

THE ELLA WARNER.¹
HASKELL v. THE ELLA WARNER.

District Court, E. D. New York.

October 4, 1886.

COLLISION—TWO SAILING VESSELS—VESSEL CLOSE-HAULED—VESSEL
SAILING FREE—LUFF.

The evidence indicated that the collision in this case was caused by a luff on the part of the schooner E., when it was her duty to hold her course, being close-hauled, and meeting the vessel E. W. sailing free. It not being shown that her luffing was necessary to avoid immediate collision, *held*, that the luff was a fault, and the E. solely liable for the collision.

In Admiralty.

Goodrich, Deady & Goodrich, for libelant.

Pritchard, Smith & Dougherty, for claimant.

BENEDICT, J. The immediate cause of the collision was a luff on the part of the schooner Eloise, when it was her duty to hold her course, being close-hauled, and meeting a vessel going free. Her master claims that his luff was made when the Ella Warner, displaying a green light, was crossing his bow, so near that his schooner would have struck the starboard quarter of the Ella Warner if he had not luffed; but the conceded fact that the Ella Warner, while luffing, struck the Eloise at her starboard fore-rigging, shows to me that the Ella Warner could not have been crossing the bows of the Eloise in the manner described by the captain of the Eloise at the time of the luffing by the Eloise. It seems to me that the Eloise has failed to show that her luffing was necessary to avoid immediate collision. Such being the case, her luff was a fault. It is entirely plain that, if the Eloise had held her course, there would have been no collision. The cause of the collision was her fault in luffing when she did. No fault is proved against the Ella Warner. She took all precautions to see the Eloise, and the Eloise was seen in time to avoid her by luffing. The Ella Warner was luffed as soon as the Eloise was seen, and that luffing would have avoided collision if the Eloise had held her course.

The libel must be dismissed, with costs.

¹ Reported by Edward G. Benedict, Esq., of the New York bar.