must be borne by the party on whom it happens to light, the other not being responsible to him in any degree. Secondly, when there has been a want of due diligence or skill on both sides. In such case the rule of law is, that the loss must be apportioned between them, as having been occasioned by the fault of both. Thirdly, it may happen by the misconduct of the suffering party only; and then the rule is, that the sufferer must bear his own burden. Lastly, it may have been the fault of the ship which ran the other down, and in this case the injured party would be entitled to entire compensation from the other. (*The Woodross, Sims, and Dodson's Rep.*)

The third rule here laid down, it appears to me, applies with great force to the case under consideration. The misconduct on the part of the master of the Harriet in anchoring his ship immediately in the thoroughfare, is fully made out by the proof; while, on the contrary, there is no fact proved going to show mismanagement, want of skill, or negligence on the part of the master of the Louisville. It is true that the opinions of some nautical men, found in the evidence, show that it was possible for the Louisville to have avoided a collision had everything been done that it was possible to do. But the law imposes no such diligence on the party in this case. So far as the Harriet was concerned, the Louisville was entitled to the full use of the thoroughfare of the pass. The master of the Harriet having obstructed it, with a full knowledge of the danger of doing so, has been guilty of such misconduct as to deprive the appellees of the right of action against the appellant. (3 *Kent's Com.*)

It was insisted by the counsel for the appellees, that the Harriet being at anchor, and the other ship under sail, that the latter was therefore liable. It is true, if a ship be at anchor, with no sails set, in a proper place for anchoring, and another ship, under sail, occasions damage to her, the latter