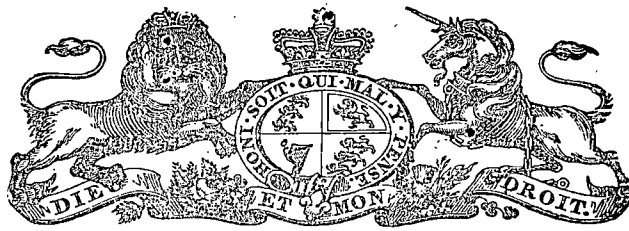


(No. 98.)



1883.

---

T A S M A N I A.

H O U S E O F A S S E M B L Y.

---

JAMES CONNOLLY :

JUDGE'S REPORT, AND OTHER PAPERS.

---

Laid upon the Table by the Attorney-General, and ordered by the House to be printed, August 28, 1883.



*PAPERS with reference to the Case of James Connolly, convicted of Murder at the Supreme Court, Launceston, on 5th April, 1883.*

1.

*REPORT of His Honor Mr Justice DOBSON to His Excellency the Governor on Case.*

*Judges' Chambers, 11th April, 1883.*

Sir,

I HAVE the honor to make the following report to Your Excellency upon the case of *Reg. v. James Connolly*, who was tried before me at Launceston, on the 5th instant, for the murder of William Thompson, and who was found guilty, and upon whom I passed the sentence of death.

The Prisoner had been in the service of Mrs. Fletcher, of Barton, in the Municipality of Campbell Town, for some 18 months before the 17th February last.

His character during that period was that of a quiet inoffensive man. He was employed as groom and milkman, and lived in the kitchen, which was in a building detached from the dwelling-house.

Miss Fletcher had been for a drive on the afternoon of the 17th February, and returned about 7.45 P.M. He took the horse from Miss Fletcher as usual, and she then noticed nothing strange in his manner or demeanor. Some time after this, but before dark, a boy was riding a horse of Mrs. Fletcher's out of the gate, when the Prisoner told him to beat the horse. Annie Larkin, the servant maid, who was present, told the boy not to beat the horse because it belonged to her "Missus."

Annie Larkin then went to drive in some turkeys from a field into the yard, and as she tried to drive them through the gate, the Prisoner tried to prevent her from doing so, frightening the turkeys back. She then went to feed the turkeys, and the Prisoner went to where she was, and said, "I am watching you feed the turkeys;" she said, "Are you?" He then asked her for a turkey to put with the parrot, (he being the owner of a parrot); she said, "You do not want turkeys with parrots." He said he would knock her b——y teeth down her throat. He seemed very angry. Some time afterwards she went to lock the doors of the dairy and store, which opened into the same yard as the kitchen. She was afraid to go alone after what the Prisoner had said to her, and she asked Mrs. Fletcher to accompany her to the back door of the dwelling-house, which opened into the yard. When she went into the yard the Prisoner came from the kitchen towards her, and she then ran into the back door, and Mrs. Fletcher locked it. The Prisoner came to the door and knocked at it, but not for long.

She said that she and the Prisoner had occasionally quarrelled, but she had never before seen him so violent as he was that night, and she saw nothing to lead her to the belief that he was not sober.

Miss Fletcher and her mother afterwards saw the Prisoner at the back door, and he asked why the girl had not come to lock the door; he said she was "a peeping sneak" and had been watching him all the evening. Mrs. Fletcher said she would lock the door, and thereupon Mrs. Fletcher, accompanied by her daughter, went across the yard, and whilst they were locking the last door, the Prisoner came up, and placed one hand on Mrs. Fletcher's shoulder, and the other on Miss Fletcher's arm. He was at the time talking in an excited manner about the girl.

Mrs. and Miss Fletcher slipped away from him and ran across the yard into the back door, which they locked.

Mrs. Fletcher then went out of the front door for a Constable.

The Prisoner kept knocking at the back door, and asking to be let in. Miss Fletcher told him not to make a noise, and to go to bed. She was alarmed, and went away after her mother, whom she met returning to the house with Constable Thompson and one Lockett and his son Albert.

Thompson and Albert Lockett went into the yard, and then to the kitchen, where they saw the Prisoner standing against a table near the door. Thompson said, "Hullo, Connolly, what noise is it you are making here?" The Prisoner said, "No noise at all, only I am off in the morning, and I will knock Annie Larkin's teeth down her throat, or anybody's who takes her part." Thompson said, "I will take her part." Prisoner said, "I will knock yours out," and he hit Thompson on the chest with his clenched fist; Thompson thereupon hit the Prisoner on the side of the face with a heavy walking-stick which he carried, cutting the Prisoner over the eyebrow and drawing blood.

The Prisoner rushed and "collared" an axe which was beside him, and hit Thompson on the side. The axe was the common American axe. Thompson fell flat on his face, and the Prisoner went up and hit him on the head with the axe when he was on the ground. Thompson never moved after. Prisoner then dragged him outside the door and left him by the wood heap, saying, "There you b——y wretch, you come into my kitchen!" There was a good fire burning in the kitchen, and also a candle, and the Prisoner knew Thompson well, the Police Station being only a quarter of a mile from Barton, and Thompson having been stationed there for four years.

This account of what took place in the kitchen was given by Albert Lockett, a youth of about 16, intelligently and clearly. He added that the Prisoner appeared sober, and spoke quietly when he went into the kitchen with Thompson.

The boy at once went to his father, who had not come into the yard, and told him what had happened.

James Lockett, the father, then went into the yard, and saw Thompson lying on the ground, and the Prisoner standing over him. Lockett says he saw the Prisoner strike Thompson a blow on the body with an axe. The Prisoner told Lockett to stand back, or he would let him have it; and thereupon Lockett, who had no weapon, returned to the house and sent the boy for assistance.

The Prisoner, meanwhile, knocked loudly at the door of the house, and shouted, and rang a large bell in the yard.

In a few minutes Miller and Larkin, two neighbours, arrived. They and Lockett went to the yard. The Prisoner was standing close to Thompson. They went towards Thompson, and the Prisoner, who had an axe in his hand, retired. He then turned and came towards them with an axe in one hand and the other behind his back. Larkin, who had a gun, told the Prisoner to stand back two or three times, but he kept coming on, and Larkin told him if he came on he would fire. He came on, and Larkin fired. The Prisoner turned, and walked away towards a fence. In a minute he turned round and came back to them, and they retreated round to the front. In ten minutes' time Messrs. Gatenby and Fisher came. They went into the yard, and rushed and took the Prisoner, who made no resistance.

Thompson still breathed, but shortly after expired. The Prisoner was asked by Miller why he had murdered Thompson. He said he had not murdered him. He hullo'd very much, and made a terrible noise. He, according to Miller, seemed very wild, and like a man who had had a little drink, but was not thoroughly intoxicated: he appeared "rather not in possession of his senses."

When Superintendent Palmer arrived about 4 A.M., Prisoner asked to have the handcuffs taken off, as he was in a terrible state from them. Palmer took them off, and told the Prisoner that he arrested him for the murder of Thompson. He said, "God forbid, my dear man; I never murdered anyone; but see how they have served me," showing Palmer his breast and arm, in which Palmer saw shot marks; "Bill Lockett done this from the corner of the yard as I was feeding the pigs and fowls." Palmer said, "In the dark?" He said not in the daylight, but about 7 P.M. "Before Thompson came?" Palmer asked. He said, "An hour before; and was that not enough to arouse any man? and that is why I rang the bell to alarm the neighbours and get assistance."

Palmer says the Prisoner was in a depressed condition,—like a man who had been drinking.

William Lockett swore that he was working some distance off, and did not return to Barton till between 9 and 10 P.M., and fired no shots at any time that day. He passed Barton early in the morning with a man named Mayner.

Dr. Naylor proved that the thigh was broken, the left arm bruised, and there was a bruise above the right eyebrow. At the *post mortem* he found a contusion on the top of the head, and effusion of blood on the brain, and an effusion of serum at the base of the brain; and this was the cause of death. The contusion which caused the effusion was produced by two blows. One could have been produced by the flat head of the axe, the other by a corner of the head of the axe. There were several shot embedded in the skin of Prisoner's chest.

The Prisoner seemed suffering from depression caused by drinking, and the Doctor noticed the smell of alcohol in his breath. A bottle of gin belonging to the Prisoner was found in the kitchen.

Miss Fletcher said that he seemed, when in the yard, as if he had been drinking, and he staggered as he walked.

Two points were urged by Counsel for the Prisoner:—First, insanity. The learned Counsel relied solely upon the surrounding facts. There was no medical evidence in support of his theory, and no suggestion that the Prisoner at any time before or since that night had shown any symptoms of mental disease, and I think the Jury rightly disregarded the arguments of Counsel on this point.

He next urged that the blow was struck in heat and under provocation, and that the offence was thus reduced to manslaughter; and for this contention he had much better ground.

The Policeman, in my opinion, took an improper course. Instead of soothing an excited man, who was declaring that he would knock out anyone's teeth who took the girl's part, the Policeman took up the challenge, and said that he would take the girl's part. Thereupon the Prisoner struck him with his fist, not in the face, but on the chest. The Policeman should thereupon have arrested him for assault, but instead of that he struck the Prisoner across the face with a heavy walking-stick and cut his face. The Prisoner then seized an axe which was at hand, and struck him with the head of it, breaking his thigh. Had this been the fatal blow I think that the case would have clearly been one of manslaughter only.

It was a contest which was of the Constable's own seeking to a great extent, and in the heat of passion, when struck by a heavy weapon, the Prisoner seized an axe which was at hand, and retaliated, not by cutting the Constable on the head with the edge of the axe, but by a blow with its head on the thigh.

The worst feature of the case against the Prisoner is, that when Thompson fell he again struck him two blows on the head and one on the arm, and death was caused by those two blows on the head. The Prisoner did not use the edge of the axe, and his blows must have been light ones not to have fractured the skull with such a weapon. They were struck within a few seconds after the first blow.

The Policeman never placed himself in the position of a Peace-officer arresting an offender, but he picked a quarrel with the Prisoner on the question who should take the girl's part, and came to blows on that question.

I told the Jury that the provocation caused by the blows struck by the Policeman would not extenuate the guilt of the Prisoner and reduce the crime to manslaughter, unless the provocation had deprived him of the power of self-control, and continued to do so when he struck the blows on the head.

The Jury found the Prisoner guilty of murder, and I passed sentence of death upon him.

I have the honor be,

Sir,

Your Excellency's most obedient Servant,

W. L. DOBSON.

---

2.

TELEGRAM.

Swansea, 13th April, 1883.

*Re Connolly*, undersentence of death.—Has Judge's report on case reached you yet? I advise commutation of sentence to imprisonment for life, on the ground of absence of premeditation, and the excited state of prisoner's mind when he received blow from a heavy stick from constable, in revenge for which he struck him down with axe. I am writing to Governor on subject this day.

W. R. GIBLIN.

Hon. Chief Secretary.

---

## 3.

*EXTRACT from Letter Premier to Governor as to Case.*

Swansea, 13th April, 1883.

MY DEAR SIR GEORGE,

I QUITE forgot to mention to you on Monday last the case of the prisoner Connolly, now under sentence of death in Launceston Gaol. I have no doubt that ere this you will have received Judge Dobson's report on the case. Should you desire to deal with it on Monday, I have no hesitation in advising a commutation of the death sentence to imprisonment for life.

Prisoner is an aged man, who was under the influence of some strong but unexplained excitement on the evening of the murder. No previous malice to the constable was shown to have existed. The constable acted injudiciously, and a blow from a stick which he gave the irritated man led to the latter catching up an axe which lay near and inflicting the fatal injuries. The summing up of the presiding Judge seemed to me rather in favour of a verdict of "manslaughter," but the jury returned a verdict of murder. It was open to the jury on the evidence to have found either way; but I think the interests of justice will be met by the infliction of the lesser punishment. I am aware that the prisoner's police record is a bad one. I may add that Mr. Brown quite concurs in the views I have expressed as to the case\*.

I have, &amp;c.

*His Excellency Sir G. C. STRAHAN, K.C.M.G.*

W. R. GIBLIN.

\* The portions omitted have no reference to Connolly's case.—W. R. GIBLIN, 28th August, 1883.

## 4.

*EXTRACT from Minutes of Executive Council as to Case.*

## EXECUTIVE COUNCIL.

MONDAY, APRIL 16, 1883.

*Present :*

His Excellency the Governor.  
The Hon. W. Moore, Chief Secretary.  
The Hon. J. S. Dodds, Treasurer.  
The Hon. T. C. Smart.

## MINUTE No. 219.

THE case of James Connolly, who was, on the 5th instant, tried and convicted of the murder of William Thompson, and sentenced to death, being brought on for consideration, and having been fully discussed; after stating what took place, namely, that the Governor invited the opinions of the Council upon the case; that Mr. Justice Dobson, by whom it was tried, appeared before the Council with his notes of the case, and replied to such questions as were put to him by the Governor and the Members of the Council; the Governor said that whatever his own opinion upon the matter might be, having regard (1) to the evident desire of the presiding Judge that the prisoner should be dealt with leniently; (2) to the strong recommendation of the Premier, who was not only his principal adviser, but was also Crown Prosecutor in the case, that the sentence should be commuted to imprisonment for life,—an opinion in which both Mr. Dodds and Mr. N. Brown concurred,—he did not feel justified in allowing the extreme penalty of the law to be carried out.

Mr. Moore and Dr. Smart, who took a different view from that held by their colleagues, agreed with the Governor in this decision.

The Governor in Council accordingly ordered that the sentence of the prisoner Connolly be commuted to imprisonment for life, with a strong recommendation that no future Executive should still further commute the penalty.

## 5.

*Executive Council Chamber, 16th April, 1883.*

## MEMO.

HAVING this day considered in Executive Council the case of James Connolly, who was, on the 5th instant, convicted of the murder of William Thompson, and sentenced to death, I have decided to commute the sentence to imprisonment for life, with a strong recommendation that no future Executive shall still further commute the penalty.

*The Hon. the Chief Secretary.*GEO. C. STRAHAN, *Governor.*

7

6.

*The Deanery, Launceston, 16th April, 1883.*

SIR,

I AM not aware if it is *en règle* to offer a suggestion *re* the prisoner Connolly, now lying under sentence of death in the Launceston Gaol. If so, I withdraw *à priori* the following remarks:—

1. After a constant attendance of nigh a fortnight on the prisoner, I have found him to be stolidly ignorant as to grave moral responsibility.

2. I believe him to be partially *non compos mentis*, as evidenced by the fact that in reply to my oft-repeated question why he rang the station bell at the scene of the outrage, his most persistent statement is that he wanted to call the neighbours to save him from being murdered. Now, at this time, evidence at trial shows that Constable Thompson was disabled, therefore there was no one present (so far as I know) but three terrified women. The natural conclusion to arrive at is that Connolly is not *sui compos*.

In view of the above, I deem it my duty, in the interests of justice and humanity, to call the attention of the Executive to this matter.

I have, &c.

*To the Hon. the Premier.*

D. F. X. BEECHINOR, *Dean of Launceston.*

---

7.

*Chief Secretary's Office, Hobart, 19th April, 1883.*

SIR,

IN the absence of the Premier, I have the honor to acknowledge the receipt of your letter of the 16th instant, stating your opinion as to the mental condition of the prisoner Connolly.

I have, &c.

*The Very Rev. Dean BEECHINOR, Launceston.*

WM. MOORE.

---

8.

*Chief Secretary's Office, Hobart, 28th April, 1883.*

SIR,

I HAVE the honor to inform you that the Governor has considered in Executive Council your Honor's Report of the trial of James Connolly, who was convicted of a capital offence at a Criminal Sitting of the Supreme Court held at Launceston on the 5th instant, and who was sentenced to death, and I now signify to you that His Excellency has been pleased to extend mercy to the prisoner, on condition of his being imprisoned for life, with a strong recommendation that no future Executive shall still further commute the penalty.

I have, &c.

*The Honorable W. L. DOBSON, Puisne Judge.*

WM. MOORE.

---

9.

*Chief Secretary's Office, Hobart, 28th April, 1883.*

SIR,

I HAVE the honor to inform you that the Governor has considered in Executive Council the case of James Connolly, who was convicted of a capital offence at a Criminal Sitting of the Supreme Court held at Launceston on the 5th instant, and who was sentenced to death, and that His Excellency has been pleased to extend mercy to the prisoner, on condition of his being imprisoned for life, with a strong recommendation that no future Executive shall still further commute the penalty.

I have, &c.

*The Sheriff, &c*

WM. MOORE.

---

10.

*Police Character of James Connolly.*

JAMES CONNOLLY. Arrived Tasmania, 31. 7. 52. Religion, R.C. No. 25837. Per *P. Bomangee* 4. Tried, Ayr, 9. 10. 49. Transported for stealing a watch. 7 years. Ticket-of-leave, 13. 9. 53. Free by servitude, 9. 10. 56.

Trade, labourer and imperfect baker; height, 5 feet 2½ inches; age, 22 on arrival; complexion, dark; head, long; hair, black; whiskers, none; visage, oval; forehead, medium; eyebrows, black; eyes, dark; nose, large; mouth, medium; chin, medium; native place, not stated. Remarks: Freckled; foul anchor on finger and thumb left hand; cross, E. M., right arm.

Convicted at Court of General Sessions, Launceston, 21 March, 1857, under the name of Alexander M'Mullen, for assault and robbery, and sentenced to 18 months' imprisonment. Tried Q.S., Launceston, 31 March, 1869, as James Conley, attempt to commit an unnatural crime, ten (10) years' imprisonment; (to be kept apart from Charles Rosetta, per *Woodman*, as much as possible.) 30. 12. 70, misconduct in making use of threatening language to a fellow prisoner, 10 days S.C. P.O., George Town, 5. 3. 78., larceny, 3 months H.L. P.O., Launceston, 6. 6. 78., larceny, 6 months H.L. P.O., Launceston, 27. 7. 79., larceny, 6 months H.L. Tried Supreme Court, Launceston, 5 April, 1883, murder; to be hanged; (commuted to life imprisonment, with a strong recommendation that no future Executive shall still further commute the sentence.)

---

## 11.

*ADDRESS from the Honorable the Legislative Council to His Excellency the Governor.*

### LEGISLATIVE COUNCIL.

*To His Excellency Major SIR GEORGE CUMINE STRAHAN, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Tasmania and its Dependencies.*

MAY IT PLEASE YOUR EXCELLENCY,

WE, Her Majesty's dutiful and loyal Subjects the Members of the Legislative Council of Tasmania, in Parliament assembled, pray that Your Excellency will cause to be laid upon the Table of this Council the Report of Mr. Justice Dobson, who presided at the trial of James Connolly, together with the Minute Papers of the Executive Council giving effect to the remission of the death sentence passed by Mr. Justice Dobson upon James Connolly, with the names of the Executive Councillors present when such remission was granted, and the names of the Members absent, with the notes, telegrams, or any memoranda forwarded by them to the Executive, and any note, minute, or new fact supplied in writing by Mr. Justice Dobson in favour of such reprieve, together with any recommendation from the Jury that convicted; and all petitions or papers placed before the Executive Council in support of such mitigation of sentence, together with the Police Character of the said James Connolly.

THOS. D. CHAPMAN, *President.*

Passed the Legislative Council this  
23rd day of August, 1883.

E. C. NOWELL, *Clerk of the Council.*

---

## 12.

*MESSAGE from His Excellency the Governor to the Honorable the Legislative Council.*

GEO. C. STRAHAN, *Governor.*

THE Governor has received from the Honorable the Legislative Council an Address praying "that he will cause to be laid upon the Table of the Council the Report of Mr. Justice Dobson, who presided at the trial of James Connolly, together with the Minute Papers of the Executive Council giving effect to the remission of the death sentence passed by Mr. Justice Dobson upon James Connolly, with the names of the Executive Councillors present when such remission was granted, and the names of the Members absent, with the notes, telegrams, or any memoranda forwarded by them to the Executive, and any note, minute, or new fact supplied in writing by Mr. Justice Dobson in favour of such reprieve, together with any recommendation from the Jury that convicted, and all petitions or papers placed before the Executive Council in support of such mitigation of sentence, together with the Police Character of the said James Connolly."

The Governor is of opinion that as a general rule it is inexpedient to make public the opinions of Members of the Executive Council; and the oath of secrecy which has to be taken by every Executive Councillor seems to indicate that it is intended that the Governor should receive the fullest and freest advice and assistance from Ministers, without that reticence which might in certain cases be produced were the opinions of individual members liable to be disclosed.

In the present case, however, the Governor is advised by Ministers, with a view to removing misapprehensions which exist as to this matter, to comply with the request of the Legislative Council, and transmits herewith, for the information of the Council, the Report of Mr. Justice Dobson on the case of James Connolly, together with an extract from the Minutes of the Executive Council of the 16th April, 1883 (the day on which the prisoner was reprieved), relating to Connolly's case, and an extract from a letter received by the Governor on the 16th April, 1883, from the Attorney-General, which was read to the Executive Council on the same day, a telegram from the Premier to the Chief Secretary, dated 13th April, 1883, and the Police Character of the said James Connolly. The Governor also transmits a letter from the Very Reverend Dean Beechinor as to Connolly's mental condition, and the reply thereto.

*Government House, 28th August, 1883.*