

interfere with navigation, they are to that extent unlawful; therefore you do not want to declare, that they are unlawful, but to obtain machinery by which, it being admitted that they are unlawful, they shall be made lawful.

Sir HECTOR LANGEVIN. I was glad to explain to the hon. gentleman how I understood this first clause when my hon. friend rose, and, of course, I, knowing the interest which he takes in all matters of that kind, would not interfere with what he had to say. The object of the section is this: We start from this point—the Local Legislature has not authority. That is the point. Then we say that the boom, dam, or aboiteau, which will be constructed henceforth to be legal must be built after the site has been approved by the Governor in Council, and be built and maintained in accordance with plans approved by the Governor in Council. That is the object.

Mr. BLAKE. My hon. friend will permit me to point out that the second clause accomplishes everything, and I would suggest that the Bill begin with the second clause.

Mr. BURNS. It may be well to state, as bearing on the first section, that it only takes the place and carries out the provisions of the Local Act, because this establishes that booms in New Brunswick shall be so constructed as to admit the possibility of admitting the passage of vessels, and not to interfere with navigation. A clause of that kind is placed in every Act of incorporation, respecting dams, passed in New Brunswick.

Sir HECTOR LANGEVIN. No; the first clause evidently has for its object the prevention of the building of booms, dams, and aboiteaus, unless the site is selected by the Governor in Council, and the plans are approved by the Governor General in Council. It is to prevent any boom, dam, or aboiteau, being built unless this is done. Then the second clause proceeds to say that any boom, dam, and aboiteau, that may be constructed henceforth, or constructed heretofore, will be an illegal boom, dam, or aboiteau, if these conditions had not been complied with. I think that this is the distinction which the Bill wishes to make: First, to prevent these being built unless the site is so-and-so; and, second, those that are built will be illegal if not built in accordance with the provisions of the clause.

Mr. BLAKE. If that be the object, the proper course is to provide that any boom, dam, or aboiteau, should be constructed that would interfere with navigation, &c., if you want to prevent the construction of a dam &c., that would interfere with navigation; but what you say is, no boom, &c., constructed hereafter shall be a lawful dam, &c.; while what you ought to say is, that no boom, &c., shall be constructed under authority that shall interfere with navigation.

Mr. WELDON. That would be a more direct mode of expressing it. As far as regards the word "boom," &c., in that section, they may be very well left in, because, if any boom, &c., is built hereafter interfering with navigation, then the Government might interfere.

Mr. CASGRAIN. I desire to call the attention of the hon. Minister to one point. Why does he want to prevent only booms being constructed? I called his attention to a harbor in my county, St. Jean Port Joli, where the Local Government granted a patent for a water lot between high and low water mark, which patent interferes directly with navigation. The Board of Quebec Harbor Commissioners say, that if the wharf projected is constructed according to the patent, it will completely obstruct that harbor; and I think that the Government ought also to provide for this kind of impediment in navigation. This is a very important harbor for the locality. The patent that has been granted is illegal, in my opinion. Still the courts of law decided that it was valid, though a subsequent decision of the Supreme Court declares the contrary; but the obstruction is to be made. I

may say that this concession was granted when the hon. member for Gaspé was at the head of the Crown Lands Department in Quebec. While we are upon this question of navigation, which is connected with fisheries, I wish to call the attention of the hon. gentleman to the fisheries at St. Jean Port Joli, Rivière Ouelle. The hon. Minister of Marine, because he says the Government have not granted licenses—

Sir HECTOR LANGEVIN. I hope the hon. gentleman will postpone his remarks on this subject to some other time, as it really does not properly come up under this Bill.

Mr. WOOD. There is a great deal of uncertainty in our Province as to the legality of some of these aboiteaus which have been constructed on our rivers. In one case several trials have taken place before the courts, but the juries could not agree, and it was finally referred to arbitration. The question before the arbitrators was to whether or not these structures were a benefit to certain lands; but the question of their legality was not settled because they are principally used for the protection and improvement of adjoining lands, and not as a means of navigation. I think, therefore, it would be very satisfactory to the people who live in those sections of the country to have it decided by law whether such structures are authorized or not. With regard to the word "dykes" to which the hon. gentleman refers, they are generally placed on top of the aboiteau, not for the purpose of obstructing the main river, but merely to prevent the tide overflowing when it is exceptionally high.

Mr. WELDON. There is no doubt, as the hon. gentleman says, there has been considerable discussion as to the legality of those aboiteaus, and I should like to see a clause inserted in the Bill declaring that all these aboiteaus heretofore erected shall be legal, but leaving those of the future under the operation of the first clause which requires plans to be filed in order to determine their legality. Many of these structures do not interfere to any serious extent with the navigation of the small rivers and streams upon which they are placed—to nothing like an extent commensurate with the advantage to the land which is secured by their construction. There are some streams in Albert and Westmoreland counties where they, the aboiteau, is the main road, and the streams upon which they are placed could not be practically used for purposes of navigation even if they were removed. In one sense, these dykes and aboiteaus are private, but in another they are public, and by the law of New Brunswick these marsh lands are set off in districts. The proprietors of these districts elect Commissioners, who regulate these dams and aboiteaus, and other matters of that kind.

Sir JOHN A. MACDONALD. In order to meet the views of hon. gentlemen I would suggest that the clause be amended in this way. In the fifth line of the first clause strike out the words "shall so far as the same may" and substitute "so as to," and in the following line insert the word "shall" before the word "be."

On section 5,

Mr. BLAKE. I maintain my objection in giving power to the Governor in Council to interfere with navigation in this way; and I must say, with reference to the hon. gentleman's argument that there is power given already to the Governor in Council to remove a wreck from a harbor, in case the owner neglects to remove it, that it seems to me the analogy does not hold. A vessel may be wrecked in a harbor or river, and the owner may be away, and not comply with his duty; but it is one thing to permit the Government to do that which the owner ought to do and would do for the protection of his own property if he were there, and it is quite another thing to permit the Crown, of its own mere motion, to destroy an existing property.