

James Bracken (4588) and Andrew Bracken (4610)

The Assizes, South Lancashire Circuit

Conviction for Murder – Painful sobs in Court.

James BRACKEN, 24, labourer, and Andrew BRACKEN, 21, labourer, two brothers were indicted for having, at Manchester, on the 28th June 1856, wilfully killed William BATES. Mr Higgins: On the night of the 28th of June, a person named Taylor, and the deceased, were coming down George-street, Hulme, about nine o'clock in the evening, and having spent the day together in a public-house, they were not quite sober. In George-street is a beer-house called the Brown Cow, and when they got to that place they saw the two prisoners fighting a man, whom they chased into the beer-house. Immediately Taylor and Bates got near to where the fight had taken place, one of the prisoners made a blow at Taylor, who went away for a policeman, leaving the deceased there, and, when he came back, Bates had been removed. Both these men had struck him; he was knocked down more than once, and whilst down, the prisoner Andrew came up and kicked him on the head several times. He was found in the street in an insensible state, and taken to the Infirmary, where he was attended by a surgeon, who found him bruised in several places; there was a very extensive fracture of the skull, and the cause of Bates death was an effusion of blood on the brain. Having had his wounds dressed, he was removed to the police station next door, and he died during the course of the evening, and he was insensible from the time of his receiving the kicks on his head until the time of his death. Several witnesses were examined to prove the counsel's statement.

The jury found James BRACKEN guilty of manslaughter, and Andrew BRACKEN guilty of wilful murder, but with a strong recommendation to mercy. The scene that ensued can scarcely be described. The Court filled with a groan, as it were, of pity, whilst three females in the gallery, at the back of the Court, shrieked in a dreadful manner, and one of them was seized with a fainting fit. They were all taken outside the court, and we learnt on inquiry that they were the aged mother of the prisoners and their two sisters. The prisoner James fell back into the dock and fainted, but in two minutes again revived, when kneeling at the bar, he raised his hands to heaven, and, with a piteous look at the judge cried, "Oh, My Lord, have mercy on my brother". The prisoner Andrew literally tore his hair, and first kneeling, and then standing, piteously cried, "Oh My Lord, I beg mercy".

Mr Justice Willes, sobbed audibly, and was quite overpowered by his feelings. Having put on the black cap, the lordship assumed his wonted calmness and dignity as a judge. His Lordship then addressed the prisoners thus:- Andrew BRACKEN, prisoner at the bar, you have been convicted of the crime of wilful murder, and you, James BRACKEN, of the crime of manslaughter. A peaceable subject of her Majesty, passing along the streets of the city of Manchester, is brutally attacked by you both. You were no doubt, engaged in a common desire of attacking any person who came along that way, and of beating him, in a cruel and violent manner. You, James BRACKEN, have been convicted of manslaughter, and you too, were engaged in an unlawful design which I have describe, but you were no party to the last violent and cruel attack by which that unhappy man was sent to an untimely grave. You, Andrew BRACKEN, were guilty of that, you attacked him with your feet, armed no doubt with clogs; you kicked him about the head; you fractured his skull; and you sent to a premature grave. You did act, the natural and ordinary consequences of which must have been to kill the man. It was a cruel and brutal act, and you did it wholly reckless of the consequences which it might produce. You have, therefore, been very properly convicted of wilful murder of that man. The jury, however, have accompanied their verdict by a recommendation of mercy; I have it not in my power, Andrew BRACKEN, to attend to that recommendation. The prerogative of mercy rests with her Majesty alone, and I cannot encourage in you any hope whatever that that recommendation will be acted upon. With regards to you James BRACKEN, the sentence of the court is that you be transported for life. Upon you, Andrew BRACKEN, the sentence is that you be removed hence to the place from whence you came, and thence to a place of public execution, and that there you be hanged by the neck until your body is dead; and may God, in the plenitude of His goodness, have mercy upon your soul. The prisoner Andrew fell down again in the dock and begged for mercy; but, being raised by the turnkey, was escorted from the dock, ejaculating, with fearful intensity of spirit, "Oh, mother, mother, that I should be hung" For a few minutes the court seemed paralysed by the shocking scene which it had witnessed; and his lordship having raised his head from his hands, slowly rose and left the court amidst solemn silence.

Andrew was sent to Portsmouth Prison, No. 4318, and boarded the *Nile* on the 08.09.1857. James was sent to Portland Prison, No. 7050, and he boarded the *Nile* on 10.09.1857. They arrived in Fremantle on 01.01.1858

References and Notes:

News of the World 24 August 1856

First Printed in *Convict Links*, Vol. 19, No. 3, September 2005 - Newsletter of the Convict Special Interest Group, Western Australian Genealogical Society Inc.