feed the seamen as well on the British ships. I know this for a fact because members of my family have served on British ships.

Senator HAIG: What has this to do with the bill before the committee?

Senator KINLEY: It has plenty to do with it. The differential between \$46 in the United Kingdom and \$62 in Canada with respect to the item of management may be explained by the fact that they have more ships in the United Kingdom and the costs are distributed. Now, England is losing out a little with respect to this registry of convenience because she is finding that places like Nigeria, where they have lower living standards, can register ships there which can still be operated by owners in Canada. That does not do much for Canadian seamen.

The point is that we are in a state of flux at the moment. We are dealing with the Americans. You can see what they think about this thing. The St. Lawrence Seaway is going to open soon and it seems to me to be an inopportune time to bring in this section. However, the Government has decided they want it and far be it from me, without having more information, to say they should not have it in an administration bill. But I do say that the whole structure of our merchant marine is wrong. We are now getting some new friends up in the lakes. They were landlocked for some time and they did not worry. They were safe, but they are going to start worrying now. So we are making new friends and we will become stronger. But I would like the committee to know that in so far as the merchant marine is concerned the Maritime provinces have lost something which was their natural industry, and today the whole thing is in a state of disorder.

The CHAIRMAN: Is the committee ready to vote on section 9?

Senator SMITH (*Queens-Shelburne*): I do not want to delay the committee but I have another question. It will not take long. As I understand it subsection (2) with respect to the port of St. John's actually derogates from the provisions of subparagraph (i) of subsection (1). I also understand it has to do with compelling the larger fishing vessels, those of more than 250 tons, to pay pilotage dues. I also understand that at the present time Canada has not got any trawlers or fishing vessels over 250 tons and therefore it will not affect us. So it would appear that it is aimed directly at the foreign vessels. I find nothing wrong with that. I agree with that, but my question is related to what would happen if those large foreign fishing vessels for one reason or another decided to make Sydney, Nova Scotia, their port for getting supplies, and so on. Under what part of the act could the Department of Transport compel those same fishing vessels, which might go into Sydney harbour in large numbers, to pay pilotage dues?

Mr. BALDWIN: Our legal interpretation of the previous subparagraph (i) "ships engaged in fishing", is that it is one of the classes which we have the right to withdraw the exemption on.

Senator SMITH (*Queens-Shelburne*): I thought you said yesterday that the word to watch carefully was "employed"?

Mr. BALDWIN: Yes, and "engaged" is regarded as "employed".

Senator SMITH (*Queens-Shelburne*): That explains it.

Senator REID: We are dropping subparagraph (iv) "ships employed in voyages between any port in the province of British Columbia and the port of San Francisco..." My question to the Deputy Minister is this: are the pilots operating ships between San Francisco and the British Columbia coast paying pilotage dues and, if so, will the elimination of this subsection (iv) mean that they will be called upon to pay pilotage dues? As I understand it, you are dropping the subsection?

Mr. BALDWIN: Yes.

Senator REID: And the group under subsection (iv) is exempt from pilotage dues.

Mr. BALDWIN: They would not in future be exempt unless a specific exemption was granted under subsection (c) above. It would apply primarily to U.S. ships, because the only ships in that trade at the moment are U.S. ships.

Senator REID: They would not be exempt?

Mr. BALDWIN: That is right, unless granted a specific exemption under one of the preceding clauses.

Senator HAIG: Question.

The CHAIRMAN: Is the committee ready to vote on clause 9? Shall clause 9 carry?

Senator GOUIN: I am against it.

Senator POWER: Mr. Chairman, I would like to move an amendment to subsection (c). I move an amendment, that subsection (c) be stricken from the bill, and that, I take it, would mean that the old subsection (c) would be reinstated?

The CHAIRMAN: Whatever form your amendment takes, the old subsection would be reinstated.

Senator POWER: Yes. That means that subsection (c) would refer to vessels not exceeding 250 tons.

Senator FARRIS: May I bring to your attention that the beginning of clause 9 says that section 346 is repealed?

Senator POWER: Then I would change the tenor of my amendment by re-inserting, in line 21 of page 5 of the bill, after the word "size", the words, "not exceeding 250 tons register tonnage".

Senator HAIG: What will that mean?

Senator POWER: That will mean largely that it will be more difficult for the pilotage authority or for Her Majesty to exempt vessels of a burden of over 250 tons.

Senator HAIG: What does the Deputy Minister say?

Mr. BALDWIN: Well, from the point of view of the departmental officials, I can only say that this would nullify one of the primary objectives of this clause. I have given previously the reasons why we consider this as very important for administration purposes. It will enable us to deal more fully with both shipping and pilots. You have the broader right of exemption, which in no way affects in our planning either the safety of navigation or the welfare of pilots. The amendment proposed by the honourable senator would nullify one of our primary objectives.

Senator MACDONALD: Do I understand you to say that one of your primary aims is to ease the administration?

Mr. BALDWIN: One of our primary aims is to acquire for the Governor in Council a flexible right to deal with exemptions, by increase as well as by withdrawal, on grounds of competency; and the honourable senator's amendment would limit that right by the insertion of "250 tons". We would not have regard to anything over 250 tons, which would in effect make it meaningless.

Senator POWER: It would leave matters as they are today with respect to those over 250 tons. Am I right in that?

Senator CONNOLLY (*Ottawa West*): What you are talking about among other things, as I understand it, are the larger vessels engaged in the coastal trade, and that under the amendment as it is now proposed in section 9 of the bill the Governor in Council would have a more flexible power to exempt from compulsory payment of pilotage dues these larger vessels employed either in the coastal trade or in the foreign trade; but I suppose primarily you are thinking of the coastal trade?

Mr. BALDWIN: If you are thinking of the St. Lawrence area, I would say probably yes. The honourable senator's amendment, for example, would make it impossible to deal with the United States in the St. Lawrence area and could lead to retaliation on the part of the United States in that regard. But I would point out that this is a general amendment, and that there are nine other pilotage districts in Canada, and we should have some say with regard to them as well.

Senator CONNOLLY (*Ottawa West*): I appreciate that; but our main concern in this bill, I think, and most of the evidence has been taken with regard to it, is the St. Lawrence basin; and what you say, I take it, in effect, Mr. Deputy Minister, is this, that with the new arrangement that comes to that basin as a result of the seaway the Americans are going to have rights there which are going to impinge upon our vessels, our coastal trade vessels of more than 250 tons. You also want to be able to deal with the same problem in respect of their vessels of that size?

Mr. BALDWIN: That is correct, sir.

Senator HAIG: Question.

Senator SMITH (*Queens-Shelburne*): I do not think we should decide this right away. I think it would be helpful to the committee if someone, say Captain Slocombe, would indicate to the committee the size of a ship in length, and so on, that would be about 250 tons, so that the committee will understand how relatively small a vessel of 250 tons is.

Captain SLOCOMBE: They are quite small, sir; not more than 100 feet long, I imagine. Maybe Senator Kinley could say better than I, because he knows more about small vessels.

Senator SMITH (*Queens-Sherburne*): I know that, but I thought perhaps it should come from you. A vessel of 250 tons is rather a small vessel, and it is getting that limit down pretty far.

Captain SLOCOMBE: Yes.

Senator SMITH (*Queens-Shelburne*): I am wondering if the powers bestowed on the department should not be a little greater.

Senator POWER: With respect to the argument of Senator Smith, may I point out that, on the other hand, a vessel of 10 or 20 thousand tons is a pretty big vessel to be navigating in a channel hardly more than 600 feet wide where the draught is, I think it was said here in evidence, 38 feet, and the vessel comprised about 27 to 30. So that if the department gets the right to exempt that size of vessel, then it is more serious than exempting anything over 250 tons. If the department is willing to say 1,000 tons—

Senator KINLEY: 250 tons is pretty big for a wooden ship, but a lot depends on whether it is gross or net tonnage.

Mr. BALDWIN: This is net registered.

Senator CONNELLY (*Ottawa West*): I suppose this is a foolish question to ask, but what is the average size of these lakers that are engaged in the coastal trade?

Captain SLOCOMBE: About 1,250 tons net; that is the canal size vessel as presently existing.

Senator POWER: I have no objection, then, to saying 1,000.

The CHAIRMAN: You want to change your amendment to read 1,000 tons, senator?

Senator POWER: Not particularly. I would prefer to leave it as it stands.

The CHAIRMAN: Is the committee ready to vote on Senator Power's amendment?

Senator MACDONALD: This is quite an important question. I am quite impressed with what the deputy said that it might lead to—what was the term you used, Mr. Deputy?

Mr. BALDWIN: Retaliatory measures.

Senator MACDONALD: Retaliatory measures by the United States. That gives me some concern. We are having so many difficulties with the United States. First we start off with a 15 per cent trade diversion. Then they cut off a portion of our oil. Now we are having this dispute with them about airplanes—whether they should be built in the United States or Canada. It seems to me that if the statement of the deputy is correct, we are just adding fuel to that slight spark of differences that we have with the United States, and I don't want to fan that slight spark.

Senator POWER: Dealing with that international aspect of the situation, I would say this, that over a long period of years on many occasions when legislation has been introduced to Parliament, and it was difficult to understand, very often people would come to us and say, "Hush, hush! That is to give us bargaining power in the treaty we are about to make." Now, in this particular thing, if we are going to deal with the United States unilaterally, we are throwing away all our bargaining power, and we are saying, "You come to us, we are giving you this in advance." Why not keep whatever we have in bargaining power and say, "That is all right, we probably agree with you, but we have to go back to Parliament." That will give you something to talk about, instead of just saying, "Walk in, boys, take our shirts."

Senator KINLEY: Senator, you are just putting back in the act the 250 tons that is in the present act.

Senator POWER: That is so.

Senator KINLEY: To let that stand.

Senator POWER: Let that stand.

Senator CONNOLLY (*Ottawa West*): I do not like to argue with my learned confrere on my left, but we did amend another section and we mentioned it last night; and I wonder whether we could refer to it now. The amendment was to the effect that if there were to be any arrangements made between Canada and the United States in respect to these exemptions they had to be reciprocal.

The CHAIRMAN: Yes.

Mr. BALDWIN: It is written in sub-section 4, paragraph (e) now.

Senator CONNOLLY (*Ottawa West*): I wonder if that amendment could be read. It may solve Senator Power's problem.

The CHAIRMAN: It is an amendment to section 11 of the bill, subsection (4) on page 7: paragraph (e) on line 15, We give the Governor in Council the power to make certain regulations; and (e) we change to read:

Authorizing an officer or pilot holding a pilot's licence issued by the Government of the United States to navigate any of the waters of the Great Lakes Basin described in his licence if he (that is the Governor General) is satisfied that under the laws of the United States pilots or officers holding licences or certificates issued by Canada are authorized to navigate the United States waters of the Great Lakes, their connecting and tributary waters, and the St. Lawrence River.

That was the reciprocal provision we put in.

Senator FARRIS: I do not think that quite covers the position.

The CHAIRMAN: Of course, senator, this subsection (e) of section 346 as proposed leaves it wide open to the Governor in Council to make such regulations as he sees fit, and he may well say, "We will only make that exemption of such vessels if the other authority does the same."

Senator FARRIS: What rather puzzles me is Senator Power's statement that we are showing our hand or committing ourselves before the event. All we are doing is to take power to treat with them. It is true the argument the other way might be, "What you are asking is pretty tough; we may have to go back to Parliament".

Senator CONNOLLY (*Ottawa West*): I think that is a very valid point, and I think so for this reason. I suggest that you do find in your dealings with the Americans that they have lots of legislation that interferes with some of their treaty-making rights. Senator Farris referred to some of these already. Now perhaps if we are interested in a liberalization—if that is not a bad word—of trade, it is the part of wisdom on our part to make the position more flexible for the Government than it has been.

Senator FARRIS: That is the idea I have in mind.

The CHAIRMAN: Is the committee ready to vote on Senator Power's amendment? You realize that what he proposes to do is to reinsert in line 21, subparagraph (c) subsection 1 of section 346, what is appearing in the present subsection: "Not exceeding two hundred and fifty tons, register tonnage." Those in favour of the amendment?

The CLERK OF THE COMMITTEE: Five.

The CHAIRMAN: Against the amendment?

The CLERK OF THE COMMITTEE: Nine.

The CHAIRMAN: The amendment is lost. Is the committee ready to vote on section 9, or are there further amendments?

Senator GOUIN: I intend to vote against it; and I would ask for an "extra" vote.

Senator MACDONALD: With regard to section 9, I would like the deputy in a few words to tell the committee what position the department would find itself in if we left the section as it now is in the act. At the moment I am not clear about the importance of passing this section, and I would like to know what would happen if we did not pass it.

Mr. BALDWIN: It is a difficult order to do it in a few words, senator, but I will do my best. If the section as proposed for amendment is not passed, and it remains as presently drafted, the first thing that would be an objection would be that the clause would remain as it now is in violation or out of line with certain of our international treaties.

This was primarily the Department of External Affairs' case, and I do not intend to make it again myself, but that is one very serious and valid objection which they have put forward and which the Government has seen fit to agree merits acceptance. The second one, which is primarily of concern to the department, is that the matter of pilotage is a very important operation in the marine field. At the moment the clause as drafted leaves the Government not exactly hamstrung but at least with a limited amount of authority to deal with the question on grounds of competence. We have several objectives or responsibilities in the department. One is to maintain safe navigation, and this is why pilotage in some areas is necessary. Equally we have a responsibility to ensure that shipping does not suffer any economic burdens unless those burdens are essential in the interests of safety; and under the clause as presently drafted the policy of the Government to deal particularly with that second objective is very definitely limited. Thank you, sir.

The CHAIRMAN: Shall section 9 carry? You want a recorded vote, senator?

Senator GOUIN: I want a recorded vote.

The CHAIRMAN: All in favour of section 9?

The CLERK OF THE COMMITTEE: Ten.

The CHAIRMAN: Contrary-minded?

The CLERK OF THE COMMITTEE: Six.

The CHAIRMAN: The section carries.

Now we proceed, gentlemen, to section 8, which is the last section we have to deal with. I am afraid that I was ill-informed in the comments I endeavoured to make about section 8. I did not appreciate that there was more to the objections to section 8 than what I then said. I thought it was merely more or less an objection of pride and prestige, that the Montreal and Quebec people wished to keep something called the Montreal pilotage district and something called the Quebec pilotage district, and not to give the Governor in Council the right to abolish that district and call it something else if he wanted to. We heard from Mr. Gerin-Lajoie yesterday evening that the real objection which the pilots' associations take to the proposed amendment to section 8 is that they consider that they have vested rights of a kind in the present districts as they are delimited in sections 322 and 323 and under certain previous legislation, which they consider still to be in effect, or, under orders in council passed under that previous legislation, compulsory pilotage dues become payable in those districts, and that if any change is made in those districts then they might fall under section 326 of the act, under which the Governor in Council may abolish compulsory pilotage dues in any district which he has himself created.

That, I gather, was the nub of the objection. I hope I have stated it correctly for you, Mr. Gerin-Lajoie?

Mr. GERIN-LAJOIE: That is quite right Mr. Chairman.

The CHAIRMAN: Mr. Langlois, have you anything you wish to add to that? You heard what Mr. Gerin-Lajoie had to say. Have you anything you would like to say? Do you take the same position as he does?

Mr. LANGLOIS: Yes, Mr. Chairman.

The CHAIRMAN: Is there anything you wish to add to that, because I think we should have the position of the pilots on this section 8, if we have not got it already. Have you anything to add

Mr. LANGLOIS: I am in full accord with Mr. Gerin-Lajoie in this respect and in any event I partly explained my position on it when I dealt with clause 9 of the bill.

The CHAIRMAN: Yes, you referred to certain other statutes which you said supported your position that the pilots have these acquired rights in the compulsory pilotage district of Quebec.

Mr. LANGLOIS: And, Mr. Chairman, if the proposed amendment is passed it does away completely with the special position created in favour of the pilotage districts of Quebec and Montreal under sections 322 and 323 of the act.

The CHAIRMAN: Yes.

Senator MACDONALD: Was an amendment suggested, Mr. Chairman?

The CHAIRMAN: I have suggested an amendment which does not take account of the position of the pilots. Has the department anything to say on the legal position? Apparently there is some question as to the acquired rights of the pilots in the Montreal and Quebec districts. Have you anything to say on this, Mr. Baldwin?

Mr. BALDWIN: Yes, Mr. Chairman, we in the department are quite anxious to recognize the position of the Quebec and Montreal districts in this particular context and would certainly not object to an amendment along the lines you yourself suggested last night, but we do consider an amendment of that sort is a sort of minimum we require because of the legal position that you have mentioned. With your permission I would like the Assistant Deputy Minister, Mr. Booth, to make a statement on that since he has been looking into it overnight.

Mr. C. S. Booth, Assistant Deputy Minister, Department of Transport:

Mr. Chairman, in the revised Statutes of Canada, 1927, chapter 186, which was the Shipping Act at that time, section 455 provided.

Every ship which navigates within either of the pilotage districts of Quebec, Montreal, Halifax or St. John, or within any pilotage district within the limits of which the payment of pilotage dues is, for the time being, made compulsory by Order in Council under this Part shall pay pilotage dues . . .”

The relevant part for this discussion is.

“Every ship which navigates within the pilotage districts of Quebec or Montreal shall pay pilotage dues.”

That was in 1927.

In 1934, the Shipping Act was amended and the reference to Quebec, Montreal, Halifax and Saint John was deleted, and with the exception of some minor verbal changes the section was the same then as it is now. The section was 337 in 1934, chapter 44. It is now section 345. It reads:

Every ship which navigates within any pilotage district within the limits of which payment of pilotage dues is, for the time being, made compulsory under this Part of this act shall pay pilotage dues . . .

In other words the specific reference to Quebec, Montreal, Halifax and Saint John was deleted. And there is in that section no reference at all to Quebec and Montreal. It is not applicable to Quebec and Montreal because these districts are not created pursuant to Order in Council.

Senator CONNOLLY (*Ottawa West*): Before you go any further, Mr. Booth. What was the section in the 1927 legislation?

Mr. BOOTH: Section 455.

If I understood Mr. Langlois correctly, he relied upon two other provisions to maintain the traditional existing right of Quebec and Montreal Districts to compulsory payment. The first is section 718 of the 1934 act which is in the marginal note described as the “survival notwithstanding repeal section”. It says:

All rules, regulations, by-laws, ordinances and orders, all actions, suits and proceedings, all offices and officers, all rights and obligations . . .

And I think for our purpose it is probably obligations—in other words, the obligation to pay compulsory dues—that is relevant in this context.

I continue:

. . .all unfinished affairs and all things whatsoever which proceed from or depend upon any act which is repealed by this act shall survive such repeal and continue as if originally proceeding from or dependent upon this act until and after action with relation thereto is had or taken under this act.

Mr. Chairman, that is rather complicated. If I may illustrate, the previous Shipping Act having been repealed there was a lot of outstanding orders and all sorts of things which had to be maintained during the transitional period. In other words new orders had to be passed and so on; it was essentially a transitional order.

Senator FARRIS: That section is not in the present act?

Mr. BOOTH: I was coming to that later. In the 1952 Consolidation, the Revised Statutes of Canada, Chapter 67, which is an act respecting the Revised Statutes of Canada, provides in section 7(2) as follows:

...on, from, and after such day...

That is the day of proclamation

...all the enactments in the several acts and Parts of acts in schedule A above-mentioned shall stand and be repealed to the extent in the third column of the said schedule A.

And schedule A refers specifically to chapter 44, Canada Shipping Act of 1934, and it says the whole of this act is repealed with the exception of certain specified sections, and actually the last section that is in that long list is section 478. In other words, section 178 of the 1934 statute disappears, so that even had there been a carryover under this survival section, which in my opinion was not the case, certainly with the repeal of this section 718, when it went into the revised statutes of 1952, it was completely out and of no effect.

Senator FARRIS: Have you considered the interpretation section in that regard?

Mr. BOOTH: I have, Senator Farris, and I checked with Mr. Langlois this morning and he told me he was relying on section 19, subsection (1)(b). This is what it says:

Where any act or enactment is repealed, or where any regulation is revoked, then, unless the contrary intention appears, such repeal or revocation does not, save as in this section otherwise provided, (b) affect the previous operation of any act, enactment or regulation so repealed or revoked, or anything duly done or suffered thereunder.

The CHAIRMAN: It uses the words "the previous operation".

Mr. BOOTH: It seems to me, Mr. Chairman, that those are the key words, and certainly there is no previous operation here.

Senator FARRIS: What about a previous order in council?

Mr. BOOTH: The operation of it is up to a certain time, but it does not carry on the operation of it.

Senator CONNOLLY (*Ottawa West*): This is the key thing. I think, Mr. Chairman, it might be helpful if Mr. Booth read that section of the Interpretation Act again.

Mr. BOOTH: Yes. Section 19, subsection (1)(b):

"Where any act or enactment is repealed, or where any regulation is revoked, then, unless the contrary intention appears, such repeal or revocation does not, save as in this section otherwise provided, (b) affect the previous operation of any act, enactment or regulation so repealed or revoked, or anything duly done or suffered thereunder."

Senator CONNOLLY (*Ottawa West*): How do you apply that to this case? Obviously Mr. Langlois says, despite the repeal in 1934 and the 1954 action when the Revised Statutes were passed, that the previous section, which was section 455 in the 1927 legislation, still followed. That is what he says.

Mr. BOOTH: The Interpretation Act says that the repeal of the 1927 act shall not affect the previous operation. There is nothing previous about what we are trying to do now.

Senator FARRIS: The only thing seems to be whether or not an order in council passed under the original act is a previous operation.

Mr. BOOTH: The original act itself specifically said that there shall be compulsory payment. It was not a question of an order in council. Actually, an order in council was passed approving bylaws pursuant to that, but the substantive provision was in the act itself.

Senator REID: Do I gather from what you have said that section 455 of 1927 is no good now?

Mr. BOOTH: Well, sir, to the extent that it was repealed and re-enacted, and in the re-enactment the names of Montreal and Quebec and Halifax were omitted. It therefore must be assumed that Parliament intended to omit them and Parliament made no alternative provision. It rather looks like an oversight, but it is only an opinion.

Senator FARRIS: So far as Quebec and Montreal are concerned would it not be desirable to restore the provision that has been left out?

Mr. BOOTH: Apart from the historical aspect, which of course is important, it would seem to be desirable that so far as it is practicable we should have uniform legislation in respect of all our pilotage districts. There is no reason, apart from the maintenance of these historical districts, for according different treatment to those two districts so far as the legislation is concerned.

Senator FARRIS: Mr. Chairman, I would have thought that those interested in this historical aspect of the question would not have been content to rely merely on that interpretation section, for I doubt very much if that is in their favour. I would have thought they would have come in with an amendment reaffirming what was in the statute before.

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): In other words, what you are suggesting, Senator Farris, is that the people who are acting for the pilots might have a stronger position if they asked for an amendment to section 345 to bring it into line with the 1927 legislation?

Senator FARRIS: Yes. I would not introduce it myself because I am from the west coast and I am not particularly concerned with it, but it would seem to me to be the logical way to approach it.

Senator CONNOLLY (*Ottawa West*): I would think so too. I wonder if Mr. Langlois would dispute what Mr. Booth has said.

Senator FARRIS: My opinion is that the two districts are better off under this amendment than in relying on the interpretation section.

The CHAIRMAN: Yes, I think they would be.

Senator CONNOLLY (*Ottawa West*): I agree with that, particularly in view of the declared policy of the department. Is that what you are relying on, Senator Farris?

Senator FARRIS: They have something here in the amendment that at least would enable them to go to the department and ask that these two districts be protected. But if they are relying on the old act to protect them, then I do not think the section in the Interpretation Act helps them. It seems to me they ought to accept this amendment or come forward with a re-enactment of that provision in the 1927 legislation that has been left out.

The CHAIRMAN: On the one hand they are relying on something that is quite ambiguous.

Senator FARRIS: At least that.

The CHAIRMAN: Yes, at least ambiguous; and yet on the other hand, under section 324, they could go to the department and say, "We want you to establish our districts as compulsory payment districts."

Mr. BALDWIN: I should say we intend to do this now that we have discovered this strange 1934 anomaly. We intend, under the amending section, if it is passed, to re-establish those districts as compulsory pilotage dues districts, for we believe they ought to be.

Senator ASELTINE: Hear, hear.

Senator ISNOR: Including Halifax.

Mr. BALDWIN: Yes.

Senator FARRIS: I think they would be a lot better off under that than they would leaving the law as it was.

Senator CONNOLLY (*Ottawa West*): That is an undertaking for you, Mr. Langlois.

The CHAIRMAN: Does that satisfy everyone? You have the assurance of the department, Mr. Langlois, that it is going to re-establish the districts as compulsory pilotage districts.

Mr. LANGLOIS: If I understood Mr. Baldwin correctly, the department is going to propose an amendment. Is that so, or is it just an assurance?

Mr. BALDWIN: It is an assurance I gave with regard to the proposed section 324. The matter of the amendment is one that is in the hands of the Chairman.

The CHAIRMAN: The only purpose of the amendment I suggested yesterday evening was an historical one of preserving the Montreal pilotage district and the Quebec pilotage district, which I thought we could achieve simply by leaving the present section 324 as it is, calling it subsection (1) and then enacting a new subsection (2) to the present section 324, and saying:

"Within the limits of the pilotage districts of Quebec and Montreal, as set out in sections 322 and 323, the Governor in Council may create new pilotage districts and fix their limits and may alter the boundaries thereof.

That seems to me to make the thing more consistent and logical with sections 322 and 323 which set out the present boundaries.

Senator ISNOR: Except that it does not go back to the original thought of including Halifax and Saint John; and you must remember, of course, that we are two hundred years old down there, and we have had pilotage for a very, very long time, and I think we are in the same position exactly. I would favour going back to the original section.

The CHAIRMAN: The only thing is, Senator Isnor, that sections 322 and 323 do describe the boundaries of the Quebec and Montreal pilotage districts. There is no description of Halifax and Saint John.

Senator ISNOR: There was in the original.

The CHAIRMAN: No; there was simply a statement that Quebec, Montreal, Halifax and Saint John had compulsory pilotage.

Senator CONNOLLY (*Ottawa West*): Compulsory payment of pilotage.

The CHAIRMAN: That is right, yes.

Senator MACDONALD: Is the amendment satisfactory?

The CHAIRMAN: Well, we will hear from Mr. Langlois?

Mr. LANGLOIS: Mr. Chairman, I am sorry to disagree with you again, sir, but we are not prepared to say that we are in favour of the amendment as proposed, because if you do that, if you give the power to the Governor in Council to create new districts within the districts of Quebec and Montreal, it means

that we are going to abolish the existing districts. Surely we are not going to keep the Montreal district as we have it today, and the Quebec district as we have it today, and create within the same limits two additional districts without destroying, first, the ones we have now?

I have myself prepared an amendment, Mr. Chairman. The reason for the department asking for this proposed amendment is that they want to subdivide the pilotage district of Montreal, which subdivision has in fact existed for a period of three or four years. If it is the only thing the department wants to do, I respectfully submit to the committee that an amendment to section 324 will be sufficient to achieve that end. My amendment would simply add after the existing section 324 the following words: "or subdivide any pilotage district".

Mr. Chairman, I have copies here of this proposed amendment, if the honourable members of the committee would like to have a look at it. Perhaps it could be distributed.

The CHAIRMAN: That is an amendment to the present section 324.

Mr. LANGLOIS: Section 324 would then read as follows:

The Governor in Council may create further pilotage districts and fix their limits and may rescind any district, other than the districts of Quebec and Montreal, created either by or under this or any other act and may alter the boundaries of any pilotage district...

and I would add the words "or subdivide any pilotage district."

Senator KINLEY: Where does Three Rivers come in; is that part of Montreal or Quebec?

Mr. LANGLOIS: Part of Montreal, sir.

Senator KINLEY: Do they change pilots there?

Mr. LANGLOIS: They have been changing pilots for the past three or four years.

Mr. BALDWIN: Sir, I am afraid that what we do not find acceptable, on a quick legal interpretation, is the word "subdivide", because it has no legal meaning within the context of the act. What we have authority to do under the act is to create a district, and that is the only word defined. "Subdivision" has no meaning. Briefly, we are quite prepared to accept the position that we do not seek the authority to rescind those two districts. All we wish to do is to have the authority to adjust their organization. But that does mean new districts within those limits. This was why we found the proposal put forward by the chairman, Senator Hugessen, quite acceptable, because it removed the power to rescind those districts, but it did give within the limits the power to set up the new districts, if we have to start dividing them up, due to growth of shipping, and changed conditions of pilots; plus the fact that the chairman's amendment would still give us the power by order in council to re-instate this matter of compulsory dues, as I understand it.

Senator KINLEY: Do you not take the power to rescind in other districts?

Mr. BALDWIN: We have that power now, sir, to rescind.

The CHAIRMAN: They have that power under section 324, senator, except Quebec and Montreal.

Senator HAIG: Could you read the amendment that you proposed, Mr. Chairman?

The CHAIRMAN: Well, my amendment was this: Leave the present section 324 as it is, and call it subsection (1), reading:

The Governor in Council may create further pilotage districts and fix their limits and may rescind any district, other than the districts of Quebec and Montreal, created either by or under this or any other act and may alter the boundaries of any pilotage district.

Then subsection (2):

Within the limits of the pilotage districts of Quebec and Montreal as set out in sections 322 and 323, the Governor in Council may create new pilotage districts and fix their limits and may alter the boundaries thereof.

Senator HAIG: That covers it.

Senator MACDONALD: I think that is very dangerous.

Senator HAIG: I think it is very good.

Senator MACDONALD: I think it is very dangerous. I am not sure that the two districts of Quebec and Montreal would retain the rights they have at the present time.

Senator KINLEY: It would be mutilated by that.

Senator MACDONALD: If I were in their position I would rather leave the clause as it is. Any objections?

Senator ASELTINE: According to your proposed amendment, Mr. Chairman, that means they would be able to make a new district around Three Rivers?

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): Well, Mr. Chairman, the pilots, as I understand it, were against this originally because they thought they had a vested right in the payment of compulsory dues in the two districts.

The CHAIRMAN: In the present two districts, yes.

Senator CONNOLLY (*Ottawa West*): Now, if they agree at this time that the argument made by Mr. Booth is a valid argument—in any event, they will know that the department will want to administer on the basis of that when this question comes up—then, apparently they are left now with what you described earlier as the “prestige argument” to maintain the two districts, one in Quebec, and the other in Montreal.

The CHAIRMAN: Even if we take away part of it for Three Rivers, or something of that nature.

Senator CONNOLLY (*Ottawa West*): Now, in that event, isn't this satisfactory to the pilots? Because by sections 322 and 323 the two districts are preserved, but it allows the creation of—you can call it a sub-district, if you will, without using the language in there. Then have they not what they want, namely, the preservation of the two, plus the right of the department under your amendment to make a breakdown for administrative purposes? I am only asking for information.

The CHAIRMAN: To create a new district.

Senator CONNOLLY (*Ottawa West*): For administrative purposes.

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): Within these other districts. Now, are they hurt by this action? I ask this for information.

The CHAIRMAN: Mr. Gerin-Lajoie raised that.

Mr. GERIN-LAJOIE: I would like to say a few words in answer to Senator Connolly's question. First, I must say very respectfully that we disagree with the interpretation—and I call it an interpretation,—of Mr. Booth. Actually he cited part of the law, and we would refer to other sections of the statute. I have here with me a table of comparisons of the statutes of 1927, 1934 and 1952, but I doubt very much if this committee, or the Senate, or the Parliament of Canada would care to sit as a court of law to give an interpretation of the statutes, or of the law as it stands today.

Senator CONNOLLY (*Ottawa West*): That is right.

Mr. GERIN-LAJOIE: So I would ask you to take for granted at any rate that the pilots, first, disagree with the interpretation of the Assistant Deputy Minister. It is, I admit, a question of interpretation. Secondly, that we think that the rates of the Montreal district and Quebec district pilots would be adversely affected. The assurance given by Mr. Baldwin a moment ago is the assurance that an Order in Council would be passed to make the payment of pilotage dues compulsory. Well, we all take for granted that the department would do that and the Governor in Council would do it, but that is no promise that, two or five years from now, the Governor in Council would not arrive at another decision and take away the compulsory feature.

Senator CONNOLLY (*Ottawa West*): That is right. There is no doubt about it.

The CHAIRMAN: No doubt about that.

Mr. GERIN-LAJOIE: So that is why we would like to keep it in the statute as it is now; and actually we can refer to other provisions. I do not think this committee would like to hear all the provisions and listen to presentations by all parties as if we were before a court of justice. Of course, if the Senate so wishes, I will be pleased to put our case forward.

So our conclusion is that we would prefer to keep the section as it is now in the Canada Shipping Act, unless—and I do not think Mr. Baldwin has given this assurance—that he has the assurance from the Department of Justice that the present situation is contrary to law.

The CHAIRMAN: You mean, the things that they have done by creating this new Three Rivers district?

Mr. GERIN-LAJOIE: Yes; and actually, Mr. Chairman, you will take it in the way I mean it if I say that it is not a district in Three Rivers. The pilotage authority and the Governor in Council have powers at the present time under the law to do whatever they like within a district, and actually the statute as it stands today even gives the Governor in Council the power to appoint two different pilotage authorities for a single district. I could refer to one particular section of the law in that connection. So that we may infer from that section, and other provisions of the law, that what has been done to change a pilot at Three Rivers, or having a specialized group for movages in the harbour of Montreal, is not contrary to law, and any arrangement of that sort may be done under the present law.

Senator GOUIN: What is the section you are referring to?

Mr. GERIN-LAJOIE: For instance, section 327 of the present statute, the Canada Shipping Act, concludes, after the semicolon on the fifth line:

And the minister shall thereupon supersede the then existing pilotage authority for that district or part of a district.

So that means that the minister can be the pilotage authority for part of a district only; and as for the other part, it might be a pilotage authority of three commissioners or five commissioners, as provided for under other sections of the statute as it stands today.

Section 325 gives the power to the Governor in Council to constitute pilotage authorities for any pilotage district, and that "such pilotage authority shall consist of not less than three or more than five persons, including the chairman," and so forth. But in some districts it may be the Minister of Transport, and actually, in the case of the Montreal and Quebec districts also, there is a vested right that the pilotage authority shall always be the Minister of Transport and never such a commission as provided for in the latter part of 325. Section 325 says:

The Governor in Council may constitute pilotage authorities for any pilotage district, other than the districts of Quebec and Montreal.

And in Montreal and Quebec it is only the Minister of Transport that can be a pilotage authority.

These are only a few points to show the far-reaching implications of a change in section 324 as to the limits or the constitution of the districts of Montreal and Quebec. The main reason for not changing is, in the view of the pilots, that the Government has now every power to do what the Government may envisage at the present time under the statute as it stands.

Senator CONNOLLY (*Ottawa West*): Especially under 327.

The CHAIRMAN: Well, that is the appointment of the minister as the pilotage authority.

Senator CONNOLLY (*Ottawa West*): That is right.

Senator MONETTE: You have just quoted that "The minister shall thereupon supersede the then existing pilotage authority for that district or part of a district."

Mr. GERIN-LAJOIE: That is right, senator Monette. Through the implications from this on the present situation in Montreal, almost anything can be done in one district. The Governor in Council does not have to pass uniform rules or by-laws for one district. There may be a set of rules for one part of a district and another set of rules for another part of the district. And as I say, no indication has been given to this committee that the Department of Justice gave the opinion that the present situation, in Montreal particularly, was contrary to the statute.

Senator FARRIS: Then I understand you to say that you would sooner rely on the argument that you are protected by the provisions of the Interpretation Act?

Mr. GERIN-LAJOIE: That is part of our point of view; but as I mentioned a moment ago, there are other provisions, both in the statutes and in the by-laws approved by the Governor in Council, on which we rely.

Senator FARRIS: What you say is that you will take chances on that rather than having the provision in this new bill?

Mr. GERIN-LAJOIE: That is so.

Senator CONNOLLY (*Ottawa West*): May I ask then of the deputy minister, in view of the provisions of section 327, does he need the amendment that the department is seeking to section 324?

Mr. BALDWIN: I am not in a position, Senator Connolly, to give a firm ruling from Justice, because I did not realize I would be called upon to give it, on this particular point. But I may say that I think there is at least matter of doubt in regard to how far we may go in the administrative subdivision of a district without running into conflict with the intent of the act. And I may say as well that, for administrative and operational reasons, we consider that we would be in a better position both to provide an efficient service and to take care of the pilots' needs if, instead of having to embark upon multiple subdivisions of a district, we were able to substitute absolutely new districts by breaking a district down into several new districts within the concept of the act.

That does not—?

Senator CONNOLLY (*Ottawa West*): No, that does not quite answer my question. When you say that, why do you want to maintain sections 322 and 323?

Mr. BALDWIN: To recognize the historical position of these two districts. And as I remarked previously, we would be prepared to go further, and

maintain the old 324, which eliminates our right to rescind those districts, because we have no intention of rescinding these districts and we are prepared to recognize their historical position.

The CHAIRMAN: May I ask you, in respect of what you have already done in the districts of Quebec and Montreal, this Three Rivers thing, and so on, have you received any opinion from the Department of Justice to the effect that you were exceeding the bounds of your authority?

Mr. BALDWIN: No sir, it has not been submitted to them formerly for a ruling.

The CHAIRMAN: It is not a result of anything Justice has said to you that you are suggesting this new thing?

Mr. BALDWIN: No, that is correct.

Senator CONNOLLY (*Ottawa West*): Thank you Mr. Baldwin.

May I just say this Mr. Chairman: This legislation obviously is very complicated. I do not know how members of the committee who are not lawyers have had the patience to sit through it, and having said that I wonder whether it might not be worth considering leaving sections 322, 323 and 324 as they are in view of the provisions of section 327 (1), because, as I interpret in a general way the amendment to section 324, which is in our bill, plus the further amendment which you have suggested for consideration to the committee, we may in effect be doing nothing more than what you have now in the act. Now, I think that might be something for consideration, but whether we can get it between now and 1 o'clock I do not know, but it is not going to complicate the matter which is complicated enough as it is.

Senator FARRIS: You mean you do not want to make it any worse?

The CHAIRMAN: I do not know whether to express my personal opinion here, but I do not feel that we would be doing any radical harm to this bill if we did leave section 324 as it is. Apparently the Department of Justice has not expressed an opinion that the Department of Transport has gone beyond its powers in what it has done already. If it had I would be inclined to think we should agree to the change but they have not done so and it does not appear that the Department of Justice has in any way been embarrassed by what it has done so far in subdividing, if I may say so, the present districts.

Mr. BALDWIN: Mr. Chairman, I have not consulted my minister but I think I may, from previous discussions with him, say that on this point we are quite prepared in view of the discussion here to withdraw this particular clause, if that should be the desire of the committee, rather than press strongly for it. But I would wish to place upon record the one point in that connection, and that is if—and we will be referring this matter to the Department of Justice for an interpretation—the interpretation given by the Assistant Deputy Minister is the correct one and the interpretation given by Mr. Gerin-Lajoie and Mr. Langlois is not the correct one in the opinion of Justice, we will then be left in the position where there is no authority for compulsory payment of dues in these two districts, and where if any shipowner wishes to challenge that position he could reasonably think that he would have a fairly strong case to do so. Now, as long as the committee realizes that position, as I said, I am not really too concerned over that one provision and would be prepared to withdraw this proposal for an amendment.

Senator FARRIS: When you are faced with the possibility of a complication you wish to withdraw it. But we are faced with a complication whatever we do, and in that case is it not the best thing to leave it alone?

The CHAIRMAN: If we do leave it, we may be faced soon with the Deputy Minister, Mr. Gerin-Lajoie and Mr. Langlois coming to us later arm in arm asking for an amendment at the next session.

Senator CONNOLLY (*Ottawa West*): There is this point about it Mr. Chairman, and we should ask Mr. Baldwin to consider this when he discusses this matter with Justice. I think perhaps we all want to give him this assurance that we do not want to leave any gap in his power to administer because this is an important new development in the maritime law of this country, but it may be that the power that is given to the Minister in section 327(1), with what they have done—and perhaps they have not followed the mechanical procedure—they have all the power that they need.

The CHAIRMAN: Is it the general view of the committee that we should strike out clause 8 of the bill?

Senator MACDONALD: The clause does not carry?

The CHAIRMAN: Yes. Is that the general view?

Senator KINLEY: Are you going to substitute something in its place?

The CHAIRMAN: No, we will leave the present section as it is, with the possibility that we may have to have an amendment next year.

Senator CONNOLLY (*Ottawa West*): Or an amendment in the House of Commons.

The CHAIRMAN: This bill has yet to go to the House of Commons, and in the meantime it may receive the further consideration of all these gentlemen who have made representations and they may agree upon a solution. But in the meantime we are leaving section 324 as it is.

Is that agreeable to the committee?

Hon. SENATORS: Agreed.

The CHAIRMAN: I think that concludes all the sections we have to deal with, gentlemen.

Shall the preamble carry?

Carried.

Shall the title carry?

Carried.

Shall I report the bill?

Agreed.

Gentlemen, I think I should say that the committee has been very much helped by all the witnesses in the representations that have been made to it. I think I should on behalf of the committee like to congratulate all the witnesses.

We have had some very able legal talent before us: Mr. Jean Brisset, Mr. Gerin-Lajoie, Mr. Langlois and Mr. Mahoney from whom we got a great deal of help. We also had a great deal of help from the Deputy Minister and his officers: Mr. Baldwin, the Deputy Minister, Captain Guthrie, Mr. Slocombe, Mr. Booth, Assistant Deputy Minister, and Mr. Cumyn. We have also received very able assistance from the Legal Department of the Department of External Affairs, represented by Mr. Kingstone and Mr. Bissonnette.

Senator SMITH (*Queens-Shelburne*): Not to mention the Law Clerk of the Senate.

Senator MACDONALD: I think I should also add that we appreciate the very courteous and able manner in which the chairman has conducted these proceedings.

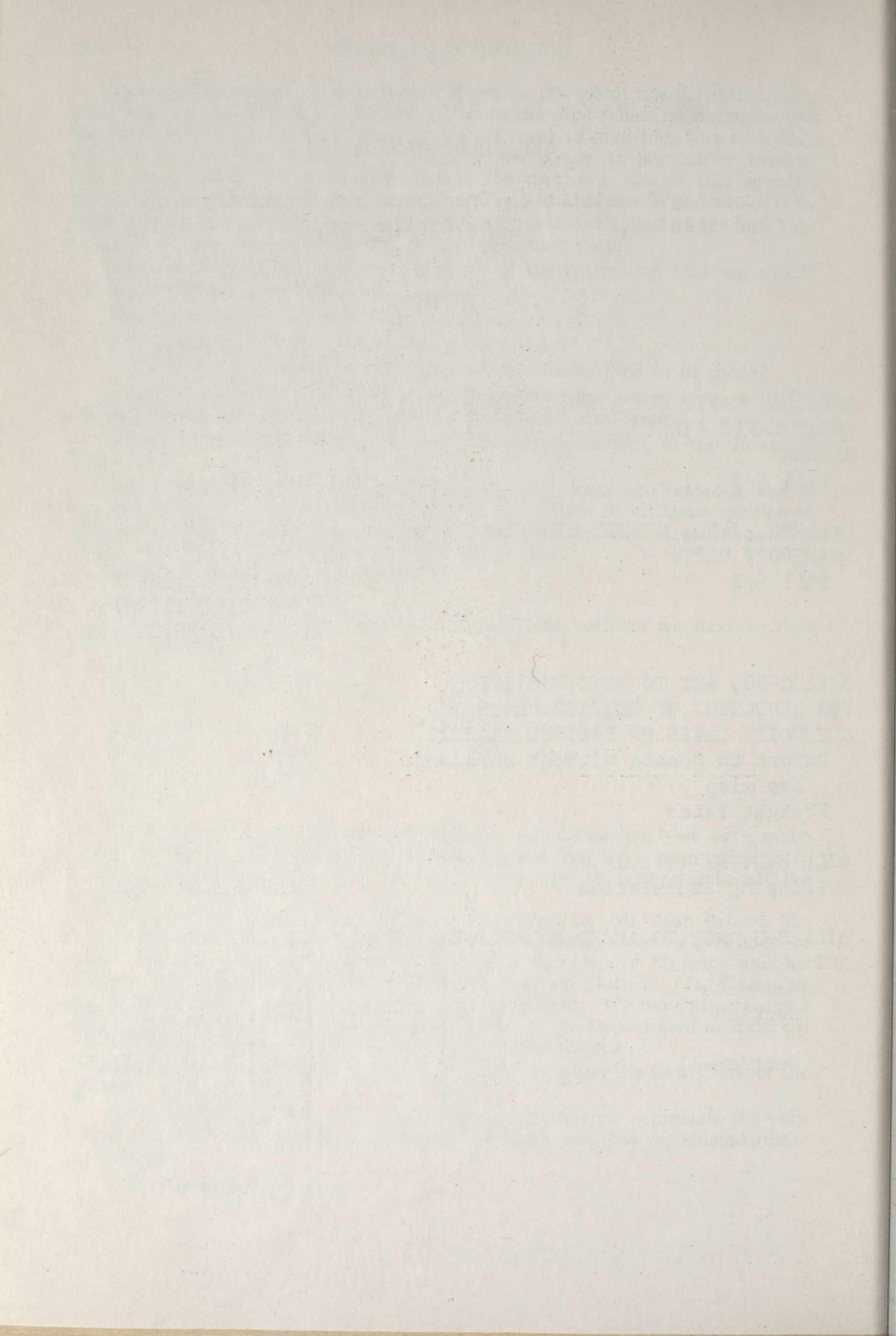
The committee adjourned.

SENATE OF CANADA

Standing Committee on Transport and Communications
 2nd Session, 24th Parliament, 1959

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