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Documents on Prisoners of War

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DOCUMENT NO. 25

UNITED STATES v. HENRY WIRZ
(Washington, 24 October 1865)

SOURCE

8 American State Trials 657
 H. R. Executive Document No. 23, 40th
 Cong., 2nd Sess. (7 December 1867)

NOTE

This trial involved allegations of the maltreatment and murder of Union (Federal) prisoners of war by the accused, Captain Henry Wirz, formerly of the Confederate Army, who had been the commandant of the prisoner-of-war camp maintained by the Confederacy at Andersonville, Georgia, during the Civil War (1861-1865). The case was tried before a United States Military Commission sitting in Washington. Although, as usual, no opinion was written by the Military Commission, the charges and specifications, while employing a number of expressions which would now be considered obsolete, could otherwise have been used as the basis for charges preferred in many war crimes trials conducted after World War II (1939-1945). Although the word "traitorously" was used rather frequently in Charge 1 and its Specification, treason was not actually an issue and the Military Commission did not include the word in its findings. "Superior orders" was a defense.

EXTRACTS

CHARGES AND SPECIFICATIONS:

CHARGE 1.

Maliciously, willfully, and traitorously, and in aid of the then existing armed rebellion against the United States of America, on or before the first day of March, A. D. 1864, and on divers other days between that day and the tenth day of April, 1865, combining, confederating and conspiring together with John H. Winder, Richard B. Winder, Joseph White, W. S. Winder, R. R. Stevenson and others unknown, to injure the health and destroy the lives of soldiers in the military service of the United States, then held and being prisoners of war within the lines of the so-called Confederate States and in the military prisons thereof, to the end that the armies of the United States might be weakened and impaired, in violation of the laws and customs of war.

Specification.

In this, that he, the said Henry Wirz, did combine, confederate and conspire with them, the said John H. Winder, Richard B. Winder, Joseph White, W. S. Winder, R. R. Stevenson, and others whose names are unknown, citizens of the United States aforesaid, and who were then engaged

in armed rebellion against the United States, maliciously, traitorously, and in violation of the laws of war, to impair and injure the health and to destroy the lives — by subjecting to torture and great suffering, by confining in unhealthy and unwholesome quarters, by exposing to the inclemency of winter and to the dews and burning sun of summer, by compelling the use of impure water, and by furnishing insufficient and unwholesome food — of large numbers of Federal prisoners, towit, the number of thirty thousand, soldiers in the military service of the United States of America, held as prisoners of war at Andersonville, in the State of Georgia, within the lines of the so-called Confederate States, on or before the first day of March, A. D. 1864, and at divers times between that day and the tenth day of April, A. D. 1865, to the end that the armies of the United States might be weakened and impaired, and the insurgents engaged in armed rebellion against the United States might be aided and comforted: And he, the said Henry Wirz, an officer in the military service of the so-called Confederate States, being then and there commandant of a military prison at Andersonville, in the State of Georgia, located by authority of the so-called Confederate States for the confinement of prisoners of war, and as such commandant fully clothed with authority, and in duty bound to treat, care and provide for such prisoners held as aforesaid as were or might be placed in his custody, according to the law of war, did, in furtherance of such combination, confederation and conspiracy, and incited thereunto by them, the said John H. Winder, Richard B. Winder, Joseph White, W. S. Winder, R. R. Stevenson and others whose names are unknown, maliciously, wickedly, and traitorously confine a large number of such prisoners of war, soldiers in the military service of the United States, to the amount of thirty thousand men, in unhealthy and unwholesome quarters, in a close and small area of ground, wholly inadequate to their wants and destructive to their health, which he well knew and intended; and while there so confined, during the time aforesaid, did, in furtherance of his evil design, and in aid of the said conspiracy, willfully and maliciously neglect to furnish tents, barracks or other shelter sufficient for their protection from the inclemency of winter and the dews and burning sun of summer; and with such evil intent did take and cause to be taken from them their clothing, blankets, camp equipage and other property of which they were possessed at the time of being placed in his custody; and with like malice and evil intent, did refuse to furnish or cause to be furnished, food either of a quality or quantity sufficient to preserve health and sustain life; and did refuse and neglect to furnish wood sufficient for cooking in summer, and to keep the said prisoners warm in winter, and did compel the said prisoners to subsist upon unwholesome food, and that in limited quantities entirely inadequate to sustain health, which he well knew; and did compel the said prisoners to use unwholesome water, reeking with the filth and garbage of the prison and prison guard, and the offal and drainage of the cook-house of said prison, whereby the prisoners became greatly reduced in their bodily strength, and emaciated and injured in their bodily health, their minds impaired, and their intellects broken; and many of them towit, the number of ten thousand,

whose names are unknown, sickened and died by reason thereof, which he, the said Henry Wirz, then and there well knew and intended; and so knowing and evilly intending, did refuse and neglect to provide proper lodgings, food, or nourishment for the sick, and necessary medicine and medical attendance for the restoration of their health, and did knowingly, willfully and maliciously, in furtherance of his evil designs, permit them to languish and die from want of care and proper treatment; and the said Henry Wirz, still pursuing his evil purposes, did permit to remain in the said prison, among the emaciated sick and languishing living, the bodies of the dead, until they became corrupt and loathsome, and filled the air with fetid and noxious exhalations, and thereby greatly increased the unwholesomeness of the prison, insomuch that great numbers of said prisoners, towit, the number of one thousand, whose names are unknown, sickened and died by reason thereof. And the said Henry Wirz, still pursuing his wicked and cruel purpose, wholly disregarding the usages of civilized warfare, did, at the time and place aforesaid, maliciously and willfully subject the prisoners aforesaid to cruel, unusual, and infamous punishment upon slight, trivial and fictitious pretenses, by fastening large balls of iron to their feet, and binding large numbers of the prisoners aforesaid closely together, with large chains around their necks and feet so that they walked with the greatest difficulty; and, being so confined, were subjected to the burning rays of the sun often without food or drink for hours and even days, from which said cruel treatment large numbers, towit, the number of one hundred, whose names are unknown, sickened, fainted, and died: And he, the said Wirz, did further cruelly treat and injure said prisoners by maliciously confining them within an instrument of torture called "the stocks," thus depriving them of the use of their limbs, and forcing them to lie, sit and stand for many hours without the power of changing position, and being without food or drink, in consequence of which many, towit, the number of thirty, whose names are unknown, sickened and died. And he, the said Wirz, still wickedly pursuing his evil purpose, did establish and cause to be designated within the prison inclosure containing said prisoners a "dead line," being a line around the inner face of the stockade, or wall inclosing said prison, and about twenty feet distant from and within said stockade; and having so established said dead line, which was in many places an imaginary line, and in many other places marked by insecure and shifting strips of boards nailed upon the top of small and insecure stakes or posts, he, the said Wirz, instructed the prison guard stationed around the top of said stockade to fire upon and kill any of the prisoners aforesaid who might touch, fall upon, pass over, or under, or across the said "dead line." Pursuant to which said orders and instructions, maliciously and needlessly given by said Wirz, the said prison guard did fire upon and kill a large number of said prisoners, towit, the number of about three hundred. And the said Wirz, still pursuing his evil purpose, did keep and use ferocious and bloodthirsty beasts, dangerous to human life, called bloodhounds, to hunt down prisoners of war aforesaid who made their escape from his custody, and did, then and there,

willfully and maliciously, incite and encourage the said beasts to seize, tear, mangle and maim the bodies and limbs of said fugitive prisoners of war who, during the time aforesaid, made their escape and were recaptured, and were by the said beasts then and there cruelly and inhumanly injured, insomuch that many of said prisoners, towit, the number of about fifty died: And the said Wirz, still pursuing his wicked purpose, and still aiding in carrying out said conspiracy, did use and cause to be used, for the pretended purpose of vaccination, impure and poisonous vaccine matter, which said impure and poisonous matter was then and there, by the direction and order of said Wirz, maliciously, cruelly, and wickedly deposited in the arms of many of said prisoners, by reason of which large numbers of the, towit, one hundred, lost the use of their arms, and many of them, towit, about the number of two hundred, were so injured that they soon thereafter died: All of which he, the said Henry Wirz, well knew and maliciously intended, and in aid of the then existing rebellion against the United States, with the view to assist in weakening and impairing the armies of the United States, and in furtherance of the said conspiracy, and with the full knowledge, consent and connivance of his co-conspirators aforesaid, he, the said Wirz, then and there did.

CHARGE 2.

Murder, in violation of the laws and customs of war.

Specification 1.

In this, that the said Henry Wirz, an officer in the military service of the so-called Confederate States of America, at Andersonville, in the State of Georgia, on or about the eighth day of July, A.D. 1864, then and there being commandant of a prison there located by the authority of the said so-called Confederate States for the confinement of prisoners of war taken and held as such from the armies of the United States of America, while acting as said commandant, feloniously, willfully and of his malice aforethought, did make an assault, and he, the said Henry Wirz, a certain pistol called a revolver then and there loaded and charged with gunpowder and bullets, which said pistol the said Henry Wirz in his hand then and there held, to, against, and upon a soldier belonging to the army of the United States, in his, the said Henry Wirz's custody as a prisoner of war, whose name is unknown, then and there feloniously, and of his malice aforethought, did shoot and discharge, inflicting upon the body of the soldier aforesaid a mortal wound with the pistol aforesaid, in consequence of which said mortal wound, murderously inflicted by the said Henry Wirz, the said soldier thereafter, towit, on the ninth day of July, A.D. 1864, died.

Specification 2.

In this, that the said Henry Wirz an officer in the military service of the so-called Confederate States of America, at Andersonville, in the State of Georgia, on or about the twentieth day of September, A.D. 1864, then and there being commandant of a prison there located by the authority of the said so-called Confederate States for the confinement of prisoners of war taken and held as such from the armies of the United States of America, while

acting as said commandant, feloniously, willfully, and of his malice aforethought, did jump upon, stamp, kick, bruise and otherwise injure with the heels of his boots, a soldier belonging to the army of the United States in his, the said Henry Wirz's custody as a prisoner of war, whose name is unknown, of which said stamping, kicking and bruising, maliciously done and inflicted by the said Wirz, he, the said soldier, soon thereafter, towit, on the twentieth day of September, A. D. 1864, died.

Specification 5.

In this, that the said Henry Wirz, an officer in the military service of the so-called Confederate States of America, at Andersonville, in the State of Georgia, on or about the twentieth day of August, A. D. 1864, then and there being commandant of a prison there located by the authority of the said so-called Confederate States for the confinement of prisoners of war taken and held as such from the armies of the United States of America, while acting as said commandant, feloniously, and of his malice aforethought, did confine and bind within an instrument of torture called "the stocks," a soldier belonging to the army of the United States, in his, the said Henry Wirz's, custody as a prisoner of war, whose name is unknown, in consequence of which said cruel treatment, maliciously and murderously inflicted as aforesaid, he, the said soldier, soon thereafter, towit, on the thirtieth day of August, A. D. 1864, died.

October 18.

THE PRISONER'S STATEMENT.

The Judge-Advocate. According to my promise to the court I have endeavored to go over this case in a thorough way, but to give the prisoner the benefit of a mind in no way colored against him, I selected Mr. Hays, one of the official reporters, to draw up the argument for the defense, and he will now read to the court the prisoner's statement drawn up by Mr. Hays on suggestions made by Captain Wirz and now submitted with the approval of the prisoner. It will now be read.

Captain Wirz. In this closing scene of a trial which must have wearied the patience of this honorable commission, and which has all but exhausted the little vitality left me, I appear to put on record my answer to the charges on which I am arraigned, and to protest and vindicate my innocence. I know how hard it is for one, helpless and unfriended as I am, to contend against the prejudices produced by popular clamor and long-continued misrepresentation, but I have great faith in the power of truth, and I have much confidence in the intelligence and impartiality of the officers who are my judges. I am here to answer for all my official and personal acts at Andersonville, and if I can convince this court that they have been void of offense before God and man, I trust that I shall not be held responsible for the official or personal misdeeds of others. That is all I ask. By my own acts let me be judged, and if they have been such as to warrant my conviction on any one of the charges or specifications preferred against me, let me be visited with punishment commensurate with the offense. I do not ask mercy, but I demand justice; and I humbly pray that the God of justice will enlighten the

minds and quicken the perceptions of those whose solemn duty it is to discriminate between the truth and falsehood of all that has been testified to in the case. I will leave to my counsel the presentation and argument of such points of law as they may deem of importance, and will myself endeavor to analyze the evidence, group together the main facts, and explain away all that may seem to weigh so heavily against me. In doing so I will strive to be simple and concise, and let me beg the court to believe that I will be, above all things, frank and truthful.

There are three distinct parts in which the prosecution and defense are necessarily comprised. These are: First. Had he, as charged, maliciously, willfully and traitorously combined, confederated and conspired with John H. Winder and others to injure the health and destroy the lives of soldiers in the military service of the United States? Second. And was he the person who was officially responsible for the privations and sufferings of the Federal prisoners at Andersonville? And, third, Had he committed the crime of murder, or perpetrated all or any of the atrocities laid to his charge?

As to the first, he said he was not conscious of a particle of testimony going to substantiate the charge of conspiracy. Of the one hundred and sixty witnesses who have testified, no one ever heard a syllable, or saw an act indicative of his knowledge of the existence of such a hellish plot; nor was there the least scrap of paper found in his office, or a word in the archives of the Confederacy to show that such a conspiracy existed. Even if all the specifications which are grouped under the charge of conspiracy were literally true, there is not a shadow of evidence that the suffering was the result of a conspiracy. The Government itself did not believe in the existence of the conspiracy, from the fact that the names of Robert E. Lee, James A. Seddon, Lucius Northrop and Dr. Moore, who were indicted with the accused when he was first arraigned, had been stricken out. If the charge was true now, it was true then; and if there was guilt anywhere, it certainly lay more deep and damning on the souls of those who held high positions than on him who was a mere subaltern officer. He believed that what the Judge-Advocate principally relied upon as proof of the conspiracy, was the expression attributed to him (Wirz) that "he was of more service to the Confederate Government than any regiment in the front," connected with the equally wicked and significant expressions attributed to General Winder, General Cobb and Captain W. S. Winder. As to the remark attributed to himself, he would refer to that in another part of the defence. General Winder has gone to the great judgment seat. Howell Cobb was not allowed to come here and have an opportunity of contradicting the testimony referring to him. The Judge-Advocate thus virtually admitted what it was expected to prove by him. As to W. S. Winder, he was under the jurisdiction of the United States Government. Surely he could not be held to answer for their rash and impudent expressions. Furthermore, if he as a subaltern officer, simply obeyed the legal orders of his superiors in the discharge of his official duties, he could not be held responsible for the motive that dictated such orders. And

if he overstepped them and violated the laws of war, and outraged humanity, he should be tried and punished according to the measure of his offense.

From his position at Andersonville, he should not be held responsible for the crowded condition of the stockade, the unwholesome food, etc., for the following reasons, among others, viz: he was not responsible for the selection of the location, as it was located by W. S. Winder in 1863, while he was yet in Europe; that he did not assume command until March, 1864; that Colonel Persons, one of the principal witnesses for the prosecution, testified that the stockade was sufficiently large and properly located for the accomodation of ten thousand prisoners; that Colonel Persons' testimony fully exonerated him (Wirz) from complicity in the selection of the location, overcrowding the stockade, or failure to provide proper shelter for the prisoners; that Dr. Bates exonerated him from all blame on account of the condition of things in the hospital, and that his testimony was corroborated by Dr. Roy, and that Colonel D. T. Chandler, in his report to Richond, never once attached blame to Wirz for the condition of things in the hospital, and that his testimony was corroborated by Dr. Roy and that Colonel D. T. Chandler, in his report to Richmond, never once attached blame to Wirz for the condition of affairs at Andersonville.

As to the third charge, that of murder, he hoped to be able to show the court that he was not guilty, and that he was not the monster he had been depicted; but that on the contrary, he did what little lay in his power to diminish or alleviate the miseries of the prisoners. The specifications accused him of no less than thirteen distinct crimes of the grade of murder; yet in no instance were the name, date, regiment or circumstances stated in the specifications, and in the whole mass of the testimony, there were but two cases of this character that could be fixed with any definiteness; and in these two cases he was prepared to make his defense. The two referred to were the actual, real case of "Chickamauga," and the mythical case described by the name of "William Stewart," who, it is alleged, was shot at the gate near the guard-house.

With regard to Chickamauga, he would make the following correct statement: On the evening referred to, an officer went to his (Wirz's) headquarters, and said there was a man in the dead line jawing the guard and creating a great deal of excitement. He rode to the stockade, dismounted, and went inside and asked Chickamauga in a rough way, "What in the hell he was doing there?" Chickamauga replied that "he wanted to be killed." He (Wirz) replied that "If that was all he wanted, he would soon have it." He then drew his revolver to menace Chickamauga, and the latter became frightened and went outside the dead-line. Wirz then ordered the guard to fire upon the cripple if he again approached the dead-line. He never supposed that Chickamauga's friends would allow him again to go near the forbidden line. Wirz then went out of the stockade, and was on his way to his quarters when he heard the report of a musket, and going back and mounting the sentry-box, he found that Chickamauga had been shot. He was shot for a violation of a rule of prison discipline; a rule absolutely necessary at

Andersonville, and one not unusual, for it was enforced in nearly all the military prisons in the South; besides, the rules were printed and posted in conspicuous places.

With regard to the other alleged case of shooting, it differed from that of Chickamauga in that the alleged victim, "William Stewart," had the good fortune never to have been at the Andersonville stockade. The man could not be found on the books of the prison, the hospital record, or the death register. As this testimony came from a man named Gray, who had prevaricated overmuch, his statement was not entitled to the least credence.

So as to the evidence of Alcock, who testified to having been robbed, and to Wirz ordering men to be bayoneted on the occasion of their removal for exchange. The testimony of Colonel Fanning shows that he had nothing to do with the employment of the dogs.

The allegation that furloughs were granted to soldiers for shooting prisoners was pronounced an absurd camp rumor. He denies that the prisoners were ever deprived of rations as a punishment.

On only one occasion was the whole camp deprived of rations, and that was on the 4th of July, when there was a difficulty with the raiders, and the quartermaster could not distribute the rations. He denies the exercise of personal violence toward the prisoners. His physical condition was such that he could not have knocked a man down, and he quotes from the testimony of Father Whalen, Dr. Roy and others who had opportunities of observation, to show that such a thing never occurred as his beating or shooting a prisoner.

He quoted from Colonel Chandler's report to show that when the prisoners were inquired of as to their treatment, they never once mentioned his (Wirz's) name. He acknowledges that two of the prisoners were whipped, viz: Bardo, for disguising himself as a negro (but not by Wirz's order, as appears by Bardo's own acknowledgement), and the negro Hawkins, for offering a gross insult to a white lady. He denies having used the expression that he was doing more for the Confederacy than any regiment at the front. The remark made was that he had a larger command than any general in the field, and this was tortured into the remark first above mentioned. The remark at the graveyard that "the Yankees were getting the land they came for," was actually made, but not by him (Wirz), but by another officer who was present.

And here I will close with one or two final remarks. The court will observe that in this statement I have studiously avoided any deviation from the strict, legitimate path of my defense. I have not said a word to bring discredit upon any officer of the late Confederate or of the Federal Government. I have not attempted to complicate the case with any allusions as to where the responsibility rested for non-exchange of prisoners of war.

Closely connected as that question is with the general subject, it has nothing to do with the subject of my guilt or innocence. If I were rash or imprudent enough to touch that question it might be imputed to me as an acknowledgment of the weakness of my case. I want all the sympathy, good feeling and confidence of this court too much to say or do anything that might give offense. It is composed of brave, honorable and enlightened officers, who

have the ability, I am sure, to distinguish the real from the fictitious in this case, the honesty to rise above popular clamor and public misrepresentations, and who have names and reputations to transmit to history, and to leave unimpaired to their descendants. I cannot believe that they will either darken their intellect or prostitute their independence for the sake of crushing out the last faint embers of a life that is just ebbing out. I cannot believe that they will consent to let the present and future generations say of them that they stepped down from their high positions, at the bidding of power, or at the more reckless dictate of ignorant, widespread prejudice, to consign to a felon's doom a poor subaltern officer, who, in a difficult post, sought to do his duty and did it. The statement, which I now close, will probably survive me and you alike. It will stand as a complete answer to all the mass of misrepresentation heaped upon me. May God so direct and enlighten you in your deliberations that your reputation for impartiality and justice may be upheld, my character vindicated, and the few days of my natural life spared to my helpless family.

THE JUDGE ADVOCATE'S ARGUMENT.

October 20.

Colonel Chipman. May it please the Court: Deeply sensible of the importance and solemnity with which you have clothed this trial, and quickened, as I know you are, to a high sense of duty by the obligation you have taken to "well and truly try and determine, according to the evidence, the matter now before you between the United States of America and the prisoner to be tried, and to duly administer justice according to your conscience, the best of your understanding, and the custom of war," no word of mine is needed to increase the impressiveness of this occasion.

In many of its aspects and bearings this trial presents features more startling, more extraordinary, and more momentous than are found in the whole annals of jurisprudence from the record this long black catalogue of crimes, these tortures unparalleled, these murders by starvation, implacable as could have been perpetrated had the spirit of darkness controlled them, there are yet many, very many, phases of Andersonville prison life that I must leave unnoticed.

Has there been any defense made to these horrors? Is there any palliation for their perpetrators? Lives there a witness who has denied or can deny them? The counsel for the prisoner had unlimited control of the strong arm of the government; he has had days and weeks for preparation; he has, as all must admit, labored sedulously and untiringly for his client, constituting himself at the same time counsel for his co-conspirators, yet, with all his efforts, so earnestly put forth, he has utterly, signally failed. The special acts of cruelty committed by the prisoner at the bar he has sought to explain; with what success I leave to you to judge. The general management and discipline, and his responsibility for the same while at Andersonville, he has sought to deny by showing the presence at that place of a superior officer, General Winder, who, he alleges, had chief control. All this is swept away by the fact

that before General Winder's arrival the fearful rigors of that prison began; they continued during his stay, from June till October, and they subsided only in proportion as the number of prisoners became less, after General Winder's departure. And notwithstanding his earnest appeal, made to you in his final statement, begging that he, a poor subaltern, acting only in obedience to his superior, should not bear the odium and punishment deserved, with whatever force these cries of a desperate man, in a desperate and terrible strait may come to you, there is no law, no sympathy, no code of morals, that can warrant you in refusing to let him have all justice, because the lesser and not the greater criminal is on trial.

THE VERDICT AND SENTENCE.

October 24.

Today the COURT announced its decision as follows:

It finds the accused, Henry Wirz, of Charge I, "Guilty," viz.: that he did combine, confederate and conspire with John H. Winder, Richard B. Winder, W. S. Winder, R. Stevenson, and others, names unknown, engaged in armed rebellion against the United States, against the laws of war, to impair and injure the health, and to destroy the lives of large numbers of Federal prisoners, to-wit: 45,000 at Andersonville.

Of Specification first to Charge II, "Guilty."
 Of Specification second to Charge II, "Guilty."
 Of Specification third to Charge II, "Guilty."
 Of Specification four to Charge II, "Not Guilty."
 Of Specification five to Charge II, "Guilty."
 Of Specification six to Charge II, "Guilty."
 Of Specification seven to Charge II, "Guilty."
 Of Specification eight and nine to Charge II, "Guilty."
 Of Specification ten to Charge II, "Not Guilty."
 Of Specification eleven to Charge II, "Guilty."
 Of Specification twelve to Charge II, "Guilty."
 Of Specification thirteen to Charge II, "Not Guilty."

And the Commission does therefore sentence him, the said Henry Wirz, "to be hanged by the neck till he be dead, at such time and place as the President of the United States may direct, two-thirds of the court concurring therein."

"November 3, 1865.

"The proceedings, findings, and sentence of the court in the within case are approved, and it is ordered that the sentence be carried into execution by the officer commanding the Department of Washington on Friday, the 10th day of November, 1865, between the hours of 6 o'clock a. m., and 12 o'clock noon.

Andrew Johnson, President."

THE EXECUTION.

Washington, D. C., Nov. 11, 1865.

I have the honor to report that the sentence and orders of the President in the case of Henry Wirz have been duly executed (between the hours of 10 and 11 a. m.), yesterday, November 10, and his body has been interred by the side of Atzerodt in the Arsenal grounds.

To the Adjutant General of the Army.

C. C. Augur,
Major General Commanding
Department of Washington.