

And in considering any "special circumstances" warranting a departure from the rules, it must be remembered that these rules were not intended to prevent collisions, but to prevent a situation so fixed as to invite "the risk" or "the probability of the risk" of a collision.

Since Dr. Lushington's judgment amendments have been made, and some new rules have been added, so as to provide for special emergencies which suddenly arise, and which had not been otherwise provided for. Thus in the note to rule 21, if the risk of collision is so close that it cannot be avoided by the action of the giving-way vessel alone, the other vessel "shall take such action as will best aid to avert the collision." Rule 27 provides that "in obeying and construing these rules, due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger." And rule 29 is more far-reaching by providing that "nothing in these rules shall exonerate any vessel, or the owner or master or crew thereof, from the consequences . . . of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case." And this rule is in harmony with the observations of the Court in *The "Santiago de Cuba,"* 10 Blach. at p. 455: "The interests of human life, and the protection of property, demand that in circumstances of peril the dictates of the highest prudence, and especially all just and peremptory rules of precaution, shall be observed."

In this case I find that when the possibility of a risk of collision was imminent, the "Caspian" was on her regular course, steaming at the rate of 10 miles an hour; that she promptly steadied her course to prevent the swing of her stern causing her to strike the "Magedorna;" that after the "Magedorna's" engine had been given two kicks to give her stern-way, so as to cause her to back out from the dock, it was not reversed so as to give her head-way, and out of the course intersecting that on which the "Caspian" was steaming, at the rate mentioned; and that she neglected, in the special circumstances of the peril then imminent, to observe the dictates of the highest prudence, and especially the just aid peremptory rules of precaution which the rules quoted enforce; and that it was her duty to cause her engine to move