

also in the hands of a very intelligent and clever gentleman, well acquainted with the fisheries at home, and whose writings on the subject had greatly attracted the attention of the hon. gent. [Mr. C.] He had spared no exertion in acquiring such full information as the case required.

Mr Gilbert refuted the charge of opposing the bill, because the hon. member for Northumberland had brought it in. He merely opposed the extent of the nets.

Mr Cunard denied that he had made such a charge. He had used the term, "perhaps."

Considerable further discussion took place, of a similar nature, respecting the extent of the nets; which ended in the adoption of the limits proposed by the bill; on the ground, that such nets had always been used in the Miramichi fishery, and were suitable for the place where they were used.

On the reading of the last section, which proposed that the owners of rafts, boats, &c. should be made answerable for all damages done to fishermen's nets, by running foul of them.

Mr Harrison stated, that he could not suffer that section to be adopted, without raising his voice against it. It frequently happened, that rafts drifted or were driven ashore, and were broken up, to the great loss of the owners, and it would be a very hard case to make them answerable for all damage thus accidentally done to nets. Mr Cunard observed, that it was the general course with raftsmen in the river contemplated by the act, to keep in the centre of the stream for the sake of the tide; but he had known instances of raftsmen having wantonly thrust their rafts through a range of nets, merely for the sake of mischief, altho' such nets were very much out of their way. He had never known an instance of unavoidable accident.

Mr J. Humbert thought such matters should be determined by a jury of 3 persons. Many unavoidable accidents frequently occurred in the passage of rafts. The wind often had a great effect on them, and drove them out of their course.

Mr Hayward said, it was well known that rafts were ungovernable, and might accidentally cause much mischief. If mischief was wantonly done, it should certainly be paid for. He should suggest the insertion of a phrase, to render raftsmen not liable for damages where they had used due diligence in endeavouring to prevent it. Mr Cunard replied, that in that part of the country from which he came, they did not find rafts to be ungovernable. It would be a very great hardship to the owners of the nets, if their nets should be destroyed; and a very difficult task to prove whether due diligence had been used. It would be very hard for the injured party to prove that the mischief was wantonly done. Which, then, would be better; that the party doing the damage should pay for it, or that the suffering party should put up with the loss? The payment for damage would make raftsmen cautious. It was morally impossible to prove due diligence.

Mr Hayward said, the proof should be put on the parties conducting the raft, not on the fishermen.

Mr Simonds observed, that such accidents to nets often happen at St. John. The question had been tried there, and it had been found, that the owners of the nets could not recover compensation for damage; because the rivers and harbours are the highways of the country, nets are obstructious, and no obstructions to highways are lawful. Nets, therefore, ought always to be removed, when rafts are coming down. Authorising them to remain would be imposing obstructions not allowed by the law. He, [Mr S.] thought it the duty of fishermen to remove their nets, and this view of the question was always taken of it in St. John. Such damage was frequent there, and often unavoidable. Fishermen ought to take their chance, if they were negligent.

Mr Cunard replied, that if it had been established by the house, that it had not a right to make a law to regulate the fisheries, he would consent to the amendment proposed, but he [Mr. C.] thought it had a right, to regulate. He attributed the opposition of the hon. member for St John to his profound ignorance of the localities mentioned in the bill. As to moving the nets, it was not that the fishermen of Miramichi were so indolent that they would not move their nets; but

the fact was, those nets were retained in their places by large stakes, which were placed there in May, and not removed till the Autumn. Could such stakes be removed at a moments' notice, and if not were the fishermen to be subject to the merry of the raftsmen, or others navigating the river? The present law provides no remedy in this case; and it is the intention of the proposed bill to provide that remedy. If the nets in question would obstruct the navigation of the river, he [Mr C.] would not have proposed the disputed section. But there was ample room for the nets, without preventing any such obstruction. Wanton damage was often done among them; none could arise accidentally, unless it were in the night, and in such case no damages could be removed.

Mr. Simonds thought it would have been much better if the hon. gentleman had explained his ideas, without the aid of the strong language he had used. He (Mr S.) did not envy the feelings which had prompted such language. He thought it would have been much better if such words as "profound ignorance" had not been used. Mr Allen and Mr Cunard rose together, but upon the former gentleman being named by the chairman, the latter gave way.

Mr. Allen hoped the hon. member (Mr C.) would not think it necessary to explain. He (Mr. A.) had listened to what the hon. member had said. He (Mr. C.) did certainly use the words "profound ignorance," but in his (Mr A's) opinion, he did not mean to imply any ignorance as to the law, in the hon. member for St. John, but merely as to the local peculiarities of the fishery in question. It was, certainly natural, that no hon. member, unless he had travelled thither, and made personal examination, could understand this local question fully. As to the question now before the house; he (Mr. A.) was in some respects favourable to it. But some consideration was requisite as to this matter concerning the rafts. The large stakes or spars, mentioned by the hon. member for Northumberland, were only used in the bay of Miramichi. They certainly were a very great expense to the fishermen. Sometimes spars of 25 or 30 feet in length, were continued for 1 1-2 miles. He (Mr. A.) believed that very few rafts passed where most of these spars were placed. He imagined that the greater part of the timber was shipped above that place. He had even sometimes observed, that, instead of coming down below it, the timber was sometimes towed up above it. He had seen rafts of 2000 or 3000 tons towed up.

Mr. Chandler objected to the section, and considered that the raftsmen should be only liable for wilful damage. The common law would not justify obstructions in a highway, nor the impeding the navigation of a river. He would propose as an amendment, the introduction of the words, "wilfully or maliciously," into the section.

Mr. S. Humbert concurred.

Mr. Cunard assented; and proceeded to observe, that he was at all times perfectly willing to read his recantation, whenever he was convinced of the necessity; but he would remind hon. members that the term, "Ignorance," was not original, but borrowed. It had first been applied to him by—

Chairman.—Order.

Mr. Cunard submitted that he was not out of order, but was over-ruled. The hon. member added two or three further remarks on the subject under discussion.

After a few farther observations from Mr. S. Humbert and Mr Chandler,—

The Speaker rose, and stated, that he did not intend to make any observations on the proposed amendment, but he wished to observe, that he feared those hon. gentlemen, who had laudibly endeavored to serve the point, in this question, would be the cause of doing them some injury. Mischief to poor people were generally done by those who were in better circumstances; which assertion the hon. Speaker would illustrate. Boats, bateaus, &c. frequently run through nets, and do them great injury, without a remedy being available. Certainly rafts, boats, &c. ought to keep in the channel. It was the best and the most proper course for them. Unavoidable circumstances might drive a raft upon a net; yet in such cases, it was generally easy for the parties to settle the matter; but there was no necessity whatever for small vessels, &c. to be out of the channel. He (the Speaker,) would rather let the section stand as it was.

After a few additional remarks from Messrs Chandler, Cunard and the Speaker, the proposed amendment was adopted; the chairman left the chair, and reported the bill as agreed to, with amendment.

To the Editor of the Gleaner.

SIR,

In justice to my own character—and in order to satisfy public curiosity, I am induced to enquire of "Exposer," whether I am the person he censures in the last number of the Gleaner, as from his communication it is impossible even for me to ascertain. I am aware of the impossibility of accomplishing the engagements of a public situation to the entire satisfaction of all. Yet conscious of being actuated by upright and sound principles in the fulfilment of those responsibilities, I fearlessly request, that if I am the Post-Master "Exposer" alludes to, his charge, and its bearings may be immediately placed in the impartial scales of public discussion—or that he will in the next number of the Gleaner acquit me of a charge, which, without explanation, I would be deemed by many guilty of.

JAMES CAIE, POSTMASTER.
Miramichi, 2d. March, 1831.