

I am going to go as slow as I can and as careful as I can."

(2) The conversation between the captains as they passed immediately after the collision, which I find to have been as given by the captain on the "Plummer," "When we got abreast of one another, bridge to bridge, or just about, I says to him, "Captain, I done all I could for you." He says, "I know you did, my stern was on the bottom, and I could not help it, or dragged the bottom, or something to that effect" (p. 33.) These two facts are more consistent with the evidence given on the part of the "Plummer" than that given on the part of the "Dorothy."

Then consideration must also be given to the expert evidence respecting the size of the rudders in ocean and shallow fresh water navigation, and the enlargement of the "Dorothy's" after the collision. Captain McMaugh's evidence is material. Q. 36. "If you observed a vessel taking a devious course from bank to bank, in approaching you, how would you account for that,—what is causing that? A. She is certainly very erratic in her movement. It might be caused by the officer, or want of proper steering apparatus." Q. 38. "Would the size of the rudder have anything to do with the erratic movement? A. Yes, it has. That has been the trouble with most of these sea-going vessels coming to our fresh water, that the rudders have been found too small for canal purposes, and in nearly every instance they have been enlarged." The following month when the "Dorothy" was in the dry dock at Cleveland for repairs, her rudder was enlarged by an extension of about 15 to 18 inches at the top and about 12 inches at the centre.

Another fact brought out in evidence, but not commented on by counsel, is the discrepancy between the time of the collision as stated in the preliminary act filed by the "Dorothy," 3.30 p.m., and the time stated in the engine-room log-book, 3.60 or 4 p.m.—a difference of half an hour. From an inspection of the engine-room log-book, it seemed to have been very carelessly kept; and it certainly does not record a daily or regular statement of the signals given to the engine-room. No amendment to the preliminary act is now allowable, as stated by Dr. Lushington in *The "Vortigern,"* Swab. 518: "Neither party is allowed to depart from the case he has set up in his preliminary act." The same hour, 3.30 p.m., appears in the statement of defence, and no application was made to amend, or to state more correctly in the pleadings the