

and destroyed. The facts which he swears to were unseen, unheard, unknown and unsuspected by any one about the ship, and are shown to have been impossible to be done in the manner in which he has described them.

11th. If the jury have a reasonable doubt upon the whole evidence of *feloniously* scuttling the vessel, he is entitled to an acquittal.

The Chief Justice said he had already charged the jury on all these points except the second, and with reference to these bank drafts, His Honor said—They have been put in for the purpose of connecting the prisoner with this fraud. Now it is for you to say whether these drafts came into Tower's hands. If you are led or not to the conclusion that these drafts were received for the purpose of destroying this vessel you may do so. I have told you all, I think, about these drafts and their effect. The prosecution has proved that a draft for a large amount was drawn at Cardenas, at the very place this cargo was shipped, in favor of Mrs. Tower and the amount of that draft came into possession of the prisoner; and it was proved also that other drafts were drawn subsequently and paid and the prisoner got the benefit of them. I think the prosecution have gone as far as they should, when they traced them into the possession of Tower. I think it was the duty then, of the prisoner to show why these drafts got into his possession, and dispel any suspicion caused by them. I think when the Crown shows that large sums of money came into the hands of Captain Tower, he ought to give evidence of how and why they came in. As to the witnesses, that they came here under the instruction of the underwriters, I have told you that if you believe they were hired and paid for their time at a certain rate per month, and that has induced them to make a false story against Captain Tower, you ought to discredit them altogether; but you are not bound to disbelieve them, but to consider whether they told the truth or not. I have already remarked about the effect of the clause in the bill of lading "weight and contents unknown." I think I said that if Captain Tower did not know what this cargo was and delivered it in New York, he would have satisfied the terms of his contract; but if he did know what the contents were, I think it would be important evidence as to whether he had an inducement to destroy this vessel. With reference to Thomas I said it would be better if there was corroboration, but I also said that it was not necessary and that you could believe him if you thought proper. Then there are statements of other witnesses as to the conduct of Captain Tower when he got to New York, and what he said to the men to do when they got there, and before the notary, and about the log-book, which he must have known, according to the evidence, was in existence. Therefore he must have told a falsehood there. Why should he keep back this log-book if he knew it was in existence? When those boats got ashore the crews of both boats were there together on the beach, and there is evidence that the trunk was exposed and that the log-book was on the trunk drying. It was the only trunk saved and afterwards was carried over to Titusville by mules. There is the evidence of Roberts that the captain knew the trunk and log-book were in existence. If he did know of the existence of the log, his statement before the notary and the Naval Court are false. If so, what reason is there for it? As regards Judge Palmer, you are not trying his case now. He may have done right or done wrong. He might have put large insurance on the vessel or made misrepresentations to Mr. Jarvis about this case. That has nothing to do with this case. The only question is, Did Tower know of this over-insurance on the vessel? If so, that might be some reason to induce him to commit this act, and be a motive for it. But that would not exist if he did not know, if he knew, it might be a motive for casting away the vessel. I have said these several counts are all distinct. You might find that he cast away the ship without intent to defraud the owners; but if you believe it was done with intent you would be entitled to find him guilty on all these counts.

The Jury retired at 1 o'clock and 7 hours later returned to court, the prisoner in the dock, and took their seats, when through their foreman, Mr. James Coleman, they announced they had found the accused, Capt. Wm. H. Tower guilty on all the counts in the indictment excepting 3 and 4, and recommended the prisoner to mercy. A dead silence and not a little consternation prevailed when the verdict was announced, it being the general opinion that the jury would disagree. The court room was