so. There was . . . no reason why the cable which caught the nets and destroyed them should have been let go and permitted to ground. The channel which was taken was not the one used in such an operation as that in which the appellant was engaged, and there was no necessity for taking the eastern channel. If the wind was such that the alligator could not take the western channel, there was nothing to prevent it being anchored or fastened to a tree on the shore; but, in spite of the fact that the wind would not permit of the westerly channel being taken, and was so strong that the alligator was unable to keep to its course, those navigating it deliberately proceeded by the easterly channel, with which they were little acquainted, and that, too, upon a dark night.

It is clear, I think, that the destruction of the respondent's nets was due to the acts and omissions I have enumerated, and that they were such as to warrant a finding of negligence entitling the respondent to recover, even if his nets were unlawfully set.

I agree, however, with the contention of Mr. Masten that the answers of the jury are not sufficient to warrant a judgment in favour of the respondent. Apart from those relating to the assessment of damages, the answers were:—

1. That the nets of the plaintiff were destroyed by the defendant's alligator on the 22nd or 23rd July, 1913.

3. That there was negligence on the part of the defendant or its servants.

4. That the negligence was due to the company's foreman leaving the narrows at night with side wind blowing so that he would be driven from the regular channel into a strange channel.

Reading the answers to questions 3 and 4 literally, there is no finding that the destruction of the nets was caused by the negligence mentioned in the answers to those questions; and it by no means follows that the negligence found was the cause of the destruction of the respondent's nets.

A new trial must, therefore, be directed, unless the case is one in which the powers conferred upon the Court by sub-sec. 2 of sec. 27 of the Judicature Act (statutes of 1913, ch. 19) may properly be exercised.

The Court has before it all the materials necessary for finally determining the matter in controversy. The amount of the respondent's claim is comparatively small, the costs which would be occasioned by the new trial and possibly another appeal would add greatly to the costs of the litigation, with the result that they would be altogether out of proportion to the amount