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# "The Whole State Is On Fire"

## Criminal Justice and the End of Reconstruction in Upcountry South Carolina<sup>1</sup>

Jeff Strickland

*Le 3 novembre 1876, on trouva les cadavres de deux meuniers allemands dans leur demeure incendiée située à quelques milles de la ville d'Aiken, dans le haut-pays de la Caroline du Sud. Les autorités blanches accusèrent immédiatement cinq Afro-américains de vol, meurtre et incendie volontaire. Leur inculpation, procès et exécution coïncida avec l'élection tendue de 1876 qui s'acheva par la prétendue Rédemption démocrate de la Caroline du Sud. Bien que les républicains fussent majoritaires au parlement de l'État, les racistes Démocrates avaient pris le contrôle de l'appareil judiciaire dans de nombreuses villes de l'État, y compris Aiken. En étudiant une affaire particulière d'homicide, cet article montre de quelle manière les Blancs manipulaient les tribunaux pour appuyer d'une violence légale leur campagne para-militaire contre les Afro-américains. Les procureurs Blancs requièrent la peine de mort et, peu de temps après son accession aux fonctions de gouverneur, Wade Hampton approuva l'exécution des condamnés, effectuée en deux fois et qui ressembla à un lynchage, symbolisant l'échec de la Reconstruction.*

*On November 3, 1876, two German millers were found dead in their burned-out home located a few miles outside the upcountry town of Aiken, South Carolina. White authorities immediately accused five African American men with robbery, murder, and arson. The indictments, trial, and executions of five African American men coincided with the volatile Election of 1876 that ended with the so-called Democratic Redemption of South Carolina. Although Republicans held a majority in the state legislature, white supremacist Democrats had gained control of the juridical machinery of towns throughout the state, including Aiken. This study of a single murder case reveals the ways whites manipulated the courts, supplementing their paramilitary campaign against African Americans with legalized violence. White prosecutors sought the death penalty, and not long after Governor Wade Hampton officially assumed office, he supported the execution of the men in two hangings that resembled lynching and symbolized the failure of Reconstruction.*

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<sup>1</sup> This essay began as a conference paper presented at the Allen Morris Conference 2004 in Tallahassee, Florida. I am grateful for the constructive comments provided by Amy Srebnick, Christopher Waldrep, James Woodard, Carey Federman, and Sally Hadden. Jeff Strickland is Assistant Professor of History at Montclair State University. His book manuscript in progress is tentatively titled *Not Even Freedom: A History of Race and Ethnicity in Charleston, South Carolina, 1850-1880*. He teaches courses on urban history.

On November 3, 1876 Fritz Paughtman and his uncle Rudolph Hausmann, German immigrants living in Millbrook Township, Aiken County, South Carolina, were found dead among the smoldering ashes of their burned-out home. White authorities quickly concluded the men had been the victims of foul play, and they charged five African American men with robbery and murder. Armed vigilantes brought in the five men after having extracted what they called "confessions". These confessions and the findings of an unusually lengthy coroner's inquest would be the bases of the case subsequently assembled by prosecutors, together with the dubious testimony of white and black residents of Aiken, testimony which placed certain of the belongings of Paughtman and Hausmann in the possession of the five defendants.

On its own, it is an interesting case, one that competent, well-prepared defense attorneys and professional prosecutors might have wrestled over for months, had the categories of litigator actually been in evidence, and that historians might use to practice the kind of "incident analysis" identified with Robert Darnton<sup>2</sup>. But the case itself transcended the local legal circles of Aiken and its environs, and it in fact holds an importance greater than the micro-historical. Occurring as it did virtually on the eve of the contested presidential election of 1876, the aftermath of which is widely acknowledged to have been the end of Congressional Reconstruction and the return to complacency in the face of southern white supremacy on the part of the national government, the case of the "Aiken Five" soon drew regional and national audiences. The crime itself also overlapped with the para-militarization of party politics in South Carolina, as several of the figures involved in the arrest and interrogation of the five defendants were Democratic Party operatives who had been implicated in election fraud and antiblack violence, while prosecutors attempted to portray the five men as active members of an African American militia group. Less clear at the time, but demonstrable through careful historical reconstruction, is the degree to which the case represented a turning point in the means by which white supremacy was maintained in South Carolina: the use of the legal system to subjugate African Americans. In earlier years, avowedly extralegal groups such as the Ku Klux Klan and Wade Hampton's Red Shirts had been the primary means by which racial order was defended. Henceforth, the legal process itself would do the job. In part as a result, white South Carolinians turned to lynching less often than their regional countrymen, relying on a process of court-imposed capital punishment that served up murder juridically.

The coroner's investigation, a jury trial, and public executions were inextricably linked to the volatile political and social climate of Reconstruction era South Carolina. Historians have long investigated the southern Reconstruction, and the historiography reflects a broad spectrum of interpretations<sup>3</sup>. Several key studies focus on the roles played by white supremacist Democrats in resisting Reconstruction<sup>4</sup>. Not surprisingly, case studies of South Carolina have focused on this theme, adding depth to that larger body of scholarship<sup>5</sup>. Historian of Texas Donald G.

<sup>2</sup> Darnton (2004). See Srebnick (1995); Lebsack (2003).

<sup>3</sup> Richardson (2001); Blight (2001); Hahn (2003); Foner (1988); Gillette (1979); Perman (1973); DuBois (1999); Franklin (1961); Stampp (1965); Trefousse (1969); Woodward (1974); Litwack (1979); Carter (1985).

<sup>4</sup> Perman (1984); Trelease (1971); Kantrowitz (2000).

<sup>5</sup> Holt (1977); Williamson (1990); Simkins, Woody (1932); Zuczek (1996); Saville (1994); Schwalm (1997).

Nieman determined that the conflict over control of the criminal justice system was the central debate of the postemancipation period. African American activism, especially regarding juridical reforms, including black representation on juries, served to strengthen white resistance to juridical equality<sup>6</sup>. Christopher Waldrep has offered the best analysis of the structural inequalities in Mississippi during the late nineteenth and early twentieth century. In his study of race and criminal justice in Warren County, Waldrep determined that the law was never an adequate substitute for the vigilantism. White Mississippians relied heavily on extralegal violence, mainly lynching, to impose a strict racial hierarchy despite their control of the legal machinery<sup>7</sup>. Few scholars, however, have investigated the inner workings of the criminal justice system in South Carolina<sup>8</sup>.

South Carolina presented a different set of circumstances. White South Carolinians viewed black crime as threatening, and white vigilantes killed numerous African Americans during Reconstruction. Northern newspapers and magazines provided extensive coverage of the white on black violence, and it checked white aggression to a certain extent. As Republican governments fell and the so-called Redeemers took control, white Supremacists in South Carolina quickly found the law an adequate substitute for extralegal violence, including lynching. Instead of murder, whites relied upon the courts to impose the death penalty whenever possible<sup>9</sup>. The difference between South Carolina and Mississippi in this respect was profound. As the sociologists Stewart E. Tolnay and E. M. Beck found, Mississippi had the highest number of lynching (462) of the five Deep South States and South Carolina the lowest (143). Furthermore, Mississippi also had the highest number of victims per 100,000 African Americans (52.8) while South Carolina had the lowest (18.8)<sup>10</sup>. White South Carolinians began to substitute capital punishment for the lash in 1877, as the Democratic Party gained control of the government.

Two historians have commented on the murder case examined in this essay. Alfred B. Williams, a conservative historian of Reconstruction in South Carolina, wrote that the Aiken murders "seemed to be the result of the diabolic secret incitement that developed crime and outrage elsewhere". Williams claimed that the case humiliated Republicans "who had been citing Aiken as one of the special places where the whites were engaged in savage and unrelenting warfare on innocent, harmless and defenseless [N]egroes"<sup>11</sup>. Clearly, he held that a single alleged incident

<sup>6</sup> Nieman (1989, p. 392).

<sup>7</sup> Waldrep (1998, p. 3; 1996, pp. 1425-1451). Waldrep wrote that 'racism allowed whites to see themselves as a community, one threatened by blacks' crime. That sense of solidarity freed whites from the limits law and constitutionalism impose on punishing crime.'

<sup>8</sup> Hindus (1976).

<sup>9</sup> Linders (2002); Beck, Massey, Tolnay (1989); Phillips (1987); Olzak (1990); Massey, Myers (1989). Numerous scholars have debated whether state sanctioned executions replaced extra-legal violence throughout the South in the 1880s. Linders writes that 'just as the public execution audience had carried the power to discredit and challenge the execution event, subsequent witnesses, in turn, carried the power to confer respectability and legitimacy on the event'. Phillips argued that execution began to substitute for lynching after political disfranchisement was successful. Olzak determined that economic and political competition positively influenced lynching rates in the South. Massey and Myers found no evidence that executions replaced lynching in Georgia during the period. Beck et al. found a positive correlation between lynching and executions in Georgia between 1882 and 1885.

<sup>10</sup> Tolnay, Beck (1995, p. 37).

<sup>11</sup> Williams (1970, p. 351).

of black on white violence outweighed the countless atrocities committed by whites against black South Carolinians. Moreover, Williams determined that the case occurred at a time when whites moved to gain control of the courts, and the “courts began to function in orderly ways”<sup>12</sup>. A second historian, Tom E. Terrill, noted the “bizarre” ritual execution that took the lives of four African Americans but failed to mention its larger significance<sup>13</sup>.

The case was much more important than the attention it has received to date. The South Carolina Department of Archives and History maintains a rich trial record that included the coroner’s inquisition, the trial transcripts, gubernatorial correspondence, and clemency appeals. The bulk of the surviving documents reflect the bias of its white authors. In particular, the surviving trial transcript was an abridged copy that was forwarded to Governor Daniel H. Chamberlain when supporters of the defendants raised questions about the trial. The confessions and depositions of the defendants and black witnesses reveal their illiteracy status as they merely signed the documents with their mark. An analysis of the case record raises numerous questions about the judicial process. Furthermore, newspapers in the North and South followed the story closely<sup>14</sup>.

## RECONSTRUCTION IN SOUTH CAROLINA

The alleged murders occurred during the most volatile period in South Carolina’s Reconstruction experience, as white Democrats resorted to violence against Republicans, primarily African Americans but including some whites, in order to achieve their political aims. Only three southern states had Republican governments by the election of 1876: Florida, Louisiana, and South Carolina. Following the Civil War, a Republican Congress embarked on the legislative process of bringing the former Confederate States back into the Union - ideally in the North’s image. Black southerners had earned their freedom during the Civil War, and the federal government responded with the Thirteenth and Fourteenth Amendments, formally abolishing slavery and guaranteeing citizenship respectively<sup>15</sup>. In 1867, Congress passed Reconstruction legislation that divided the South into five military districts and called for African American political participation in reforming southern state governments. The Fifteenth Amendment offered constitutional protection to the enfranchisement of African American men. In 1868, the South Carolina Republicans soundly defeated the Democrats and hundreds of African Americans won political office and white southerners were incensed. The Democratic Party adopted a “centrist” or “fusion” strategy that called for supporting white Democrats and moderate Republicans<sup>16</sup>. Republican Governor Daniel H. Chamberlain, a native of Massachusetts, was elected on a fusion platform in 1874, and he quickly moved to strengthen white influence in the Republican Party thereby attracting Democratic constituents.

<sup>12</sup> Williams (1970, p. 435).

<sup>13</sup> Terrill (1982, p. 214).

<sup>14</sup> None more so than the *Columbia Register* and *Augusta Chronicle*, but also including the *New York Herald Tribune* and *Charleston News and Courier*.

<sup>15</sup> See Berlin, Fields, Miller, Reidy, Rowland (1992).

<sup>16</sup> Gillette (1979, pp. 186-187, 193).

Governor Chamberlain soon began a policy of fiscal retrenchment and replaced some Republican office holders, including trial justices, with white Democrats. These patronage appointments irritated many Republicans<sup>17</sup>. Not surprisingly, Republicans, including alienated African Americans, became more deeply divided following the election of Chamberlain<sup>18</sup>. A common complaint among Republican legislators was Chamberlain's lack of support for funding their programs<sup>19</sup>. White Democrats remained committed to the fusion strategy until the summer of 1876. Local upcountry Republican governments had become decidedly less radical, with many Democrats seated in local political offices, including white trial justices, some of whom were Republicans by label only.

Whites committed to reestablishing a caste system had already achieved a modicum of social control through Chamberlain's patronage appointments, and as the conservative opposition gained political strength, incidents of racial intimidation and violence against African Americans increased<sup>20</sup>. It was not surprising that white southerners turned to violence and intimidation in an effort to control African Americans because they had always attempted to control blacks in the South. In an attempt to restore the antebellum political order, white South Carolinians conducted an organized paramilitary campaign against African Americans. White supremacist groups such as the Ku Klux Klan and Knights of the White Camelia terrorized African Americans in an attempt to control their labor and political activities. The secret societies were forced underground following the Ku Klux Klan Trials and subsequent anti-Klan legislation of 1871-1872, but whites continued to use a combination of economic sanctions, violence, intimidation, and murder, to discourage African American participation in black militias and Republican politics<sup>21</sup>.

White rifle clubs were formed throughout the state beginning in 1868. The white rifle clubs claimed they were merely social entities but their record of violence demonstrated they were racist organizations committed to the subjugation of black South Carolinians. In 1876, white resistance to Reconstruction pinnacled while Republicans scrambled to keep their party together. As white southerners intensified their efforts to regain control of the state government, thousands of men joined rifle clubs, and they boasted a membership of over 14,000 men in nearly 300 organizations throughout the State. Most of them were mounted clubs and many of the men carried weapons seized from the militia – some even had cannon<sup>22</sup>.

Aiken County was the most volatile place in South Carolina. Scholars have long treated the region as one of the most violent in the entire South, a place where southern honor thrived<sup>23</sup>. Aiken County alone had twenty-nine rifle clubs with an average of fifty men enrolled in each<sup>24</sup>. Former Confederate General Wade Hampton and the

<sup>17</sup> Foner (1988, pp. 543-544); Holt (1977, pp. 180, 183-184); Williamson (1990, pp. 331-332); Perman (1984, p. 168). In 1875, Chamberlain refused to sign the judicial commissions of William J. Whipper and Franklin J. Moses, Jr. Both men had been elected by the Republican legislature.

<sup>18</sup> Gillette (1979, p. 307); Holt (1977, p. 175); Rable (1984, p. 164).

<sup>19</sup> Perman (1984, p. 142).

<sup>20</sup> Rable (1984, p. 163).

<sup>21</sup> Kantrowitz (2000, pp. 3, 53, 57). Also see Williams (1996).

<sup>22</sup> Rable (1984, p. 173).

<sup>23</sup> Burton (1987); Ford (1997).

<sup>24</sup> Williams (1970, p. 176).

Red Shirts waged a state-wide operation of violence, murder, and intimidation against African Americans to discourage or eliminate Republican political participation and resistance to white political ascendancy. Martin Gary led the so-called “shotgun policy” against Republicans and blacks in South Carolina. Gary, a staunch advocate of Hampton’s candidacy, called for every white man to take responsibility for at least one black man. In an infamous effort to disarm one black militia, white riflemen massacred seven black men in Hamburg. A few days after a Fourth of July incident, several hundred white rifle club members killed one and executed six African Americans<sup>25</sup>. Following the massacre at Hamburg, the Democratic Party abandoned its fusion strategy for a straight-out policy and they only nominated Confederate veterans for political office<sup>26</sup>. Five hundred people attended a meeting of the Democratic Club of Millbrook Township near Hausmann’s Mill for an election event, M. T. Holley, Daniel S. Henderson, James Aldrich, and George W. Croft gave speeches espousing the straight-out plan<sup>27</sup>.

African Americans in upcountry South Carolina faced white majorities in most counties. The railroad town of Aiken was an exception. Aiken lay approximately twenty-five miles southeast of Edgefield, nearly sixty miles south of Columbia, twenty miles east of Hamburg (another town with a black majority) and directly across the river from Augusta, Georgia (Figure 1: Map of South Carolina). Fifteen thousand African Americans outnumbered the nearly thirteen thousand whites in Aiken County<sup>28</sup>. As a result, the Republican Party enjoyed considerable electoral success in Aiken, and white and black Republicans alike served the community. African Americans served as United States Colored Troops, militiamen, police officers, constables, federal marshals, and other officials that helped enforce federal mandates, including local and state elections. South Carolina had one of the most active black militias in the South, and whites associated them with the Republican Party<sup>29</sup>. Black South Carolinians served in organized militias sanctioned by the federal and state governments. When black militia members appeared on public streets with government issued rifles, they committed a political and subversive act in the minds of white southerners. Historian Stephen Kantrowitz writes that the existence of armed African Americans in the militia “provoked the same mass mobilization of white men that rumors of slave revolts had prompted”<sup>30</sup>. In 1870, Governor Robert Scott turned to his new state militia of approximately one thousand African Americans to assist with his reelection campaign. The black militia served to protect African Americans and ensure their political participation<sup>31</sup>.

Another act of white on black aggression took place at Ellenton a few months later<sup>32</sup>. When whites went to arrest two African American men accused of beating

<sup>25</sup> Kantrowitz (2000, pp. 64, 67); Zuczek (1996, p. 163); Gillette (1979, p. 307); Singletary (1957, pp. 139-140). Whites killed one African American in a pitched battle. Then they executed six African Americans after they had surrendered.

<sup>26</sup> Gillette (1979, p. 307); Rable (1984, pp. xii, 171); Zuczek (1996, p. 159); Holt (1977, pp. 199-200).

<sup>27</sup> *Aiken Courier Journal*, 5 August 1876. It appears the meeting did not take place at Hausman’s but somewhere near the remote location.

<sup>28</sup> Walker (1883, p. 77). Aiken County formed in 1871.

<sup>29</sup> Singletary (1957, pp. 15, 101).

<sup>30</sup> Dailey (1997, pp. 557-558); Gilje (1996, pp. 87, 100); Kantrowitz (2000, pp. 58, 54).

<sup>31</sup> Emberton (2006, pp. 624-626).

<sup>32</sup> Rable (1984, p. 174).

and robbing an elderly white woman, local black militia members gathered to protect them<sup>33</sup>. One thousand white rifle club members from Aiken, Barnwell, and nearby counties surrounded 100 African Americans in the outskirts of Ellenton, and a massacre ensued<sup>34</sup>. Federal troops arrived after around thirty black men had been killed. Afterwards, the black militia scattered, and African Americans began sleeping in the woods for safety<sup>35</sup>. On October 7, the *New York Herald Tribune* quoted an observer in South Carolina, who determined "that there is a practical condition of war in the State. The whole State is on fire. Nearly the whole white population are enrolled in rifle clubs"<sup>36</sup>.

Following the massacres at Hamburg and Ellenton, Governor Chamberlain issued a proclamation outlawing the white rifle clubs that were not considered part of the regular state militia, and which if carried out would have shut down nearly all of them<sup>37</sup>. The proclamation incensed white Democrats who constantly pushed for the restoration of their right to maintain rifle clubs while calling for the disarming of black militias. Whites had been committed to disarming the black militia companies since Governor Scott had mobilized them. In some instances, white Democrats even offered black militia members seventy-five cents a day, food, and employment in exchange for their desertion from the militia<sup>38</sup>. On October 9, Daniel T. Corbin, the United States District Attorney of South Carolina reported on the conditions of Aiken County to Governor Chamberlain. Corbin wrote that the white rifle clubs "have created and are causing a perfect reign of terror" and he estimated that between thirteen and thirty black men had been killed during the last three weeks alone. "The civil arm of the government in this county is as powerless as the wind to prevent these atrocities. The sheriff of the county, if disposed, dare not attempt to arrest the perpetrators of these crimes for fear of his own life being taken", Corbin reasoned. He concluded that the situation in Aiken compared to "the worst demonstrations of the Ku Klux Klan in 1870 and 1871. In my judgment you owe it to yourself as Governor and to the people of the State to exercise, and at once, all the powers vested in you as Governor of the State to put down this deplorable state of affairs"<sup>39</sup>.

<sup>33</sup> Zuczek (1996, pp. 176-177).

<sup>34</sup> Kantrowitz (2000, p. 74); Williamson (1990, pp. 267-270); South Carolina Department of Archives and History (hereafter SCDAH) H. Jordan to Governor D. H. Chamberlain, 19 September 1876, Governor Chamberlain Telegrams received; SCDAH, H. Jordan to Governor D. H. Chamberlain, 20 September 1876, Governor Chamberlain Telegrams received; SCDAH, H. Jordan to Walter R. Jones (Private secretary of D. H. Chamberlain), 21 September 1876, Governor Chamberlain Telegrams received; SCDAH, C. D. Hayne to Governor D. H. Chamberlain, 21 September 1876, Governor Chamberlain Telegrams received. Aiken Sheriff Hiram Jordan notified Governor Chamberlain about the potential for violence and informed the governor that whites refused to disband. When federal troops under Captain William Lloyd eventually arrived the white rifle clubs left the scene but a massacre ensued as soon as the federal troops departed.

<sup>35</sup> Williams (2001, pp. 176-182, 187, 192); Rable (1984, p. 173). Federal authorities arrested A. P. Butler and his co-conspirators for the murders. At the same time, a grand jury in Aiken charged 100 African Americans with riot, assault, and murder. A jury of six black men and six white men failed to convict the whites.

<sup>36</sup> *New York Herald Tribune*, 7 October 1876.

<sup>37</sup> Rable (1984, p. 174); *New York Herald Tribune*, 9 October 1876.

<sup>38</sup> Singletary (1957, p. 105).

<sup>39</sup> *New York Herald Tribune*, 9 October 1876.



White Republicans, including northerners, found the white on black violence repulsive, and they used the northern newspapers to expose the atrocities. A perfect example was Martha Schofield, a Quaker from Pennsylvania that operated an African American school in Aiken. On November 10, Schofield wrote a letter to the editor of the *New York Tribune* depicting white on black racial violence in Aiken and its hinterland. Schofield was responding to a recent letter to the editor written by Rev. E. C. Edgerton, a white southerner, in which he claimed Aiken County was peaceful. Schofield had lived there for nine years, and she recalled recent cases of white on black violence. She believed that the presence of federal troops had saved many African American lives<sup>40</sup>. In another letter to the editor, Schofield wrote, "silence has ceased to be a virtue" as she felt compelled to tell about the "outrages" occurring around her. She concluded, "[I]t takes brave women and courageous men to leave home and give testimony implicating the whites. They know the risk of life and property. Is it likely they would do it for the pay of a witness, as some assert? Many who came from Ellenton and Rouse's Bridge have not dared go back, thus losing much of their crop"<sup>41</sup>.

One white southerner blamed the murders on the "inflammatory teachings of the carpet-bagger, F. A. Palmer"<sup>42</sup>. White Democrats had nearly assassinated Palmer, a white Republican and native of Connecticut, on at least two occasions<sup>43</sup>. Clearly, white southerners considered Palmer a dangerous Radical Republican leader. One historian identified Palmer as a communist and advocate of free love, and to make matters worse, he had written negatively about white conservatives in the northern press<sup>44</sup>.

The gubernatorial and presidential election took place on November 7 and pitted Democrats Wade Hampton and Samuel J. Tilden against Republicans Daniel H. Chamberlain and Rutherford B. Hayes for governor and president respectively. The results were disputed due to allegations of election fraud, including voter intimidation. The Democratic election strategy of violence and intimidation worked in the upcountry counties, including Aiken County where they polled a majority<sup>45</sup>. It would take several months before Rutherford B. Hayes and Wade Hampton would assume their respective offices. In the meantime, South Carolina local and state government remained in limbo as both Hampton and Chamberlain claimed victory.

<sup>40</sup> *New York Herald Tribune*, 15 November 1876.

<sup>41</sup> *New York Herald Tribune*, 29 November 1876.

<sup>42</sup> *Columbia Register*, 6 November 1876.

<sup>43</sup> Peter A. Waggles Testimony, 20 December 1876, appearing in *South Carolina in 1876: Testimony as to the Denial of the Elective Franchise in South Carolina at the Elections of 1875 and 1876, Taken Under the Resolution of the Senate of December 5, 1876* (Washington, DC: Government Printing Office, 1877), 1, pp. 252-264; *New York Times*, 27 January 1877; *New York Times*, 26 May 1936. He was born in Colchester, Connecticut, in 1838. At age twenty, he studied law, and not long after managed a department store in Des Moines, Iowa. In 1861, he returned to Connecticut to enlist in the Union Army as a first lieutenant where he rose to the rank of captain. Following the war, he returned to Norwich, Connecticut where he practiced law. In 1878, his New York investors withdrew their support for the colony. He returned to Connecticut and opened a bed company that he operated until 1925. In 1874, he established the colony of New Hope in Aiken. That year, he was elected to the South Carolina legislature and was later mentioned as a candidate for governor.

<sup>44</sup> Williams (1970, pp. 346, 241). I have not been able to locate any articles authored by F. A. Palmer.

<sup>45</sup> *Charleston Journal of Commerce*, 8 November 1876. Republicans in Aiken won a clear majority, suggesting Democrats had good reason to target the Republican stronghold.

The editor of the leading conservative Columbia Newspaper noted the murder case was representative of greater political conflict in the state<sup>46</sup>.

## THE INQUEST

The two men died only a few nights before Election Day, and their deaths were immediately tied to the political turmoil<sup>47</sup>. Many black South Carolinians had lost their lives since the Hamburg Massacre. Few whites, however, had been killed in the numerous skirmishes between Red Shirts and African Americans. The timing of the Hausmann and Paughtman murders sparked white uproar over the incident. The deaths of the two Germans mobilized influential whites, some of them friends of the men, to investigate the murders and bring the guilty individuals to justice. Aiken coroner Francis L. Walker conducted a lengthy inquest between November 3 and November 11, 1876.

On the day of the deaths, the coroner of Aiken County, Francis L. Walker, had already concluded that the men had been murdered. He immediately contacted Governor Chamberlain and requested his support in the form of a "suitable reward". At the time, Walker only mentioned two suspects, Adam Johnson and Nelson Brown. Governor Chamberlain responded with a reward of five hundred dollars for the arrest and proof to convict any of the murderers<sup>48</sup>. Governor Chamberlain did not want to appear soft on crime, something that Democrats had alleged throughout the election campaign. It was the largest reward ever offered by the state, and it inspired a statewide manhunt that resembled the slave patrols and posses of the antebellum era<sup>49</sup>. An additional five hundred dollar reward for the capture of another defendant was later announced<sup>50</sup>. The conditions of the reward necessitated "proof to convict" and it motivated the arresting officers to obtain confessions from the suspects<sup>51</sup>.

Coroner Walker's inquest focused on the presence of a black militia armed with government issued rifles, but only one of the defendants was a member of a state sponsored black militia company commanded by Peter A. Waggels, an African

<sup>46</sup> *Columbia Daily Register*, 19 November 1876; 21 November 1876.

<sup>47</sup> Election Day occurred on November 7, 1876.

<sup>48</sup> SCDAAH, Francis L. Walker to Governor Chamberlain, Letters Received & Sent, Box 15 Folder 22; Reward Announcement, 3 November 1876, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>49</sup> See Hadden (2001); Williams (1955, p. 264).

<sup>50</sup> SCDAAH, Reward Announcement, 29 November 1876, Governor Hampton Papers, Box 1, Folders 5-7. \$ 500 Reward ! For the apprehension and delivery at the jail of Aiken County, South Carolina, of one Lucius Thomas, *alias* Milton Thomas, *alias* Thaddeus Thomas, *alias* Brown, *alias* Lucius Willis, for the murder of one R. Hausman and one F. Pothman, committed on the night of the 2d of November, 1876 Description of said criminal is as follows: Color, black; age, 24 years; height, 5 feet, 4 inches; weight, about 140 lbs; action, quick; speech, genteel. Appearance: Teeth white, and short upper lip, very short. When in conversation, form peculiar. Very pointed in centre. Always particular that hair is combed. Face clear; reads and writes well. The above reward is offered and will be paid by the Governor of the above State, and an additional reward of fifty dollars will also be paid by Mr. J. H. Beckman, of Aiken Town, Aiken County, immediately upon the delivery of said prisoner at said jail. H. Jordan, Sheriff Aiken County. Aiken C. H., S. C., November 29th, 1876.

<sup>51</sup> SCDAAH, Hiram Jordan to Governor Chamberlain, 5 December 1876, Letters Received & Sent, Governor Chamberlain Papers, Box 16, Folder 30. In the weeks following the conviction, several lawmen applied for Chamberlain's reward.

American federal deputy marshal. Waggles had participated in the arrests of the whites implicated in the Ellenton Massacre, and he later testified before a Congressional Committee regarding the event<sup>52</sup>. White southerners were chagrined by Peter Waggles' militia activities<sup>53</sup>. Katy Gany testified that she had seen John Henry Dennis drilling in Peter Waggles' militia company<sup>54</sup>. Samuel Schmidt, a member of Waggles' militia company, deposed that "John Henry Dennis was a sergeant in the militia company but Adam Johnson and Nelson Brown were not members"<sup>55</sup>. Although the testimony suggested otherwise, at least one conservative considered the defendants "a gang of negro desperadoes, members of the State militia, with State arms in their hands"<sup>56</sup>.

Five white witnesses, three of whom had worked for Hausmann, offered witness depositions on November 3, the first day of the inquest. Their lower class standing meant they would have been subject to significant social pressure to go along with the case. They also needed jobs now that their employer was dead. Joe Mills and J. H. Beckman testified they found irregular foot tracks leading to the back of the house. Indicative of violent turmoil in the region, Henry Free testified that he saw the house burning but did nothing because he was afraid to "be waylaid". Elizabeth Blackman, a white domestic servant, had left an axe near the back door of the kitchen the night before, and claimed she found the axe near the dead bodies. John Stringfield also mentioned he saw the axe near the men<sup>57</sup>. Importantly, none of the white witnesses saw anyone approaching or leaving the house the night of the murders. Regardless, Porter B. Williams, an Aiken trial justice, issued arrest warrants for several men before the inquest was completed. On November 3, based upon the testimony of Henry Blackman, an arrest warrant for Nelson Brown was issued, charging Brown with murder and arson<sup>58</sup>. An arrest warrant was also issued for Adam Johnson based upon the testimony of C. J. Wessels because Wessels had identified some stolen merchandise found at his house as belonging to Hausmann<sup>59</sup>.

A small community of Germans had settled in Aiken County since mid-century. The overwhelming majority of German immigrants settled in the North and Midwest, however, thousands of Germans lived and worked in port cities throughout the

<sup>52</sup> *Columbia Daily Register*, 19 November 1876.

<sup>53</sup> *Aiken Courier Journal*, 5 August 1876. One white southerner remarked that the militia was active on the Fourth of July.

<sup>54</sup> SCDAH, Kathy Gainey Inquest Testimony, Samuel Schmidt Inquest Testimony, Solomon Gantt Inquest Testimony, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>55</sup> SCDAH, Samuel Schmidt Inquest Testimony, Solomon Gantt Testimony, Aiken Court of General Sessions, Box 33, Folder 48. Solomon Gantt testified that he was a member of Waggles' militia company and owned a state rifle.

<sup>56</sup> *New York Herald Tribune*, 25 November 1876.

<sup>57</sup> Henry Blackman Inquest Testimony, Elizabeth Blackman Inquest Testimony, Joe Mills Inquest Testimony, Henry Free Inquest Testimony, J. H. Beckman Inquest Testimony, John Stringfield Inquest Testimony, 3 November 1876, Aiken Court of General Sessions, Box 33, Folder 48. The twelve members of the all white inquest jury: S. W. Keenan foreman of jury inquest: F. Alts, W. S. Walker, C. Zimmerman, C. F. Nurnberger, A. T. Cook, W. Mosely, A. Burckhalter, William Wright, T. Champman, Y. B. Red, and F. Schwieren.

<sup>58</sup> SCDAH, Nelson Brown Arrest Warrant, 3 November 1876, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>59</sup> SCDAH, Adam Johnson Arrest Warrant, 3 November 1876, Aiken Court of General Sessions, Box 33, Folder 48.

southern states, including New Orleans, Savannah, and Charleston, while some settled in the rural South<sup>60</sup>. Following the failed 1848 Revolution in Germany, thousands of German Forty-Eighters fled Germany for the Americans, including Hausmann, a native of Hanover, who migrated with two friends to Cleveland, Ohio where they opened a business. Twenty years later, Hausmann moved with his nephew Paughtman to Aiken County where they farmed and operated a profitable sawmill, three miles from downtown<sup>61</sup>. Southerners reporting consistently referred to Hausmann and Paughtman as "esteemed", "well-to-do", "valued," and "hardworking"; Germans had achieved a similar, positive reputation throughout much of the United States. Perhaps southern whites maintained a greater degree of tolerance for white immigrants, especially when they adopted a value system based upon white supremacist principles<sup>62</sup>. Paughtman was an active member of the Aiken *Schutzen*, a white rifle club<sup>63</sup>. Complicating matters, authorities found a blue military coat among Paughtman's belongings, and he probably fought for the Union<sup>64</sup>. Perhaps more importantly, one newspaper reported that both men were Republicans<sup>65</sup>.

The Charleston *News and Courier* included an account of the alleged crime on its front page just days before the Election of 1876<sup>66</sup>. In an apparent attempt to attract German immigrants to the Democratic Party, Francis Warrington Dawson, the editor of the paper, was quick to note that the victims were Germans. The Democratic Party had been courting the immigrant vote, including Germans, throughout Reconstruction with mixed results. Reflecting trends elsewhere in the South, German and Irish immigrants expressed stronger support for the Democratic Party in the weeks leading up to the 1876 election than previously exhibited. Dawson recognized that the alleged murder of two Germans by African Americans might convince more German and Irish immigrants to vote Democratic.

Several African Americans were questioned during the coroner's inquest, and their depositions were included in the trial record. All of the depositions were writ-

<sup>60</sup> US Bureau of the Census, *Ninth Census of the United States, Volume I* (Washington: Government Printing Office, 1872): 258, 339, 370. Only 45 foreign-born persons lived in Aiken (Barnwell County) in 1870. In Charleston, the number reached 4892 persons. The total number of Germans living in South Carolina was 2742. While Charleston County had 1886 Germans, the remainder lived throughout the State, including 73 in Barnwell County.

<sup>61</sup> *News and Courier*, 4 November 1876; *Deutsche Zeitung*, 13 November 1876; 6 November 1876; SCDAH, Aiken, South Carolina Probate Record, 26-5, 15 January 1877. Hausman had tuberculosis and probably moved for the benefits of a warmer climate.

<sup>62</sup> *Columbia Daily Register*, 4 November 1876, *News and Courier*, 4 November 1876. See Strickland (2008).

<sup>63</sup> *Deutsche Zeitung*, 13 November 1876; 6 November 1876.

<sup>64</sup> *Columbia Daily Register*, 7 December 1876; *Deutsche Zeitung*, 8 December 1876; SCDAH, Harmon C. Mosely to A. P. Butler, 10 May 1877, Governor Wade Hampton papers, Box 1; SCDAH, Arrest Warrant, 2 December 1876, Court of General Sessions, Aiken County, Box 33, Folder 48; SCDAH, Memo from Sheriff H. Jordan certifying the capture of Lucius Thomas, 5 December 1876, Governor Chamberlain Letters Received and Sent, Box 16, Folder 30; SCDAH, Memo from Solicitor of 2<sup>nd</sup> Circuit Court, 8 January 1877, Governor Chamberlain Letters Received and Sent, Box 16, Folder 30; Charles J. Babbitt to Sheriff William Wilson, 6 March 1877, Governor Chamberlain Letter books, SCDAH; and SCDAH, Aiken, South Carolina Probate Record, 26-5, 15 January 1877.

<sup>65</sup> *Philadelphia Inquirer*, 21 April 1877. Southern newspapers failed to mention the Germans were Republicans. African Americans would not have a motive. That explains why they asked for Dr. Palmer.

<sup>66</sup> *News and Courier*, 4 November 1876.

ten by white investigators and African Americans signed them with an "X." A few African American deponents incriminated the five accused men, but there were a few inconsistencies. African American witnesses testified that several of the accused had brought stolen merchandise home on the day of the murders.

Adam Johnson's wife and daughter offered testimony that damaged him, probably because he was having an open affair with another woman. Lucy Johnson had informed Adam Johnson she was going to tell the husband of his mistress about the affair and Adam Johnson threatened to kill her. Adam Johnson brought the bundles, including a pair of boots, into the house at dawn. She ran away fearing for her life, and she returned to find that an officer had taken the items from her house<sup>67</sup>. Victoria Lythgoe, the daughter of Lucy Johnson, deposed that Adam brought the items home with him and placed them underneath the floorboards. She was home when Constable Staubes went under the house and found the bundles.

Lizzie Dennis testified that her husband John Henry Dennis had left the house at around nine o'clock and returned while she was sleeping. Later a man brought a bundle to the house, but John Henry Dennis refused to let him bring it into the house. Lizzie Dennis went away and returned to find the house broke open and bundles had been found under the house, but she did not know how the bundles got there.

Peter Stuart lived with Cupid Holmes and Adam Johnson and occupied Holmes' room with his wife. Stuart testified that early Friday morning, he heard Adam go to Cupid's door and try to put a bundle under his bed, but Holmes resisted and said it shouldn't come in there as the officers would be searching there that day. Stuart's deposition narrative appears contrived because Holmes had no reason to believe that officers would search his home the following day<sup>68</sup>.

Two African Americans with close ties to Hausmann and Paughtman signed depositions that may have been manufactured. Mary Bates, the sixteen year old daughter of Isaac Bates, a Hausmann employee, testified that she overheard a conversation between Bob Moore and her father regarding the murders. Mary recalled the Aiken Five believed that "there would be no damage as Mr. Hausmann had no dogs [and] that as the election was near everything would blow over & they would not be found out". Bates' testimony also mentioned that the men were armed when they went to Hausmann's house, and they tore some of the palings off the back fence so they could drag stolen merchandise over the fence. Bates testified that Johnson stabbed Paughtman with a bayonet and then "bashed his brains out" with an axe. Then Johnson killed Hausmann with an axe and "spattered his brains all around him on the floor". It is unlikely the accused men would have believed that whites would wholly ignore the crimes. It is equally doubtful the men would have linked the robbery to upcoming election. Everything about the alleged murders was political indeed. Future witnesses would also mention the fence palings but it does not make sense that the men would have done it. The medical examiner's trial testimony would later contradict her statements.

Bob Moore repeated the story that Mary Bates told but his deposition read, "This witness's testimony was very uncertain [and] was [obtained] with considerable difficulty. He evidently knew all that Mary said...In reply to one of the jurors he said

<sup>67</sup> SCDAB, Lucy Johnson Inquest Testimony, 4 November 1876, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>68</sup> SCDAB, Peter Stuart Inquest Testimony, Aiken Court of General Sessions, Box 33, Folder 48.

that perhaps he was...afraid of Adam to tell all he knew". Moore, an African American, allegedly said "I can't trust niggers these days"<sup>69</sup>.

Cupid Holmes offered contradictory testimony. Holmes lived and worked as a laborer with his wife and child on H. B. Burckhalter's farm, located near Hausmann's. During his first inquest interview, Holmes claimed Johnson had discussed the entire plan with him and that several of the men intended to rob the Germans. A week later, in a follow up interview, Holmes now recalled that Johnson admitted carrying out the robbery, and that Johnson told him that Brown shot and killed Hausmann and Thomas killed Paughtman with the butt of a gun. Holmes testified that Johnson and Brown brought home bundles of stolen merchandise, and Johnson told Holmes that they had obtained the bundles from the men. Holmes updated his earlier statement, testifying that he informed John Staubes Jr., a German baker and chief constable for the town of Aiken, that he believed Adam Johnson had killed the men. He told Staubes that the stolen bundles were in his wife's room. Sarah Holmes, Cupid's wife, corroborated her husband's testimony, adding that Adam had asked Lucy Johnson, his wife, for chalk to mask their faces the night of the murders. If Cupid Holmes was willing to give up members of the black community, then it would not have been a stretch to manufacture testimony to curry favor with the same white men. It is plausible that Burckhalter pressured Holmes into giving false testimony. Burckhalter, a white southerner, was Holmes' employer and a member of the inquest jury. Holmes was fighting for his life and had incentive to corroborate the scenario that white officials had constructed.

Sheriff Hiram Jordan and Staubes assembled a posse of eight men to search for bundles at Nelson Brown's and Adam Johnson's residences. They found items under the floorboards at Adam Johnson's. Later, they found a chest and double barrel gun at Nelson Brown's. They also found a bundle under the floor at John Henry Dennis's house containing items belonging to Hausmann and Paughtman<sup>70</sup>. Members of the posse deposed they found items at the homes of Nelson Brown, John Henry Dennis, Lucius Thomas, and Adam Johnson<sup>71</sup>.

The coroner called for the arrests of five men when he presented his findings to the inquest jury on November 11. The inquest jury was composed of leading white

<sup>69</sup> SCDAB, Mary Bates Inquest Testimony, Bob Moore Testimony, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>70</sup> SCDAB, John Staubes Jr. Inquest Testimony, 6 November 1876, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>71</sup> SCDAB, G. C. Moseley Inquest Testimony, Charles Otto Bauck Inquest Testimony, Henry Blackman and Elizabeth Blackman Inquest Testimony, W. M. Steedman Inquest Testimony, Henry Hahn Inquest Testimony, 6 November 1876, Aiken Court of General Sessions, Box 33, Folder 48. Charles Otto Bauck, a friend of Hausmann and Paughtman, identified pipe stems and a pistol belonging to Hausmann. He also identified Paughtman's powder flask and Schutzen coat, adding that Paughtman usually kept the coat in a trunk. G. C. Moseley, a member of the posse, testified they found a double barrel gun, powder flask, and pipe stems belonging to Paughtman at Nelson Brown's house. At John Henry Dennis's house, they found a bundle under the floor, containing a new pair of shoes and a flour bag with Hausmann's name on it. Moreover, they found a table and two chairs that had been stolen from the Baptist Church at Lucius Thomas's house. W. M. Steedman deposed that the posse found a table and two chairs at Lucius Thomas's house. They found a trunk that Thomas left at the home of Augustus and William Sandford, both employed by Steedman. Henry Hahn testified he found items under the floor at Johnson's house, a double barrel gun at Nelson Brown's, and clothing at John Henry Dennis's house. They found the table and chairs at Lucius Thomas's house.

men, mainly small farmers, from Aiken County. S. W. Keenan, the jury foreman, was later appointed a trial justice by Democratic Governor Wade Hampton. The inquest jury agreed with Coroner Walker's conclusion that Adam Johnson had killed Paughtman and Hausmann with an axe, and that John Henry Dennis, Nelson Brown, Lucius Thomas and Solomon Gantt aided and abetted. Cupid Holmes was named an accessory.

Several of the men fled the morning the posse formed to arrest them, and they were able to evade capture for nearly three weeks. Nelson Brown was captured in mid-November. On November 19, John Henry Dennis was arrested in Columbia. A day later, William and Stephen Anderson, father and son, were arrested<sup>72</sup>. Fearing for his life, he refused to come out of his house, and was shot twice by the arresting officers<sup>73</sup>. The posse was clearly willing to kill the younger Anderson and forfeit the reward, but he survived. Adam Johnson was arrested twenty-three miles from Aiken just days later. Johnson was brought into town in a buggy, his arms tied with rope, and surrounded by an armed group of men<sup>74</sup>. The jail was guarded by the United States Army, a sign that authorities feared vigilantes might attempt to lynch Johnson and his accomplices<sup>75</sup>. In early December, the final defendant, Lucius Thomas was arrested, and authorities credited Christian Muerman, a German immigrant and relative of Hausmann and Paughtman from Cleveland, Ohio for his assistance in locating Thomas. He was captured at Cape Romain, nearly forty miles northeast of Charleston, where he had taken a job cutting cord wood. At night, Thomas taught a course on military tactics to local African Americans that had quickly embraced him<sup>76</sup>.

## THE CONFESSIONS

All five of the defendants confessed to the murders. Leading white men questioned the defendants without an attorney present. In order to obtain the reward money, they needed to provide proof of conviction. The same white men wrote the confessions from notes taken during the interviews and the defendants signed them with their mark.

Nelson Brown purportedly confessed to Porter B. Williams (Trial Justice), Henry Hahn (German Merchant), Hiram Jordan (Sheriff), Christian Muerman (German Merchant), and James G. Porter, an attorney and Democratic Party official. The confession was written from notes taken by Porter and focused on several themes that would appear in each of the confessions. The men met at William Anderson's

<sup>72</sup> SCDHAH, Louis Samuels Trial Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7. Stephen Anderson owned a team of horses and lived on Burckhalter's farm.

<sup>73</sup> *New York Herald Tribune*, 20 November 1876.

<sup>74</sup> SCDHAH, Porter B. Williams Trial Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>75</sup> *Columbia Daily Register*, 24 November 1876.

<sup>76</sup> *Deutsche Zeitung*, 8 December 1876; Hennessey (1985); *Daily Enquirer-Sun* (Columbus, GA), 9 December 1876. The *Daily Enquirer-Sun* cited a story in the *Augusta Constitutionalist*; SCDHAH, Harmon C. Mosely to Wade Hampton, 10 May 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7. Harmon C. Mosely of Charleston captured Thomas with the assistance of James Wingard of Aiken.

home before departing for Hausmann's. The men powdered their faces with white chalk and drank whiskey mixed with gun powder. Moreover, the men were armed with rifles and acted as a militia captained by Adam Johnson. Johnson killed both men with an axe. The men collected booty and bundled the items in bed sheets. Then Lucius Thomas set the home afire<sup>77</sup>.

Adam Johnson supposedly confessed to George W. Croft, James Aldrich, Porter B. Williams, O. C. Jordan, and James G. Porter. All were white men of influence. O. C. Jordan, James Aldrich, and Croft were lawyers and Democratic Party election canvassers for Aiken County. Aldrich, Jordan, and Croft were Confederate veterans and officers in the Palmetto Rifle Club. As captain of the club, Croft had commanded the rifle club at the Ellenton Massacre. He was later prosecuted for his role in the massacre. Croft was chairman of the Democratic Party of Aiken County. O. C. Jordan and Croft were implicated in voting fraud during the recent election<sup>78</sup>. Johnson allegedly admitted to killing the Parkinson couple, an elderly husband and wife from England, adding that John Henry Dennis had raped the elderly woman. Lucius Thomas commanded the group to Hausmann's and the men drank whiskey en route. Upon arrival, Dennis called to Paughtman and asked if Frederick A. Palmer was there. Paughtman allowed the men to enter. Thomas killed one of the men with an axe and Dennis killed the other. Johnson added that, following the Ellenton Massacre, Cupid Holmes allegedly said, "[I]f he could get a gun every night a white man would be missing"<sup>79</sup>. Whites often falsely accused African American men of raping white women, and the inclusion of rape indicates that the confession was falsified.

Stephen Anderson and John Henry Dennis allegedly confessed to three white men, George Edmonston, J. R. Jordan, and James G. Porter. All of the men were Democrats. Anderson admitted that he waited outside the house while Adam Johnson killed the men. John Henry Dennis stated the men had met at William Anderson's store. Lucius Thomas brought whiskey and they drank it with gun powder. Johnson called for the axe and killed one of the men, and Thomas killed the other<sup>80</sup>. Anderson had already been shot twice during his arrest indicates the men faced hostile interviewers.

Lucius Thomas supposedly confessed to Porter B. Williams, W. H. Wise, John Staubes Jr., and James G. Porter. All of the men were white Democrats. Thomas recalled the men met at William Anderson's house and someone other than himself brought whiskey. When the men arrived at the house, Johnson stated, "'Ain't Palmer here?' The man said 'No'. Adam said 'We heard he was here & we want him open the door'. I squatted to the end of the piazza thinking the man might shoot. Adam said when the door was opened 'we believe he is here & we want him, get us a light'. The man got a light & came to door with it. No one went in till then. Adam & Steve were white in face, but my chalk had washed off by perspiration. Adam then went in & said he was going to find Palmer". Adam commanded John Henry Dennis,

<sup>77</sup> SCDAB, Nelson Brown Confession, Governor Hampton Papers, Box 1, Folders 5-7. Nelson Brown was interviewed at the Aiken Jail on November 29, 1876 by Henry Hahn, P. B. Williams, Hiram Jordan, C. Muerman, and James G. Porter.

<sup>78</sup> United States Congress, *South Carolina in 1876*, 1, pp. 771-779, 1018-1028.

<sup>79</sup> SCDAB, Adam Johnson Confession, Governor Hampton Papers, Box 1, Folders 5-7. The surviving confession was written from notes taken by James G. Porter.

<sup>80</sup> SCDAB, John Henry Dennis & Stephen Anderson Confessions, Governor Hampton Papers, Box 1, Folders 5-7.



“[T]ake charge of these men, sergeant”. Adam struck one of the men with an axe as Hausmann’s bed was consumed by fire<sup>81</sup>. During his “voluntary” confession, Thomas admitted to the unsolved murders of the Parkinson couple and Mr. Levin, a junk dealer<sup>82</sup>.

The recovery of stolen merchandise combined with the confessions was enough for the all white grand jury to find true bills of indictment against the men on January 1, 1877. The case would go to trial just two days later.

## THE TRIAL: BLACK DEFENDANTS, WHITE PROSECUTORS

On January 3, 1877, Judge Wiggin opened the Court of General Sessions for Aiken County<sup>83</sup>. As was typical for the era, he assigned the defense attorney on the day of arraignment<sup>84</sup>. The trial of the Aiken Five took place less than a month after the final defendant had been arrested, and the defense attorney had little time to prepare for the trial. Although they had allegedly confessed to the crimes, the defendants plead not guilty<sup>85</sup>. The trial lasted only two days, indicative of how poorly the defendant’s rights were protected<sup>86</sup>.

An unequal criminal justice system that favored whites prevailed in South Carolina long before Democrats regained formal political authority in 1877. Whites had continued to manipulate criminal law in an effort to maintain their dominance of African Americans throughout Reconstruction<sup>87</sup>. The postbellum order disturbed whites that heretofore benefited from a caste system built upon the foundation of slavery. White elites turned to the courts for help in controlling black labor<sup>88</sup>. Whites were rarely arrested and tried for murders committed during extralegal incursions against African Americans, and when they were put on trial, the jury nearly always failed to convict whites implicated in violence against blacks<sup>89</sup>. An observer of southern justice noted, “A white is rarely seen in a Southern court for any crime other than murder or assault and battery”<sup>90</sup>.

Black South Carolinians had participated in the legal system long before emancipation, and they sought equal justice in the courts<sup>91</sup>. Reconstruction policies had

<sup>81</sup> SCDAAH, Lucius Thomas Confession. Governor Hampton Papers, Box 1, Folders 5-7. The document was written from notes taken by James G. Porter and Porter B. Williams.

<sup>82</sup> *Daily Enquirer-Sun* (Columbus, GA), 9 December 1876; SCDAAH, Harmon C. Mosely to Wade Hampton, 10 May 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>83</sup> SCDAAH, Aiken Court of General Sessions, Box 33, Folder 48; *News and Courier*, 5 January 1877.

<sup>84</sup> *News and Courier*, 5 January 1877.

<sup>85</sup> *News and Courier*, 6 January 1877; SCDAAH, Stephen Anderson’s Petition, 12 April 1877, Governor Hampton Papers, Box 1.

<sup>86</sup> Vandiver (2006, pp. 11-12, 98-100).

<sup>87</sup> Nieman (1989, p. 392); Rable (1984, p. 87).

<sup>88</sup> Waldrep (1996, pp. 1425-1426, 1429).

<sup>89</sup> *New York Times*, 5 June 1877. The trial of the Ellenton Massacre, in which whites were accused of murdering African Americans, was a perfect example. The trial ended in Charleston with a hung jury when the six African American men on the jury favored convicting all but one of the eleven defendants, and the six white men on the jury voted in favor of acquittal.

<sup>90</sup> South Carolina Morals, *Atlantic Monthly* 39 (April 1877, p. 474).

<sup>91</sup> Edwards (2007, pp. 365, 378).

led to an increase in black jury participation, and African American participation in the criminal justice system challenged white dominance. Unfortunately, the white supremacist foundation of South Carolina's legal system, especially local courts, remained intact following the Civil War, as whites continued to serve as sheriffs, trial justices, lawyers, and jury foreman. South Carolina's criminal justice system was incredibly inefficient, except when it came to maintaining white supremacy<sup>92</sup>. It was more difficult for black jurors to indict whites, especially for crimes against African Americans, than to block unjust indictments against black defendants. African Americans feared retribution if they disagreed with white jurors. When African Americans were accused of committing violence against whites, they were prosecuted to the fullest extent of the law. Black defendants depended upon effective defense attorneys, but they were typically white conservatives<sup>93</sup>. "Whenever larceny, burglary, arson and similar crimes are committed in the South, no one is suspected of the crime save negroes. Out of three hundred fifty five prisoners now in the state penitentiary, three hundred and twenty-five are colored", a southerner wrote in 1877<sup>94</sup>. Whites often manipulated the judicial system, alleging crimes and fabricating evidence, especially in the form of false testimony by whites, and white lawyers merely supported the biased judicial system. Accused African Americans were rarely found innocent<sup>95</sup>.

Capital punishment was the greatest example of white social control through judicial inequality. The imposition of the death penalty revealed a significant racial differential. Only two white South Carolinians were executed during Reconstruction, and both were men convicted of murder<sup>96</sup>. Twenty-four African Americans were hung during the 1865-1877 period. Only two black South Carolinians were executed between 1867 and 1871, the height of African American political power in the state. Beginning in 1872, executions increased as white Democrats gained political power. Seven African Americans were hung in 1875, more than the total number of African American men executed since Reconstruction began. In 1876, only one African American man was executed. Ten African American men were executed in 1877, the most of any year since the end of the Civil War, a sign that white Democrats had begun implementing white supremacist policies.

The Aiken Five were prosecuted by white judicial officials committed to imposing death sentences. During the period between the disputed election and the trial, several South Carolina Republicans expressed their concerns about judicial inequalities to Governor Chamberlain. On December 12, 1876, Frederick A. Palmer

<sup>92</sup> Hindus (1976, pp. 575, 599). He concluded, 'Black justice may have served some bureaucratic need for certification, while at the same time soothing some slaveholders' consciences, but it was never intended to be just'.

<sup>93</sup> Nieman (1989, pp. 397-398, 401, 411, 414-415, 419, 420). In his study of Washington County, Texas, Nieman found that blacks were convicted at a higher rate than whites for violent crime (59 to 35 percent). The most common sentence for murder was five years in the penitentiary for whites and ten years for blacks. Importantly, not a single white was convicted for murdering an African American between 1868 and 1885.

<sup>94</sup> 'South Carolina Morals', 474.

<sup>95</sup> Edwards (2007, pp. 365, 378).

<sup>96</sup> Espy (2004). Executions for South Carolina included one black male in 1867, one in 1869, two in 1872, two in 1874, seven in 1875, one in 1876, and ten in 1877. The Aiken and Lowndesville defendants made up the ten executions in 1877.

addressed a letter to the governor requesting that Chamberlain appoint a new Jury Commissioner of Aiken County. Palmer and his supporters contended that the present jury board consisted of three men “all of whom are inimical to the interests of the Republican party”. The believed that the people’s “rights may be injured in the courts unless a new board is constituted”<sup>97</sup>.

During his election campaign, Governor Chamberlain assured the electorate that he would appoint better qualified trial justices than previous governors had done<sup>98</sup>. One week later, Republican P. W. Jefferson addressed a letter to the Governor requesting the appointment of new trial justices, and he nominated Peter A. Wagglers for the town of Aiken and three men to fill posts in three other sections of Aiken County<sup>99</sup>. Sixty-six citizens from Aiken petitioned Governor Chamberlain to appoint a new trial justice because the only current trial justice, Porter B. Williams, was always “sick or managing his boarding house” while another petition offered nominations<sup>100</sup>. Trial justices were important because they handled lesser criminal cases at the local level. Article Number 267 of the state constitution, created by the South Carolina legislature in 1868, outlined the appointment of trial justices. The governor appointed and commissioned the trial justices for counties around the state, but with the consent and approval of the state legislature. The trial justices served two year terms but they could be removed by the governor<sup>101</sup>. Following the election, Wade Hampton not only began appointing his own trial justices before he officially became the governor, he also removed some of the more moderate Chamberlain appointees. White conservatives had maintained control of the circuit courts throughout Reconstruction, so Hampton paid them less attention. One author wrote that “white lawyers were generally selected for circuit judges - men who, retaining their honesty, would consent to keep quiet on politics or openly profess republicanism”<sup>102</sup>.

There were two Republicans involved directly with the trial of the Aiken Five, Judge Pierce L. Wiggin, another native of Connecticut, and the solicitor of the Second Court Samuel J. Lee, an African American. Lee had served as a Republican state representative between 1868 and 1874. The rest of court officers, prosecutors, and constables were Democrats<sup>103</sup>. Although a Republican, Judge Wiggin sympa-

<sup>97</sup> SCDAAH, Frederick A. Palmer to Governor Chamberlain, 12 December 1876, Governor Chamberlain Letters Received & Sent, Box 15, Folder 40.

<sup>98</sup> *New York Times*, 5 December 1874.

<sup>99</sup> SCDAAH, P. W. Jefferson to Governor Chamberlain, 12 December 1876, Governor Chamberlain Letters, Box 16, Folder 4. D. R. Rouse for the section of Greenland, J. E. Coleman for Graniteville, and Aaron W. Gilbert for Beach Island.

<sup>100</sup> SCDAAH, Aiken Petitioners to Governor D. H. Chamberlain, 18 December 1876, Governor D. H. Chamberlain Letters Sent and Received, Box 16, Folder 1; SCDAAH, L. W. James et al to Governor D. H. Chamberlain, 19 December 1876, Governor D. H. Chamberlain Letters Sent and Received, Box 16, Folder 4; and SCDAAH Charles J. Bassett (Private secretary) to Aaron W. Gilbert, 7 January 1877, Governor D. H. Chamberlain Letter books. L. W. James and two other men petitioned the governor to appoint new trial justices.

<sup>101</sup> South Carolina General Assembly, *Constitution of South Carolina, Adopted April 1868* (Columbia, SC, 1868), 377, 402. Article Number 288 defined the criminal jurisdiction of trial justices to include criminal offenses in which the fine was \$100 or less or imprisonment did not exceed thirty days.

<sup>102</sup> The Political Condition of South Carolina, *Atlantic Monthly* 39 (February 1877, p. 179).

<sup>103</sup> *Columbia Daily Register*, 5 January 1877; Foner (1993, p. 131).

thized with white Democrats. During the fall of 1876, Judge Wiggin denied that whites were breaking any laws during the Red Shirts' campaign of violence; instead, he argued blacks were guilty of provoking whites. Judge Wiggin did write Governor Chamberlain to agree that political violence necessitated the mobilization of federal troops, and that Chamberlain had saved lives on Election Day<sup>104</sup>. The court selected a jury of twelve African Americans<sup>105</sup>.

Several whites testified for the prosecution. J. H. Beckman, a German, testified that he found the men together in one room. An axe with the handle burned off lay next to Paughtman's head. Beckman stated, Hausmann "was badly burned, his head was all knocked to pieces, could not identify him. There was some fire when I got there. The clothes were entirely burned from the bodies. Don't know whether they were in the habit of carrying axe in the house at night or not"<sup>106</sup>. Elizabeth Blackman identified several of Hausmann and Paughtman's possessions that she saw in the house the night before the fire. She identified two coats, two pistols, and a case. Blackman added that the men owned two axes and she had left one on the woodpile behind the kitchen. The other axe was in the field<sup>107</sup>. It is highly unlikely the defendants would have gone outside in search of an axe or that they could have seen it in the dark. One of the murdered might have used it to cut wood for the fireplace.

The testimony of Dr. Theodoro Gaillard Croft, the physician who examined the bodies, raised questions about whether the men were murdered. Dr. Croft was a Confederate Veteran and had served with the Sixteenth Infantry in Virginia<sup>108</sup>. He testified that he could not determine the cause of death and stated "Think the largest was lying nearest door, the skull of the small man was entirely consumed, couldn't detect marks of violence on any part of the body, found lungs diseased, and the liver was what we call a fatty liver, frequently found in consumptives". Dr. Croft's reliance on medical science must have disturbed whites in the courtroom, but he attempted to appease them by offering contradictory testimony. "The death of the parties could be accounted for through violence or burning. Made an examination of the smaller body but did not find evidence of violence. Body very much charred. Don't think the affection of either lungs or liver was sufficient to cause death. The face of the small body was up. The heart was intact, all right. It is within the range of possibility that the death was caused by some other means than violence... Can't tell what killed him", Dr. Croft stated<sup>109</sup>. A strong cross-examination could have focused on the last point.

<sup>104</sup> Reynolds (1905, pp. 322, 323, 325, 385). A year earlier, the South Carolina legislature had elected circuit court judges and Wiggin was selected for the Second Circuit. Previously, Wiggin had been elected solicitor of the Second Circuit. Some South Carolinians questioned his qualifications because he had only practiced law previous to accepting the judgeship. Democrats had even called for Judge Wiggin to decline the judgeship so that a more qualified person could fill the position.

<sup>105</sup> SCDH, Criminal Indictment, 1 January 1877, Box 33, folder 48.

<sup>106</sup> SCDH, J. H. Beckman Trial Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>107</sup> SCDH, Elizabeth Blackman Trial Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>108</sup> Obituary, *Confederate Veteran Magazine*, Volume 23 (1915, p. 366).

<sup>109</sup> SCDH, Dr. Theodoro Gaillard Croft Trial Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

The white men that heard the confessions testified at the trial. George Edmonston testified that he questioned John Henry Dennis along with Sheriff J. R. Jordan and James G. Porter. Edmonston declared, "No one told Stephen Anderson that he was not deep in it and had to confess. Never said to any of the prisoners that it would be better for them to confess. I am Deputy Clerk of Aiken County, was present at interview at Mr. Porter's suggestion, [and] did not go in any official capacity"<sup>110</sup>. Sheriff J. R. Jordan corroborated Edmonston's testimony<sup>111</sup>. George W. Croft testified that Adam Johnson confessed to the robbery, and that Nelson Brown and Lucius Thomas had murdered the men<sup>112</sup>. Porter B. Williams testified that he heard Nelson Brown and Lucius Thomas confess, and his testimony mirrored the written confessions<sup>113</sup>. Henry Hahn testified that his search party found two stolen shirts at William Anderson's store under the counter with Fritz Paughtmann's initials embroidered on them. It is highly unlikely that William Anderson would have attempted to sell stolen shirts under the circumstances<sup>114</sup>. Edmonston's testimony suggests he understood the law and that his political appointment raised doubts about his impartiality in the case.

Judge Wiggin allowed Cupid Holmes, initially a defendant, to testify for the prosecution in exchange for the State dropping its charges against him. Holmes sat in the courtroom and heard all of the witnesses for the prosecution before testifying against the accused. During his second inquest deposition in November, Holmes had claimed Brown and Thomas committed the murders, but now he agreed with earlier testimony that Johnson murdered both of the Germans<sup>115</sup>. Holmes testified that he refused to participate in the robbery, and "Captain Johnson" had tried to leave the stolen property in his room<sup>116</sup>. In response to the powerful testimony from prominent white men and Holmes, each of the defendants took the stand and attempted to implicate the others in the crime, all agreeing that Johnson commanded the group and committed the murders. Lucius Thomas testified that the men chalked their faces and drank whiskey with gunpowder. Adam acted as captain and he killed both men<sup>117</sup>. John Henry Dennis testified that the men chalked their faces and drank whiskey with gun powder. He claimed "Captain Johnson" killed both men<sup>118</sup>. John-

<sup>110</sup> SCAH, George Edmonston Trial Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7. Edmonston stated that 'he did not go in any official capacity'.

<sup>111</sup> SCAH, Sheriff J. R. Jordan Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>112</sup> SCAH, George W. Croft Testimony, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>113</sup> SCAH, Porter B. Williams Testimony, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>114</sup> SCAH, Henry Hahn Trial Testimony, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>115</sup> SCAH, Order Discharging Cupid Holmes, 4 January 1876, Aiken Court of General Sessions, Box 33, Folder 48; SCAH, Cupid Holmes testimony, 3 January 1877, Governor Wade Hampton Papers, Box 1; SCAH, 'Stephen Anderson's Petition', 12 April 1877, Governor Wade Hampton Papers, Box 1.

<sup>116</sup> SCAH, Cupid Holmes Defense Testimony, 3 January 1877, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>117</sup> SCAH, Lucius Thomas Defense Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>118</sup> SCAH, John Henry Dennis Defense Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

son, on the other hand, testified that Brown and Thomas committed the murders<sup>119</sup>. Nelson Brown testified that Johnson acted as captain and Dennis a sergeant. Brown retrieved the axe from outside the house and handed it to Johnson<sup>120</sup>. The copy of the trial record may have been falsified, and the original trial transcript would probably have offered a better account of the proceedings. Judge Wiggin released Cupid Holmes on January 4<sup>121</sup>.

Several African Americans refused to testify against the defendants. Lucy Johnson and Ellen Brown did not appear in court on January 3 although they had been subpoenaed. Charles Edmonston issued a bench warrant for their arrests but the women never testified<sup>122</sup>. Gracey Jones and Victoria Lythgoe also failed to appear, and Judge Wiggin issued a bench warrant for their arrest<sup>123</sup>. Jim Johnson was released from jail on April 13. He had been imprisoned for failure to appear as a witness in the case<sup>124</sup>.

Unfortunately, the names of the twelve African American jurors do not appear in the existing trial record<sup>125</sup>. Twenty whites and sixteen African Americans were selected for the petit jury<sup>126</sup>. The fact that an all African American jury was selected, and that they voted to convict all five of the men given the inconsistencies in the trial record indicate something was amiss, although they did recommend Anderson to the mercy of the court<sup>127</sup>. Newspapers across the country reported the verdict<sup>128</sup>. Governor Chamberlain, suspecting foul play, inquired about the conduct of the coroner's inquest. Solicitor Lee sent the Governor a copy of the evidence on January 7, only four days before sentencing and allowing little time for Chamberlain to intervene<sup>129</sup>. On January 11, Judge Wiggin sentenced the men to hang on Friday, March 6<sup>130</sup>. Lee would soon move to Charleston where he gained an excellent reputation for his skills in defending African Americans accused of murder<sup>131</sup>.

<sup>119</sup> SCDH, Adam Johnson Defense Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>120</sup> SCDH, Nelson Brown Defense Testimony, 3 January 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>121</sup> SCDH, P. L. Wiggin, Release Order, 4 January 1877, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>122</sup> SCDH, Charles Edmonston, Bench Warrant, 3 January 1877, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>123</sup> SCDH, P. L. Wiggin, Bench Warrant, 3 January 1877, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>124</sup> SCDH, J. W. Witherspoon, Release Order, 13 April 1877, Aiken Court of General Sessions, Box 33, Folder 48.

<sup>125</sup> SCDH, African American Community Petition for Clemency, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>126</sup> *Aiken Courier Journal*, 28 December 1876. Fred Allen, Henry Corbit, G. W. Corbit, Mike Matthews, Isaiah Stallings, Daniel Rouse, S. Scott, Richard Hazel, Edward Dunbar, Hardy Edwards, William Cormick, John Chavous, Louis Gartledge, George Barnes, Robert Desmore, George Ramsey.

<sup>127</sup> *News and Courier*, 6 January 1877.

<sup>128</sup> *New York Times*, 7 January 1877; *Deutsche Zeitung*, 8 January 1877.

<sup>129</sup> SCDH, S. J. Lee to Governor D. H. Chamberlain, 7 January 1877, Governor D. H. Chamberlain Letters Sent and Received, Box 16, Folder 19.

<sup>130</sup> *News and Courier*, 12 January 1877.

<sup>131</sup> Oldfield (1989, pp. 401-402).

## THE EXECUTION: RITUAL OF VIOLENCE

The execution coincided with the election compromise and the end of Reconstruction. Many white Republicans in the North had become disenchanted with Reconstruction policies, and they had come to believe that the South should be left to white southerners. Although some northern Republicans remained sympathetic to the social and political challenges that black southerners faced, many more had become distracted by other issues, including the economic depression begun in 1873 and westward expansion. That Tilden won nearly the entire South and several southern states were disputed indicated that Reconstruction was largely over<sup>132</sup>.

In early January, Hampton established his government alongside Chamberlain's, and his was better funded and backed by the white rifle clubs. Hampton removed Chamberlain's trial justices, and he had the brute force to back his own appointments<sup>133</sup>. In February, Samuel B. Rouse informed Governor Chamberlain that the Aiken clerk of court and sheriff did not recognize his trial justice appointments. He wrote "there is a great many of the citizens aggrieved for the want of a Trial Justice in some parts of the County - the Republican citizens are more or less being disturbed by the Hampton Trial Justices[.] They are sending their constables two [and] fro[m] the county and arresting people[.] [e]specially the US witnesses"<sup>134</sup>. In the meantime, Hampton discouraged Martin Gary and the Red Shirts from taking the statehouse while Democrats continued a reign of terror against Republicans<sup>135</sup>. Southern Democratic Congressmen offered to support Republican presidential candidate Rutherford B. Hayes in exchange for federal patronage, subsidies, and the withdrawal of federal troops from the South. Hampton already controlled the finances in South Carolina and it appeared he would become governor<sup>136</sup>. By the time Chamberlain and Hampton met with Rutherford B. Hayes in March, Hampton had already gained control of the South Carolina government<sup>137</sup>.

The black militia was powerless and federal troops did not have enough men to maintain order<sup>138</sup>. Chamberlain wrote President Grant that the Rifle Clubs "have never done more than yield an outward obedience" to governor's and president's proclamations disbanding the rifle clubs in October 1876 and "have remained as fully organized as before." Chamberlain continued, "Wade Hampton has undertaken to commission the officers of some of these clubs, especially here in Columbia, and a public parade of such clubs is announced to take place in Columbia...Such action is plainly in bold defiance of your proclamation, as well as mine, and a menace to the public peace of this state. I have in all possible ways sought to avoid any occasion for asking federal intervention here pending the settlement of the Presidential Election and to preserve the status quo as far as possible, but I do not feel that

<sup>132</sup> Gillette (1979, pp. 193, 333).

<sup>133</sup> Holt (1977, pp. 203-204).

<sup>134</sup> SCDAH, Samuel B. Rouse to Governor Chamberlain, Governor Chamberlain Letters Received & Sent, Box 16, Folder 37.

<sup>135</sup> Rable (1984, p. 184).

<sup>136</sup> Zuczek (1996, p. 198).

<sup>137</sup> Holt (1977, p. 205).

<sup>138</sup> Holt (1977, pp. 203-204). Governor Chamberlain had allowed the black militia to weaken, even disarming them in some cases, and he was unwilling or unable to rearm them.

I should be doing my official duty if I failed to inform you of this action on the part of Wade Hampton and the «Rifle Clubs». I have no power to enforce any orders”<sup>139</sup>.

The execution was a public spectacle that symbolized the ascension of Democrats to power. One historian called the public hanging a “bizarre combination of carnival and revival meeting”<sup>140</sup>. The executions were symbolic demonstrations of white supremacy on a scale not seen in South Carolina since slavery<sup>141</sup>. On March 16, four of the African Americans convicted of murdering Hausmann and Paughtman were hung, and approximately 5,000 people - men, women, and children - attended the execution. The sheriff and 100 members of the Palmetto Rifle Club, now officially sworn into service of Governor Wade Hampton’s state militia, guarded the gallows. Black preachers were present and they offered the men spiritual guidance. Each of the men addressed the crowd but it remains unclear what they said. Democratic newspapers claimed the men confessed. Republican newspapers determined the men were insolent<sup>142</sup>. The men were hung from a tree behind the Aiken Court House<sup>143</sup>. In a symbolic act of white supremacy, a special detachment of the rifle club escorted the men to the gallows handcuffed in pairs and wearing white long-cloth gowns. Rumors circulated that Aiken’s African American community, aware of the injustice about to occur, planned to rescue the men before execution<sup>144</sup>.

The accused men resisted in the only way they could, and, in the process, effectively demonstrated the inhumanity of the death penalty. Two African American ministers had already given the four men their last rites and baptized Johnson and Brown. In addition, Johnson and Brown formally married their wives with whom they had been living for many years. The two ministers led the way to the gallows, singing hymns along with the condemned men. As was common during the nineteenth century, each of the men addressed the crowd for around five minutes, and they showed incredible defiance, including laughing, criticizing whites, and mocking the judicial process - even arguing over who should take credit for the crime<sup>145</sup>. When they finished their brief speeches the sheriff put black caps over the men’s heads, and Sheriff M. T. Holley cried as he carried out the execution. One man’s rope was too long and his toes touched the ground when he fell. Holley used his hands to remove the dirt from below the dying man’s feet. It took as many as ten minutes for some of the victims to die, and their friends and family took the bodies away. Assuredly, whites hoped the mass execution would intimidate black South Carolinians and assist in the white Democratic ascendancy<sup>146</sup>.

<sup>139</sup> SCDAA, Governor Chamberlain to President Grant, Governor Chamberlain Letterbooks, pp. 323-325.

<sup>140</sup> Terrill (1982, p. 214).

<sup>141</sup> Vandiver (2006, p. 10).

<sup>142</sup> *Columbia Daily Register*, 17 March 1877; *Deutsche Zeitung*, 19 March 1877; *Brooklyn Daily Eagle*, 16 March 1877. The Columbia paper story suggested that the men ‘made no confession of any consequence’ at the gallows or during the jail interview.

<sup>143</sup> *Aiken Standard*, 25 May 1997; *Aiken Standard*, 13 October 1980.

<sup>144</sup> *Columbia Daily Register*, 14 March 1877.

<sup>145</sup> Vandiver (2006, p. 19).

<sup>146</sup> *Columbia Daily Register*, 14 March 1877; 16 March 1877; *News and Courier*, 17 March 1877; *New York Tribune*, 17 March 1877; *New York Times*, 17 March 1877; *Columbia Daily Register*, 17 March 1877; *Deutsche Zeitung*, 19 March 1877; *Columbia Daily Register*, 18 March 1877; Toole (1959).



## CONCLUSION

Executions often occurred without any appeals or post-trial representation<sup>147</sup>. This case was an exception as J. C. St. Julien Yates continued to represent Stephen Anderson, filing a clemency appeal on his behalf to Wade Hampton in mid-February<sup>148</sup>. Exactly two weeks after the widely publicized trial, Wade Hampton had appointed Yates as trial justice, replacing Porter B. Williams<sup>149</sup>. Yates had served as Democratic Party canvasser for Aiken County, and he was implicated in voter fraud, counting the votes that helped Hampton receive a majority in Aiken<sup>150</sup>. In his motion to commute Stephen Anderson's sentence, Yates did not dispute that Anderson was present at the murders of Hausmann and Paughtman. He even remarked that the jury of "Twelve Negroes" was the best judge of the facts in the case, and they had recommended Anderson for mercy. Yet Yates's motion revealed serious flaws in the legal proceedings. Yates wrote "we were forced to trial when we were totally unprepared and we objected at the time". First, Judge Wiggin did not allow the wives of Nelson Brown and Adam Johnson to testify on behalf of Anderson. Second, the confession, "in fact was not true, but a confession made by this Defendant while in duress and under other circumstances". Third, Cupid Holmes was allowed to turn state's evidence although he was one of the original defendants. Holmes remained in court while the state's material witnesses testified. Finally, Yates pointed out that Nelson Brown and Lucius Thomas testified that Anderson had no idea that the murders would take place nor did he participate in them. Yates requested a commutation of sentence or a new trial<sup>151</sup>. Yates believed that Judge Wiggin would "be willing to endorse his application for commutation" but Judge Wiggin disagreed<sup>152</sup>. The prosecuting attorneys responded with letters to Hampton in favor of carrying out the execution<sup>153</sup>. Governor Hampton granted Anderson a thirty-day stay of execution<sup>154</sup>.

<sup>147</sup> Vandiver (2006, pp. 11-12).

<sup>148</sup> SCDH, J. St. Julien Yates to Wade Hampton, 13 March 1877, Governor Hampton Papers, Box 1, Folders 5-7. Yates petitioned Hampton on February 14, but he had not received a reply as late as 9 March 1877.

<sup>149</sup> SCDH, Wade Hampton to Porter B. Williams, 19 January 1877 & Porter B. Williams to Governor Chamberlain, 25 January 1877, Governor Chamberlain Letters Received & Sent, Box 16, Folder 26.

<sup>150</sup> United States Congress, *South Carolina in 1876*, vol. 1, 771-779. George Washington, an African American Republican election official, witnessed Yates commit election fraud when the Democratic canvassers counted votes without the Republican canvassers present.

<sup>151</sup> SCDH, J. St. Julien Yates to Wade Hampton, 12 April 1877, Copy of Evidence, Governor Hampton Papers, Box 1, Folders 5-7.

<sup>152</sup> SCDH, J. St. Julien Yates to Wade Hampton, 9 March 1877, Governor Hampton Papers, Box 1, Folders 5-7; SCDH, J. St. Julien Yates to Wade Hampton, 20 March 1877, Governor Hampton Papers, Box 1, Folders 5-7. At the sentencing, Yates recalled Judge Wiggin state 'that he recommended an application to mercy from Anderson to the Executive', but Judge Wiggin denied that he meant the sentence should be commuted.

<sup>153</sup> SCDH, D. S. Henderson to Wade Hampton, 5 February 1877; James G. Porter to Wade Hampton, 15 February 1877; Angus P. Brown to Wade Hampton, 19 February 1877, Governor Hampton Papers, Box 1, Folders 5-7. Lawyer Daniel S. Henderson, a Confederate veteran and the prosecuting attorney in the case, requested that Wade Hampton notify him if he planned to pardon Steve Anderson. When James G. Porter, a junior associate of D. S. Henderson, learned that Hampton had received the application to commute Anderson's sentence, he wrote a letter objecting to any efforts to commute Anderson's sentence. Attorney Angus P. Brown expressed concern that the governor might act on a petition for pardon, and he notified Governor Hampton that whites in Aiken were preparing a counter petition.

<sup>154</sup> *New York Tribune*, 17 March 1877; *New York Times*, 17 March 1877.

In a final attempt to spare Anderson's life, on April 12, seventy-two African Americans, including Peter A. Waggles, signed a petition to commute Anderson's sentence. Governor Hampton did not receive the document until six days before the scheduled execution. The petition requested Governor Hampton to consider the numerous injustices that took place during the trial. Yates wrote to Hampton, "I must apologize for the appearance of the enclosed letter, but it was not my work. I knew nothing of it and had no part in it"<sup>155</sup>. Four days earlier, federal troops withdrew from the Statehouse and Hampton became the undisputed governor<sup>156</sup>. Thirty-two prominent whites responded with a petition of their own to carry out the execution. Governor Hampton lifted the stay of execution and state officials executed him three days later in one Hampton's first actions as federally recognized governor<sup>157</sup>. Three hundred people attended the execution, the majority of them African Americans. In executing Anderson, Hampton and his constituents hoped to demonstrate their racial and political ascendancy<sup>158</sup>.

The Compromise of 1877 marked the end of Reconstruction, and, as historian George Rable wrote, "[F]ew Americans paid much attention to the fraud, intimidation, and terrorism in the South that returned the region to conservative control and restored blacks to a condition more resembling serfdom than freedom"<sup>159</sup>. Many South Carolina Republicans were dejected when the political compromise was reached, giving the presidency to Rutherford B. Hayes in exchange for an end to Reconstruction policies in the South. William T. Rodenbach, a native New Yorker and schoolteacher who lived with Martha Schofield in Aiken, wrote Governor Chamberlain: "I never for one moment thought that President Hayes would yield a principle for policy, would allow himself to be 'bulldozed' for the sake of peace. The cry of 'Hampton or Revolution' means no more to the peace of this community, than does the cry of a child who has been denied a sugar plum". Rodenbach continued, "I have been in this State only three years, being a native of New York, yet I have been here long enough to learn the character of these people. Would to God, that President Hayes knew as much practically of the character of the Southerner, as we poor Northerners otherwise called 'carpet baggers'"<sup>160</sup>. A black South Carolinian wrote Chamberlain, "to think that Hayes could go back on us now, when we had to wade through blood to help place him where he now is"<sup>161</sup>. Hampton's trial justice

<sup>155</sup> SCDHAH, Petition to Commute Sentence, 12 April 1877, Governor Hampton Papers, Box 1, Folders 5-7; SCDHAH, J. St. Julien Yates to Governor Wade Hampton, 14 April 1877, Governor Hampton Papers; and SCDHAH, memo, no date [April 1877 presumed], Governor Hampton papers, Box 1. Yates may have been alluding to the fact that the petition was ink-stained, contained scratched out names, and some of the signatures practically illegible.

<sup>156</sup> Kantrowitz (2000, p. 77).

<sup>157</sup> SCDHAH, Petition to carry out Stephen Anderson's sentence, no date [April 1877 presumed], Governor Hampton Papers, Box 1. Thirty-two whites signed the petition. Whites G. W. Croft, Angus P. Brown, Henry Hahn, W. W. Williams, D. S. Henderson, and J. H. Beckman signed the petition. German names included John Marjenhoff, C. Klatte, C. J. Wessels, and G. E. H. Segler.

<sup>158</sup> *News and Courier*, 21 April 1877. Anderson did not confess to the murder and he showed little emotion at the gallows.

<sup>159</sup> Rable (1984, p. 185).

<sup>160</sup> SCDHAH, William T. Rodenbach to Governor Chamberlain, 8 April 1877, Chamberlain Letters Received and Sent, Box 17, Folder 5.

<sup>161</sup> SCDHAH, Governor Chamberlain Letters Received and Sent, Governor Chamberlain Papers, Box 17, Folder 5.

appointments exerted their control over black South Carolinians. A disgruntled observer wrote in 1878, "The 'Trial Justices' are tools of the party. The ruffians in fine clothes give their orders and the 'Justices' obey. The proceeding is worse than a farce. When a jury is called it is packed to suit the occasion. The violators of the law become its interpreters; its administrators applaud and counsel violence; and the citizens who apply for redress are insulted and baffled with impunity"<sup>162</sup>.

In a transparent effort to gain legitimacy for their Democratic government, white South Carolinians had quickly moved away from vigilante justice, including lynching, and replaced it with juridical murder. This transition coincided with the disputed election and Wade Hampton's eventual gubernatorial victory. White elites, most of them lawyers, wanted the Aiken Five prosecuted and executed regardless of the facts in the case, and they directed the inquest and trial of the five African American men. It is possible the Aiken Five committed robbery and murder. Petty theft was rampant, but black on white murder was unusual. The four months preceding the election were the most violent of Reconstruction. African Americans bore the brunt of white aggression, but they occasionally asserted themselves. When Fritz Paughtman and Rudolph Hausmann died in a fire days before the election of 1876, white Democrats seized the opportunity to make an example of the African American men, including two members of black militia headed by a black deputy federal marshal. White authorities, many of them Democratic Party officials, extracted confessions and produced evidence that ensured a grand jury indictment. Several of the white Democrats were known Red Shirts and had been implicated in murder of African Americans and election fraud. Even the defense attorney had been accused of election impropriety. Moreover, the fact that white jury commissioners selected an all-black jury to hear the case was highly unusual and raises questions about the integrity of the trial. A white rifle club participated in the execution ritual that culminated in the brutal hanging of four African American men from a tree behind the county courthouse—the site where Hampton's Red Shirts first gathered during the summer of 1876. Nearly all of the white men that participated in the prosecution of the Aiken Five later served in the South Carolina legislature, where they furthered the Democratic cause of white supremacy.

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<sup>162</sup> *New York Times*, 16 September 1878.

## REFERENCES

- Beck, E.M., Massey, J.L., Tolnay, S.E. The Gallows, the Mob, and the Vote: Lethal Sanctioning of Blacks in North Carolina and Georgia, 1882 to 1930, *Law & Society Review*, 1989, 23, pp. 317-331.
- Berlin, I., Fields, B.J., Miller, S.F., Reidy, J.P., Rowland, L.S. *Slaves No More: Three Essays on Emancipation and the Civil War*, New York, Cambridge University Press, 1992.
- Blight, D.W., *Race and Reunion: The Civil War in American Memory*, Cambridge, Harvard UP, 2001.
- Burton, O.V., *In My Father's House are Many Mansions: Family and Community in Edgefield, South Carolina*, Chapel Hill, University of North Carolina Press, 1987.
- Carter, D.T. *When the War was Over: The Failure of Self Reconstruction in the South*, Baton Rouge, Louisiana State UP, 1985.
- Dailey, J., Deference and Violence in the Postbellum Urban South: Manners and Massacres in Danville, Virginia, *Journal of Southern History*, 1997, 63, pp. 553-590.
- Darnton, R. It happened one night, *New York Review of Books*, 24 June 2004, 55, p. 11.
- DuBois, W.E.B., *Black Reconstruction in America, 1860-1880*, New York, Simon and Schuster, 1999.
- Edwards, L.F. Status without Rights: African Americans and the Tangled History of Law and Governance in the Nineteenth-Century U.S. South, *American Historical Review*, 2007, 112, pp. 365-393.
- Emberton, C. The Limits of Incorporation: Violence, Gun Rights, and Gun Regulation in the Reconstruction South, *Stanford Law & Policy Review*, 2006, 17, pp. 615-633.
- Espy, M.W., *Executions in the United States, 1608-2002: The Espy File*, ICPSR 8451, University of Michigan, 2004.
- Foner, E., *Reconstruction: America's Unfinished Revolution, 1863-1877*, New York, Harper and Row, 1988.
- Foner, E., *Freedom's Lawmakers: A Directory of Black Officeholders During Reconstruction*, New York, Oxford University Press, 1993.
- Ford, L.K. jr., Origins of the Edgefield Tradition: The Late Antebellum Experience and the Roots of Political Insurgency, *South Carolina Historical Magazine*, 1997, 98, pp. 328-348.
- Franklin, J.H., *Reconstruction after the Civil War*, Chicago, Chicago UP, 1961.
- Gilje, P.A., *Rioting in America*, Bloomington, Indiana UP, 1996.
- Gillette, W., *Retreat from Reconstruction, 1869-1879*, Baton Rouge, Louisiana State University, 1979.
- Hadden, S., *Slave Patrols: Law and Violence in Virginia and the Carolinas*, Cambridge, Harvard UP, 2001.
- Hahn, S., *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration*, Cambridge, Harvard UP, 2003.
- Hennessey, M.M., Racial Violence During Reconstruction: The 1876 Riots in Charleston and Cainhoy, *South Carolina Historical Magazine*, 1985, 86, pp. 100-112.
- Hindus, M.S., Black Justice Under White Law: Criminal Prosecutions of Blacks in Antebellum South Carolina, *Journal of American History*, 1976, 63, pp. 575-599.
- Holt, T.C., *Black Over White: Negro Leadership in South Carolina During Reconstruction*, Urbana, University of Illinois Press, 1977.
- Kantrowitz, S., *Ben Tillman and the Reconstruction of White Supremacy*, Chapel Hill, University of North Carolina Press, 2000.

- Lebsock, S., *A Murder in Virginia : Southern Justice on Trial*, New York, Norton, 2003.
- Linders, A., The Execution Spectacle and State Legitimacy: The Changing Nature of the American Execution Audience, 1833-1937, *Law & Society Review*, 2002, 36, pp. 607-655.
- Litwack, L.F., *Been in the Storm so Long : The Aftermath of Slavery*, New York, Knopf, 1979.
- Massey, J.L., Myers, M.A., Patterns of Repressive Social Control in Post Reconstruction Georgia, 1882-1935, *Social Forces*, 1989, 68, pp. 458-488.
- Nieman, D.G., Black Political Power and Criminal Justice: Washington County, Texas, 1868-1884, *Journal of Southern History*, 1989, 55, pp. 391-420.
- Oldfield, J.R., A High and Honorable Calling: Black Lawyers in South Carolina, 1868-1915, *Journal of American Studies*, 1989, 23, pp. 395-406.
- Olzak, S., The Political Context of Competition: Lynching and Urban Racial Violence, 1882-1914, *Social Forces*, 1990, 69, pp. 395-421.
- Perman, M., *Reunion Without Compromise : The South and Reconstruction*, Cambridge UP, 1973.
- Perman, M., *Road to redemption : Southern Politics 1869-1979*, Chapel Hill, University of North Carolina Press, 1984.
- Phillips, C.D., Exploring Relation Among Forms of Social Control: The Lynching and Execution of Blacks in North Carolina, 1889-1918, *Law & Society Review*, 1987, 21, pp. 361-374.
- Rable, G.C., *But There Was No Peace : The Role of Violence in the Politics of Reconstruction*, Athens, University of Georgia Press, 1984.
- Reynolds, J.S., *Reconstruction in South Carolina*, Columbia, State Co. Publishers, 1905.
- Richardson, H.C., *The Death of Reconstruction : Race, Labor and Politics in Post-Civil War North, 1865-1901*, Cambridge, Harvard UP, 2001.
- Saville, J., *The Work of Reconstruction : From Slave to Wage Laborer in South Carolina, 1860-1870*, New York, Cambridge UP, 1994.
- Schwalm, L., *A Hard Fight For We*, Urbana, University of Illinois Press, 1997.
- Simkins, F.B., Woody, R.H., *South Carolina During Reconstruction*, Chapel Hill, University of North Carolina Press, 1932.
- Singletary, O.A., *Negro Militia and Reconstruction*, Austin, University of Texas Press, 1957.
- Srebnick, A., *The Mysterious Death of Mary Rogers : Sex and Culture in Nineteenth-Century New York*, New York, Oxford University Press, 1995.
- Stampp, K.M., *The Era of Reconstruction, 1865-1877*, New York, Random House, 1965.
- Strickland, J., How the Germans Became White Southerners: German Immigrants and African Americans in Charleston, South Carolina, 1860-1880, *Journal of American Ethnic History*, 2008, 28, pp. 52-69.
- Terrill, T.E., Murder in Graniteville, in Burton, O.V., McMath, R.C. jr. (eds), *Toward a New South : Studies in Post-Civil War Southern Communities*, Westport CT, Greenwood Press, 1982, pp. 193-222.
- Tolnay, S.E., Beck, E.M., *A Festival of Violence : An Analysis of Southern Lynchings*, Urbana, University of Illinois Press, 1995.
- Toole, G.L., *Ninety Years in Aiken County*, Self-Published, 1959.
- Trelease, A.W., *White Terror : The Ku Klux Klan Conspiracy and Southern Reconstruction*, Chapel Hill, University of North Carolina Press, 1971.
- Trefousse, H., *The Radical Republicans : Lincoln's Vanguard for Radical Justice*, New York, Knopf, 1969.

- Vandiver, M., *Lethal Punishment: Lynchings And Legal Executions in the South*, New Brunswick, Rutgers University Press, 2006.
- Waldrep, C., Substituting law for the lash: Emancipation and Legal Formalism in a Mississippi County Court, *Journal of American History*, 1996, 82, pp. 1425-1451.
- Waldrep, C., *Roots of Disorder: Race and Criminal Justice in the American South, 1817-1880*, Urbana, University of Illinois Press, 1998.
- Walker, F.A., *Statistics of the Population of the United States at the Tenth Census*, Washington D.C., Government Printing Office, 1883.
- Williams, A.B., *Hampton and his Red Shirts: South Carolina's Deliverance in 1876*, Freeport NY, Books for Libraries Press, 1970.
- Williams, J.K., Catching the Criminal in Nineteenth Century South Carolina, *Journal of Criminal Law and Criminology*, 1955, 46, pp. 264-271.
- Williams, L.F., *The Great South Carolina Ku Klux Klan Trials, 1871-1872*, Athens, GA University of Georgia Press, 1996.
- Williams, L.F., Federal Enforcement of Black Rights in the Post-Redemption South: The Ellenton Riot Case, in Waldrep, C., Nieman, D.G. (eds), *Local Matters: Race, Crime, and Justice in the Nineteenth Century South*, Athens, University of Georgia Press, 2001, pp. 172-200.
- Williamson, J., *After Slavery: The Negro in South Carolina During Reconstruction, 1861-1877*, Hanover, University Press of New England, 1990.
- Woodward, C.V., *The Strange Career of Jim Crow*, New York, Oxford UP, 1974.
- Zuczek, R., *State of Rebellion: Reconstruction in South Carolina*, Columbia, University of South Carolina Press, 1996.