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CREW OF LIEBENFELS GUILTY OF OVERT ACT

John Luken, George Sunkel, Jonas E. Jansen, Heinrich Wattenberg, Johann W. Buse, Meritz von Thulen, August Neuse and William Schwartzing, the eight members of the crew of the German steamer Liebenfels, sunk in Charleston harbor February 1, were tried and found guilty in the United States court before Judge H. A. M. Smith, at Florence yesterday, of an "overt act" in sinking the steamer, or permitting it to sink in a navigable stream. The men also were tried on charges of conspiracy, but were found not guilty on the indictment. Judge Smith announced that he would pronounce sentence this morning, and allowed the convicted men their freedom for the night on their present bail.

The case against Captain John R. Klattenhoff, who is under indictment on similar charges, was not called. Captain Klattenhoff is ill in this city, and was not able to go to Florence to stand trial.

Big Surprise.

Logan and Grace, of Charleston, attorneys for the defense, sprung a big surprise when they announced, at the conclusion of the government's testimony, that the defense would offer no witnesses. Mr. Grace asked for a directed verdict, but this was refused by Judge Smith, who stated the jury would reach a verdict. The government rested its case at 1:10 p. m. and, after an adjournment for lunch

until 3 o'clock, the arguments by the defense and the government began.

The case went to the jury at 5 p. m. and a verdict of not guilty on the conspiracy charge and guilty with a recommendation to mercy on the charge of sinking, or permitting the ship to sink, in a navigable stream, was returned shortly before 6 o'clock.

The jury in the Liebenfels case was drawn Thursday and placed under the care of Marshal J. L. Sims.

First Witness.

The first witness introduced by District Attorney Francis H. Weston, of Columbia, and Assistant District Attorney J. Waites Waring, of Charleston, was James P. Allen, an assistant United States civil service engineer of Charleston, who testified as to the location of the Liebenfels in the Cooper river channel before and after she was sunk. Mr. Allen's testimony was to the effect that the Liebenfels was sunk in the channel, but there was plenty of room for ships to pass on either side.

Major Youngberg.

Major G. A. Youngberg, of the United States corps of engineers, in charge of Charleston harbor, next the stand. On direct and cross-examination Major Youngberg said he had made no move to stop the sinking of the Liebenfels, when he was advised of the impending fact, and had only assumed charge of the steamer when instructed to do so by his superiors at Washington, through military channels.

Major Youngberg testified that a great many ships of moderate or deep-draught, could not pass the Liebenfels in safety, unless extreme cau-

tion was observed by the pilots. He considered the sunken ship a serious menace to navigation. He gave a detailed description of finding the Liebenfels in considerable internal disorder when he took charge, and stated that many engineering and necessary operating parts of the ship were missing and broken.

Upon approaching the ship he found that the steel bunker door was open, opposite the engine room, and on deck the hatches were open, canvas covers displaced and water in the hold. All deck machinery, on the bridge and aft, were rendered practically useless.

Photos of the Liebenfels at half-tide and of the disabled machinery, wireless room and steering gear, were identified by Major Youngberg.

The Liebenfels, stated Major Youngberg, was being pumped out at present, and the work, it was expected, would be completed within two or three weeks, when the vessel will be raised.

John P. Grace, for the defense, here interposed the objection that this testimony would only serve to prejudice the jury, and could only prove that the crew demolished certain parts of the ship, without any direct bearing on the actual sinking. Mr. Grace's objection was overruled by Judge Smith.

Cross-examined by W. Turner Logan, Major Youngberg stated that the channel in which the Liebenfels sunk was 1,500 feet wide, with a mean depth of 30 feet at low tide, and was 500 feet wider than the channel between the jetties, where the mean low tide depth was only 28 feet. Thus, Major Youngberg testified, there was space of 900 feet on one side of the Liebenfels and 600 feet on the other, in a 30-foot channel.

Lula Ashe Heard.

Lula Ashe, the colored stewardess of the Liebenfels, was the next witness. She told of having been employed for four or five weeks aboard the steamer prior to the sinking, and was on board the first part of the night of January 31. She had quarters on board, and only went on shore occasionally, as she was "following a picture serious."

On the night of January 31, she was told by Captain Klattenhoff, who had been absent from the ship, several days and only returned that evening that she was to go ashore. Fearing that something was wrong, she inquired:

"You ain't mad at me?"

Captain Klattenhoff replied, "No. There is a storm coming. The signals are up. You had better go ashore. Come back in the morning."

Lula prepared to go ashore and was handed several articles by the captain, that had been placed in his hands for safe keeping. Puzzled, she spoke to Arthur Williams, the colored cook, and told him "something was crooked."

She went ashore in the launch and when she returned to the Columbus street wharf the next morning, at 7:30 o'clock, the Liebenfels was sinking.

Captain Klattenhoff, she stated, was brought to the wharf from the ship and landed. She was not taken back to the ship. Captain Klattenhoff, said Lula, seemed nervous and upset and did not speak to her when he landed at the wharf.

Lula testified, under cross-examination by Mr. Grace, that when Captain Klattenhoff reached the Liebenfels on the night of January 31, he gave hurried orders to the first officer, and "the men acted like I had never seen 'em act before." She heard strange noises in the ship immediately afterward.

Mr. Grace brought out that the men looked upon the captain as the chief and that all his orders were unhesitatingly obeyed.

Arthur Williams Talks.

Arthur Williams, colored cook on the Liebenfels, testified he was on board all night January 31, and heard "blowing and booming noises in the ship." He was told at 9:30

or 10 o'clock by the captain to get up, get his clothes and come on deck as something was wrong with the ship.

The Liebenfels, he said, did not seem to be sinking then. The captain and some of the crew got in the launch and went around the ship. Early next morning, the first of February, he made coffee and came out on deck. The lifeboat was tied alongside, but the launch was gone.

"Dey gone and leff me! Better hit de water," he said.

Then he discovered the first officer on board and cooked breakfast.

On cross-examination, he said he did not know whether all the men were on board all night or not.

Emma Campbell on Stand.

Emma Campbell, colored, who worked during the day on the ship, testified she came to the wharf at Columbus street at 7:30 o'clock on the morning of February 1, to meet the launch. Captain Klattenhoff was landed from the ship, she said, and in reply to a question from a bystander as to whether the ship was sinking, said:

"I hope so. I want to go to New York. I'm tired."

Captain Flatley Testifies.

Captain Flatley, master of the tug Waban, testified that the Liebenfels was sinking by the stern when he went to offer assistance on the morning of February 1. He said he noted the stern port hole open when he approached. He went aboard and talked to the first officer, telling him the port hole was open. He boarded the ship on the starboard side, and when he inquired of the first officer if there were any port holes on the port side, he was told, "I don't know."

According to Captain Flatley, there was nothing done to relieve the sinking condition of the ship, and the first officer refused all offers of assistance, saying that he could do nothing in the absence of the captain.

His testimony under cross-examination developed that he had towed vessels past the Liebenfels since she had sunk, but he was a little more careful now. He said he was more afraid of hitting the anchor or anchor chain than of colliding with the ship. Captain Flatley said he could take any ship that could enter the harbor past the Liebenfels with safety.

Next Captain Lockwood.

Capt. J. J. Lockwood, Jr., master of the tug Cecelia, testified he followed the Waban to the sinking ship and bore out Captain Flatley's testimony. He said he was told by the Waban's commander to find Captain Klattenhoff. He went to Johnson's wharf and telephoned, but could not find him.

Charles H. Yeager on Stand.

Charles H. Yeager, expert diver from the navy yard, next took the stand. Mr. Yeager gave a thorough description of the damage done to the wireless outfit, steering gear and engine room machinery of the Liebenfels, in an investigation which began February 2. Mr. Yeager went down first into hold No. 4, aft. There are six holds in the Liebenfels, each separated by watertight bulkheads.

He examined the sides of the ship and the suction pipes that lead into the bilge, or drain for the water in the hold. In 28 or 30 feet of water in the hold he found one large steel bar, used to uncover the cargo hatches, in the bilge.

Engine Room Damaged.

He next went into the engine room, where he found two eight-inch discs, lying on the floor, with marine growth on them. On the starboard side two floor plates had been removed. A large steel wheel, used to reverse the engine, was found under the engine room floor plates, on the double bottom. The small steam throttle handle was broken. Small pieces were broken off the dynamo engines, on the port side, and manifold castings to one or more valves, used to flood compartments or discharge sea water, were broken off. Tried to close sea valves, but could close only one of three, as the discs had been removed.

Sea water, said the diver, flowed in and out through the condenser.

On cross-examination, Mr. Yeager said that only damage done to the Liebenfels which could cause sinking was the destructive work on the manifolds leading to the sea cocks.

He said he had worked on the United States collier Hector, sunk off Charleston harbor last July, and the work of raising the Liebenfels would be easy by comparison.

C. B. Vinson Testifies.

C. B. Vinson, superintendent of the Terminal company, testified that members of the Liebenfels crew brought their baggage ashore and engaged transportation to points in the city on February 1.

Government Closes.

After the testimony of F. L. Bowey, marine engineer on the United States dredge Sumter, who viewed the wrecked machinery of the Liebenfels, the government announced its close.

No Defense Witnesses.

At this point Messrs. Logan & Grace announced there would be no introduction of testimony by the defense, and asked for a directed verdict.

Mr. Logan said no proof had been established that any of the eight defendants had opened the sea-valves, and that it was only a matter of inference.

Judge Smith agreed to a limit of one hour for each side for argument, with a 15-minute rebuttal by the government, and stated he would charge the jury on the following basis:

Whether the Liebenfels was sunk in a navigable stream; whether the defendants sank her; and whether there existed a conspiracy.

Opens for Prosecution.

J. Waites Waring, of Charleston, assistant United States district attorney, began the argument for the government. Mr. Waring said, in part, that it was a simple case; no issue of who sunk her, but simply whether the Liebenfels was permitted to sink in a navigable stream. He reviewed the testimony, tending to prove that care had been taken to make preparation against the sinking, and that the proffered help was refused.

The testimony, said Mr. Waring, was full and complete, that the ship was sunk by opening the sea-cocks, and there was a conspiracy among the eight defendants to sink the vessel.

Mr. Logan, in answer for the defense, told the jury that they were charged with the conduct of a case of tremendous importance to the defendants, and they would be untrue to their oath and to the tradition of the United States if they did not give them full justice.

"These men," said Mr. Logan, "are not on trial for dismantling their ship. They are on trial for opening the sea-valves and sinking her."

Mr. Logan said that the idea of a conspiracy was absurd, as the men acted under orders from their captain, who was the supreme master on board. He asked if the jury could pick out the man who dismantled the wireless, who wrecked the steering gear, or who opened the sea-cocks. The Liebenfels at anchor, swinging in the tide, was more a menace to navigation than after she sunk, he claimed.

He urged the jury to rise above passion and prejudice, and render justice.

Mr. Grace Argues.

John P. Grace began his argument to the jury by painting a picture of the pathetic sight of a two million dollar ship at the bottom of the river, and eight men in a strange country facing the penitentiary. He begged the jury, in an impassioned appeal, to try the case in a spirit of the weight upon the shoulders of the eight men, and not in a spirit of conviction.

Mr. Grace pointed out that if the conspiracy charge stood, it included the cook, the stewardess and the maid.

"The time is not yet in the United States," said Mr. Grace, "when we, in patriotic wrath, pursue civilians, and if we go to war, we will begin with soldiers, I hope!"

"You can say," he continued, "oh, well, one of them sunk the ship. Why try to find out which one? All of them did it! Gentlemen, they haven't proved it. Time was when some of these men were on board, according to the government witnesses. The government can't put its hand on the man, and expects you to do it."

Mr. Grace said the members of the Liebenfels crew had become a part of the life of Charleston, and it was unworthy to take vengeance.

COMING AGAIN



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"If there was no special crisis there would be no trial," he said. "Remember, while you deliberate, the men, who have waited two years for a sign of peace, wait here in awful suspense."

Mr. Grace called attention to the trial by jury, saying it had been incorporated into magna charta from Germany, and asked that the spirit of jury trial be not lost sight of.

"The spirit of jury trial," he concluded, "is the sentinel on the tower of civilization! The word mad. Shall we become mad? Is THING which the president spoken of, that has driven the mad, to penetrate an American house?"

Mr. Weston Closes.

District Attorney Francis H. Weston, of Columbia, closed in appeal to the jury to try the case on its merits.

Judge's Charge.

Judge H. A. M. Smith, in charge to the jury, outlined the indictments, alleging conspiracy, sinking, or permitting to sink, a vessel in a navigable stream. The matter of law, he said, was whether the defendants sunk the ship in a navigable stream. He directed attention of the jury, in detail, to the evidence, and ended by pointing out that the only question was one of intention.

After the verdict was returned, Logan and Grace announced their intention of submitting arguments for a new trial.

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