

lery for the damage done, unless they have proved that the accident was not and could not have been caused by the non-observance of the prescribed rules of navigation. Similar statutes have received this construction both in England and in the United States.

In the case of *The Fenham*, decided in 1870 by the Privy Council, Lord Romilly said: "The usual rule is, the omission to exhibit the proper lights in some cases is immaterial, if it is clearly shown that the absence of such lights was not the cause of the collision, or did not, in any respect, conduce to it, and their Lordships assent to that view of the case; but at the same time, it is of the greatest importance, having regard to the admiralty regulations, and the necessity of enforcing obedience to them, to lay down this rule, that if it is proved that any vessel has not shown lights, the burden lies on her to show that the non-compliance with the regulations was not the cause of the collision. Their Lordships consider this to be the rule, not only that vessels must obey the admiralty regulations, but that they are bound to obey them in due time." L. R. 1 P. C. 212.

In a more recent case, decided in October 1873, by the Superior Court of the United States, Strong, J., delivering the opinion of the court, said: "It must be conceded that if it clearly appears the fault could have nothing to do with the disaster, it may be dismissed from consideration. The liability for damages is upon the ship or ships whose fault caused the injury. But when, as in this case, a ship at the time of a collision is in actual violation of a statutory rule intended to prevent collisions, it is no more than a reasonable presumption that the fault, if not the sole cause, was at least a contributory cause of the disaster. In such a case the burden rests upon the ship to show not merely that her fault might not have been one of the causes or that it probably was not, but that it could not have been. Such a rule is necessary to enforce obedience to the mandate of the statute." *The Pennsylvania*, 19 Wallace, 125.

Have the appellants proved that the want of the globular lantern was not and in fact could not have been the direct or indirect