

*Judgement of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of the  
Russian S.S. "Yourri" (Alexander B. Matwief,  
Master) v. The British S.S. "Spearman"  
(Robert Browne Whylock, Master), from the  
Supreme Consular Court at Constantinople;  
delivered February 10th, 1885.*

---

Present:

LORD BLACKBURN.

SIR BARNES PEACOCK.

SIR ROBERT COLLIER.

SIR RICHARD COUCH.

SIR ARTHUR HOBHOUSE.

THEIR Lordships do not think it necessary to call upon the Respondent's counsel.

The first important question is, what, upon the evidence, is the correct view of the facts? There is a great deal that is not in dispute at all. The "Yourri" was going down the River Danube, and the "Spearman" was coming up. When the "Yourri" had got near the spot where the collision took place, there was, according to all the evidence, a certain degree of mist which, on the balance of the evidence, seems to have got sufficiently great to prevent seeing across the river. That being the case, there would be an obvious object and reason for the vessel that was coming down the river to steer so near one shore or the other that it could see that shore and guide itself in going down the river. If she were to keep in the middle of the river when the mist was such that she could not see either shore, she would not know where she was going, and she must come nearer either to one side or the other to guide herself. Having that obvious

desire, the question would be, did the "Yourri" go to the left side to guide herself, or did she go to the right?

Now, as to that question, the whole of the evidence shows that she went to the left, and, in addition to that, after the collision took place she was found on the left side. What effect the collision might have had in moving the vessel from the spot where the collision took place to one side or the other would not matter here. It might have had some effect in pushing the vessel further from or nearer to the shore, but it is quite clear that there is not, upon this evidence, any ground for saying that the Court below were wrong in their conclusion that the vessel could not have been pushed to the spot where her hulk was found lying, and brought there by anything that happened after the collision, unless she was upon the left-hand side of the river instead of the right-hand side when the collision happened.

That fact being established, then comes the question that is put as a matter of law: Was it a right decision of the Consular Court to hold that it was negligent in the vessel coming down the river, especially when there was a fog and approaching night, to go to the left-hand side instead of going to the right? That of course very much depends upon what is the construction of the rule which has been referred to; that rule seems decidedly to say that in the river the vessel that is going down shall keep to the right bank. This ship, the "Yourri," did not keep to the right bank when the fog came on, and it was necessary to keep to one bank or the other to guide her; she might and ought to have gone to the right side, and then she would have known that no vessels coming up the river could meet her unless they were neglecting their duty by going to the wrong side. She would then have been safe. As it was, she went, for no reason

apparently. on the left-hand side, when she ought not to have done so, and their Lordships think it would be very dangerous indeed in the case of a river navigation to put any other construction on the rules than to say that it is a neglect of duty for the vessel that is to keep to the one side or the other, according as the rules may be, not to do so. It is very necessary that all vessels should know that going down the Danube they should keep to the right bank, and in coming up keep to the left bank, and that it is a neglect of duty and negligence to come across to the other side.

That being so, that this neglect of duty, if it was one, was the cause of the accident, or contributed to the accident, is a matter that can hardly admit of dispute at all. Had the "Yourri" not improperly gone to the left-hand side, the "Spearman" would never have met her. The "Spearman" was held to blame for not having lights, and the Court below thought that the absence of lights partly contributed to the accident, and that decision has not been appealed against.

The result is that the judgement of the Supreme Consular Court must be affirmed, and this Appeal dismissed with costs, and their Lordships will humbly advise Her Majesty to that effect.

