

I have intimated that the faulty navigation of the "Dorothy" in sheering from side to side in the canal warranted the captain of the "Plummer" in proposing that a new agreement should be arranged for the steamers passing each other in the canal. The captain under rule 28 proposed by a two-blast signal to pass starboard to starboard. This signal was not answered by the "Dorothy," as it should have been; and I must here repeat the rule referred to in *Cadwell v. Bielman*, 7 O. W. R. 398, that "the duty to answer a signal is as imperative as the duty to give one." But I think that the appropriate signal under the rule when he noticed the faulty navigation of the "Dorothy," and the warning comment of his wheelsman that "the 'Dorothy' was making awfully bad steering," should have been the danger signal indicated in the same rule as follows: "In every case where the pilot of one steamer fails to understand the course or intention of an approaching steamer, whether from signals being given or answered erroneously, or from other causes, the pilot of such steamer so receiving the first passing signal, or the pilot so in doubt, shall sound several short and rapid blasts of the whistle, not less than four; and if the vessels shall have approached within half a mile of each other, "both shall reduce their speed to bear steerage way and if necessary stop and reverse." When the faulty navigation of the "Dorothy" was noticed, I think the "Plummer" should then have stopped, and, if necessary, reversed. See *The "Albert Dumois,"* 177 U. S. 240.

Then as to the contention that there was no proper look-out on the "Plummer," I cannot, after reading the comment of the captain and wheelsman, find that the absence of a look-out, as required by the rules, contributed to the collision. And in *The "Blue Jacket,"* 149 U. S. 371, it was said: "It is well settled that the absence of a look-out is not material when the presence of one would not have availed to prevent a collision" (p. 389).

The Merchant Shipping Act, 1894 (Imp.), provides (sec. 419, sub-sec. 8), where in the case of a collision it is proved to the Court before which the case is tried that any of the collision regulations have been infringed, the ship by which the regulations have been infringed shall be deemed to be in fault, unless it is shewn to the satisfaction of the Court that the circumstances of the case made departure from the regulations necessary.