throp, and thus to break up the voyage for which they shipped as seamen on board of said vessel. The fact, if it be a fact, that the captain, in suspending the libelants from duty and imprisoning them on board the ship, acted in good faith, under the belief that they were guilty of attempting to destroy the vessel, is not of itself sufficient to defeat the claims of the libelants in this action. The good faith of the master in that matter would be important, if the libelants were seeking to recover damages for assault or false imprisonment; but in this action, based on the contract set out in the shipping articles, the libelants are entitled to recover if they are not in fact guilty of the charge of attempting to set fire to the vessel. There will be a decree for the libelants.

THE MEXICO.

In re COMPANIA TRANSATLANTICA.

(Circuit Court of Appeals, Second Circuit. January 7, 1898.)

No. 39.

1. COLLISION—PRESUMPTIONS—CARGO INSURERS—LIMITATION OF LIABILITY.
The rule that where fault on the part of one vessel, sufficient to account for the collision, is established, the burden is then on her to clearly show fault on the part of the other, applies as against underwriters of the cargo of the vessel so in fault; and it makes no difference that the other vessel has sought the benefit of the statutes for limitation of liability.

2. SAME—STEAMERS AT SEA.
The fact that one of two colliding steamers had the reversing gear of her engine clamped fast to the rock arm, so that from one to five minutes was required to release it after notice to reverse, *held* a gross fault, rendering her liable.

3. SAME.
Where two steamers approached each other on the open sea at night, *held*, on the evidence, that the one having the other on her starboard bow, after crossing the bow of the privileged vessel, so as to have her green light constantly in view, began porting, and continued to do so until she struck the latter on the starboard side, and was consequently in fault; and *held*, further, that the privileged vessel was not in fault for not reducing her speed, or for starboarding so as to reduce the angle of collision. 78 Fed. 653, affirmed.

Appeal from the District Court of the United States for the Southern District of New York.

Petition for limitation of liability.

This proceeding was instituted by the petitioner in the district court, Southern district of New York, in consequence of a collision which occurred between the steamer Mexico and the steamer Nansemond, December 21, 1895. The Nansemond, as a result of the collision, sank, with her cargo, and all became a total loss. The Mexico sustained no damage. In May, 1896, libels were filed by the owners of the Nansemond, and by the underwriters of a portion of her cargo, against the Mexico, in the Southern district of New York, and thereafter petitioner filed its petition for limitation of liability. The value of the petitioner's interests in the Mexico and in her freight was duly appraised, and a bond given for the amount. Under the monition issued in the proceeding, claims were filed on behalf of the owners of the Nansemond and her cargo. The cause coming on to be heard, the district court held the Nansemond solely in fault for the collision, and entered decree accordingly. 78 Fed. 653. Appeal from said decree is prosecuted by the un-

derwriters of the principal portion of the Nansemond's cargo; the owner of the Nansemond having withdrawn from the appeal. The assignments of error bring up only the charges of fault against the respective vessels. The Mexico was an iron vessel, 331 feet in length. She was bound on a voyage from Puerto Cabello to Savanilla, and had reached a point about southerly from the easterly end of Oruba Island. Up to the time of sighting the Nansemond the Mexico's course was N., 70° W., corrected, or about W. by N. ¾ N. There was no reason, except the avoiding of other vessels, why she should alter this course until many miles further on her way. The Nansemond was a wooden steamer, 165 feet long. She was bound from Maracaibo to Curaçao. For some hours before sighting the Mexico, the Nansemond's course had been up from the mouth of the Gulf of Venezuela. N. E. by E. It was her practice (she ran regularly between the ports named), after getting Oruba light abeam, to turn to the starboard, laying a new course of E. ½ S. The collision occurred between 2 and 3 a. m. The night was dark, and not good for seeing lights. The stem of the Nansemond came in contact with the starboard side of the Mexico abaft amidships, with an apparent angle of about 45° between the Mexico's starboard side and the Nansemond's port side.

Wilhelmus Mynderse, for appellants.
J. Parker Kirlin, for appellee.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

LACOMBE, Circuit Judge (after stating the facts). It might be quite sufficient, in this case, to affirm upon the opinion of the district judge. Indeed, when the record is examined,—especially the testimony given by the only survivors from the deck of the Nansemond,—it is difficult to understand upon what theory the decision of the district court could be reversed. The Nansemond, aside from any faulty navigation, was concededly in fault because her reversing gear had been made fast by a clamp to the rock arm, which would require from one to five minutes to release it after notice to reverse. Counsel for the Nansemond concedes that, when the vessels came in sight of each other, she had the Mexico on her starboard bow. She was therefore the burdened vessel, conceding her own fault in the matter of the reversing gear; and the burden was upon her to show some fault on the part of the privileged vessel, if the latter is to be made to share the loss. "Where fault on the part of one vessel is established by uncontradicted testimony, and such fault is itself sufficient to account for the disaster, it is not enough for such vessel to raise a doubt with regard to the management of the other vessel. There is some presumption, at least, adverse to its claim, and any reasonable doubt with regard to the propriety of the conduct of such other vessel should be resolved in its favor." The City of New York, 147 U. S. 72, 13 Sup. Ct. 211; The Ludvig Holberg, 157 U. S. 60, 15 Sup. Ct. 477. Cargo underwriters stand in no better position, nor is this salutary rule of evidence in any way modified by the circumstance that the privileged vessel, when proceeded against in rem by some sufferer from the collision, has sought the benefit of limitation of liability under the statutes of the United States, even though her petition in such proceedings may aver that she has committed no fault. The Plymothian and The Victory (Nov. 29, 1897) 18 Sup. Ct. 149. The story of the Mexico is that the masthead and green lights of the Nansemond were sighted on the port bow of the Mexico; that they