



L'ASSOCIATION DES PILOTES MARITIMES DU CANADA
CANADIAN MARINE PILOTS' ASSOCIATION

Dealing with Government: Thoughts from Canada

Tristan Laflamme
Executive Director and General Counsel
Canadian Marine Pilots' Association
25th IMPA Congress, Cancun, 16 June 2022

Government: the experience of Canadian Pilots

- Longest Royal Commission in Canada's history was on pilotage (1962-1968)
- 8 national reviews since the 1972 *Pilotage Act* including the 2017-18 *Pilotage Act* Review which led to significant changes to the *Act* in 2019
- Implementation by Transport Canada (TC) of the 2019 changes has been underway for the last 3 years and will continue for many more years as TC is now reviewing all pilotage regulations
- Over 50 other regional studies during the last 25 years scrutinized virtually every aspect of the system

Government: why does it matter?

- Government holds almost limitless residual power
- Power: the ability to get what you want
- The “One-second Theory”: it takes “one second” for Parliament to fundamentally change the whole pilotage regime

Why so many Reviews?!

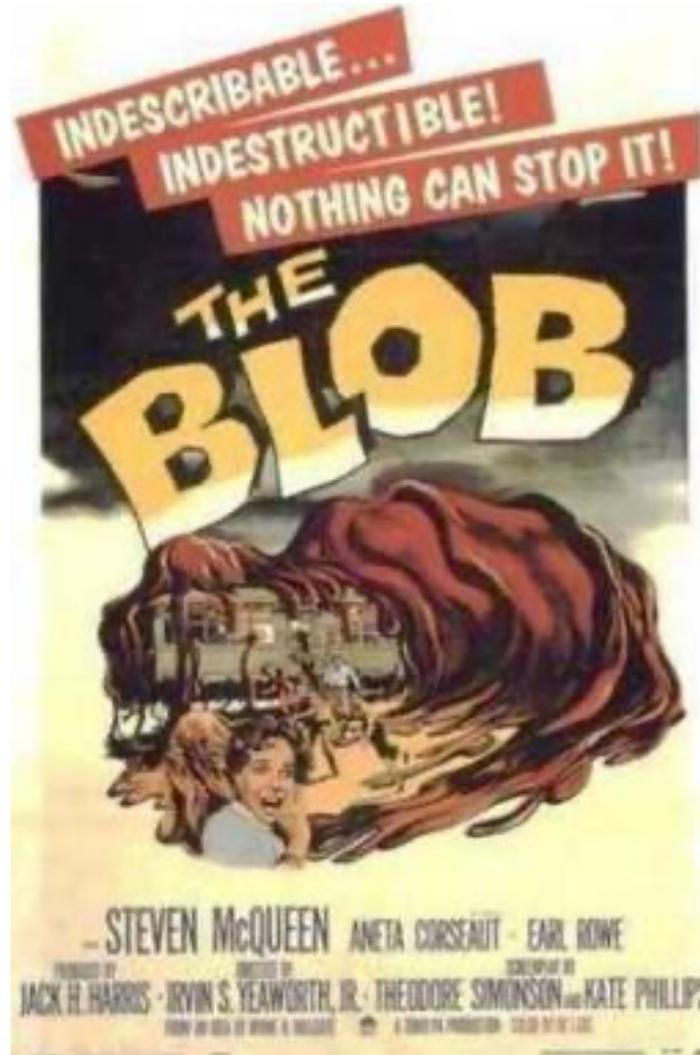
- Highly regulated safety-sensitive profession attracts, by nature, Government activity
- Ongoing industry representations for “reform”
 - International context
 - Cost and control
- From the point of view of Government, continuous review can be useful to ensure the system remains current...
-it can also be a useful way to deflect tensions and postpone decision-making on disputed issues
- Officials’ self-interest in generating processes

What is Government?!



Led Zeppelin, *Presence*, 1976

What is Government?!



Irvin Yeaworth, *The Blob*, 1958

“Rational” officials seek to maximize their self-interest

- “Budget-maximizing” model: officials seek to increase their budgets to increase their own power (Niskanen, *Bureaucracy and Representative Government*, 1971)
- “Bureau-shaping” model: officials may not seek budget-maximization but rather to “shape” their agency to maximize its “utility” e.g., power (Dunleavy, *Democracy, Bureaucracy and Public Choice*, 1991)
- “Rent-seeking” model: officials may “rent” or “sell” their influence to those seeking input into the lawmaking process (Downs, *An Economic Theory of Democracy*, 1957)

Processes can be more valuable than solutions!

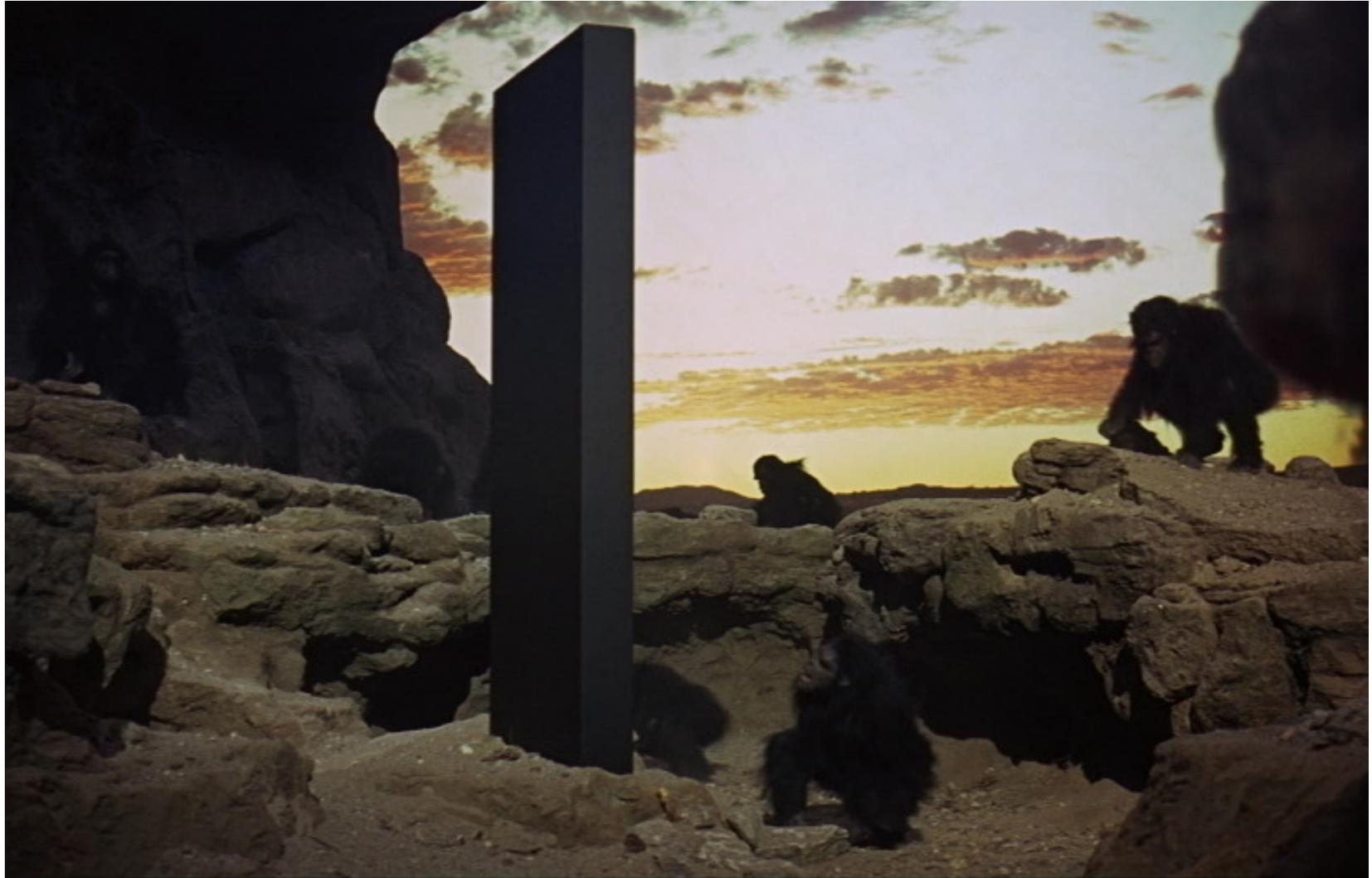
- Government excels at generating processes
- As mentioned, processes are useful to ensure any matter is duly scrutinized
- They can also help *postpone* decision-making – at least for some time – while helping justify the roles, budgets and need for resources of officials
- Some processes are not even *really* meant to lead anywhere...except taking you on a ride!

Processes can be more valuable than solutions!



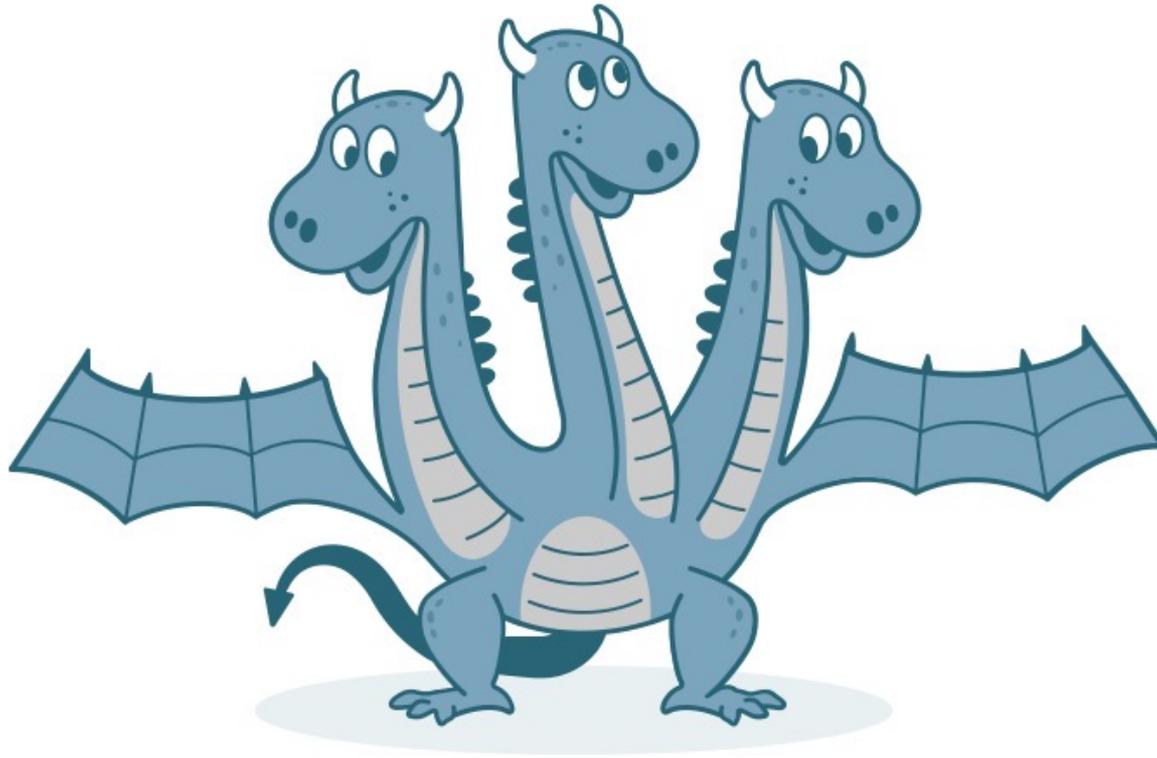
Credit unknown

What Government is *not*: a Monolith



Stanley Kubrick, 2001, *A Space Odyssey*, 1968

Government: a more accurate representation



Elected officials and civil servants: the ambiguity of Power

- **Bernard Woolley:** What if the Prime Minister demands options?
- **Sir Humphrey Appleby:** Well, it's obvious, Bernard. The Foreign Office will happily present him with three options, two of which are, on close inspection, exactly the same.
- **Sir Richard Wharton:** Plus a third which is totally unacceptable.



Yes, Prime Minister, A Victory for Democracy, 1986

Reading the chessboard

- Who are you dealing with?
- Where does the person fit in the Government's multiverse?
- Does the official have actual decision-making authority?
- What are his/her powers and interests?
- What kinds of policy or regulatory constraints is he/she operating with?
- Who has influence over him/her? From inside Government? From outside?

Sticks and carrots!

ScienceDaily[®]

Your source for the latest research news

Carrot or stick? Punishments may guide behavior more effectively than rewards

Date: May 6, 2015

Source: Washington University School of Medicine

Summary: When it comes to rewards and punishments, which is more effective -- the carrot or the stick? A simple experiment suggests that punishments are more likely to influence behavior than rewards. The results stem from a study involving 88 students at a university.

FULL STORY

When it comes to rewards and punishments, which is more effective -- the carrot or the stick?

A simple experiment devised at Washington University in St. Louis suggests that punishments are more likely to influence behavior than rewards. The results, which stem from a study involving 88 students at the university, are available online in the journal *Cognition*.

The study found that losses -- or punishments -- had a measured impact two to three times greater than gains -- or rewards.

In one study group, students listened to a series of clicking noises and indicated whether they heard more clicks in the left or right ear. In another group, students watched for flashes of light on a screen and indicated whether they saw more flashes on the right or left side. The number of clicks and flashes on each side were randomized and often very close together, making the task challenging and the students often uncertain of the correct response.

Every time a student made a choice, the researchers randomly displayed a token for 5, 10, 15, 20 or 25 cents that was given as a reward for the correct answer or taken away as a punishment for an incorrect response.

As might be expected, when a student was rewarded, he or she tended to repeat the previous choice. And that tendency grew stronger as the award increased. When a student was punished, he or she strongly avoided the previous choice.

However, unlike the response to a reward, no matter how large a sum was lost, the students showed a strong and consistent tendency to avoid the previous choice. This was true in both groups -- among those who heard clicks and those who viewed flashes -- demonstrating that the stimulus itself didn't matter.

"Objectively, you'd think that winning 25 cents would have the same magnitude of effect as losing 25 cents, but that's not what we find," said the study's lead author, Jan Kubanek, PhD, a postdoctoral research associate in anatomy and neurobiology at Washington University School of Medicine.

Facts, substance, clarity

- After having taken into account that the various “heads” of Government act with their self-interest in mind, that there is a need to carefully “read” the context in which officials operate, and that both carrots and sticks are useful when dealing with Government, what else can be beneficial?
- Facts! Substance! Clear messages!
- Clarity, however, is a quality that is not always reciprocated by officials...

Clarity: a quality not always reciprocated by Government!



The twilight zone

- **Minister Hacker:** I don't want the truth. I want something I can tell Parliament!



Yes, Minister, The Writing on the Wall, 1980

Pilotage is political

- Pilotage impacts the public in many ways (e.g., safe maritime transportation, environmental protection, international trade)
- Public opinion is a key consideration for officials
- Public perceptions provide leverage over Government so long as pilots' positions are compatible with the public interest

Discussion



Photograph courtesy of Capt. Martin Mangan, Upper St. Lawrence Pilotage District