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Massacre of Canadian Army Medical Corps personnel after the sinking of HMHS Llandovery Castle and the evolution of modern war crime jurisprudence

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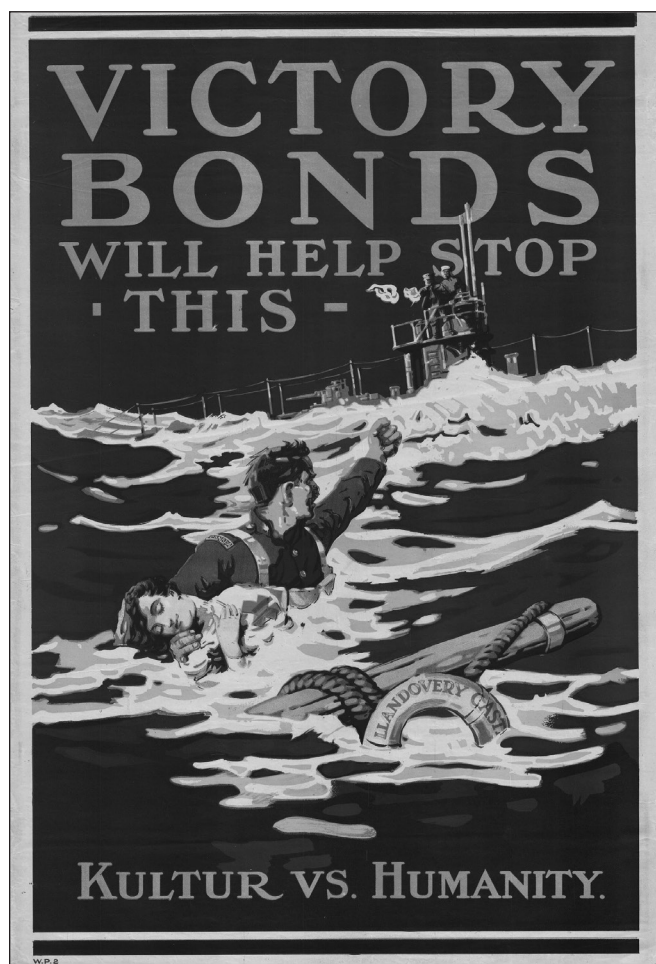
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SUMMARY

Events after the sinking of the hospital ship Llandovery Castle on June 27, 1918, by the German submarine U-86 outraged Canadians. Survivors aboard a single life raft gave evidence that many of the 234 souls lost had made it to lifeboats but were rammed and shot by the submarine. Many of those who died were nurses. Three German officers were charged with war crimes after the war. The submarine's captain evaded capture. The remaining two officers' defence that they were following the captain's orders failed and they were convicted. This ruling was used as a precedent to dismiss similar claims at the war crime trials after the Second World War. It is also the basis of the order given to members of modern militaries, including the Canadian Armed Forces, that it is illegal to carry out an illegal order.

During the First World War, the Allies used two kinds of shipborne transport for casualties. In the English Channel, which the belligerents recognized as a Danger Zone, ambulance transport ships wore no special markings, travelled at night unilluminated and were escorted by armed "P" boats. In the North Atlantic, passenger liners converted to hospital ships followed the rules of the Geneva Convention; they travelled without escort vessels, wearing fully illuminated, huge Red Cross markings. The Canadian Army by 1918 had a well-organized system to repatriate its soldiers to Canada; among the assets available was the Llandovery Castle, one of the finest "Castle" ships of the Union Castle line, named after a Welsh castle in honour of the line's Welsh chair. The ship was built for the long East Africa route and was considered well appointed, boasting such features as the first elevators aboard a passenger ship. It was a natural choice for conversion to a hospital ship.^{1,2}

At 9:30 pm on June 27, 1918, His Majesty's Hospital Ship (HMHS) Llandovery Castle was sunk in the Atlantic Ocean by a torpedo from the German submarine U-86, about 116 miles southwest of Fastnet, Ireland. The hospital ship had 980 lifeboat spots for crew and patients, but there were no patients on board as it made its way from Halifax, Nova Scotia, to Liverpool, England. The torpedo struck the starboard side of the ship, killing the engineers, wrecking the wireless and extinguishing all lights. Despite signals from the bridge, the ship could not be stopped, and lifeboats had to be lowered from the listing ship into fast-moving water. Two lifeboats were swamped and wrecked along the side, including one that went through the propellers, killing at least 11 Canadian Army Medical Corps (CAMC) nursing sisters — only an orderly survived. The captain of HMHS Llandovery Castle, R.A. Sylvester, was observed to be the last of the initial survivors to leave the stricken ship. The ship's boilers exploded after it went down about 50 feet. U-86 surfaced as survivors of the torpedo attack tried to make their way to one of the hospital ship's 19 lifeboats.^{1,2}



Contemporary fundraising poster designed to harness popular outrage against the massacre of survivors of the sinking of HMHS Llandoverly Castle as it sailed from Halifax, Nova Scotia to Liverpool, England, to collect wounded soldiers. Reproduced with permission from the Canadian War Museum. Appendix 1, available at canjsurg.ca/006518-a1, includes additional images.

The description of what happened next is taken from the judgment rendered at the German Imperial Court of Justice on July 16, 1921.³ Commander of U-86, First Lieutenant Helmut Patzig, ordered that the wreckage, the lifeboats and the survivors be searched for evidence of combatants, or armaments. Captain Sylvester was taken aboard the submarine for interrogation, where he was accused of transporting eight American airmen. A doctor, Major Thomas Lyon of the CAMC, was also interrogated and accused of being one of the airmen. Dr. Lyon was roughly treated and suffered a broken ankle before he and the others were returned to their lifeboats.⁴ U-86 came alongside Captain Sylvester's lifeboat, and he was questioned a second time about explosions heard from the Llandoverly Castle as it sank, indicating that it was carrying munitions. After each interrogation, U-86 left the scene. On a third occasion, it returned and appeared to be intent on ramming the lifeboats. Some witnesses claimed that the submarine veered off a collision course at the last moment. A short time later,

U-86 fired 14 rounds from the 8.8 cm gun on its stern. On deck were boatswain Meissner, Patzig and Lieutenants Ludwig Dithmar and John Boldt. The court noted that U-86 stayed on the surface for some time, demonstrating no concern of any threat. Witnesses claimed that the aim of those on deck of U-86 was to kill all survivors. Six CAMC members and 18 of the Llandoverly Castle crew ultimately survived.⁵ Among the dead were 14 CAMC nursing officers, some of whom had been seen in stable lifeboats. The sight of the floating bodies of the dead nurses in their billowing dresses shocked the captain of HMS Morea when that ship sailed past the wreckage the next day.

The Treaty of Versailles forced Germany to hold the first war crimes trials, which were deeply unpopular in Germany. Initially the Allies submitted a list of more than 900 Germans they wanted extradited for Allied military trials, but diplomacy reduced the number of cases to 12, including the Llandoverly Castle, to be held at the German Supreme Court at Leipzig.⁶ The German court found that Patzig, who had absconded to the free city of Danzig by the time of the trial, illegally ordered the sinking of HMHS Llandoverly Castle. The judges attributed his subsequent actions to a desire to cover up the crime and to co-opt fellow officers. Dithmar and Boldt were initially uncooperative. Dithmar claimed to have manned the forward gun, which was not fired, in an effort to blame Boldt. Then he claimed that he acted under Patzig's orders. The court rejected the claim of acting on orders, because Dithmar should have known that "the killing of shipwrecked people, who have taken refuge in lifeboats, is forbidden" by convention and by international law. Patzig was found guilty in absentia of homicide. Dithmar and Boldt were convicted of assisting him.

The episode shocked Canadians in the final phase of the First World War. Propaganda posters were made, and "Llandoverly Castle" was used as the Canadian rallying cry during the Hundred Days Offensive, which ended the war. Despite the prominence the Llandoverly Castle massacre held during the war, memory of the tragic event quickly faded, in contrast to the memory of the Halifax Explosion.⁷ Although it was the largest ever single loss of Canadian medical providers' lives, there is no specific memorial. The medical personnel are commemorated on the Halifax Memorial with other Canadians "lost at sea" in wartime, while the merchant navy crewmen are listed on the Tower Hill monument in London, England. In 1924, unlabelled photographic portraits of HMHS Llandoverly Castle's senior medical officer, Lieutenant Colonel Thomas Howard MacDonald, and Matron Margaret Marjory (Pearl) Fraser were placed in the entrance hall of Dalhousie University's new medical research building, which had been funded by the Rockefeller and Carnegie foundations. Two of us (J.D., V.M.) remember when these portraits were removed after 70 years, during the building's refurbishment for administration. It was only when we searched out the identity of the portrait sitters that we became aware of the tragedy.

Despite loss of the Llandovery Castle massacre in popular memory, the event did establish a very significant legacy. The Leipzig trials were considered deeply offensive by German nationalists and a total failure by the Allies owing to the few convictions and short sentences given. However, the failure in a German court of Lieutenant Dithmar's defence that he was only following orders was used as precedent to reject similar claims made at the Nuremberg Trials after the Second World War. Canada is proud of its pivotal role in the establishment of the International Criminal Court (ICC), which grew out of our experience at the Leipzig and Nuremberg Trials.⁸ War crimes, for which there is no statute of time limitation, remain relevant today. For example, antipersonnel improvised explosive devices have been shown to cause superfluous injury and unnecessary suffering, fulfilling the medical component of a war crime allegation.⁹ The ICC also rejects the defence of following orders. Modern militaries, including Canada's military, observe the Law of Armed Conflict (LOAC) during the application of legal force.¹⁰ The Canadian Armed Forces teaches and requires all its members to be familiar with LOAC. Prior to each mission, rules of engagement are promulgated, and this briefing always highlights that it is wrong for a CAF member to carry out an illegal order. This humane legacy may bring some solace to the relatives and descendants of the crew and the medical staff of HMHS Llandovery Castle, who routinely braved great peril while carrying out their noncombatant duties in the First World War.

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