

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of the
Owners of the S.S. Montauk v. the Owners of
the S.S. Luigia Premuda, from the Consular
Court, Constantinople; delivered 8th December
1900.*

Present at the Hearing:

LORD HOBHOUSE.

LORD ROBERTSON.

LORD LINDLEY.

SIR FRANCIS JEUNE.

SIR FORD NORTH.

Nautical Assessors.

Captain JAMES KIDDLE, R.N.

Captain RICHARD DYER, R.N.

[*Delivered by Sir Francis Jeune.*]

This is an Appeal from a decree of Her Majesty's Supreme Consular Court at Constantinople confirming on re-hearing a decision of the Court in an action relating to a collision in the Bosphorus in which the owners of the S.S. *Luigia Premuda* were Plaintiffs and the owners of the S.S. *Montauk* Defendants. In neither Court was the assistance of assessors obtained, but although the absence of such assistance is in such a case as the present to be regretted, it may be observed that the question at issue turns rather upon knowledge of the Bosphorus at Constantinople and the craft navigating there, which presumably was possessed by the Judges themselves, than upon information founded on nautical skill and experience such as could be contributed only by skilled assessors.

The collision occurred in the following manner:—The *Montauk* a steamship of 1944

tons net and 3022 tons gross register and 320 feet long, while on a voyage from Kertch to Rotterdam anchored on the morning of 23rd November 1896 in the Bosphorus off the Sultan's Palace and near the shore. She lay there heading north-east during the day, at a place where there was little or no current, but further out from the shore the current was running on the evening of that day at the rate of five or six knots. The Sultan's yacht was anchored one or two lengths ahead of the *Montauk* and about one point on her port bow. Several steamers were moored astern of the *Montauk* the nearest at a distance of two or three lengths. During the day the *Luigia Premuda* came to an anchor on the starboard side of the *Montauk*, just before her beam, at a distance of two or three lengths and in the full force of the current. About 6.45 p.m. the *Montauk* proceeded on her voyage, and in so doing got up her anchor and moved slowly ahead in the direction in which she had been lying. At this time the wind was from the north, in a direction, therefore, almost the same as that of the current, of a force amounting to a strong breeze and squally. The night was dark with passing showers, but clear. The *Montauk* steamed slowly past the Sultan's yacht till she came to a position in which the *Luigia Premuda* was broad on her starboard quarter at about three lengths' distance. The helm of the *Montauk* was then ported hard-a-port, and going slow ahead with her engines she thus entered the current. She swung to her helm about four or five points and was moving onwards when a white light was suddenly discerned from what was afterwards seen to be a boat at a point or a point and a half on her starboard bow, moving across the bows of the *Montauk*, close down to the water and about half a ship's length away ; and at the same time shouts and the sound of oars were heard. The captain of the *Montauk* fearing to run

down the boat stopped his engines and put them full speed astern. As soon as the light was clear on the port bow of the *Montauk*, her engines were put full speed ahead, and the helm was put hard-a-starboard. Before, however, the *Montauk* could get across the bows of the *Luigia Premuda* the current carried her down and she came into collision first with her starboard beam and again 20 or 30 feet further aft against the starboard bow of the *Luigia Premuda*. The *Luigia Premuda* endeavoured in vain to avert the collision by slacking out 45 fathoms of chain.

It is clear that the *Luigia Premuda* lying at anchor with her proper lights exhibited, was entirely free from blame and it is for the *Montauk* to justify herself in the circumstances for the collision. It is sought to do this by contending that the sudden appearance of the boat which stopped the advance of the *Montauk*, and so caused her to drift down on the *Luigia Premuda* was the sole cause of the collision, and that after that light was seen the conduct of the captain of the *Montauk* in putting her engines astern, and then going ahead with a hard-a-starboard helm was correct.

The latter point may be disposed of first. It was suggested at the Bar that the proper course for the *Montauk* would have been to have kept her engines going astern until she reached the slack water out of which she had just come and then to have anchored. Their Lordships have had the advantage of being able to consult their nautical assessors, who are acquainted with the locality in question, on this point, and they are advised that having regard to the position of the vessels which were astern of the anchorage of the *Montauk*, and also the great depth of the water, it would not have been prudent for the *Montauk* to have adopted the course suggested,

and that no blame attaches to her for her conduct after the light of the boat was seen.

This leaves for decision the main question in the case, which is whether the *Montauk* was justified in porting her helm and turning into the current as soon as she did, or whether she should not have proceeded further in the direction in which she had been lying, before endeavouring to get into the main channel of the Bosphorus. On this point the Court below have arrived at a decided conclusion. They were no doubt considerably influenced by a case of the S.S. *Danaë* v. S.S. *Romulus* previously decided in the Consular Court in which the Court assisted by assessors appears to have held that the *Romulus* acted wrongly in slowly steaming ahead and at once turning into the current and that she should have steamed some distance up the Bosphorus in slack water and then gradually entered the current with such speed as would give her helm power, and it would appear that the learned Judge who heard that case stated that he had on several occasions warned captains leaving the port that they must do the same so as to give a wider berth to any vessel anchored in mid stream. As this case could not be produced, their Lordships are unable to give such consideration to its details as would enable them to say with confidence how far its decision governs the present case, and it would appear that in one material matter at least, the direction of the voyage of the vessel in fault, the circumstances of that case differed from that now before this Board. But it certainly may be said that the Consular Court has had to consider the conduct of vessels leaving the port of Constantinople and must be familiar with the difficulties occasioned by the current, and the probability of meeting boats or other craft in that part of the Bosphorus. Their Lordships have asked

advice of their own assessors and acting under that advice they entertain no doubt of the correctness of the decision of the Courts below. Having regard to the position of the *Montauk* in regard to the *Luigia Premuda* at the time when the *Montauk* turned her head into the current, it appears to their Lordships to be by no means certain that the *Montauk* would have cleared the *Luigia Premuda* at a safe distance even if the incident of the appearance of the boat had not intervened, and their Lordships are clearly of opinion that the *Montauk* should even as regards the *Luigia Premuda* have continued her course in a north-easterly direction, before turning, for a longer period than she did. But their Lordships also think that in a place such as the locality in question the occurrence of boats or other craft more or less impeding the course of a vessel while leaving her anchorage is one which every captain should consider as at least possible, and as constituting an ordinary risk against which precaution should be observed.

Their Lordships are, therefore, of opinion that the judgment of the Court below should be affirmed and the Appeal dismissed, and they will humbly advise Her Majesty accordingly. The Appellants must bear the costs of the Appeal.
