

JOURNAL

OF THE

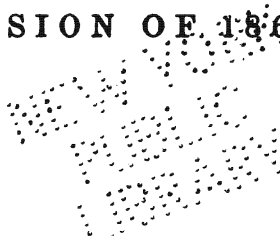
HOUSE OF REPRESENTATIVES

OF THE

STATE OF SOUTH CAROLINA,

BEING THE

SPECIAL SESSION OF 1868.



COLUMBIA, S. C.:

JOHN W. DENNY, PRINTER TO THE STATE.

1868.

I.

P A R D O N S .

EXECUTIVE DEPARTMENT, SOUTH CAROLINA.

Gentlemen of the Senate and House of Representatives :

It is made the duty of the Governor, by the Constitution of 1865, to "report to the General Assembly, at the next regular session thereafter, all pardons granted by him, with a full statement of each case and the reasons moving him thereunto." In compliance with this clause of the Constitution, I communicate herewith all pardons granted by me, and the reasons therefor, since the adjournment of the General Assembly in December, 1866.

JAMES L. ORR, Governor.

COLUMBIA, May, 1868.

The prisoners, John Jenkins and Scipio Fraser, were indicted for the murder of R. M. Brantford, in the city of Charleston, on the 24th of June, 1866. They were tried at the January Term, 1867, of the Court of Sessions, before Judge Dawkins, and convicted. Their counsel appealed. Pending the appeal, one of the prisoners, Scipio Fraser, died in jail. At the April Term of the Appeal Court, 1867, the case of Jenkins was heard, his motion for a new trial refused, and he was sentenced to be executed in June. A few days before the execution was to take place, I respite^d the prisoner for one month. Before the expiration of this time, I was applied to by the officer then commanding this Military District for a further respite. I declined, however, to grant it, and assigned my reasons at length in a communication addressed to General Sickles.

The prisoner, John Jenkins, was then further respite^d by the military authorities, and evidence was taken by General Hincks, the Provost Marshal-General of this District, in the form of affidavits, from quite a number of witnesses who were not sworn on the trial, tending to show an *alibi*. These papers were submitted to my consideration, and upon a careful examination, I was satisfied that the effort of the prisoner to establish an *alibi* was unsuccessful, and that this supplemental evidence was not entitled to outweigh and override the testimony given by witnesses on the stand during the trial. Several witnesses then established to my satisfaction the fact that Jenkins was engaged in the riot on the Bay and up King street.

But the only witness who professed to have seen John Jenkins inflict a blow upon the deceased (Brantford) was one George J. Ahrens. He stated in his testimony before Judge Dawkins that he "saw Jenkins and Fraser both throw bricks that took effect on Brantford. Jenkins threw one after he fell, and stamped upon him. They were the leaders of the crowd, and he knew them well." He further says: "The next day he saw Fraser,

heard him say in his yard, 'he had killed one white-livered son of a bitch, and would kill another,' and he had him arrested." In his cross-examination he says: "Jenkins flung the first brick, and Scipio Fraser the second. Brantford then ran and was by their house when Jenkins hit him again."

Upon the testimony of Ahrens, then, solely depends the question whether Jenkins did, or did not, upon that occasion, inflict one or more of the blows which took the life of the deceased.

In the two reviews of the case heretofore made by me, and transmitted to the military authorities, I assumed that Ahrens' testimony was true, and if so, that Jenkins was the murderer.

After General Canby assumed the command of this District, he examined the case and remitted it again to the civil authorities, and in January, 1868, Jenkins was re-sentenced by Judge Moses, and his execution fixed for the second Friday in February. A renewed effort has been made by the friends of the prisoner to secure the pardon, or a commutation of the punishment of Jenkins, and a very numerous signed petition, embracing the names of some whites and of many hundred colored citizens, has been placed in my hands. In addition to this, from the information communicated to General Canby by General Hincks, who investigated the subject closely, General Canby instructed Lieutenant-Colonel Williams, the present Provost Marshal, to make a careful examination of the premises and ascertain the exact locality where the first brick was thrown, and where Brantford fell. He has made that examination, together with a drawing of the premises, and concludes his report "that Ahrens could not have seen, with any certainty, the transaction, and particularly if the crowd, as it did, assembled around the fallen man."

This report was made on the 30th of January last. General Canby, in his communication of the 4th instant, says: "I stated to you verbally, some days since, that General Hincks, then acting Provost Marshal of this District, had formed the opinion, from his own examination of the case, that it was physically impossible for the boy (Ahrens) to have seen what he testified to on the trial of John Jenkins for the murder of Brantford, and that on his examination subsequently to the trial, he was unable to discriminate, with any distinctness, between what he had seen and what he had heard of the riot. To settle this question definitely, I directed Colonel Williams, the present Provost Marshal, to make a careful examination again, fix exactly the spot where Brantford fell, and the location of the porch from which, according to the testimony before the Court, Ahrens witnessed the killing."

Again, General Canby says: "On Saturday preceding the date of this letter, prompted, I suppose, by the new investigation, Ahrens sent word to the Provost Marshal that his testimony was not true, but that he had been deterred, by the fear of prosecution, from making this confession at an earlier period.

On the 8th instant, Ahrens subscribed, in his own handwriting, an affidavit before Colonel E. W. Dennis, Judge Advocate of the United States Army, Second Military District, of which the following is a copy:

"Statement of George F. Ahrens, in the case of John Jenkins, colored, convicted of the murder of Richard M. Brantford, on Sunday, 24th June, 1866, about 8 o'clock P. M.:

was standing on the piazza of the house I live in, No. 86 Tradd

street. The crowd of negroes came out of King street into Tradd street and stopped in front of my house. While the crowd were standing in the street, I saw Mr. Brantford coming along Tradd street from Orange street, and going towards King street. When Brantford got opposite our big gate, on the same side of the street that I was on, the cry of 'Fire' was raised by Scipio Fraser and others in the crowd. Scipio Fraser then threw a brick bat at Brantford, which hit him in the back; then several more brick bats were thrown by the crowd, one of which struck Brantford on the back of his head, knocking him down. As he fell he struck his head on the corner of the stone step, on the house next to ours, toward King street, and punched a hole in his head. Then the crowd gathered around him, as he lay on the ground, kicked him and struck him with brick bats. They then left him, and I saw two colored men come up Tradd street, who picked up Brantford and carried him home. I remained on the piazza from the time the crowd first turned into Tradd street until the two colored men carried Mr. Brantford away. There were about twenty-seven colored men in the crowd who attacked Brantford. During the time that the bricks were being thrown, I heard Scipio Fraser say 'Kill the rebel son of a bitch.' The distance from where I stood in the piazza to the spot where Brantford was knocked down was from fifty to seventy-five yards. John Jenkins was in front of our house, and nearly under me, as I stood in the piazza. I recognized Scipio Fraser in the crowd that surrounded Brantford after he fell, but I cannot say I saw Jenkins among them. It was a moonlight night, but not very bright, rather cloudy and hazy. I did not see Jenkins, at any time during the riot, any nearer to Mr. Brantford than he (Jenkins) was at the time Brantford fell, which was about twelve feet closer to Brantford than I was at the time. The same evening that the riot occurred, Scipio Fraser came into my yard and was talking about the riot. He said: 'I, and no one else, killed the rebel son of a bitch, and he is not the first, nor he will not be the last I will kill.' The next morning I told Mr. Nipson what Fraser had said, and he caused him to be arrested. I did not see Jenkins strike Brantford during the riot.

"(Signed)

G. F. AHRENS."

"Sworn to and subscribed before me this 8th day of February, 1868.

"(Signed)

GEO. A. WILLIAMS,

"Bvt. Lieut. Col. and Major of 6th Infantry, Provost Marshal-General."

"A true copy of the original affidavit.

"GEO. A. WILLIAMS,

"Bvt. Lieut. Col. and Major 6th Infantry, Provost Marshal-General."

The foregoing statement by Ahrens, contradicting so absolutely and unequivocally his own sworn testimony upon the trial, should cause any Executive to hesitate before allowing the death penalty to be executed on a human being when that is the only testimony identifying Jenkins as one of the persons who inflicted the blows which took the life of young Brantford. If the prisoner possessed wealth and means it might have been that the witness, for a consideration, would have been induced to perjure himself; but the prisoner has not the means to purchase such a statement as the last one made by Ahrens. Additional evidence, however, has been placed in my hands, in the form of affidavits, and, with such surroundings, I am bound to credit them, confirming the truth of the last statement of Ahrens, to-wit: that he did not see Jenkins use any violence whatever upon the deceased.

Francis Nipson, who is the executor or administrator of the estate of the father of Ahrens, in an affidavit on the 1st of February, 1868, says: "George Ahrens, who was a witness in the above case, came to me (Nipson) and said Scipio Fraser, the boy who killed Brantford, was there the day before he was arrested, and told him (Ahrens) that he was the one who killed Brantford, and no other person had done it, and it was not the last or the first rebel that he had killed. And, also, that George Ahrens had said that no one had done it but Scipio Fraser. Scipio Fraser told me (Nipson) at the time I arrested him, and before I handed him over to the police, that he was the one who committed the act. The two female witnesses in the yard of No. 86 Tradd street (Sarah Brown and Kate Kennedy) and Ahrens also told me that Scipio Fraser was the one who killed Brantford, and they did not mention anything about Jenkins; otherwise I would have gone with the police and arrested him also." [Jenkins was not arrested until three days after Fraser had been arrested and put in jail.] "From the situation of the piazza of the house, No. 86 Tradd street, where Ahrens says he saw Jenkins strike Brantford, after a careful examination, I find it was impossible for Ahrens to have seen Jenkins strike Brantford, as he says."

John Hass, the uncle of Ahrens, on the 4th February, 1868, makes the following statement on oath: "That he saw Brantford walking up Tradd street, towards King, and distinctly observed that he tried to turn back again, but, there being a large crowd of men and boys, he found it impossible. One colored man cried out 'Charge!' and bricks and stones were thrown, apparently by all of them, so that he could not tell who threw the brick or stone that killed Brantford; and that he was in the house, No. 86 Tradd street, looking out of the window, which is nearly twenty-five feet nearer to where Brantford was killed than where Ahrens stood on the piazza, and saw the whole affair, from the time the rioters turned into Tradd street from King street, and that the bricks and stones were thrown so fast that he could not tell who threw the brick or stones that killed Brantford, and that he could not recognize any of the crowd."

Neither of the two last named witnesses were sworn upon the trial or have heretofore submitted affidavits.

The foregoing are the additional facts which have been brought to my attention since the case was reviewed by me on a previous occasion. There was one fact, however, important in its bearing upon the case, which was before me, and which it is proper here to repeat.

James Kennedy, who was the jailer of the Charleston jail at the time that Scipio Fraser died, to-wit: about the 17th of April, 1867, states, under oath: "That Fraser died in his cell; that when the said Scipio Fraser was *in articulo mortis*, having been previously informed, and being himself convinced, that he was in a dying state, he made to deponent a confession, as follows: That he was concerned in the affair in which one Brantford was killed, in July, 1866, and that one John Williams, freedman, struck the blow which knocked Brantford down; and he (Scipio Fraser) struck Brantford when he was down; that said Williams lived on South Bay, in some wood-yard the deponent thinks, and much resembled one John Jenkins, now under sentence of death for having killed Brantford; that he knew the said Jenkins previous to the affair, and that he was innocent of the crime for which he had been convicted, as he (Jenkins) was not present at

the time Brantford was killed; that the deponent then asked the said Fraser why he had not made this confession previous to the trial of Jenkins, and the said Fraser answered that he thought he would have a better chance to get clear if he could have a trial with Jenkins, knowing him (Jenkins) to be innocent of the charge."

After a careful review of the case and its circumstances, and of the new facts that have been brought to light within the past few days, I have come to the conclusion that there is not sufficient evidence to justify me in declaring that Jenkins was one of the party who actually inflicted violence on the body of Brantford. On the contrary, the evidence certainly tends to exonerate Jenkins from any active participation in the murder. I still, however, entertain the opinion that he was among the rioters; that he was with them in their march up King street, and when they turned into Tradd street; and, although not striking the fatal blow himself which took the life of Brantford, he was guilty, technically, of the murder, giving aid and encouragement by his presence to Fraser, who struck the fatal blow; and that, for his participation therein, he merits exemplary punishment.

Believing that he is not guilty of having stricken either of the blows which produced the death of the unfortunate Brantford, but that he was among the rioters, giving aid by his presence to the murder, I have commuted his punishment from death to five years' imprisonment, at hard labor, in the Penitentiary.

CHARLESTON, February 12, 1863.