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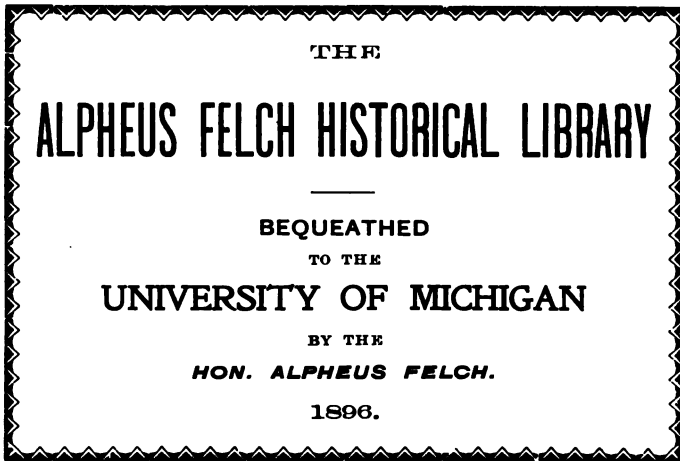
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Pilot Laws

of the U.S.



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*U. S. Senator*

A STATEMENT  
OF  
THE FACTS AND CIRCUMSTANCES  
RELATIVE TO THE OPERATION  
OF  
THE PILOT LAWS OF U. S.  
WITH PARTICULAR REFERENCE TO  
NEW YORK.



NEW YORK :  
R. C. ROOT & ANTHONY, STATIONERS,  
No. 22 William Street.

1848.



~~THE~~  
A STATEMENT

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OF

THE FACTS AND CIRCUMSTANCES

RELATIVE TO THE OPERATION

OF

THE PILOT LAWS OF U. S.

WITH PARTICULAR REFERENCE TO

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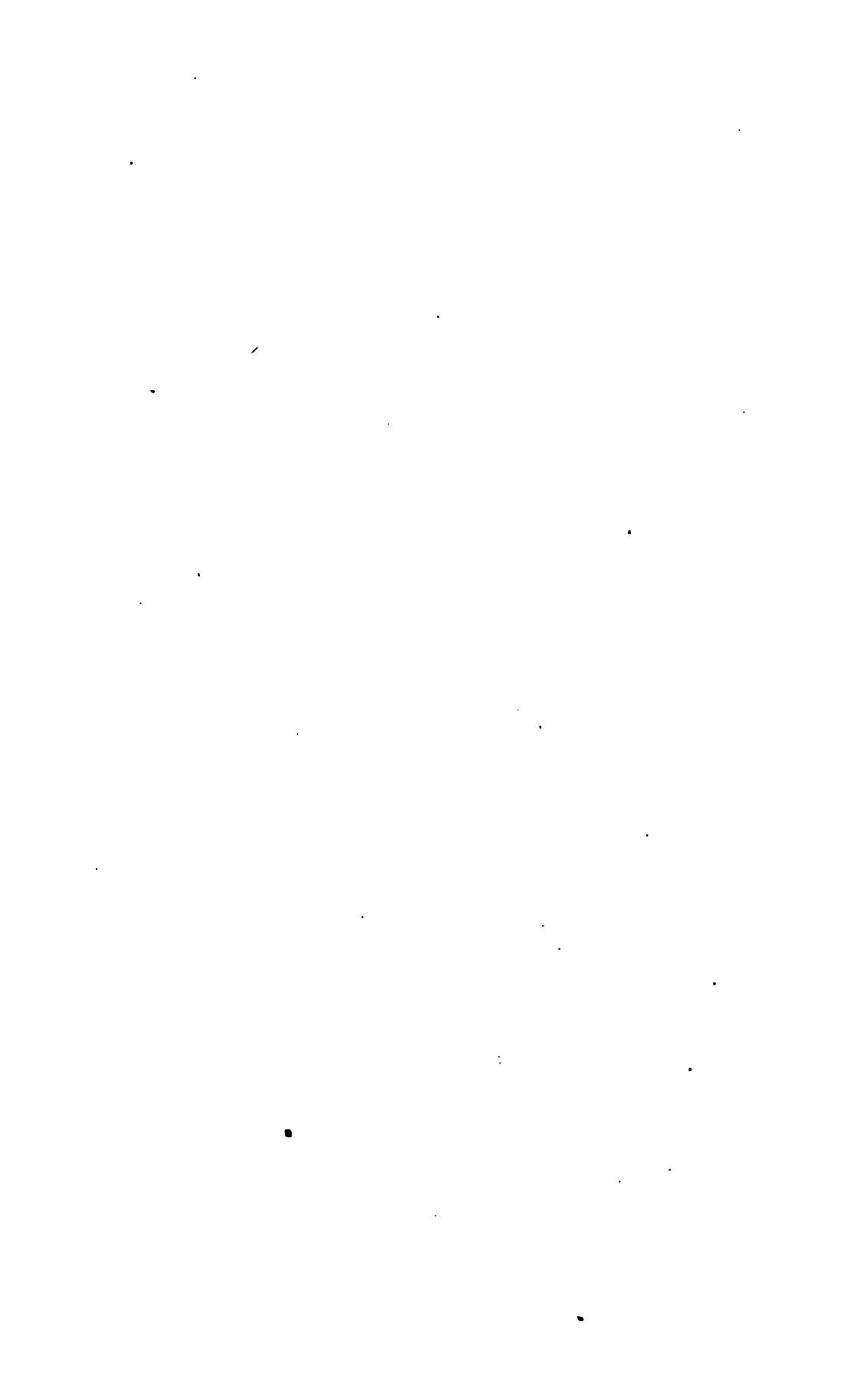


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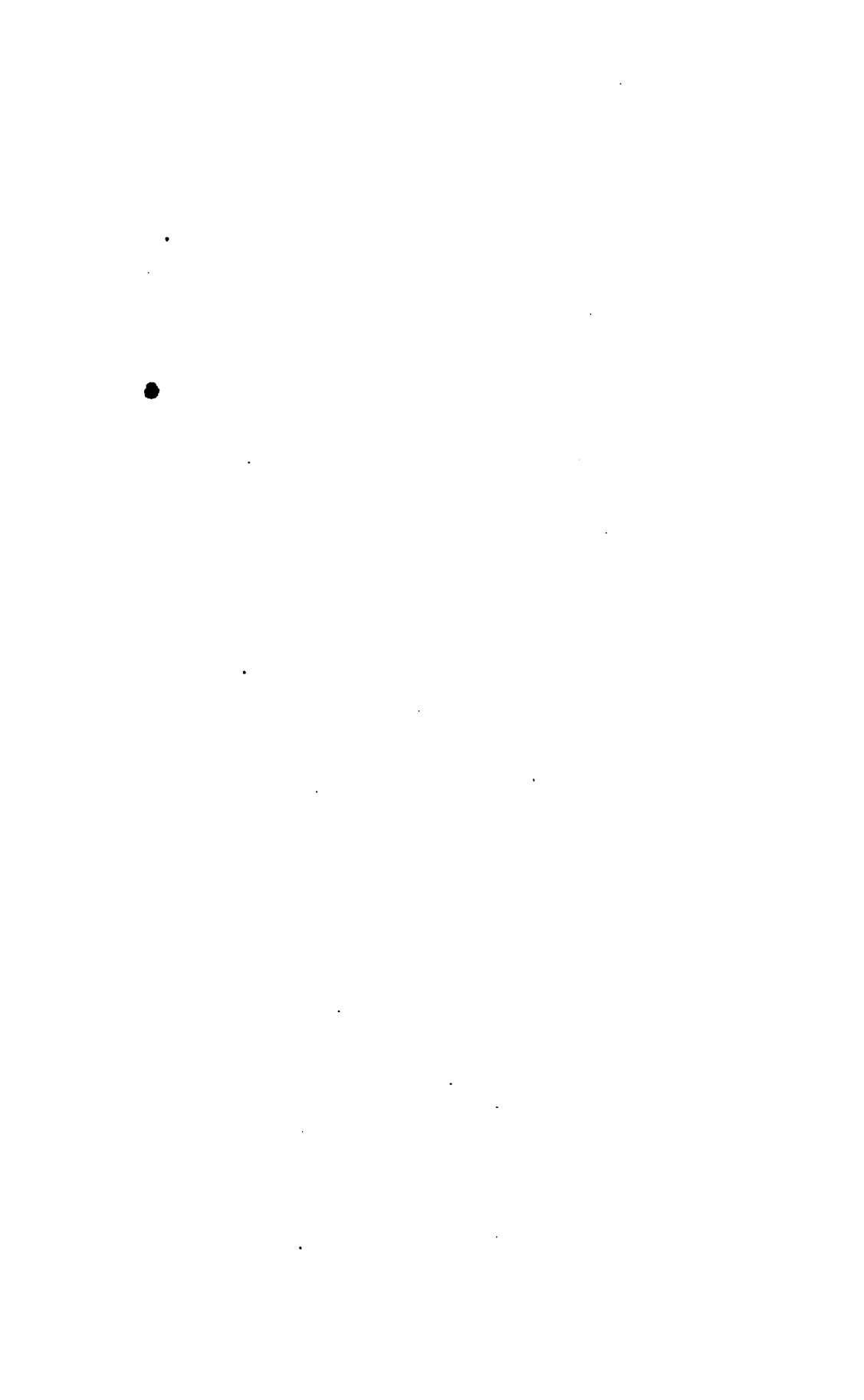




Whilst the undersigned are convinced of the policy of admitting Pilots of adjoining States, and traversing the same waters, into a competition for the common Pilotage of those States, they can cheerfully say, in particular reference to the Jersey Pilots, that they have every confidence in the faithfulness and efficiency of the Commissioners of Pilotage of New Jersey, and in the salutary operation of the laws of this State concerning Pilotage; and have reason to believe that the statements made in this abstract, with regard to the conduct and competency of Jersey Pilots are a correct representation.

New Jersey, June 13, 1840.

WM. PENNINGTON,  
JOS. C. HORNBLLOWER,  
JOHN S. DARCY,  
ARCHER GIFFORD.



## STATEMENT, &c.

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At the instance of several persons who take a deep interest in the commercial prosperity of the city of New York, the compiler of these sheets has here attempted to set the question of the repeal of the pilot law of 2d March, 1837, in its proper light, by making as clear an exhibition of the facts and circumstances of the case, as the haste with which they have been selected would allow.

Pilot laws should not be made for the benefit of pilots, having in view their interests alone. The establishment of a system of pilotage is but the adoption of a *means* to attain an *end*: that end is the *protection of commerce*; and in legislating on this subject, the end should always be kept in view, and every thing in the law should tend to its attainment. The interests of merchants, ship-owners, and underwriters, are the primary interests at stake; consequent upon these, and immediately connected with them, are the interests of the community at large. These positions are perfectly consistent with the encouragement of eminent proficiency and faithfulness in pilots themselves. Such encouragement is, in fact, conducive to the principal design; but though an object of importance, it is, or should be, a subsidiary one.

That the Congress of the United States have full power to regulate the pilotage of the different ports and harbors of the States, there can be no doubt. It is their right "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes;" and few things can with less hesitation be set down in the category of commercial regulations, than laws of pilotage. No State, therefore, should consider it as bearing hard upon its own legitimate sovereignty, for Congress to exercise the right of *passing* such laws,

or, which amounts to the same thing, of *adopting* laws created by other legislative bodies on that subject. Part of the territory of New Jersey is included within the bounds of the Collection District of New York, and is thus subject to the supervision of Custom House authority emanating from the Eastern side of the Hudson. But New Jersey does not complain. She knows that the collection of the customs, and all regulations relating thereto, is a matter that belongs to the cognizance of the United States, and not to the cognizance of one State; and therefore she is contented, under such circumstances, to be ignorant of State lines, and State jealousies.

And thus it should be with regard to any laws that Congress may see fit, in its wisdom, to pass respecting pilots and pilotage. It is an unjust and unauthorized cry that is raised by the pilots of New York and New Orleans, &c., or their friends, that they are deprived, by existing laws, of any of their *rights*, or that their respective States are deprived of any part of their proper sovereignty.

For many years Congress saw fit to pass no law on the subject of pilotage, except the following, which left the matter entirely to the care of State Legislatures.

*Act of Aug. 7, 1789, Sect. 4.*—“All pilots in the bays, inlets, rivers, harbors, and ports of the United States, shall continue to be regulated in conformity with the existing laws of the States respectively wherein such pilots may be, or with such laws as the States may respectively hereafter enact for the purpose, until further legislative provision shall be made by Congress.”

Under this act, the pilots in the several harbors of the United States were regulated by the laws of the several States respectively; and, as a general rule, no pilots authorized to act as such by the laws of one State, could pilot a vessel into the harbors of another; though, from the contiguity of the waters, they were as competent to do it as the pilots of the latter could possibly be. This species of exclusive right, or monopoly, often bred confusion and jealousy; and deprived the general commerce of the country of that full, free and concentrated assistance of its pilots, which the interests of that commerce required. The pilot laws of individual States were sometimes inefficient, and their mercantile and insurance interests were

often exposed to severe suffering, when the aid of the pilots of a neighboring State would have remedied the evil, and offered an incitement to improve those inefficient laws.

Such was the case in New York ; and what I have further to say on this subject will be principally confined to her case.

The pilot system of New York up to 1837 was very inadequate to the protection of her extensive commerce. The Master and Wardens were restricted to the appointment of thirty pilots, and as many deputy pilots. The practical inefficiency of this system may be seen at once. The Master and Wardens were unauthorized to appoint any new pilots, how much soever the wants of the community called for it, until the death, resignation, or suspension of one or more of the pilots already licensed. Some of these might be superannuated, or disabled by sickness, or otherwise incompetent to the discharge of their duties ; but the hands of the Master and Wardens were tied :—they had no power of providing for the exigencies of the occasion. Besides this, the thirty actual pilots, secure of their monopoly, were exposed to the temptation of remissness— which temptation became more powerful in proportion to the need there was of their indefatigable exertions—as in cases of stress of weather, &c. By another provision of the laws of New York, the pilot who brought a vessel into port, was entitled to the preference of taking her to sea again. This was often an inducement for lounging about the shore, when their assistance was needed outside of the harbor.

Such were some of the objectionable features of the New York pilot laws previous to 1837. The inefficiency of these laws was the occasion of so much dissatisfaction, that Congress, by act of 2d March, 1837, enacted, “ That it shall and may be lawful for the master or commander of any vessel coming into or going out of any port situate upon waters which are the boundary between the States, to employ any pilot duly licensed or authorized by the laws of either of the States bounded on said waters, to pilot the said vessel to or from said port, any law, usage, or custom to the contrary notwithstanding.”

The Legislature of New Jersey had passed a general pilot law in the beginning of February preceding ; and pilots were in a short time after the passing of the Act of Congress, duly commissioned, and entered upon the discharge of their duties ; whereby a spirited competition was soon excited between them and the pilots of New York. In addition to this, the pilot laws of New York underwent a revision in April of the same year. All things combined, the security of vessels entering and leaving the port of New York, was enhanced in an eminent degree. The New York pilots are now attempting to get a repeal of the said Act of Congress, in order to prevent the competition of the Jersey pilots.

It is my object to shew, by selections from such documents, affidavits, and statements of men competent to judge, as I hope will be satisfactory to every candid mind,—

That all the evils which might be apprehended from the pre-existing pilot laws of New York actually occurred, and gave just occasion of complaint to merchants, ship-owners, and underwriters ;

That these evils called for a more enlarged and liberal system of pilotage, wherein the emulation of a large number of competent pilots might be excited, for the protection of the extended commerce of New York ;

That this desideratum was, as far as practicable, attained by the reforms introduced in 1837, particularly by admitting the New Jersey pilots into competition with those of New York ; and

That there are no substantial reasons for modifying the present laws, or for excluding the said pilots from such competition.

I shall commence by showing the state of things that existed prior to 1837,—and the complaints that arose therefrom.

I. I will here set down with only some verbal alterations, a few extracts from the Diary of the late Capt. John Earl, well known for many years as one of the most able and efficient officers for the preservation of wrecked vessels and property, and for performing the general duties of marine inspection, that the underwriters of New York had in their employ. I find in the said Diary many observa-

tions of great value on various topics of marine interest, and much on the subject of pilotage ; of which the following was principally written in 1835 :

“ This a source of sore vexation.—In 1819 when our commerce might have been three-sevenths of what it now is, the number of pilots was limited to 30 branch pilots, who might each appoint a deputy, thereby securing a monopoly. If 30 pilots were insufficient at that time, no less than 70, in the same ratio, are now required. But since that period any attempt to get the legislature to increase the number, or to revise the system, has failed. Perhaps the only legislation on the subject in the interim, has been to add one-fourth to the established rates, if a pilot should *happen* to take a vessel so far from the land that Sandy Hook was not visible—a distance, in clear weather, not exceeding 15 miles ; whilst the Chesapeake and Delaware pilots are bound to cruise 40 miles each way, and are often met 30 leagues at sea. But our pilots, with an average of 5 boats, being combined, keep, at most, two boats below to take off outward pilots, whilst the others are at the city watching the signal poles at Staten Island, where all vessels are announced, and then set off to meet them, which they do, sometimes at the *Spit*, sometimes at the *point of the Hook*, but rarely before they cross the bar. The boats kept below answer a double purpose, to take off outward pilots, and to speak our numerous coasting vessels, and thereby subject them to half-pilotage. Nor do they fail, in every instance to extort. One hundred dollars has been charged for bringing (Capt. Lyon) from his ship, which was in distress at the Spit, to the city ; fifteen dollars for bringing a letter from the Brig Frances Ann, which was ashore, and in distress, on the West bank.

“ And although protected in their monopoly by legislative enactment, the community receive no adequate equivalent. It is a fact susceptible of proof, that before the *De Rham* struck she was seen to leeward by one of our pilots, but because they had but one pilot on board they would not go down to warn them of their danger. The course pursued by this class (who are mostly natives of New York) has had such an influence on their character that they are



never seen on change, or associated and acting with ship-owners, or masters of vessels, but if wanted, you must seek them at a porter house, &c. ; and whilst the law enjoins it on each boat to have 2 apprentices, and to instruct them in every respect, and that an examination annually, in May, shall take place before the Wardens, it is believed that the thing is totally neglected, and that the apprentices run wild, and are induced to leave the boats, lest they should claim the privilege of becoming pilots in their turn ; else why don't we hear something about the hardships of a five years apprenticeship, except in a Ward Court when pilots are supporting a claim for services never performed. It is then our sympathies are assailed, setting forth the privation and hardships of a pilots life.

“ In conclusion. I have only to remark that the recent discovery of Lieut. Gedney, proves how little dependence can be placed on our pilots, who have left it to a stranger to discover a channel to them unknown, through which a ship of the largest class *on one course from the Bar* might reach the city in two hours, with a wind that by the usual channel, would often occupy two days. And since it is susceptible of proof that only *three or four* of our pilots have even an imperfect knowledge of the channel to Amboy, what would they do with a ship that had the misfortune to lose her anchors at the Spit or on the Bar, blowing hard from N. E. ? She could not get to sea, nor approach New York, but half, or more, of our Smack fishermen and others, could run her to Amboy with safety, while if in charge of a Sandy Hook pilot, like the *Draper* and the *Eagle*, she would be run on shore.

“ I am aware of the adage ‘ To mend the world is an arduous task,’ and I am also aware of Nature’s law, that we cannot acquire any permanent benefit, without self-denial ; but I verily believe that by suitable and well directed efforts, this reproachful system could be revised.”

He then goes into a minute calculation of the emoluments accruing to the pilots of New York, during the years 1834 and 1835, deduced from entries at the Custom House, reports of Boarding masters, &c., which after making all due deductions and allowances,

he thinks could not have been less than \$120,000 for the former, and \$115,000 for the latter of those years. From this he argues the propriety and justice of admitting a more extensive competition.

“ If this statement,” he continues, “ is near the truth, it is evident that the income is sufficient to support *one hundred efficient pilots* ; if not, it is time to increase the rates : for it is idle to suppose that *thirty* pilots, and as many deputies (if the ranks were full) can meet the wants of the community, and it is suspected that there are several supernumeraries who never go out, some old men who are seldom all able to attend, some licensed who have never been qualified, and it is questionable if we have at any time over forty efficient pilots. Yet on eleven days in one year there arrived and cleared 1300 vessels averaging 118 per day, the largest number in one day being 147.

“ Compare the foregoing statements with the official statement published in the Key West Enquirer, (January 9, 1836,) exhibiting the amount of salvage awarded during the year. On \$270,000 of wrecked property, \$91,528,02 were divided between twenty vessels averaging eight men each. Thus it would appear that 20 vessels valued at 50,000, and 160 men, in one of the most hazardous employments, received only \$91,528,02 ; while 5 pilot boats, not exceeding half the value (say \$25,000,) add (by law) not exceeding 60 pilots, realize \$115,000. Hence it will be seen, allowing 10 per cent. on the capital employed, and apportioning the balance in each case, that the Key West wreckers realized that year \$540, 70-100 per man, whilst the N.Y. pilots actually shared \$1675 each.” Under date of January 9, 1837, in the same diary is the following :

“ Ship Tamarac, from Liverpool, was stranded near Fire Inlet, full of passengers, who made good their landing, except an infant. Now it is a known fact that on Sunday, Jan. 1, six ships, three barques, and eighteen brigs, were reported in sight hovering round the bar with signals for pilots : at the same time three pilot boats with their crews were reveling at Quarantine, and it is presumed that all the others were at our docks in the city, as not a vessel received a pilot during that day. At evening, the Hercules steam-boat passed

down the Narrows with a pilot boat in tow, and some of the vessels obtained pilots, some came into the Bay without any, whilst the more cautious lay off and on, some of which, the Mexican and Tamarac, went on shore, and some have not since been heard of. This circumstance has awakened public feeling, &c."

Then follows some remarks on the features of any new law that should be passed on the subject.

He says again, "From memory, I have enumerated 39 vessels totally lost within a few years, on pilot grounds, the losses amounting to upwards of \$3,000,000. I will therefore contend if we had as efficient a pilot system, as that established at Liverpool, very few of those losses would have occurred; for *not one of the whole number* (for I have a perfect recollection of them) ever occurred from stress of weather, and by far the greatest part of them were lost in *fine* weather. This leads to the query how they were lost? To which I reply, from the well known fact that our pilots were never to be found beyond the Bar; and vessels must run the hazard of seeking them there. If our pilots were bound to cruise on a line with Fire Inlet and Barnegat, they would seldom be out of sight of the Highlands in clear weather, and it would then be the practice of all strangers to lie by for a pilot, instead of running into an eel-pot—for such, in effect, is the approach to Sandy Hook. By the time a ship comes up with the Bar, she is perfectly embayed, and with the wind S. E. cannot clear on either tack; nor is it perhaps generally known that on the flood tide, the in-draught at Rockaway Inlet is such as to render it impossible, on the starboard tack, to depend on the course steered, and but little is known by sounding "

He frequently finds fault with the rates of pilotage being the same outward and inward, and with the preference to be given in taking a vessel out to the pilot who brought her in. In one place in the course of remarking on the provisions of the new bill introduced into the Legislature of New York, 1837, he says: "By leaving outward and inward pilotage on the same footing, and always giving preference to the pilot that brought the vessel in, to take her out, and seeing that one day with another through the year, 40 vessels are

within two days of sailing, what pilot, sure of a ship that will pay him \$30, day after to-morrow, or even 4 days hence, would not consider his chance better to wait than to go to sea and cruise. Suppose, then, out of the precious 60 provided for by the bill, 40 are on shore with a good pretext for waiting; 6 others necessarily engaged as chairmen on political committees, 3 more on the sick list, there would be left eleven pilots to look out. On the whole, it is evident that the only chance of security left, is in giving encouragement to Jersey pilots, &c. Had the pilots suffered the bill sent up to go into operation, it would have been more favorable to all of them, inasmuch as it provided for the old men, and held out greater encouragement to the young and enterprising; whilst their system has always been calculated to make drones of the whole class."

Let this suffice of Capt. Earl's Diary. It will have been seen from this, that he was a man of shrewd observation, and practical judgment. He was one of the many men of the city of New York who manifested a lively interest in the passage of the law of Congress now attempted to be repealed, and of the pilot laws of New Jersey passed about the same time.

II. *I shall next make a few extracts from the presentment of the Grand Jury for the City and County of New York, on occasion of the loss of the Barque Mexico, January 3d, 1837. The Grand Jury say :*

"Desirous, however, of prosecuting their inquiries, in the hope of eliciting information calculated to promote the security of the lives and property of their fellow citizens, the grand inquest required the attendance of many of our most active ship-owners, ship-masters, port-wardens, and pilots, from whom the following was obtained—

"It appears that forty years since, the number of pilots actually in service in this port was about thirty; in the year 1819, when the existing laws regulating the pilot system were enacted, there were thirty-eight; and the number now is limited by law to sixty (although from various incidental causes, those actually fit for duty

do not exceed fifty, and propably, on an average, the number is less,) which, the grand inquest feel constrained to say, from the information before them, is wholly inadequate, especially during the quarantine season, to the wants of this port.

“It appears that there are but six pilot boats in commission, to each of which are attached, exclusive of the licensed pilots, from three to five apprentices to the profession, who constitute the crew, &c.

“It further appears that there are several partners to each boat, but that the total amount of pilotage paid on vessels arriving at, or leaving this port, is treated as a common fund, and divided equally among all the branch and deputy pilots ; this dividend is stated by the pilots to amount, on an average, to \$1200, or \$1300 per annum to each ; and it is contended by the pilots, as the grand inquest conceived with much reason, that this is not more than a fair compensation to men who lead lives of great exposure and responsibility.

“The grand inquest are compelled to state, that, without exception, the testimony of every merchant and ship-master examined by them, was such as to reflect great discredit on the vigilance and activity of the pilots of this port, as compared with the pilots of any other port of our own coast, as well as the principal ports of Europe.

“It seems to be the inevitable result of a system, which selects so small a number for so great a work, and which secures to them by legislative provisions of the strictest character, the exclusive enjoyment of these offices, and in certain cases giving them a moiety of the compensation, where no service is performed.

“And to the combination before alluded to, the greater portion of the existing evils may be fairly attributed ; for, being secure of a ratable proportion of the entire income of the profession, the indolent are placed on a footing with the enterprising and moral, and every incitement to emulation is completely paralysed.”

III. At a general meeting of the New York merchants, Dec. 8, 1836—it was, amongst other things,

“*Resolved*, That in the opinion of this meeting, the existing pilot laws of this State are deeply injurious to the interests of navigation,

by preventing all competition, and by taking away the inducements which are held out to pilots of other ports, to board vessels at a distance from their harbors.”

The above is but one of the many expressions of the public opinion on the subject, that were made about that time. Numerous resolutions of public meetings convened on the subject of the pilot laws ; numerous communications from those that were concerned in the mercantile and shipping interests, constantly appeared in the public prints of the day, loudly calling for a repeal of the existing laws, and for the establishment of such a system of pilotage, as should give scope to extensive and general competition, whilst it secured the competency of the pilots. Scarcely a merchant, or a ship-owner, or an underwriter, or ship-master, could be found, who was not anxious for reformation. These were the very men whose interests were at stake.

It was at this crisis that many citizens of New York, of the highest character for intelligence and public spirit, urged upon their friends in New Jersey to endeavor to obtain the passage of pilot laws in that State. There were many persons belonging to that State who were intimately acquainted with the coasts and harbors of New York and adjacent places, and much better qualified in some respects than the New York pilots to take charge of vessels bound to that city, e. g., they were intimately acquainted with the channel to Amboy alluded to in Captain Earl's diary. It has been seen that they succeeded ; and by virtue of the Act of Congress passed about the same time, a competition was created between the pilots of New York and New Jersey, which has been productive of the greatest advantages to the great commercial emporium.

This competition was particularly desired and encouraged by the leading merchants and others who had friends or property exposed to the dangers of the sea, as will be seen by the following Resolution (for example) passed at a meeting of the Delegates from the Chamber of Commerce, the Board of Underwriters and Merchants of the City of New York, held 17th May, 1837:

**“Resolved,** That the law of the last session of our Legislature ‘for the appointment and regulation of pilots’ is objectionable, particularly in that part which has advanced the rates of pilotage from 33 to 50 per cent.

**“Resolved,** That in the opinion of the meeting, measures should be taken by the merchants and underwriters of this city, for sustaining a free and fair competition between the New York and New Jersey pilots, as the best means of insuring a faithful and attentive performance of their duties, and that encouragement and patronage should be extended to the latter so far as may be necessary to sustain such competition.”

I shall now take leave to adduce a few proofs, properly authenticated, and selected from a large number that might be exhibited, showing that the complaints above set forth, were fully authorized by the facts ; and that the system of competition introduced in 1637, was attended with the most happy results.

#### IV. Affidavits and statements of several ship-masters and others.

##### 1. AFFIRMATION OF CAPT. GIDEON PARKER.

**“The ship Junior** under my command arrived off Sandy Hook on the 14th December, 1836 ; was within one mile of the Jersey shore, and Sandy Hook light-house distinctly in sight before sunset from the deck of the ship. At about half past 7 P. M. the light at Sandy Hook bore West. (I had a signal lanthorn set with a light soon after dark, which was continued till after day-light, when a jack was set at the fore top-gallant mast head—being the usual signal for a Pilot.) The wind was from the N. W. to W. N. W. I continued beating into the Hook looking for a Pilot. At 11 P. M. the Hook light bore South ; at 12 midnight, anchored, the light bearing E. by N. about 4 miles distant. On the 16th at 10 A. M. was boarded by a Pilot 40 hours after I was within 5 miles of the light-house, and signal flying night and day the whole time.

**“I have not made the above statement,** as any thing new in my experience ; I have sailed out of New York something more than

*twenty-seven years* ; more than twenty as master ; and I do not recollect of receiving a Pilot out of sight of the land that the Hook light-house stands on, but once ; and that was something more than two years since ; during the time there was an opposition Pilot Boat on the station. I was boarded by a news-collector (I think the Courier and Enquirer's boat) at about half-past 6 P. M. within half a mile of the shore, and about ten miles south of the Hook, who informed me that a pilot boat was a short distance ahead, and would soon board me. I did not believe him, and told him so, never having seen nor heard of an instance of the kind before ; but it was true for once, and I arrived in town at 11 P. M.

"I have brought the ship *Indiana* from sea, and beat into the Hook without a pilot, with the wind west, and arrived at the city without being spoken by one. I do not believe that I have taken a pilot outside of the outer buoys once in five times since I have sailed from the port.

"It is a matter of notoriety, wherever I have been acquainted with ship-masters and commercial men that travel by sea in Europe, Africa, North and South America—the negligence and inattention of New York pilots. It is a bye-word, 'As lazy as a New York pilot.' You cannot say any thing more grating to a seaman : if he is black he will consider himself highly insulted, and I certainly think so too."

(Signed,)

GIDEON PARKER.

Affirmed to before me this  
18th day of January, 1837. }  
FRED. BLATCHFORD,  
Notary Public. }

## 2. CAPT. POST'S STATEMENT.

"Ship *Tuskina*, from Mobile, R.<sup>o</sup>N. Post, Master.

"Jan. 17, 1834, I arrived off the port of New York, Highlands bearing West, 4 miles ; set signal for a pilot—clear weather—wind W.N.W. At 8½ o'clock came on the bar in 4½ to 5 fathoms water, Sandy Hook bearing W. by S. 2 miles by estimate. I beat in over



the bar by the lead, but making but little head by each tack, it being ebb-tide. Here we remained until 2 P. M. before we could discover a pilot as far as the eye could extend with a good glass, the weather remaining clear. Soon after we made a pilot coming down the Narrows : came alongside and brought the ship to anchor. We then hauled down our signal. At 3½ a steamer came alongside and took us to town.

“12th Nov. 1835, I arrived off Sandy Hook from Mobile at 2 P. M. Sandy Hook bore W. by S. 2 miles. Signal had been flying for a pilot 2 hours, after which I stood on to the bar in 4 to 5 fathoms water ; tacked ship, and stood back again, at the same time heaving the lead ; wind W.N.W., clear weather. At 3 P. M. made a pilot boat coming down the Narrows, and not long after, came alongside, and brought the ship to anchor in the channel. At this time there were not less than 12 sail on our contracted pilot ground, in want of pilots. One of the said vessels I saw enter the port without a pilot, and proceed on her way. I have been sailing out of the port of New York more or less for *sixteen years*, and have no recollection of ever seeing a pilot board a vessel in the night at Sandy Hook but once ; though I have often seen them in want of them : and I do most positively assert that I have time after time been running up for the bar, with fair and moderate winds, and Sandy Hook not more than three miles distant from me, and found the entrance of the port of New York as destitute of pilots, as if I had been sailing down the rapids of Niagara.

“I do not make these statements wishing to injure those pilots ; but make them as my own grievances, and do trust our Legislature will enact such laws in regard to the pilot system as will meliorate our present condition, that the weather beaten sailor may find relief, the interests of both underwriter and merchant may be more secure, and that there may be fewer widows and orphans, and fewer dead bodies floating along the shores of our port.

“This ship belonged to Messrs. E. D. Hurlbut & Co’s line of packets. See their letter herewith, confirming the negligence of the pilots.”

[Messrs. E. D. Hurlbut & Co. remonstrated against any change in the law as it now stands, stating formerly that their ship-masters found it difficult to get pilots, and when they did, it was only inside. It is now different. They have 23 vessels from their house, 14 of which are ships chiefly employed in the Southern trade, and their entrance into port is frequent. 1840.]

The ship *Bristol*, from Liverpool, went ashore on Rockaway shoals, Nov. 20th, 1836, and nearly 100 souls perished. The following statements were made and published at the time :

“ Before the gale set in, the *Bristol* was seen by the *Columbus*, which pressed under her stern at 10 $\frac{1}{2}$  P. M. standing to the eastward under three topsails, with a lantern at her foretopmast head for a pilot—the Highland lights bearing to the Southward of West, and Sandy Hook light distant five miles.” The pilots attempted to show at the time that no blame could be attached to them. On which the following statement appeared ; being a letter from one of the most respectable houses in the city.

“ COL. WEBB,

Sir—*We* had the following vessels off Sandy Hook, on Sunday, (the day the *Bristol* was wrecked,) that were unable to obtain Pilots, and were compelled to take the risk of going ashore in company with the ship *Bristol* : their loss would not have been of much consequence, if those on board had been saved, as they were all insured, and as it appears that the underwriters are much more willing to pay two or three hundred thousand dollars a year for vessels going ashore on our coast, than they are disposed to get up an effectual petition to the Legislature to alter our *Monopoly* pilot laws.

Brigs *Sterling*, *Baron*, Benjamin.

Schrs. *Powhattan*, *Albexross*, *New York*.” (Vide Appendix A.)

The loss of the *Bristol* raised the public indignation against the then pilot laws, to a very high pitch.

The loss of the barque Mexico has already been alluded to in the journal of Capt. Earl. Of 116 souls on board, not more than 6 or 7 were saved. The following is an extract from the statement of the loss which appeared at the time: "The barque Mexico, Capt. Winslow, sailed from Liverpool on the —th of October last, having on board a crew consisting of 12 men and 104 passengers, in all 116 souls. She made the Highland lights on Saturday night last at 11 o'clock, and on Sunday morning was off the bar, with thirty or more square rigged vessels, all having signals flying for pilots, but not a pilot was there in sight. The Mexico continued standing off and on the Hook till midnight; she and the whole fleet of ships displayed lanterns from their yards for pilots. Still no pilot came. At midnight the wind increased to a violent gale from the north east, the barque was no longer able to hold to windward, and was blown off a distance of some 40 miles, &c., &c. She went ashore 26 miles east of Sandy Hook, at Hempstead beach."

### 3. AFFIDAVIT OF CAPT. CHAMPLIN.

"Lyme, May 12, 1840.

"I, Christopher H. Champlin, of Lyme, in the State of Connecticut, on oath depose and say, that on the first day of January, A. D. 1839, I was on my homeward passage from London, in the packet ship Montreal; I reached the bar off Sandy Hook, about 8 o'clock in the morning, and remained there until 3 o'clock in the afternoon, waiting for a pilot, but none came. I then ran my ship in, and anchored abreast of the light-house. At about half past 6 o'clock in the evening, a steamboat came down, with a pilot on board, and towed me in as far as the lower Bay, where I anchored. The wind during the day was from S. to S. S. W., but about 9 o'clock in the evening a snow storm commenced, and the wind was then about N. E. While I was lying off the Hook, there were a large number of other vessels, as many I should [think] as twenty in all, waiting for pilots. Among them was the barque Mexico, with a signal for a pilot, and signals of distress. I spoke her, and she requested permission to follow me in. I told her I did not like

to venture, but advised her to run in, as she was in distress. I afterwards saw her lower her boat, which went to one of the other ships. When I got in, I saw her in the offing lying-to. Her subsequent loss is well known." (Signed,)

C. H. CHAMPLIN.

*State of Connecticut,* }  
*County of New London,* } *ss.*

*Lyme, May 12, 1840.*

"Personally appeared Capt. Christopher H. Champlin, to me known, and subscribed and made oath to the foregoing affidavit."

(Signed,)

HENRY M. WAITE,  
A Judge of the Superior Court  
of the State of Connecticut.

#### 4. AFFIDAVIT OF CAPT. JOHN M. BROWN.

"*City and County of New York, ss.* I John M. Brown, of Brooklyn, New York, Master Mariner and Wrecker, hereby certify that I have followed the sea for the last twelve years, and have been much engaged in the wrecking business, near the port of New York. I do certify, that on the first of January, 1837, I was bringing a cargo of wrecked goods from the brig General Trotter, stranded on Long Island, and I was off the Bar at Sandy Hook about 9 o'clock, A. M. I saw the barque Mexico, about 10 o'clock, with a signal of distress flying and a signal for a pilot. The wind was at that time fair to go into port, and I proceeded up to the city. I saw the barque Mexico up to 4 o'clock in the afternoon of that day, and the signals were still flying. I also saw sixteen other square rigged vessels wanting pilots; and I am well acquainted with pilot boats, but could see none on that occasion. At eleven P. M. the wind changed to the westward, and blew heavily. I got up as far as Staten Island on the night of the first of January. If the barque Mexico, and other vessels, had got pilots when I first saw them, they would have had a fair tide, and fair wind to get safely up into the Bay, and could have done so; but I did not see any pilot on the next day, nor until I heard the Mexico was lost, and I was on my

way to her relief. Since the pilot law of the United States has come into force I have seen that the pilots have gone well to sea to look for vessels, which they seldom or never did before. I have spoken them off Cape May, and out of sight of land.”

(Signed,)

Signed and Sworn to, before me, this 9th day of May, 1840. (Signed)	}	JOHN M. BROWN. JAMES BERGEN. Public Notary.
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Such is some of the testimony which might be brought forward to shew that, before the reform that was introduced into the pilot system in consequence of the law of Congress of 2d March, 1837, and of the New Jersey pilot laws, the pilots of New York were not only inadequate in number, but lamentably deficient in activity, for the protection of the port of New York. I have before me lists of vessels stranded and lost in the vicinity of New York, within the last six years, from which it appears that far less injury has been sustained by shipping during the three years the co-operation of the New Jersey pilots commenced, than there had been for the three previous years. These lists are taken from the records of Insurance offices, returns of wreck masters, and certificates of others cognizant of such matters. I select the following remarks from some of these lists.

“Brig Hancock, with a New York pilot on board of the name of [I withhold the name] who was drunk on the cabin floor when she struck on the west Bank.”

“Brig New England—lost in consequence of the drunkenness of the same pilot.”

Several others are mentioned as having New York pilots on board, and not one, as having a New Jersey pilot.

The following affidavits will go more particularly to evince the good effects of the system introduced in 1837, and the competency and faithfulness of the New Jersey pilots.

## 5. AFFIDAVIT OF CAPT. D. G. BAILY.

“*City and County of New York, ss.* I, D. G. Baily, Master of the ship South America, do declare and say, that I have sailed out of the port of New York for the last *fifteen years* and have had occasion to become well acquainted with the system of pilotage in force for the port of New York, up to the passage of the law giving the right of competition to the New Jersey pilots. I have had great reason to complain of the inattention and negligence of the New York pilots, and know that their conduct was a cause of general complaint up to that time. Since the competition of the New Jersey pilots, I have had occasion to be well satisfied with the effects of the Law of the United States, and I know of no reason to alter it. Under the old system, I have often been dangerously delayed for want of a pilot, and have often been boarded by the New York news-boats before I could get a pilot. It is my belief that an alteration of the law as it now stands would be injurious in its effects. I have had a New Jersey pilot on one occasion, and he gave me complete satisfaction. I have heard the New Jersey pilots praised by ship-masters of my acquaintances, as being fully competent for their business.”

Signed and Sworn to before me,     }     (Signed)  
     this 9th day of May, 1840.         }     D. G. BAILY.  
 [Signed] JAS. BERGEN, Not. Pub.     }

“I have read the foregoing affidavit of D. G. Baily, and having commanded several packet Ships out of the port of New York, have had experience as to the system of pilotage of the port of New York, and my own knowledge enables me to declare that the statement of Capt. Baily is similar to what I should make under oath.”

(Signed)

WM. C. THOMPSON,  
 Com'r. Ship Stephen Whitney.

“P. S. I have had New Jersey pilots on many occasions and they have invariably given me satisfaction.” (Signed)

WM. C. THOMPSON.

## 6. AFFIDAVIT OF CAPT. THOMAS BRITTIN.

“ *City and County of New-York, ss.* I, Thomas Brittin, now commanding the ship *Gladiator* of New-York, do declare and say, that I have commanded vessels out of the port of New-York for *nineteen years*, and up to March, 1837, have arrived off Sandy Hook with a signal for a pilot flying, but was frequently compelled to run into port without a pilot, as none could be procured, notwithstanding the ordinary measures having been taken to attract the notice of the pilots if any were in sight. Up to that time the whole business of piloting vessels as conducted by the New-York pilots, was a subject of general complaint among ship masters. Since the establishment of the New-Jersey opposition, pilotage has been well conducted, and the competition has had the effect of causing vessels to be supplied with pilots a long distance from Sandy Hook. In my last voyage, I got a pilot to the eastward of Fire Island light. In my last voyage but one, I got a pilot off Barnegat, N. J. I know of no reason to complain of the present law as to pilots, and am fully convinced that the removal of the New Jersey competition would be highly injurious to the commerce of New York and hazardous to the lives of passengers and seamen. I have had occasion to employ the New Jersey pilots, and they have invariably given satisfaction.”

Signed and Sworn to before me, this 9th day of May, 1840. (Signed) JAMES BERGEN, Notary Public.	}	(Signed) THOMAS BRITTIN.
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7. In a statement made by James Bergen, Notary Public, of vessels stranded and wrecked, he closes as follows :

“ And I do further declare that, &c.—and that the pilots up to March 1837, were not in the habit of going to sea ; and, since then, I have seen the New York and Jersey pilots seventy miles from Sandy Hook. I have no reason to know that any unusual complaint has been made by ship-masters or merchants, as to the pilots, for the last three years.”

(Signed) JAMES BERGEN, Notary Public.

8. That the New Jersey pilots have been, at least, as competent and faithful in the discharge of their duties, since the law of 1837, as their competitors, we have abundant proof. I have before me a list of twenty-six vessels of the largest class, which during the years 1838, 1839 and 1840, have been run aground and more or less damaged (some being totally lost) whilst under the care of New York pilots—and the name of the pilot in each case is given, which I, however, withhold from the public eye); whilst during that period, not more than two or three cases, it is believed, can be pointed out of any accidents happening to vessels having on board Jersey pilots.

The following certificate is to the same purport :

“ NEW YORK, June 6, 1840.

“ I hereby certify that I was a passenger in the ship *Zenobia*, Nathaniel Kinsman, master, from Canton New York; that we took a pilot (as I believe from boat No. 6) at about 5 o'clock on the afternoon of Monday the 25th ultimo, at a distance of some 20 or 25 miles to the southward and eastward of Sandy Hook—the land, at that time, not being visible, owing to a thick haze. We stood in till about 9 P. M. with the wind from the S. E.; when owing to the strength of the ebb tide, we anchored outside the Bar. We got under way at about 4 A. M. of the 26th, with a moderate breeze from the northward and eastward, and stood up the Bay, the weather being quite clear and pleasant. As we progressed the wind hauled more to the northward. At about — o'clock the pilot tacked ship to the eastward, the ebb tide setting out strong soon afterwards. We were headed off to E. S. E. and for a short time to S. E., the wind coming in from the sea with a thick fog. We were in the act of going about, not many minutes after the fog came in, the ship struck on 'the middle.'

“ It was a subject of remark when the pilot came on board, that he was ignorant of his distance from, and of the exact direction of the Hook; and at the time we struck, that he did not know the state of the tides. In reply to the inquiry of Captain Kinsman, what



was to be done to get the ship off, he said it would be of no use to anchor, that she would come off with the flood, &c. In trimming the sails he seemed to follow the suggestions of Captain K. rather than to act from his own judgment.

“ At the request of Captain K. I left the Zenobia in the ship’s boat, at about 7 o’clock for New York, to procure a steamboat, and other assistance.

“ The Zenobia is owned by D. P. Parker, Esq. of Boston, and had on board at the time she struck, a cargo of teas, silks, &c., worth some \$600,000, and the pilot was made aware of the value of his charge, soon after getting on board.”

(Signed)

A. A. LOW.

By another statement, it appears that the Buoy of “ the Middle ” was in sight when the vessel struck. The vessel was considered as in great danger of being lost.

By other statements, it appears that the ship Henry Fourth, from South America, was run ashore in good weather by ——— a New York pilot, whose brother has been seen at Washington endeavoring to get a repeal of the Pilot Law. The Henry Fourth was a total loss.

9. As a further proof of the general satisfaction which has been given by the operation of the existing law, I here give some extracts from the remonstrances of those whose interests should be consulted, against the repeal of that law.

A. Resolutions of the Board of Underwriters, passed 25th February, 1840.

“ Whereas, information has been received by the Board of Underwriters of New York, that efforts are now making for procuring an alteration or amendment of the Act of Congress, passed 2d day of March, 1837, pertaining to the pilot system, and whereas, this Board know of no desirable change in the law as it now stands—

“ *Resolved*, That the experience of the last two years has abundantly evinced the expediency of continuing in force the present

Law of the U. States, regulating the conduct of the pilots, especially as regards the bay and waters of this port.

“*Resolved*, That the good effects of the Law in question have been signally evinced by the remarkable difference between the number of disasters occurring in the vicinity previous to the passage of the Act, and those which have since taken place.

“*Resolved*, That the competition opened by the Law above named, in the pilot business, between citizens of different States, is essential to the safety and prosperity of the commerce of this port, and can only be secured by the provisions of the Act already passed.”

A copy of these Resolutions were forwarded to some of the Members of Congress, accompanied by a letter prepared under the instructions of the Board of Underwriters, of which the following is an extract :

“ Antecedent to the year 1837, representations and serious complaints were made against the combinations and regulations which existed among the pilots of this port, prejudicial to the service, whereby their exertions were diminished.

“ The proper order was reversed :—vessels wanting pilots were obliged to wait for *them*, and if the weather was very bad, they could not be met with until a change took place ; after which it was found that they had frequently been very improperly and unnecessarily sheltered in the bays. Many of the most heart-rending shipwrecks of vessels without pilots, bound into this port, took place, occasioned wholly, as was supposed, by the negligence of the pilots, and an indisposition on their part to be where duty required them.

“ The passage of the Law of Congress, dated 2d March 1837, whereby the pilots of the adjoining States were allowed open competition, with this State, gave great satisfaction, affording to those interested in commerce, and such as had friends crossing the ocean, a prospect of diminished risk in entering or leaving the port.

“ Very soon thereafter, pilot boats from this city and from New Jersey, sailing out of this harbor with hardy and daring crews, defying the worst weather, were found cruising 50 to 100 miles outside of Sandy Hook, thus entirely hushing the plea made so frequently

before on their part, that the weather off this port was too bad for pilot boats to keep at sea. Each now looks for such patronage and share of a suitable reward, as his own exertions fairly entitles him to receive. The number of vessels and passengers lost in approaching the coast, diminished as the activity of the pilots increased : the contrast surpassed belief," &c.

**B. The Memorial of the Chamber of Commerce, N. Y. of 6th May, 1840.**

After adverting to the efforts made by the N. Y. pilots to obtain a repeal of the laws, the memorial proceeds :

“ The principal grounds, as the Chamber is informed, upon which the application for repeal is founded, are that the New York pilots are sufficient in number for the commerce of the port, and that the New Jersey pilots are not competent to the discharge of their duties. This Chamber, however, is of opinion that the extended commerce of this port, and which is continually increasing, will furnish employment for competent pilots from both States ; for complaints of the effects of the monopoly previously existing, when New York pilots only were employed, have been of long standing, and were but too well founded ; and as regards the competency of the New Jersey pilots, the fact has been established by our Marine Insurance Companies, who are not only the most competent parties to judge, but from a regard to their own interest are also most likely to decide correctly, that fewer accidents have occurred to vessels under the charge of the New Jersey pilots, than to those under the management of their opponents.

“ Among the advantages resulting from the law of Congress, is that arising from the more frequent use of the new channel, called Gedney’s channel ; which has not been a favorite with the New York pilots, and of course not so well understood ; and in the late instance of the United States frigate (Potomac) going to sea, having one of our most competent New York pilots as well as a New Jersey pilot, on board, the former declined to take charge, while the latter conducted the ship in safety to sea through the new channel, with

nearly four feet more water than existed in the other channel. But the most important benefit resulting from the law is felt in the competition that has sprung up, and which contrasts so favorably with the injurious effects of the combination previously existing among the New York pilots. The loss and danger to our commerce arising from the neglect of our pilots, who formerly rarely ventured out beyond the waters of the lower bay, was long a subject of just reproach, and called loudly for redress : whereas now, pilot boats are continually boarding vessels fifty miles from port."

C. A Remonstrance, signed by 64 ship masters, dated New York, May 6, 1840, amongst other things contains the following :

"Your remonstrants would state that vessels nearing this port, during the enforcement of the former system of pilotage, were compelled to remain outside Sandy Hook, in many instances, two or three days, owing to the difference of the pilots, who received the proceeds of the pilotage collectively, and felt indifferent when they performed their duty individually.

"Furthermore, it is our firm conviction that if said act, which operates so favorably upon the mercantile interest, be repealed, the system of pilotage to and from this port, will surely revert to the state in which it was, antecedent to said act."

D. A Remonstrance against the repeal of the Act of 2d March, 1837, signed by 700 merchants, and 900 other citizens of New York, and dated, May 7, 1840, has the following :

"Your remonstrants, &c., that their interests, to a considerable extent, are involved in a matter of this description which so nearly concerns them." Then after adverting to the abuses and complaints that had existed previous to the passage of this law, they proceed : "Your remonstrants further represent, that since the passage of the said Act of 1837, the wants of commerce have been subserved, and every desirable result which was expected to arise from throwing open the system to a healthy spirit of competition, more in character with our republican institutions, has been abun-

dantly realized :—that while the restrictions previously imposed, presented some of the most odious features of a monopoly, and secured to a limited number of individuals the entire emoluments derived from a lucrative pursuit, many useful, capable and worthy men, with large families dependent on their exertions, bred from childhood on these waters, whose knowledge was the fruit of practical experience, and who were animated with a disposition to enter into this business, were excluded.

“It was this obnoxious feature in the system which the law (of 1837) removed, and which it is the object of the application for the repeal of it, to restore. No objection has been urged against those now engaged in the piloting of vessels, in and about the port of New York ; on the contrary the voice of public opinion has been prompt to award the meed of commendation,” &c.

These extracts are sufficient to shew the feelings and wishes of those for whose protection a system of pilot laws should be framed.

An effort was made by the pilots of New York at the session of Congress next after the passage of the law of 2d March, 1837, to effect its repeal. In the Senate, the Committee on Commerce, Mr. Davis, Chairman, reported unfavorably to the repeal. The concluding paragraph of that report, seems to contain a correct view of the case. It is this :

“Believing therefore that, on the whole, the pilots of New York will not be in great danger of suffering from the skill of the New Jersey Pilots, if the latter know as little of their duty as the former represent, and believing also that if the law has thrown matters a little out of adjustment, they will soon so regulate themselves that each individual will find a place that he will have little occasion to complain of, the committee have come to the conclusion to recommend to the consideration of the Senate the following resolution :

“*Resolved*, That, in the present state of things, the Senate sees no occasion to legislate upon this subject.”

V. That it may be seen, in conclusion, that the complaints raised by the New York pilots, against the irresponsibility and freedom from salutary restrictions of the New Jersey pilots, are groundless ; and that there is at least as great security in the laws under which the latter act, for a continuance of that efficiency and faithfulness, which I think they have already been proved to have manifested, as there is in the enactments and provisions of the New York laws in reference to New York pilots ; I have here made an Abstract of the principal safeguards proposed by those laws.

*First.* The competence and efficiency of the Commissioners of Pilotage, is at least as well secured in New Jersey as in New York.

In either State they are appointed by the Governor and superior branch of the Legislature. Pilot Acts of N. J. Sect. 1, of N. Y. Sect. 2. Their number is to consist of five in New York, and seven in New Jersey.—*ib.* In both States, their duties are clearly specified by law, and their authority is amply sanctioned. In both States carefulness in the examination of candidates for license of pilotage, and in the supervision to be exercised over the conduct and capacity of pilots, is rigorously enjoined. In neither State may they have any interest in the pilotage business ; in both States they have the superintendence of the pilots' charges, and to them are the pilots to render account of all fees taken for pilotage. The duty of holding an annual examination of the apprentices of pilots is enjoined on the New Jersey Commissioners, but not on those of the sister State. Due power is given to the Commissioners of either State to cite delinquent pilots before them, and punish them for neglect or misconduct, by fine, or a suspension or abrogation of their licenses.

But besides the legal provisions intended to secure the efficiency of the Commissioners of Pilotage in New Jersey, as well as in New York, the actual Commissioners of Pilotage in the former State, have thus far, in point of fact, been as well selected for competency and energy in the discharge of their appropriate duties, as they have, or could have been in New York. I believe that every individual of the seven Commissioners of Pilotage in New Jersey, is not only

well, but eminently accomplished to sustain and discharge the duties which his station imposes. Who are they? What are they? Are they lady-fingered, fresh-water gentry, totally unacquainted with the sea, and the sea-coast, and harbors in the vicinity of New York? Let us see. Two of them are officers of our Navy, in actual command; one served for many years as an officer in the navy; the four remaining Commissioners are old experienced masters of vessels in the merchant service, and as well acquainted with every rock, and bar, and hole in the harbor of New York and vicinity, as it is possible for men to be. Are these incompetent men? Have they been inefficient men? The answer to these questions we hope has already been seen in the promptness, skill and faithfulness of the pilots under their care, which has been evinced in the course of this statement.

I shall now endeavor to show,

*Secondly*, That the Pilots of New Jersey are subject to as severe regulations and penalties as those of New York,—

1. As to their qualifications and license.

By the N. Y. Statute of 1837, the Commissioners were to license all such persons then licensed, as they might deem competent after examination, and also every other person of full age and good moral character making application therefor, *giving a preference to such as have served three years as an apprentice to a licensed pilot.* Sect. 7. The applicant is to be examined in the presence and with the assistance of one or more licensed pilots (provided they attend,) touching his qualifications for the office of pilot, particularly his knowledge of the sailing and management of a square-rigged vessel, and also touching his knowledge of the tides, soundings, bearings and distances of the several shoals, rocks, bars, and points of land, and night-lights in the navigation for which he applies for a license to act as a pilot. Sect. 14. The pilot must also enter into recognizance of \$250, for the diligent and faithful discharge of his duties. Sect. 18.

By the N. J. Statute of 1837, the Commissioners were authorized to license, at their discretion, any person to act as branch pilot, &c., after due examination, and after inquiries made respecting his character and qualifications, (Sect. 1,) *giving the preference as a right, to apprentices who have served four years with a licensed pilot.* Sect. 19. The applicant is to be examined in presence, and with the assistance of one or more pilots, (provided they attend,) touching his qualifications for such employment, and particularly touching his knowledge of the tides, soundings, bearings, and distances of the several shoals, rocks, bars, and points of land, in the navigation for which he applies for license to act as a pilot. Sect. 5. The pilot must also give security for \$500 for the faithful discharge of his duties, (Sect. 4,) and must also be *sworn* well and faithfully, according to the best of his skill and knowledge, to execute and discharge the business and duty of a pilot, and at all times to use his best endeavors to repair on board all ships and vessels, &c., and make the best dispatch to bring safely over the bar of Sandy Hook, &c., &c., and at all times truly observe, &c., the directions of the Commissioners, &c., and that he will not be co-partner with more, &c., in any way. Sect. 3. In addition to the examination above required, every apprentice must be annually examined by the Commissioners, with the assistance of two or more pilots, (who are required to attend for that purpose,) touching and concerning their knowledge of the tides, bearing and distances of the several shoals, reefs, bars, and points of land, currents, and every other matter the Commissioners think proper, tending to promote the safe navigation of vessels between Jersey City, Newark, Perth Amboy, and Sandy Hook.

By both Statutes, every pilot-boat is bound to have at least two apprentices—and by the N. J. Stat. they shall be indented to a licensed pilot for a term not less than four years—be diligently taught the mystery, &c., and frequently (once a month, for the last two years) be taken on board ships or other square-rigged vessels, for the purpose of learning, &c. ; and as an incentive to the employment of apprentices shall be employed in the pilot service to and from Sandy Hook. vid. N. J. Act. Sect's. 19, 20.



Such are the safeguards which the respective laws provide against the admission of incompetent men. What in the next place, are the restrictions and penalties to which they are subject after entering upon their duties ?

#### IN NEW YORK.

1. The Commissioners may suspend any pilot license for any time they think proper; and revoke and annul the same, on proof of negligence or carelessness, or wilful dereliction of duty, or violation of any provisions of the act, or disobedience to the regulation of the Commissioners. Sect. 10.

2. For losing a vessel negligently or careless, by due conviction he shall be deprived of his license, and be forever incapable of acting as pilot in this State; and if he run a vessel aground, he shall not be entitled to pilotage. Sect. 19.

3. If a vessel bound for New York be lost within fifty miles of Sandy Hook, and has been within sight of the light-house, and no pilot shall have offered to board said vessel, the Commissioners shall inquire if there has been fault or negligence; and if so the person guilty shall be suspended from his pilotage, or displaced. Sect. 38.

4. Pilots are required to keep a journal, &c. Sect. 25.

5. They are required to heave the lead regularly, and see that the lead-line be properly marked, *Regulation of Com's.*

#### IN NEW JERSEY.

1. The Commissioners on due proof of misbehavior of a pilot when on duty may fine or suspend him. Sect. 8.

They may take his license away and make it void on his wilfully infringing or violating the Statute; or the orders of the Commissioners, or in negligently and carelessly losing any vessel under his care; or if he be laboring under mental derangement; or be so addicted to habits of intoxication as to be unfit to be intrusted with the charge of a vessel. Sect. 7.

2. For losing vessel negligently or carelessly, he shall be forever incapable of acting as pilot or deputy pilot in this state, and shall be liable, by action at common law, to pay all damages sustained; and if he run a vessel on shore, he shall not be entitled to any pilotage; and shall be liable for damages, if he were negligent. Sect. 11.

3. If a pilot or deputy pilot see a vessel on the coast having a signal for a pilot, or shall hear a gun fired off the coast, and shall refuse to go to the assistance of such vessel, he shall be fined \$100—and on conviction, may be rendered incapable of acting as pilot, by the Commissioners. Sect. 9. Every pilot cruising or standing out to sea shall offer his services first to the vessel, nearest the land, or in most distress—and on refusal to go on board a vessel, when required by the master thereof, he shall forfeit \$100, and be liable to suspension. Sect. 10.

4. Pilots required by the regulations of the Commissioners to keep a journal, &c.

5. They are required to heave the lead regularly, and to see that the lead-line is properly marked. Sect. 21.

6. Every pilot in charge of a vessel, becoming intoxicated shall not be entitled to any pilotage for the voyage—and shall be suspended for six months.

6. Every pilot in charge of a vessel, becoming intoxicated shall for the first offence, lose his pilotage and be suspended for six months, and forfeit fifty dollars; for the second offence he shall be deprived of his license, and be forever incapable of acting as pilot. Sect. 23.

7. There shall be no partnership between different boats. Supplement.

7. Only twelve pilots may be in partnership together. Sec. 12, & Sup't.

It is to be observed that by the New York law a preference is to be given to the pilot who brought a vessel into port to take her out: though the outward rates have been somewhat reduced.

Such are the legal restrictions imposed on the pilots, by the respective laws of New York and New Jersey, besides the general supervision and control of the Commissioners of pilotage, which is the same in both States.

I now ask any candid reader, is there less security, in the provisions of law, for the competency and faithfulness of pilots, in New Jersey, than in New York?

In conclusion, I think these points have, now, been clearly established:

First, That the pilotage system of New York previous to 1837, was very defective and inadequate to the necessities of the port:

Secondly, That since that time there has been a great change for the better; and that that change is to be attributed in a great measure to the competition of the Jersey pilots; and

Thirdly, That the *general* good requires that competition to be continued, and left unrestrained:



## A P P E N D I X .

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A.

UNITED STATES OF AMERICA. }  
State of New York. } ss.

By this Public Instrument be it known to all whom the same doth or may in any wise concern, that I, **CALEB S. WOODHULL**, a Public Notary in and for the State of New York, by Letters Patent, under the Great Seal of the said State, duly commissioned and sworn, dwelling in the city of New York, *do hereby certify* that the annexed is a true copy of the original Protest, on file in my office.

In testimony whereof, I have subscribed my name, and caused my Notarial Seal of Office to be hereunto affixed, the seventeenth day of December, in the year of our Lord, one thousand eight hundred and thirty-six.

**C. S. WOODHULL**, *Public Notary.*

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### UNITED STATES OF AMERICA.

STATE OF NEW YORK, }  
City of New York. } ss.

By this Public Instrument of Protest, be it known and made manifest unto all to whom these presents shall come or may in any wise concern, that on the twenty-second day of November, in the year of our Lord one thousand eight hundred and thirty-six, before me, **Oliver Denton**, a Justice of the Peace, in and for the County of Queens, in the State of New York, duly commissioned and sworn, residing in said county, personally came and appeared **Alexander McKown**, master of the ship or vessel called the **Bristol**,

and duly noted his protest : and now, on this day, to wit, the first day of December, in the year aforementioned, before me, a public Notary, in and for said State of New York, again came and appeared the above named Alexander McKown, together with William Tapscott, first mate, and James Malone, second mate, William Alfred Baker, James Braddock, Henry Owens, Samuel Kilburn, and John Bacon, seamen of the said vessel ; all of whom being by me duly sworn according to law, severally deposed and declared, as follows, viz:—That they sailed in their above respective capacities in and with the said vessel from Liverpool, in England, on the fifteenth day of October last, having on board a cargo consisting of railroad iron, wheat, steel, copper, hardware and other merchandise, bound for the port of New York ; that the said vessel was then tight-staunch, and strong, as well above as below ; well manned, victualled, tackled, and apparelled ; fit for merchant service, and had her cargo properly stowed and secured : that they proceeded on the voyage with variable winds and weather, making and shortening sail as occasion required, and without any remarkable occurrence, until Sunday, the twentieth day of November last, past, on that day arrived off the coast, by observation at noon, in latitude 30 45, longitude 73 19 ; the weather being on that day remarkably pleasant and clear with a fine breeze from the south-east and smooth water. At 5 o'clock P. M., anxiously looking out for land, took in all the studding-sails, at *seven o'clock sounding in fourteen fathoms water, and saw the land bearing north-west, distant eight miles, then steered north-north-east. At half-past eight o'clock saw the Highland lights bearing north-west six leagues*, got both anchors off the gunnel and ranged the cables overhauled ; at ten o'clock, took in royal-fore and mizzen top-gallant sails, and hoisted a light for the pilot on the fore-top gallant yard ; at half-past ten o'clock, hauled the courses up and rounded too, with mizzen top-sail to the mast, ship heading to the eastward, Highland lights bearing west-north-west seven miles ; Monday, twenty-first, at half-past one A. M., *seeing no prospect of getting a pilot, filled away and stood to the eastward, the Highland lights west by north nine miles*, the weather setting in thick and rainy and wind increasing took in main

top-gallant sail and single reefed main top-sail, the ship then being under the top-sails, jib and spencer spanker furled that the ship might be easier managed, she then laying up east-north-east, constantly kept the lead going, and at 3 A. M. sounded in twelve fathoms water ; at 3 o'clock and thirty minutes, sounded in ten and a half fathoms ; at three hours and forty minutes sounded ten fathoms ; at three o'clock forty-five minutes sounded in five fathoms, instantly put the helm hard up, but ship struck immediately—squared the after yards as quick as possible, but the wind blowing heavy, ship wore round, head to the north-west, struck heavily twice and knocked off the rudder, then instantly clewed up the main and mizzen top-sails, but all to no purpose ; a heavy sea running and heaving the ship on shore, and the wind blowing a gale on land, all efforts to get off proved fruitless—the gale still increasing, and the sea also increasing and constantly making a complete breach over her decks, and the ship at the same time constantly striking heavy and driving on shore. In about three-quarters of an hour after she first grounded, a tremendous sea struck her, which bilged and filled her immediately and swept away every thing from her decks. From this time the ship was fast becoming a perfect wreck, and all human efforts for the preservation of the ship or cargo were hopeless.

Ship struck land and was lost on Rockaway Beach, on the south side of Long Island, in the town of Hempstead. And the said master, desirous of giving every degree of satisfaction in his power to all persons concerned or any ways interested in said vessel and her cargo before mentioned, hath, together with the other mentioned appearants, before me, in due form of law, protested, and I, the said Public Notary, at the instance and request of the said master, do hereby also on the foregoing premises publicly and most solemnly protest against the heavy gales of wind, high seas, and violent weather aforementioned, as the sole cause of the accidents, losses and disasters as before stated ; and also against all and every other matter and thing whatsoever had and met with as aforesaid, for all loss, costs, charges, damages, delays, injury, detriment, and expenses, which already have or hereafter may happen or accrue to the owners, freighters, shippers, insurers, and others con-

cerned or interested in said vessel and cargo, or either of them, or in any part or parts thereof, by reason and means aforesaid.

Thus done and protested, at the city of New York, agreeably to the mercantile law : in faith and testimony whereof, as well the said appearants as I the said Public Notary, have [L. S.] subscribed these presents, and I have hereunto affixed my seal of office.

CALEB S. WOODHULL, *Notary Public.*

ALEXANDER MCKOWN.

WILLIAM TAPSCOTT.

his  
JAMES X MALONE.

mark.  
WILLIAM ALFRED BAKER.

his  
JAMES X BRADDOCK.

mark.  
his  
HENRY X OWENS.

his  
SAMUEL X KILBURN.

mark.  
JOHN BACON.

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B.

The number of New Jersey Pilots is 15. Of these, 12 have been masters of vessels. They have 2 boats cruising outside, and a stationary boat at the Bar of Sandy Hook, to take off outward Pilots, &c. They have 4 apprentices.

They had piloted, between their appointment in 1837, and February, 1840, 2116 vessels, without damage or loss.

THE FOLLOWING MEMORIALS FORWARDED TO CONGRESS,

JANUARY, 1846 and 1847.

## MEMORIAL.

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*To the Honorable the Senate and House of Representatives in  
Congress assembled :*

The undersigned, on behalf of the respective Marine Insurance Companies of this city, as designated below, beg leave respectfully to represent—

That they have perused the memorial of the pilots of New York to your honorable bodies, praying for the repeal or modification of the Act of Congress of March, 1837, concerning pilots, and feeling of necessity a deep interest in this important subject, ask leave respectfully but earnestly to call the attention of Congress to the following exposition of their views, and of a few leading facts in reply to said memorial, and in opposition to its prayer.

That memorial alludes to the Act of 1837 of this State, and says that “by its enactments all the freedom and competition desirable or consistent with a due regard to the lives and property of their fellow-citizens were secured, and the objections in this respect which were urged at a former period were removed,” and it then recites the Act of Congress passed in March of the same year.

Your memorialists are apprehensive that the inference may be drawn from this mode of referring to the law of this State, and to that of Congress, that the former preceded the latter, and by its liberal provisions left no necessity for the interference of Congress,



whereas the fact, to which we desire to call the attention of your honorable bodies, is that the Act of this State thus alluded to was not passed until the 12th of April, 1837, and of course after, and as your memorialists contend, in consequence of the Act of Congress, of 2d of March preceding.

As regards the allusion in the pilots' memorial to the excitement occasioned by the destruction of lives and property by the loss of the ships Bristol and Mexico, your memorialists have only to say that these disasters tended to render still more manifest the errors and the dangers of the previous system, which degenerating into a monopoly prevented that competition and consequent stimulus to exertion which alone can provide adequate security for the important interests at stake.

Your memorialists admit with pleasure, as stated in the pilots' memorial, that under the Act of Congress a Board of Pilot Commissioners has been established by the State of New Jersey, and to the competition thence arising we are indebted for that important and beneficial change in our system, which finds our pilots fifty miles from land, tendering their services to vessels arriving off our port, whereas under former management without competition in the service performed under regulations of their own, with none to interfere, vessels entering our harbor were left to find their pilots long after the pilots should have performed their obvious duty of boarding the vessels before their near approach to danger.

To show the relative number of pilots belonging to New York and to New Jersey respectively, and to prove conclusively the value and necessity of the competition which the law of Congress introduced, we beg leave to exhibit the accompanying statement of facts.

By a statement prepared by a Committee of the Chamber of Commerce in 1845, to be laid before the Legislature of this State, it appeared that the New York pilots were then 81 in number, with 13 pilot boats—that the New Jersey pilots were then 17 in number, with 3 pilot boats. And the following facts were taken from

the bills of pilotage of a few of our principal shipping houses, presenting a striking contrast between the present and the old monopoly system as it existed prior to 1837, when the Act of Congress created the competition :

Of 123 inward pilotages in 1835 and '36, 115 were in shore.  
and 8 " off shore.

Of 129 inward pilotages in 1843 and '44, 16 were in shore.  
and 113 " off shore.

By off shore is meant such a distance from Sandy Hook that the light house cannot be seen from a vessel's deck in fair weather, (about 12 to 15 miles.) In shore means within this distance of Sandy Hook. By the return of the Commissioners of the New York pilots for the same year 1844, it appears that with 81 pilots and 13 boats, they brought in 1992 vessels, and took out 1610 ; total 3602, equal to 277 for each boat, and 44½ for each pilot. By the returns of the Commissioners of the New Jersey pilots, it appears that with 17 pilots and 3 boats, they brought in 563 vessels, and took out 568 ; total 1131, equal to 377 for each boat, and 67 for each pilot. All which plainly proves the good effects of the operation of the Act of Congress upon the pilot service of our port.

The official returns of the New Jersey Board of Commissioners for 1845, are as follows :

There are now 17 Branch Pilots.

6 Deputy "

23 with four boats during the year, 590 vessels have been brought in, and 522 vessels taken out ; total 1112. About nine-tenths of which have been boarded at sea, out of sight of Sandy Hook.

The official returns of the new Pilot Board of this city, established in June last, after the repeal of the State laws of New York, are as follows :

There are 3 branch pilots, and 13 deputy pilots, and 2 pilot boats.

They have brought in 62 vessels, and taken out 123, and of the 62 vessels brought in, 58 were boarded out of sight of Sandy Hook.

The memorial of the pilots represents "that the petition to the House of Representatives in 1842, asking for a law of Congress regulating the pilotage of steamboats on the Mississippi and Ohio Rivers, was referred to the Committee on Commerce, who reported in favor of leaving the subject to the Legislatures of the States whose power was ample, and who had access to that local information which was essential to enlightened legislation." Your memorialists respectfully contend that the cases are in no respect analogous. To regulate the pilotage on the Mississippi and Ohio, as asked for in that petition, would be to restrict the rights of the States; whereas the Act of Congress of 1837 confirms and extends their rights. The former would be an interference with the regulations of the States as to the pilotage on their own rivers in the interior, whereas the latter relates only to the foreign and coastwise commerce of the country, and interferes with State regulations no farther than to allow the master of any vessel entering or leaving any port situate on waters that are the boundary between two States, to employ any pilot duly authorized by the laws of either State.

The memorial of the pilots further represents, that there exists at this time no law of the State of New York for the government of the pilot service within the jurisdiction of the State, the same having been repealed.

Your memorialists reply that our State laws respecting pilots and pilotage "by the way of Sandy Hook," have indeed been repealed, although the State retains its authority and continues its regulations respecting pilotage in its own waters through Hurl Gate, but these laws were so repealed at the instance of the pilots themselves.

In their petition to our Legislature they claimed that either the law of Congress should be repealed and all the pilots of the port subjected alike to the provisions and restrictions of the State law, or that the restrictions of the State law shall be removed from them, and they left like the pilots who carry the licenses of other States under the simple enactments of the law of Congress." Their request was granted, and now in their memorial to Congress they

urge "that farther legislation is necessary for the protection of their rights and the interests of the public, and that this necessity is rendered evident from the fact that a self-constituted body of individuals in this city have organized themselves as a Board of Pilot Commissioners."

Your memorialists, together with the merchants of our city largely interested in the commerce of New York, feeling great uneasiness for the consequences to be apprehended, from the entire repeal by our State of all laws on this subject proceeded immediately to the selection of competent persons for the purpose of examining the qualifications of applicants and issuing certificates to them accordingly, in order to provide at once for the appointment of a sufficient number of competent pilots, because there was no law to regulate the subject. The pilots of New York were at once, and as a matter of course, invited to co-operate with the Board for this object; and every pilot previously licensed by existing State laws was subjected to no examination; such a license was all that was required to entitle him to receive a certificate from this Board which had been constituted solely to provide for the emergency occasioned by the repeal of the laws of the State.

The pilots, however, rejected all overtures, and it appeared that nothing would satisfy them but the exclusion of the New Jersey pilots, or the repeal of the law of Congress.

Your memorialists desire on this occasion explicitly to assure your honorable bodies, that they neither deny the competency nor are disposed to undervalue the merit, nor do they wish in any respect to interfere with the interests or limit the employment of the New York pilots. On the contrary, the undersigned desire, that the skill and character of that most useful and valuable class of citizens should become identified with the interests and reputation of our port. But it is against the old system of the pilot service which degenerated into a monopoly and which would produce the same results in any hands, that your memorialists protested before, and it is against the return of all its evils and errors and dangers that they now earnestly and solemnly beg leave to protest again.

Healthful competition has induced vigilance and exertion on the part of the pilots, and secured adequate protection to commerce, and there is employment for all whose skill and industry qualify them for their duties.

In furtherance, therefore, of the permanent security and best interests of the trade and commerce of our port, your memorialists respectfully entreat of your honorable bodies that the Act of Congress of 2d March, 1837, may *not* be repealed, but allowed to remain in full force and virtue.

**NEW YORK, January 10th, 1846.**

**GENERAL MUTUAL INSURANCE COMPANY,**

By **ABRAHAM OGDEN, *President.***

**ATLANTIC MUTUAL INSURANCE COMPANY,**

By **WALTER R. JONES, *President.***

**ALLIANCE MUTUAL INSURANCE COMPANY,**

By **JAMES D. P. OGDEN, *President.***

**SUN MUTUAL INSURANCE COMPANY,**

By **A. B. NELSON, *President.***

**MERCANTILE MUTUAL INSURANCE COMPANY,**

By **LEWIS GREGORY, *Vice President.***

**PELICAN MUTUAL INSURANCE COMPANY,**

By **S. BALDWIN, *President.***

**MUTUAL SAFETY INSURANCE COMPANY,**

By **ZEBEDEE COOK, *President.***

## MEMORIAL.

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*To the Honorable the Senate and House of Representatives of the  
United States of America, in Congress assembled :*

The undersigned, in behalf of the Marine Insurance Companies of the city of New York, designated below, having been informed of the renewed application of the pilots of New York, for a repeal or modification of the Act of Congress of 2d March, 1837, (which gives the liberty of employing any pilot licensed or authorized by the laws either of this State or of the State of New Jersey, to pilot vessels to and from this port,) beg leave to refer to their Memorial on this subject, dated 10th January, 1846, presented at the last session of Congress, and also further to represent—

That the repeal of the Act of 1837, will not be in accordance with the concurrent resolutions of the Legislature of this State, adopted in March and April, 1846. By these resolutions, the passage of a law was recommended regulating and establishing the pilot system of the United States upon equitable and proper principles, *securing to the citizens of each State their just rights, and also securing proper competition in the business of piloting*—and by a board of examination requiring similar qualifications in all pilots : and if this could not be effected, then recommending the passage of a law giving to each State the power to pass laws for the appointment and regulation of pilots.

That your memorialists are convinced by observation of its effects for many years, that a liberal competition in the business of piloting is essential to the proper conducting of the business, and by far more important than any special regulations in regard to it.

Although not informed of the particular modifications contemplated, your memorialists have reason to apprehend that the design is to repress or prevent the active competition which has sprung up since the Act of 1837 was passed. Upon this subject your memorialists observe, that the pilots are the most needed at the times when it is the most hazardous, difficult, and laborious for them to leave their harbors or be at sea : and there is too little to stimulate them in the performance of their most important and difficult duties, when they meet with no competition, except from a limited number of persons (who consort together, become messmates and friends, and readily agree not to compete with each other,) deriving their appointment from the same source.

The laws of this State prior to 1837, were such as clearly to discourage competition. They practically confined the business of pilotage to a limited number, and facilitated combinations between them. As a consequence, the pilots failed to discharge their highest and most difficult duties—they became negligent, inattentive and inefficient—would go out to meet vessels but a short distance from the land even in mild weather, and in storms, when most needed, would remain in harbor : vessels from distant voyages, unacquainted with and not daring to approach near the coast, would wait many days without seeing a pilot. After some most disastrous wrecks, a public investigation was had. The Grand Jury of our city declared “without exception the testimony of every merchant and shipmaster examined by them was such as to reflect great discredit on the activity of the pilots of this port, as compared with the pilots of any other port of our own coast, as well as the ports of Europe”—and that it seemed to be “the inevitable result of a system which selected so small a number for so great a work, and which secured to them by legislative provisions, of the strictest character, the exclusive enjoyment of these offices.”

Notwithstanding the serious delays and the many alarming disasters which repeatedly occurred, and these public investigations, no effectual relief was obtained, except by the Act of 1837 now sought to be repealed.

That act, in the judgment of your memorialists, has greatly promoted the best interests of commerce, and has caused the duties of pilots to be performed with zeal, courage and perseverance. A far greater competition has existed. Pilots from both States have vied with each other in the distance at which they have boarded approaching vessels, and in the labor and hazard which they have encountered to relieve them. And it is worthy of remark, that in the accidents that have since happened, the new competitors have had the least share. They have even been preferred for their skill and prudence.

Your memorialists apprehend that if the law be repealed, the old system will gradually be revived—and they therefore most earnestly represent, that a repeal of that Act is altogether uncalled for, and that any modification of it tending to discourage competition would be unwise, impolitic, detrimental to the great interests of commerce which it is alike the wish of your memorialists and the duty of Congress to protect. And as to giving the States power to pass laws for the appointment and regulation of pilots, (according to the alternative recommended by our own State Legislature,) your memorialists apprehend that no such provision is necessary. The 4th section of the Act of Congress of 7th of August, 1789, giving that power and remaining in force, modified only by the Act of 1837, which in itself is limited in its operation to pilots “licensed or authorized” under State laws. And your memorialists submit that the principle of the Act of 1837, giving to citizens of adjoining States, acting under their own State laws, the same right in respect to a matter recognized ever since the adoption of the Constitution as relating to commerce, and as being within the control of Congress, cannot be repealed without infringing upon the principle by which the citizens of each State are entitled to privileges and immunities of citizens in the several States.

Instead of adding more restrictions or discouragements to competition, if any change should be made it should be, as your memorialists conceive, in an opposite direction, and without regarding State lines,



should give more encouragement and increased incentives to individual enterprise and ambition.

Your memorialists therefore respectfully remonstrate against any repeal of the Act of 1837, and against any modification of it in the manner apprehended.

New York, January, 1847.

ALLIANCE MUTUAL INSURANCE COMPANY,  
By JACOB HARVEY, *Ass't President.*

ATLANTIC MUTUAL INSURANCE COMPANY,  
By WALTER R. JONES, *President.*

GENERAL MUTUAL INSURANCE COMPANY,  
By N. G. RUTGERS, *President.*

PELICAN MUTUAL INSURANCE COMPANY,  
By S. BALDWIN, *President.*

MUTUAL SAFETY INSURANCE COMPANY,  
By ZEBEDEE COOK, *President.*

SUN MUTUAL INSURANCE COMPANY,  
By ALFRED SETON, *President.*

NEW YORK INSURANCE COMPANY,  
By BACHE McEVERS, *President.*

MERCANTILE MUTUAL INSURANCE COMPANY,  
By JOSEPH WALKER, *President.*

That act, in the judgment of your memorialists, has greatly promoted the best interests of commerce, and has caused the duties of pilots to be performed with zeal, courage and perseverance. A far greater competition has existed. Pilots from both States have vied with each other in the distance at which they have boarded approaching vessels, and in the labor and hazard which they have encountered to relieve them. And it is worthy of remark, that in the accidents that have since happened, the new competitors have had the least share. They have even been preferred for their skill and prudence.

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Instead of adding more restrictions or discouragements to competition, if any change should be made it should be, as your memorialists conceive, in an opposite direction, and without regarding State lines,

to attempt to unsettle or disparage that judgment. While the disasters above alluded to were recent, that judgment was formed : the Government of the Union approved it, and, wisely considering the source of the evil to be in the securing of employment to one class of men irrespective of that competition which is in all enterprises the stimulus of exertion, Congress took away that cause of mischief ; they removed the exclusion and widened the competition.

And your memorialists fearlessly urge as a decisive consideration upon this question, that those who now navigate the ocean, whose cargoes and ships are at risk, and those who, as underwriters, assume the perils which pilotage is intended to lessen, are content with the present system and deplore its alteration : whilst those, who by excluding others, would enhance their own profits and compel the reliance upon such efforts only as they might choose to make, are the only part of the community who seek a change. If those who need and receive services rendered under their own observation can ever be trusted with knowing when and how they are best performed, it seems to your memorialists, that they are to be trusted here : and it is certain, that the mercantile and shipping interests of this city are strongly averse to the repeal of the present law of Congress.

Until the recent communication of His Excellency, the Governor, and the report of a Committee of the Senate, your memorialists had not conceived it possible to question the power of Congress to enact the law in question.

The right to regulate pilotage was claimed by the Act of Congress of 1789, an act almost cotemporaneous with the Constitution itself, and it is a sure index of its right of construction. And that a power to legislate on pilotage is embraced in the power to regulate commerce your memorialists conceive to be too clear to be denied, and indeed it is not. For pilotage is as much a part of the means of commerce as seamen, almost as much as ships themselves.

If Congress have the power to regulate pilotage, then, according to the doctrines established by the Federal Court and submitted to

by the courts of this state in the steam boat controversy, the regulation they do make, either by omission or direct legislation, must be conformed to by the states. The exercise of the power lies in the wisdom and discretion of Congress : they are to determine how far and in what cases its exercise is necessary. According as the necessity of its exercise is general or local, the law will be general or local ; and your memorialists cannot but express surprise at a law of this kind being questioned, on the ground that it applies only to particular localities where the waters of co-terminous states unite. Surely Congress may, if they think it wise, legislate for a single port ; they may enact laws for light-houses, light-ships, beacons for single ports ; may provide against obstructions in particular harbors, and in the same way and for the same reason provide for the pilot service of particular ports. Indeed the notion that a pilot law cannot be valid unless it provide in a similar manner for the whole Union, is, as they are advised, unfounded in any principle of law, is contrary to the exigencies rendering pilotage necessary, which differ greatly in different places ; and is in opposition to the constant practice of the government. For that has hitherto permitted as many different modes of pilot service as there were laws in different states regulating it. If the legislation of Congress to be valid must be uniform, then no differences could be allowed to exist under different or varying state laws. The truth is, that if Congress have power over the subject, it is contrary to all principles to question the extent and mode of exercising the power which they adopt : if they have a right to make any law on the subject, they have a right to say how much law and what sort of law is proper.

Neither can the law in question be justly opposed as embracing the principle that officers commissioned by one state may exercise their functions in another. In no sense are pilots state officers. They have no power or authority over the citizen or his property. Nor is this principle at all applicable to this subject. Congress, in the exercise of the power to regulate commerce, are to determine how the pilotage of the country may be best performed. Without any legislation by Congress, pilotage would be free and open to all.

According to the principles of the steam-boat controversy, what Congress do not prohibit, remains open to the general freedom of all to perform : and were it not for the Act of Congress of 1789, the states could not legislate at all on the subject. Congress in acting, must be supposed to have in view, such regulation as will supply competent pilots in sufficient numbers. The determination of their competency they might commit, either to officers of the General Government or to local authorities in the states. Until 1837 this was committed to the state authorities of each locality, without providing for the case of states co-terminous, with common waters. In 1837 Congress merely say, that the authorities of New Jersey are as competent to determine the fitness of pilots as those of New York. If this power of determining the competency of pilots could be delegated to the latter, by what rule may it not be to the former ? If unwarranted as to either, it is as to both.

Congress having, in the exercise of its undeniable power, sanctioned the fitness of the New Jersey authorities to license pilots (and it is to be remembered that New Jersey has more sea coast and more people living near the pilot grounds than New York, and this fitness having been proved by a course of most useful and acceptable service, and having also called forth a most beneficial competition from the New York pilots, your memorialists deeply regret, that for the mere profits of the pilots, for the taking of a part in the struggle for business, the great state of New York should enter into the field to make the struggle unequal. It is not for the profit, the ease of gaining a living by one set of men rather than another that legislation should be invoked. Against such partial legislation, we have a right to protest as contrary to the principles of a republican government, an invasion of equal rights and as so much direct oppression.

Your memorialists, humbly conceive, that experience of its practical effects is the true test of every system of regulations. And on this experience of the system under the present Act of Congress they repose their arguments. No complaints have been urged against

this system by merchants, mariners or insurers : to the pilots of New York alone, has the system been a subject of even pretended grievance : and with the convenience of living at the city, and of their alleged fitness and experience, they have every advantage which they ought to possess in the struggle for employment.

Your memorialists therefore remonstrate against any part being taken by the Legislature in the attempt to procure the repeal of the Act of Congress of 1837.

*And as in duty bound they will ever pray, &c.*

NEW YORK, FEB. 20th, 1845.

GENERAL MUTUAL INSURANCE COMPANY,  
By ABRAHAM OGDEN, *President.*

ATLANTIC MUTUAL INSURANCE COMPANY,  
By WALTER R. JONES, *President.*

JACKSON MARINE INSURANCE COMPANY,  
By JUSTUS HARRISON, *Vice-President.*

SUN MUTUAL INSURANCE COMPANY,  
By ALFRED SETON, *Vice-President.*

NEW YORK INSURANCE COMPANY,  
By BACHE McEVERS, *President.*

MUTUAL SAFETY INSURANCE COMPANY,  
By ALFRED PELL, *Vice-President.*

ALLIANCE MUTUAL INSURANCE COMPANY,  
By JACOB HARVEY, *President.*

MERCHANTS' MUTUAL INSURANCE COMPANY,  
By WILLIAM NEILSON, *President.*

AMERICAN MUTUAL INSURANCE COMPANY,  
By PHILIP HONE, *President.*

MERCANTILE MUTUAL INSURANCE COMPANY,  
By LEWIS GREGORY, *President.*

CROTON MUTUAL INSURANCE COMPANY,  
By JOSEPH B. NONES, *Vice-President.*

Healthful competition has induced vigilance and exertion on the part of the pilots, and secured adequate protection to commerce, and there is employment for all whose skill and industry qualify them for their duties.

In furtherance, therefore, of the permanent security and best interests of the trade and commerce of our port, your memorialists respectfully entreat of your honorable bodies that the Act of Congress of 2d March, 1837, may *not* be repealed, but allowed to remain in full force and virtue.

**NEW YORK, January 10th, 1846.**

**GENERAL MUTUAL INSURANCE COMPANY,**

By ABRAHAM OGDEN, *President.*

**ATLANTIC MUTUAL INSURANCE COMPANY,**

By WALTER R. JONES, *President.*

**ALLIANCE MUTUAL INSURANCE COMPANY,**

By JAMES D. P. OGDEN, *President.*

**SUN MUTUAL INSURANCE COMPANY,**

By A. B. NEILSON, *President.*

**MERCANTILE MUTUAL INSURANCE COMPANY,**

By LEWIS GREGORY, *Vice President.*

**PELICAN MUTUAL INSURANCE COMPANY,**

By S. BALDWIN, *President.*

**MUTUAL SAFETY INSURANCE COMPANY,**

By ZEBEDEE COOK, *President.*

urge "that farther legislation is necessary for the protection of their rights and the interests of the public, and that this necessity is rendered evident from the fact that a self-constituted body of individuals in this city have organized themselves as a Board of Pilot Commissioners."

Your memorialists, together with the merchants of our city largely interested in the commerce of New York, feeling great uneasiness for the consequences to be apprehended, from the entire repeal by our State of all laws on this subject proceeded immediately to the selection of competent persons for the purpose of examining the qualifications of applicants and issuing certificates to them accordingly, in order to provide at once for the appointment of a sufficient number of competent pilots, because there was no law to regulate the subject. The pilots of New York were at once, and as a matter of course, invited to co-operate with the Board for this object; and every pilot previously licensed by existing State laws was subjected to no examination; such a license was all that was required to entitle him to receive a certificate from this Board which had been constituted solely to provide for the emergency occasioned by the repeal of the laws of the State.

The pilots, however, rejected all overtures, and it appeared that nothing would satisfy them but the exclusion of the New Jersey pilots, or the repeal of the law of Congress.

Your memorialists desire on this occasion explicitly to assure your honorable bodies, that they neither deny the competency nor are disposed to undervalue the merit, nor do they wish in any respect to interfere with the interests or limit the employment of the New York pilots. On the contrary, the undersigned desire, that the skill and character of that most useful and valuable class of citizens should become identified with the interests and reputation of our port. But it is against the old system of the pilot service which degenerated into a monopoly and which would produce the same results in any hands, that your memorialists protested before, and it is against the return of all its evils and errors and dangers that they now earnestly and solemnly beg leave to protest again.



Although not informed of the particular modifications contemplated, your memorialists have reason to apprehend that the design is to repress or prevent the active competition which has sprung up since the Act of 1837 was passed. Upon this subject your memorialists observe, that the pilots are the most needed at the times when it is the most hazardous, difficult, and laborious for them to leave their harbors or be at sea : and there is too little to stimulate them in the performance of their most important and difficult duties, when they meet with no competition, except from a limited number of persons (who consort together, become messmates and friends, and readily agree not to compete with each other,) deriving their appointment from the same source.

The laws of this State prior to 1837, were such as clearly to discourage competition. They practically confined the business of pilotage to a limited number, and facilitated combinations between them. As a consequence, the pilots failed to discharge their highest and most difficult duties—they became negligent, inattentive and inefficient—would go out to meet vessels but a short distance from the land even in mild weather, and in storms, when most needed, would remain in harbor : vessels from distant voyages, unacquainted with and not daring to approach near the coast, would wait many days without seeing a pilot. After some most disastrous wrecks, a public investigation was had. The Grand Jury of our city declared “without exception the testimony of every merchant and shipmaster examined by them was such as to reflect great discredit on the activity of the pilots of this port, as compared with the pilots of any other port of our own coast, as well as the ports of Europe”—and that it seemed to be “the inevitable result of a system which selected so small a number for so great a work, and which secured to them by legislative provisions, of the strictest character, the exclusive enjoyment of these offices.”

Notwithstanding the serious delays and the many alarming disasters which repeatedly occurred, and these public investigations, no effectual relief was obtained, except by the Act of 1837 now sought to be repealed.

That act, in the judgment of your memorialists, has greatly promoted the best interests of commerce, and has caused the duties of pilots to be performed with zeal, courage and perseverance. A far greater competition has existed. Pilots from both States have vied with each other in the distance at which they have boarded approaching vessels, and in the labor and hazard which they have encountered to relieve them. And it is worthy of remark, that in the accidents that have since happened, the new competitors have had the least share. They have even been preferred for their skill and prudence.

Your memorialists apprehend that if the law be repealed, the old system will gradually be revived—and they therefore most earnestly represent, that a repeal of that Act is altogether uncalled for, and that any modification of it tending to discourage competition would be unwise, impolitic, detrimental to the great interests of commerce which it is alike the wish of your memorialists and the duty of Congress to protect. And as to giving the States power to pass laws for the appointment and regulation of pilots, (according to the alternative recommended by our own State Legislature,) your memorialists apprehend that no such provision is necessary. The 4th section of the Act of Congress of 7th of August, 1789, giving that power and remaining in force, modified only by the Act of 1837, which in itself is limited in its operation to pilots “licensed or authorized” under State laws. And your memorialists submit that the principle of the Act of 1837, giving to citizens of adjoining States, acting under their own State laws, the same right in respect to a matter recognized ever since the adoption of the Constitution as relating to commerce, and as being within the control of Congress, cannot be repealed without infringing upon the principle by which the citizens of each State are entitled to privileges and immunities of citizens in the several States.

Instead of adding more restrictions or discouragements to competition, if any change should be made it should be, as your memorialists conceive, in an opposite direction, and without regarding State lines,

should give more encouragement and increased incentives to individual enterprise and ambition.

Your memorialists therefore respectfully remonstrate against any repeal of the Act of 1837, and against any modification of it in the manner apprehended.

**NEW YORK, January, 1847.**

**ALLIANCE MUTUAL INSURANCE COMPANY,**  
By JACOB HARVEY, *Ass't President.*

**ATLANTIC MUTUAL INSURANCE COMPANY,**  
By WALTER R. JONES, *President.*

**GENERAL MUTUAL INSURANCE COMPANY,**  
By N. G. RUTGERS, *President.*

**PELICAN MUTUAL INSURANCE COMPANY,**  
By S. BALDWIN, *President.*

**MUTUAL SAFETY INSURANCE COMPANY,**  
By ZEBEDEE COOK, *President.*

**SUN MUTUAL INSURANCE COMPANY,**  
By ALFRED SETON, *President.*

**NEW YORK INSURANCE COMPANY,**  
By BACHE McEVERS, *President.*

**MERCANTILE MUTUAL INSURANCE COMPANY,**  
By JOSEPH WALKER, *President.*

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to attempt to unsettle or disparage that judgment. While the disasters above alluded to were recent, that judgment was formed : the Government of the Union approved it, and, wisely considering the source of the evil to be in the securing of employment to one class of men irrespective of that competition which is in all enterprises the stimulus of exertion, Congress took away that cause of mischief ; they removed the exclusion and widened the competition.

And your memorialists fearlessly urge as a decisive consideration upon this question, that those who now navigate the ocean, whose cargoes and ships are at risk, and those who, as underwriters, assume the perils which pilotage is intended to lessen, are content with the present system and deplore its alteration : whilst those, who by excluding others, would enhance their own profits and compel the reliance upon such efforts only as they might choose to make, are the only part of the community who seek a change. If those who need and receive services rendered under their own observation can ever be trusted with knowing when and how they are best performed, it seems to your memorialists, that they are to be trusted here : and it is certain, that the mercantile and shipping interests of this city are strongly averse to the repeal of the present law of Congress.

Until the recent communication of His Excellency, the Governor, and the report of a Committee of the Senate, your memorialists had not conceived it possible to question the power of Congress to enact the law in question.

The right to regulate pilotage was claimed by the Act of Congress of 1789, an act almost cotemporaneous with the Constitution itself, and it is a sure index of its right of construction. And that a power to legislate on pilotage is embraced in the power to regulate commerce your memorialists conceive to be too clear to be denied, and indeed it is not. For pilotage is as much a part of the means of commerce as seamen, almost as much as ships themselves.

If Congress have the power to regulate pilotage, then, according to the doctrines established by the Federal Court and submitted to

by the courts of this state in the steam boat controversy, the regulation they do make, either by omission or direct legislation, must be conformed to by the states. The exercise of the power lies in the wisdom and discretion of Congress : they are to determine how far and in what cases its exercise is necessary. According as the necessity of its exercise is general or local, the law will be general or local ; and your memorialists cannot but express surprise at a law of this kind being questioned, on the ground that it applies only to particular localities where the waters of co-terminous states unite. Surely Congress may, if they think it wise, legislate for a single port ; they may enact laws for light-houses, light-ships, beacons for single ports ; may provide against obstructions in particular harbors, and in the same way and for the same reason provide for the pilot service of particular ports. Indeed the notion that a pilot law cannot be valid unless it provide in a similar manner for the whole Union, is, as they are advised, unfounded in any principle of law, is contrary to the exigencies rendering pilotage necessary, which differ greatly in different places ; and is in opposition to the constant practice of the government. For that has hitherto permitted as many different modes of pilot service as there were laws in different states regulating it. If the legislation of Congress to be valid must be uniform, then no differences could be allowed to exist under different or varying state laws. The truth is, that if Congress have power over the subject, it is contrary to all principles to question the extent and mode of exercising the power which they adopt : if they have a right to make any law on the subject, they have a right to say how much law and what sort of law is proper.

Neither can the law in question be justly opposed as embracing the principle that officers commissioned by one state may exercise their functions in another. In no sense are pilots state officers. They have no power or authority over the citizen or his property. Nor is this principle at all applicable to this subject. Congress, in the exercise of the power to regulate commerce, are to determine how the pilotage of the country may be best performed. Without any legislation by Congress, pilotage would be free and open to all.

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