

These collision regulations have been framed for the protection of lives and property in navigating the sea and the inland lakes and rivers, and for the guidance of navigators taking early and prompt measures to avoid "the risk of a collision." And so strictly have the Courts enforced them that even when a vessel committed a comparatively venial error it was held that it could not be absolved from the consequences prescribed by law, and must be held liable: *Amatson Speers*, 15 App. Cas. 37.

It is therefore no justification for a departure from the rules of navigation that one vessel was disregarding the duty of observing an obligatory rule, that the other is therefore authorized to proceed other than in strict conformity to the rule she is bound to observe, and which she sees the other is disregarding. Instead of affording any right, or discretion, or relaxation of vigilance, it imposes the duty of special care, prompt action and maritime skill. For it has been well said by Sir James W. Colville in *The "Frederick William,"* 4 App. Cas. at p. 672, "To leave to masters of vessels a discretion as to obeying or departing from the sailing rules is dangerous to the public; and that to require them to exercise such discretion, except in a very clear case of necessity, is hard upon the masters themselves, inasmuch as the slightest departure from these rules is almost invariably relied upon as constituting a case of at least contributory negligence."

No circumstances have been proved in this case warranting a departure by either steamer from the collision regulations, and I must therefore find that each of them infringed the regulations as to the rule of the road, and that both of them therefore were in fault for the collision.

The damages caused to both ships will be equally divided, and each party will bear his own costs. Reference to the District Registrar to take the necessary accounts. See R. S. C. ch. 79, sec. 70; *The "Agra"* and *"Elizabeth Jenkins,"* L. R. 1 P. C. 501; and the form of the decree in *The Stoomvoort "Maatschappy Netherland" v. Peninsular and Oriental Steam Navigation Co.,* 7 App. Cas. 795.