

Case No. 6,511. HINCKLEY ET AL. V. THE NORTHUMBERLAND.  
[16 Hunt, Mer. Mag. 386.]

District Court, S. D. New York.

March 3, 1847.

COLLISION—CONVERGING COURSES.

[Where one of two vessels upon a converging course commits the fault of luffing instead of keeping away, no damages will be awarded for the consequent collision, where the evidence shows that the other vessel maintained her course, and did not give way.]

[Libel in admiralty by Joseph Hinckley and others against the ship Northumberland (John Griswold, claimant), for \$6,000 damages.]

This was a case of collision between the packet Northumberland and the schooner Louisa, which occurred during a bright moonlight night, off Long Island, Montauk Point, bearing N. N. E. distant forty miles, and the nearest land twenty-nine miles. The schooner was deep with coal, and sunk alongside in five minutes; her crew barely saving their lives, and some of them being hauled out of the water after she went down. Both vessels were alleged to have been close hauled—the ship on the starboard, the schooner on the larboard tack. Both were made out on the lee bow of each other, on converging courses, and at the distance of about two miles, and each supposed to be to windward of the other's track, (the ship going at the rate probably of five, the schooner at four, knots.) The schooner held on without altering her course, as did the ship, until within a few of her lengths from the schooner, when she ported her helm, and came into the wind, striking the schooner between her fore and main rigging. If the ship had not luffed, she might have cleared the schooner's stem or struck her abaft her beam and near her stern; if kept away, she would have apparently cleared the schooner.

Daniel Lord, Jr., and B. D. Silliman, for libelants.

Ogden Hoffman, W. I. Morton, and O. Hoffman, Jr., for the Northumberland.

THE COURT (BETTS, District Judge) held, that the ship committed a fault in not keeping away instead of luffing; but such fault having been induced by the wrongful act of the schooner, in maintaining her course and not giving way in time, affords no ground for the schooner to demand damages-or remuneration therefor.

Libel dismissed, with costs to be taxed.