

# JURIDICAL REVIEW

## A CASE FOR DE QUINCEY

A sad thing it was, no doubt, very sad ; but *we* can't mend it. Therefore let us make the best of a bad matter ; and, as it is impossible to hammer anything out of it for moral purposes, let us treat it æsthetically, and see if it will turn to account in that way.

—DE QUINCEY : *On Murder, Considered as One of the Fine Arts.*

IT is possible—for in the portentous age in which our lot is cast nothing need surprise us—that there are persons who have never read De Quincey's famous essay on murder. Yes ; some there doubtless are who have not attended the boxing-match between the distinguished amateur and the Mannheim baker, that Homeric struggle, comprising no less than seven-and-twenty rounds ; who do not know how the impassioned dilettante, Toad-in-the-hole, received the good news of the Burke and Hare business at Edinburgh, or in what manner he ceased to be a member of the homicide club, to the accompanying chorus of his brother-connoisseurs—*Non est inventus* ; who have not held their breath with the trembling servant-girl outside the locked door of Marr's shop, or peeped behind the petrified journeyman into the dread arcana of the Williamsons' parlour ; some who have never shuddered at the hideous face, which “ wore at all times a bloodless ghastly pallor,” the eyes “ frozen and glazed, as if their light were all converged upon some victim lurking in the far background,” of him within whose veins “ circulated not red life-blood, such as could kindle into the blush of shame, of wrath, of pity—but a green sap that welled from no human heart.”<sup>1</sup> Let none who should contemplate

<sup>1</sup> *Miscellanies.* By Thomas De Quincey, ii. 66. Edinburgh: 1854.

perusal of that incomparable paper be deterred by the parrot-cry of morbidity. Murder literature may be, in all conscience, morbid enough, as our modern Press delights to testify ; but in De Quincey's hands the subject assumes a whimsical and fantastic lightness which discounts the inherent horror. It is all a matter of treatment. I have been reading an admirable and most attaching book about high American crime, which is a model of how such things should be rendered, namely, with scholarship, humour, and a nice discretion.<sup>1</sup> And that, precisely, is the sauce provided by De Quincey to make palatable his otherwise macabre fare. He can point a moral, too, when, like the immortal Sairey, he is "so disposed." As thus: "If once a man indulges himself in murder, very soon he comes to think little of robbing ; and from robbing he comes next to drinking and Sabbath-breaking, and from that to incivility and procrastination. Once begin upon this downward path, you never know where you are to stop. Many a man has dated his ruin from some murder or other that perhaps he thought little of at the time." <sup>2</sup> I have but one quarrel with De Quincey. He is all for deeds of violence by pistol, knife, or hatchet ; he cannot away with the gentle art of poisoning. "Fie on these dealers in poison," says he ; "can they not keep to the old honest way of cutting throats, without introducing such abominable innovations from Italy ?" Now I venture, with the utmost deference, to hold that the ideal murder is that compassed by means of poison, which is, as one may say, the only polite medium, avoiding those displeasing elements, so painful to well-regulated minds, inseparable from the shedding of blood. In this I may seem to be inconsistent, for in the Borden Case, to which I have referred as a pure and perfect example, the instrument

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<sup>1</sup> *Studies in Murder*. By Edmund Lester Pearson. New York : The Macmillan Company, 1924. One of these—the Borden Case—as here most excellently recounted, is quite the best murder I have ever read.

<sup>2</sup> *Miscellanies*, ii. 46.

employed was an axe. But there the whole circumstances of the crime were such as to extenuate the crudeness of method, and it is to be noted that violence was only resorted to after poison had been tried and had failed.

The criminal in whose behalf I am bold thus to evoke the august shade of De Quincey was savage enough, and the crime which he committed was sufficiently bloody, to satisfy the standard of that fastidious critic. See how the manifestation of the murderer's power was appreciated by his contemporaries :—

ATROCIOUS MURDER AT HADDINGTON.—No event has occurred for many years past which has produced in the town and neighbourhood of Haddington such a deep sensation of horror and astonishment as the murder of Mrs. Franks and her daughter. It is a deed of cold-blooded atrocity which rivals the worst crimes of the kind that are upon record ; and we remember nothing at all to which it can be compared except the well-known murders of the Marrs and the Williamsons in London, which at the time spread such a panic over the whole country.<sup>1</sup>

The Haddington affair, had he heard of it, might have furnished De Quincey with a footnote, as the date was within the scope of his inquiry, and the family likeness to the achievement of his favourite John Williams, if known to him, could hardly have failed of appeal. But no doubt the then recent sensational liquidation at Edinburgh, involving the extensive concerns of the Irish firm of Burke and Hare, outshone in interest all less brilliant operations, and the dealings of the Scots practitioner suffered unmerited eclipse. Be it mine to restore him to his rightful place among the lesser lights of the criminous firmament. A further literary analogy will occur to readers of Edgar Allan Poe : the slaying of Mrs. Franks and her daughter Madelina recalling in its fierce brutality that of Madame L'Esplanade and her daughter Camille, so splendidly portrayed in *The Murders in the Rue Morgue*. For sheer force of horror there is little to choose between them ; if

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<sup>1</sup> *Edinburgh Evening Courant*, 31st October 1829.

anything the odds are in favour of the Orang-outang as the more human animal.

Haddington, the county town of East Lothian, enjoys, apart from the distinction thus bestowed upon it, considerable fame in the possession of the great historic church, known of old as *Lucerna Laudoniæ*, or the Lamp of Lothian, and as being the reputed birthplace of John Knox, that most effective extinguisher of ancient lights. In later times its annals were further enriched by a very singular murder: that of Sir James Stanfield by his own son, an unfilial proceeding of which I have elsewhere given some account as the last case in Scotland where a murderer was subjected to the ordeal by touch.<sup>1</sup> The discovery of the crime with which we are now concerned was on this wise. In October 1829 there lived in the hamlet of Abbey, about a mile eastward from Haddington, a widow named Mrs. Franks and her daughter Madelina, a pretty girl of fifteen. A younger child was away from home on a visit to an aunt at North Berwick. The husband of Mrs. Franks had been butler to the late Lord Elcho, and she was in receipt of a pension from the Earl of Wemyss. A native of Ross-shire, Catherine Munro or Franks was a woman of forty and upwards. Her circumstances were comfortable, her conduct beyond reproach, and she enjoyed the goodwill and esteem of her neighbours. The house in which she lived was distant some eighty yards from the nearest inhabited dwelling, and stood in the midst of a small garden, enclosed on three sides by a stone wall, six feet in height, the southern boundary being formed by a mill-lead. The last time the widow and her daughter were seen alive was on the afternoon of Sunday, 25th October 1829, on their return from church at Haddington. On the following Monday and Tuesday they were not noticed going about as usual, but this excited no surprise as it was thought that they had gone to visit their relatives at North Berwick.

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<sup>1</sup> *Twelve Scots Trials*, "The Ordeal of Philip Stanfield," pp. 63-84. Edinburgh: 1913.

Not till Wednesday the 28th was any suspicion aroused: Between eight and nine o'clock that morning one of the neighbours, a miller's man, "attracted by the piteous cries of the pig in the garden, which he supposed to be in want of food," and believing that the inmates were from home, climbed over the wall with the humane intention of ministering to the animal's need. To his inexpressible horror he discovered the body of Mrs. Franks lying within the covered part of the pigstye. Her throat had been cut and there were several dreadful wounds on her head. An alarm was instantly raised, and on the neighbours flocking to the house the door was found to be locked; but it was noticed that two panes of glass had been broken in one of the lower windows. This window they opened; the key of the outer door lay inside the kitchen window. A search of the house disclosed the body of Madelina, stretched on the floor of the bedroom, with her skull completely battered in. The wedding-ring, ear-rings, and watch belonging to the widow had been carried off and her repositories ransacked. "The ear-rings were torn from the ears of Mrs. Franks," says the *Courant* reporter; "her garments consisted of a blue striped wrapper, which had been loosely thrown on, and a petticoat; she had no stays, nor any covering on her head, and was without either shoes or stockings. Her shoes, however, were found in the pigstye, as if they had been thrown in after her. The daughter was dressed in a black frock nearly loose, being only fastened by one button or loop in the upper part; she had nothing on her head, and no stays; one stocking had been drawn on, and she appeared to have been in the act of drawing on the other when she received the deadly blow. She lay with her feet towards the bed, and almost under it; and over her head was thrown a double fold of the carpet, under which was found a tableknife belonging to the house, covered with blood. A great quantity of blood had flowed from her wounds and penetrated the carpet to the floor, on which it had left a large stain. Such," he concludes,

“ appear to be the leading facts of this most lamentable and atrocious case.”<sup>1</sup>

The murder, it was believed, must have been committed on the Sunday night, for Mrs. Franks was known to have arranged that Madelina should go to school at Haddington on Monday morning, and the girl had not gone. How the murderer got into the house was much discussed. Some held that he had been admitted by the inmates, who, from the state of their dress, seemed to have been preparing for bed. Others, that he had forced an entrance by the window without alarming those within. The house consisted of two flats, the lower divided into three apartments. The widow and her daughter slept in the west room; the kitchen was in the middle; the east room was unfurnished and was separated from the kitchen by a passage. It had two windows, one and a half feet from the ground, in one of which the panes had been broken and the flower-pots on the sill thrown down. “ These facts,” resumes our authority, “ would seem to show that the murderer had secretly entered the house by the window; that he had encountered the two women, one of whom he had murdered, while the other, having escaped in order to give an alarm, was overtaken and murdered at the back of the garden door, where a great quantity of blood was seen, partially covered with sand and gravel, a great part of which was thrown up against the garden door to prevent its being opened. Traces of blood were visible from the garden door to the pigstye, the door of which was also stained with blood. After accomplishing his purpose, the person must have returned and locked the house door on the inside. It is believed, however, that the breaking of the window was only a blind to conceal the real mode in which the house had been entered.” Some of the deductions thus drawn by the Sherlock Holmes of the *Courant* are, as we shall see from the evidence, unworthy of his great successor.

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<sup>1</sup> *Courant*, 31st October 1829.

At first sight robbery seemed to have been the motive, but the crime presented certain remarkable features which tended to take it out of that simple category. The brutal violence employed, the shocking character of the injuries inflicted, and, above all, the horrid circumstance of the body being cast into the pigstye, suggested the Scriptural inference: "an enemy hath done this." These unusual attractions were highly appreciated in the district, and hundreds of people visited the scene of the crime. Among them, moved by a more legitimate interest, came from North Berwick the brother-in-law of the dead woman, one Robert Emond, to arrange for the funeral of the victims. Mr Emond's manner attracted unfavourably the notice of the Sheriff's officer in charge of the case. The brother-in-law refused to enter the room where the bodies were exposed until they had been laid out for burial, and only did so then with marked reluctance. The officer communicated his suspicions to the Sheriff; but the facts, as consistent with the natural feelings of a bereaved relation, were not deemed sufficient to justify an arrest. While Emond was completing the funeral arrangements a letter reached the authorities at Haddington from "a gentleman of rank and consideration, residing in the neighbourhood of North Berwick,"<sup>1</sup> stating further grounds of suspicion against him; in particular, that he had been absent from his own house during the whole night of the murders. So the brother-in-law, coming back with the village carpenter to measure the bodies for their coffins, was promptly apprehended and lodged in Haddington gaol. Next day his house at North Berwick was searched; the clothes he had worn on the fatal Sunday were damp, as from recent washing; his shoes, concealed beneath the bed, were found to correspond with the footmarks at the cottage; and a large carving knife which he had hidden was discovered. The arrested man was a dealer in groceries,

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<sup>1</sup> Apparently Major-General Dalrymple of North Berwick, later a witness at the trial.

haberdashery, and sundry other wares—the usual small shopkeeper of a country village. He is described as “about thirty-four years of age, 5 feet 4 inches in height, of slender make, with a sallow complexion, a narrow forehead, long visage, and a sullen expression in his look.”<sup>1</sup> As a hawker he had been long familiar with the countryside; yet “when seen on the Drem road in the grey of Monday morning,” he was asking everyone he met the road to North Berwick, “and even called at a house at Fenton to make a similar inquiry”—as appears, in a clumsy attempt to establish an alibi. “Another singular fact is that his hair used to be of a light colour, nearly flaxen, but within these few days, and previous to his apprehension, it has become jet black.”<sup>2</sup> Certain bloodstains upon the wristband of his shirt he explained as due to a bleeding from the nose. None of the stolen property was found in his possession nor anything likely to have been the weapon that struck the blows, which seemed to have been given with a hatchet. A curious fact was that in “ripping” the repositories the murderer threw aside a small snuffbox, containing a deposit receipt for £17, 10s.

In presence of the Sheriff-substitute for the county the prisoner emitted no less than four declarations, namely, on 29th October and 3rd, 5th, and 6th November, the nature of which will presently appear. Pending his trial, the newspapers continued vigorously to promulgate the accused's guilt; the contents of his declarations, as they said, “transpired,” and his projected defence was scouted, all in flagrant contempt of the administration of justice. So on 7th December the prisoner's advisers took action in the High Court of Justiciary.

Mr. George Patton, advocate, appeared for Robert Emond, at present imprisoned on a charge of murdering Mrs. Franks and Madelina

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<sup>1</sup> *Courant*, 5th November 1829.

<sup>2</sup> Even a more striking example of the effects of bereavement than the case of Lady Harbury, cited in *The Importance of being Earnest*: “I hear her hair has turned quite gold from grief.”

Franks her daughter, and stated that since the commitment various statements had been published relative to the case, both as to the evidence to be adduced against the complainer, and as to the supposed motives by which he was alleged to be actuated ; that, latterly, a paper had been printed and circulated by Robert Menzies, No. 304 Lawnmarket, which pretended to be a letter from the prisoner to his wife, but which was a fabrication, in which he is represented to have expressed great fear as to the discovery of certain articles of evidence, and to have made such statements as tended to inculcate him directly in the guilt of murder. He therefore moved that the Court would grant an order against the farther publication of the said paper, or similar statements or accounts of Emond's case, or to do otherwise as to the Court might seem meet.

The Court having heard the above motion, they prohibit the said Robert Menzies from publishing or circulating the paper or pretended letter in question, or any other statements relative to the alleged murder of Mrs. Franks and Madelina Franks her daughter, which may be prejudicial to the prisoner Robert Emond, or doing anything whereby the same may be published, till the proceedings against the said Robert Emond are brought to a conclusion ; and recommend to all other publishers to abstain from doing so.<sup>1</sup>

The trial took place before the High Court of Justiciary at Edinburgh on Monday, 8th February 1830.<sup>2</sup> At an early hour the precincts of the courtroom were besieged by crowds of would-be auditors. At nine o'clock "the gentlemen of the press" were admitted and accommodated with seats behind the dock ; "the French Consul, Chevalier Laine, sat within the bar." At ten o'clock the prisoner, guarded, having been brought into Court, the judges entered. These were the Lord Justice-Clerk (the Right Hon. Robert Boyle), and Lords Gillies, Mackenzie, and Moncreiff. The Lord Advocate (Sir William Rae, Bart.), assisted by his deputed, Archibald Alison and Alexander Wood, led for the Crown ; Duncan M'Neill and George Patton conducted the defence. At the great trial

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<sup>1</sup> Shaw's *Decisions of the Court of Justiciary*, 1819-31, No. 202, p. 229.

<sup>2</sup> There is no official report of the case, but the proceedings are well and fully reported in the *Edinburgh Evening Courant*, 11th February 1830, and a briefer account is given in the *Annual Register* for that year, pp. 316-320. There is also an excellent report in pamphlet form, pp. 32, my copy of which lacks the title-page.

of Burke and Macdougall some thirteen months before, Justice-Clerk Boyle had presided and the same counsel had prosecuted, M'Neill there appearing for Burke and Patton for Macdougall. The indictment charged the prisoner with the crime of murder in respect that on the night of 25th-26th October 1829, within Mrs. Franks' house in the village of Abbey, he did

violently, wickedly, and feloniously attack and assault the said Katharine or Catherine Munro or Franks, and you did with a tableknife, or hatchet, or some other sharp and lethal instrument to the prosecutor unknown, inflict on the said Katharine or Catherine Munro or Franks a severe wound across the throat, by which her throat was cut, and did inflict ten or thereby severe cuts or wounds on her head and face, by which her skull was fractured in several different places, and she was thereby severely and mortally wounded and immediately died from the injuries thus received, and was thereby murdered by you the said Robert Emond : And you did farther, time aforesaid, within or near the said house, violently, wickedly, and feloniously attack and assault the said Magdalene or Madelina Franks, and you did with a tableknife, hatchet, or some other sharp and lethal instrument to the prosecutor unknown, inflict on her eight or thereby severe blows or cuts on the head, by which her skull was fractured in several different places, the upper part of the cranium broken in pieces, and she was instantly bereaved of her life, and thereby murdered by you the said Robert Emond.

The four declarations by the prisoner, and fifteen articles specified in the inventory annexed to the indictment, were produced in evidence against him. The accused having pleaded not guilty, a jury was empannelled, and the prosecutor adduced his proof.

The first witness was Robert Riddell, Sheriff-substitute of Haddington, who had judicially examined the prisoner. He identified the declarations and the several articles produced. John Mason and William Johnston, land surveyors, proved two plans of the house and garden, and a map of the county, made by them.

Marion Inglis or Monfriesse or Moncrieff, residing at the Abbey of Haddington, said she knew Mrs. Franks and her daughter well. They were in the habit of getting milk

from her nightly, and were at her house for that purpose at 8.30 p.m. on Sunday, 25th October. They had on their Sunday gowns, and Mrs. Franks was wearing her rings, ear-rings, and watch. On the Monday morning witness's daughter went down to see Madelina. She came back immediately, saying that she had knocked at the garden door but got no answer. She supposed that Mrs. Franks had taken Madelina to school at Haddington. At noon witness herself went to the house; the garden door was fast, the shutters were closed, and there was no smoke from the chimneys. She thought they must have gone to North Berwick to visit Mrs. Emond. On the Wednesday morning she heard of the murders, went to the house, and saw Mrs. Franks' body in the pigstye and Madelina lying dead in the west room. She described their clothing; the girl had one stocking on and the other half drawn on. The bed had been occupied by two persons; mother and daughter usually slept together. A week before her death Mrs. Franks told witness that she sent some of her things to North Berwick, and on going there found her boxes had been opened; that she accused her brother-in-law, "and there was very sore contention about this." In the course of the quarrel Emond, as reported by Mrs. Franks, used such minatory language that witness asked whether she was not afraid of him. "She answered, no; would she fear the arm of flesh?" The actual words used by Emonds witness could not recollect—"they were words of fearful and threatening import." Mrs. Franks said that Emond's purpose was to prevent her going to live at North Berwick, which before the quarrel she had meant to do, but after what happened she said she would not go. In reply to the Court, witness herself in such circumstances would have been afraid of him.

Ann Stronach, teacher, Haddington, told how Mrs. Franks had arranged to send her daughter to school that Monday and seemed very anxious she should go. Witness was surprised at her not coming.

James Storrie, miller with Mr. Dudgeon at the Abbey, knew both Mrs. Franks and her daughter; he last saw them alive and well on the Sunday. On Wednesday he went over their garden wall "to see if the pig had meat." The door was fastened on the inside. He found the body of Mrs. Franks lying face downward in the sty. He opened the garden door and gave the alarm. Mr. Dudgeon and others came. He described the locked house door, the broken window, the finding of the key, and the discovery of the girl's body in the bedroom. He did not step among the blood; and though he wore iron heels, they were not like those on the shoes produced. Alexander Dudgeon, his master, corroborated. He said that his house was distant eighty yards from the scene of the tragedy. He saw that the garden door was held by a stick and a quantity of gravel against the foot. There was blood upon the gravel and on the back of the door. Mrs. Franks' body was hidden from view by the covered part of sty; the pig was there. He corroborated Storrie as to the condition of the house and the finding of Madelina. A carpet was over her head and a bloody knife lay on the floor beside her. He saw upon the floor the prints of a shoe. He did not step in the blood, nor were his heels like those of the shoes produced. Margaret Dudgeon, daughter of the preceding witness, had noticed on the Monday morning that the shutters of the house were closed. She it was who sent Storrie to the relief of the pig.

John Lloyd, superintendent of police, Haddington, heard on 28th October of the murders at the Abbey, and with two officers visited the scene. By that time the body of Mrs. Franks had been removed to the house. He described the appearance of the bodies and the state of the bedroom. The bedclothes were folded back, and two pairs of stays lay on the bed. The room was in confusion; the drawers had been broken open, and their contents pulled out. In various parts of the room he noticed the prints of shoes. The footmarks were those of an entire shoe,

with an iron heel which had a double rim, with small round tacketts between the outer and inner rims. Shewn the pair of shoes produced, witness said they corresponded with the marks in every particular. The flower-pots on the sill of the broken window had been knocked down. Sand and gravel had been heaped up behind the garden door, on which there was blood, as also on that of the pigstye. He first saw the prisoner in Mrs. Franks' house at six o'clock on the Wednesday night. Witness invited him as a relative to go into the room and see the bodies, but he refused, and seemed much agitated. After the bodies were "dressed" he agreed to go in; even then he did not look at them, but fixed his eyes on the clock. Along with Emond witness examined the drawers, and found a deposit receipt for £17, 10s. "Prisoner put out his hand to get hold of the receipt and some silver spoons, but witness did not give them to him." The superintendent told him he must go to Haddington "to claim the property before the Sheriff"; they went together, and by the way Emond said he wished the bodies buried next morning, "as it was no use to delay the funeral." Asked when he had last seen his sister-in-law and whether they were on good terms, he said he had not seen her for three weeks; "she blamed him for breaking open a chest of hers which was lodged in his house at North Berwick. Mrs. Franks had abused him and his wife, saying that they had some money of hers and she would have it back." That night witness arrested Emond on suspicion of murder; he remarked, "Who could say that?" Witness said his own conduct since Sunday was enough to accuse him. A pound note and seven shillings were found upon him. The shoes he then wore had not iron heels. In presence of the Sheriff and of General Dalrymple witness searched the prisoner's house. He found the shoes with the iron heels, which were afterwards compared with the marks on the floor; also a blue coat, a pair of "Esterhazy trowsers," a shirt, worsted stockings, and a hat. There was blood upon the hat, on the

wrist-band of the shirt, and on the right-hand pocket of the trousers. He saw Emond in Haddington gaol on the following Friday; the prisoner said that he deserved the gallows for the usage he had given his wife. Witness found neither the watch, the rings, nor the ear-rings; there was no instrument with blood on it except the knife found in the bedroom. "Prisoner never mentioned a word about the murders, nor threw out any observation how they might have been done. In going along the road he asked witness how he could get the deposit receipt cashed."

Robert Birrell, sheriff-officer, described the appearance of the bodies and the condition of the house. He assisted at the comparison of Emond's shoes with the footprints; they exactly corresponded. He had been bred a shoemaker, and was satisfied that the marks had been made by those shoes. Cross-examined by Mr. M'Neill, such heel plates were cast, and being all cast in the same mould would be all of the same size. Their price was twopence a pair. Any other heel of the same size would give the same measurements.

Thomas Howden, surgeon, Haddington, proved the medical report made by him on the post-mortem:—

Haddington, 28th October 1829.

By order of the Sheriff, we the undersigned this day examined the bodies of the deceased Catherine Munro, widow of the late James Franks, and Madelina Franks, at the Abbey near Haddington.

In observing the body of Catherine Munro we found the throat cut, the head, face, and neck covered with blood. Upon removing the hair from the scalp, ten incisions of different sizes were found on the left side of the face and head, some of them so large as to expose the brain. That on the face extended from the internal angular process of the frontal bone to the left ear, penetrating and dividing a portion of the superciliary arch, and fracturing the malar and superior maxillary bones. The frontal bone was also fractured from the left orbit to the coronal suture. The superior part of the temporal, and a large portion of the parietal bones were broken into numerous pieces. There was likewise a cut in the posterior part of the head, penetrating through the cranium.

Upon examining the throat we found the windpipe, gullet, and right carotid artery completely divided. No other marks of violence could be discovered on the body.

We next examined the body of Madelina Franks and observed before moving it the hair of the head was completely clotted with blood and brains. Upon removing the hair eight wounds appeared on the scalp, most of which penetrated into the brain; and the whole of the upper part of the cranium was broken in pieces.

No marks of external violence could be observed on any other part of the body.

From the above appearances there is more than sufficient to account for their death; and we are of opinion in both cases the wounds of the head have been inflicted by some heavy cutting instrument. The above is certified upon soul and conscience.

THOMAS HOWDEN, Surgeon.

E. BLACK, Surgeon.

Mr. Howden, examined, said that a knife must have been used to cut the throat of Mrs. Franks. It was quite impossible that the injuries could have been self-inflicted. The bodies appeared to have been dead three days. He had examined some clothing belonging to the prisoner; he found bloodstains on the hat and upon the drawers, shirt, and trousers. The stains had all come from the outside. Some parts of the clothes had been recently washed.

James Gillies, sheriff-officer, Haddington, was in the cell with the prisoner on the night of his arrest. He took away Emond's drawers, as he saw they were marked with blood. When he came back, Emond asked whether there was blood upon them, and then showed a fresh bloodstain on his shirt, which he said was caused by his finger: he had "ruffled" the skin. This stain was not there when the drawers were taken; the marks upon them were not fresh.

Catherine Franks, aged eleven, younger daughter of Mrs. Franks, examined but not sworn,<sup>1</sup> said the prisoner's wife was her aunt. She had been living with them at North

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<sup>1</sup> The record of this case bears "Catherine Franks not put upon oath, being only eleven years of age."—Shaw's *Justiciary Cases*, No. 203, p. 230.

Berwick. On the Sunday of her mother's death, when she came home from church she found her aunt in a grievous plight: "her gown was all torn at the back, and her back was wet; her mouth was blistered." Uncle was then in the house. Her aunt shared her room that night and bolted the door; uncle slept upstairs. In the morning his door was found fastened and they could get no reply; an officious friend, Mrs. Cron, was urgent that the room be searched, so a neighbour climbed in by the window and let in Mrs. Cron and witness, but Emond was not there. When her uncle came home later "she was frightened to look at him." He had on a blue coat and "Esterhazy trowsers." They were wet, and so were his shoes and stockings. He said, "How are you all this morning?" and explained that he had been at Dirleton, walking by the seaside. She identified the articles produced as those he was then wearing. When her mother was last at North Berwick there were high words between her and uncle about a trunk.

James Patterson, the next-door neighbour, corroborated. He was desired by Mrs. Cron to go to Emond's room; he got a ladder and entered by the window. The prisoner's bedroom door was barricaded with a chest of drawers and a table. The bed had not been slept in. When Emond came home on the Monday he looked tired and seemed confused; he said he had been wandering in the fields since five in the morning. He told witness that Mrs. Franks was expected that day, and said he was going to take no more abuse from her. Mrs. Patterson corroborated her spouse; Emond on his return had a very wild appearance. When she mentioned later the discovery of the bodies he observed "it did not look well." Major-General Dalrymple of North Berwick, a magistrate for East Lothian, heard of the murders on 27th October, and along with Charles Ramage, constable, searched Emond's house; the articles they found there were identified by them in Court.

The evidence of several witnesses who on the Monday morning saw the prisoner returning from his nocturnal expedition followed. John Lockhart, North Berwick, met him about nine o'clock at North Berwick Toll. He was much agitated and very dirty; his shoes and stockings were very muddy. It was a fine dry morning and the Sunday had been fair. Thomas Cron met him between eight and nine about a mile from Dirleton, going towards North Berwick. Alison Webster or Bolton said that he called at her shop in Dirleton shortly after eight and asked for a drink. "His appearance struck her very much: it was so different from his usual look. He was all blood about the mouth, both above and below. His pantaloons were rolled from his ankles upwards; he was agitated and his tongue faltered." He explained that he had been "walking about the coast for two or three hours." She noticed no blood upon his clothes. John Walker, North Berwick, met him about 7.15 a.m. opposite Begbie's farm, Queenstone, near Fenton. He was coming from the direction of Haddington and going towards Dirleton. He asked witness how far he might be from North Berwick. Witness replied he would probably know himself, having come that road in the morning. Emond said he had been round by Whitekirk, in the direction of Dunbar. "His dress was in disorder, his pantaloons folded up, and he carried a piece of checked cloth in his hand. His mouth was dirty, but it did not strike him (Walker) as bloody." William Dalgetty, Drem, saw him at Drem Mill, going towards North Berwick in the grey of the morning. Hugh Goodlet, Dirleton, met him going towards North Berwick, opposite Captainhead, between five and six o'clock.

John Low, North Berwick, spoke with Emond on the Tuesday before the discovery of the murders. He said he had had a difference with his wife, and to escape from her had been forced to leave his room by a window on the Sunday night, "and had gone to take a walk." He was much agitated, and remarked that "the devil had been

very busy with him." Mr. Dods, Provost of Haddington, received a message from the prisoner, asking to see him in gaol. He wanted to know whether "anything had come out against him during the precognition," *i.e.* the preliminary investigation; and observed, "I don't see how they can find evidence to convict me." His optimism, however, was not justified in the event.

The Lord Advocate then proposed to examine two prisoners who had shared the pannel's cell. His lordship was aware of the objections that might be taken to such witnesses, but they had been only accused of theft and not convicted, so he had procured for them, and produced, His Majesty's free pardon to enable them to give their testimony. Mr. M'Neill said that in these circumstances he could not object to the evidence, but he would have something to say as to its credibility. Robert Tait, sometime prisoner in the Calton Jail, Edinburgh, having described the regrettable lapse which had landed him in that retreat, said that Emond slept in the same cell with him and Murray. His sleep was broken by cries of "Oh, that wretched passion!" He gave witness a brief account of his life. "He said he was a man who had been very strict in his religious duties; that he had been a soldier, and even then attended closely to those duties; that he had lived comfortably till lately, when he and his wife quarrelled and could not live in peace, because she had been stirred up against him by false reports—by whom he did not say. He said that he had intended to have gone on the Sunday to the Sacrament at North Berwick, but his wife had caused a quarrel; that he left home that night and did not know where he went till he found himself near his own house again in the morning. He said he could not account for where he had been; and that he went in and attempted to pray, but could get no utterance and arose from his knees ashamed"—which, looking to the nature of his night's work, is not surprising. One morning, after being shaved, he said he meant to instruct

his agent that the blood found upon his clothes was due to "the tenderness of his face when shaved." His memory improving, he confided to his fellow-prisoners that he did the deed, but asked them not to mention it. "He said all that he remembered was of going to his good-sister's house; that he got entrance to the garden from a private road, and from the garden to the house through a window. He had some words with his good-sister, 'and it was done.' He was surprised when he heard of the girl being also dead, for he did not recollect of having seen her at all. He came out of the house by the same way that he obtained admission." Tait's conscience afterwards moved him to communicate these facts to the authorities. Daniel A. Murray, the other cell-mate, corroborated.

The Crown case closed with the reading of the pannel's declarations. In these he denied all knowledge of the murders and maintained that he had never been near the Abbey that night. On Sunday afternoon he had "a difference" with his wife, who had unjustly accused him of secreting money and spending it improperly. Resenting these imputations he "used her cruelly," dragged her to the draw-well at the back of the house—not for the purpose of casting her into it, "but only of frightening her for the abuse she had given him"—and struck her on the head with a three-quart earthenware bottle. In consequence of these marital amenities his wife "desired to see him no more," and closed the conjugal door against him. Fearing "the approach of constables"—the lady had intimated her intention to appeal to the law for protection—he let himself out by a window, meaning to leave the place and his wife for ever. Putting on an old discarded coat which he found in an outhouse, he rolled his blue coat into a bundle for fear of rain, and lay down for some three hours in the pigstye. He spent the rest of the night walking about the countryside, tore up and threw away his old coat, fell several times in the fields, and got his feet and legs wet in divers ditches. His shoes had not

iron heels. He had no quarrel with his sister-in-law apart from their dispute about her box, and none with Madelina, "who was a very quiet, inoffensive girl." All which he declared to be truth.

Two witnesses only were examined for the defence. William Morris, shoemaker, Edinburgh, said that the iron heels of the shoes produced were very common and the shoes themselves were of a common size. John Brown, farmer, Belford, said he had known the prisoner for eight years; he considered him an honest, industrious man, of good character. He was very subject to bleeding at the nose.

The Lord Advocate then addressed the jury for the Crown. He seems to have pressed his case in a way unusual in a public prosecutor, for we read that he "insisted in the most forcible manner on a verdict of guilty." The first question was, when were these murders committed? If not during the Sunday night, then the pannel had nothing to do with them. After reviewing the evidence upon this point his Lordship held that there could be no doubt about it.

My impression is that whoever murdered them entered by the window, and whatever passed between him and the woman, she certainly seems to have flown from the house for assistance, and at the garden gate she was overtaken and inhumanly butchered at the door where the blood was found sprinkled and soaked in the sand beneath; and that he threw the body into the pigstye with the hope that the pig, by devouring the body, would remove some of the marks he had left upon it. He then entered the house, knowing he had left a living witness behind and that he could not be secure if she was not put out of the way. After she was dispatched, the drawers were rummaged to give the appearance of thieves having entered the house, but there is the extraordinary fact that these murders were not committed so much for the sake of gain as for revenge, as there were numerous articles of value left behind.

They found the pannel attempting to murder his own wife in the backyard that Sunday afternoon, and wandering from his house in the evening towards the abode of those

unhappy victims, whom he blamed for troubling his domestic peace. Look at the various and contradictory accounts he gave of how he spent the night : at one time at the sea-coast, at another in a totally opposite direction ; now walking about his garden under fear of arrest, now sleeping for hours in the pigstye. He chose to take, when thus leaving home for ever, an old coat he had intended to cut up into strips for nailing trees ;

but, gentlemen, he took it for a very different purpose—he took the old coat to commit the murder in ; and it is a strange fact that, so completely has he disposed of that coat, no clue whatever can be found to lead to it. Could we find it, much would be decided ; if he was innocent it would be unstained with blood, but my impression is that it was completely deluged in it.

The blue coat he wore on the Sunday and Monday was without stain. His Lordship then dealt with his strongest point ; the shoes. They were found wet, with the stockings in them, beneath the pannel's bed ; they corresponded exactly with the footmarks in the fatal room. There was chaff on the floor of the east room ; there was chaff also still on the bend of the soles of those shoes. Look at his conduct when he was told of the murders : “ did he, like a generous relative, fly to the scene of butchery with a desire to unravel the foul crime ? ” No ; he went, indeed, but in avaricious haste to collect the remaining property of his victims, and his only wish was to have them hidden in the earth as soon as possible.” Having examined the proof of bloodstains and of the washing of the pannel's clothing, his Lordship traced him by map and witnesses at half-past five in the morning to within some two miles of the scene of the crime ; and the pannel was utterly unable to account for where he had been that night. After reviewing the evidence of the two fellow-prisoners, his Lordship said that if that were believed it would be idle to say the pannel was not guilty, and accordingly he felt himself entitled to demand a verdict.

Duncan M'Neill, for the defence, reminded the jury that the law presumed the prisoner innocent till he was proved guilty. The Crown had failed to show the motive which actuated this murderer, whoever he was; revenge it could not be, as many valuable articles were taken from the house, none of which had been traced to the prisoner. His rambling about all night after the quarrel with his wife was well established. If he repented of his treatment of her, and went home again with feelings of contrition, was a repentance that would entitle him to mercy in another world to deprive him of all credit in this? No weight attached to the story of the shoes; scores of shoes of similar make and size were sold in North Berwick. There was no proof as to what shoes the prisoner wore that night, and he was entitled to the benefit of the doubt. A great deal of blood was said to have been spilt, "but was it to be credited that an individual of diminutive stature like the prisoner could take a bleeding body, with the skull shattered to atoms, in his arms and throw it over a paling three feet high into a pigstye, without his breast and trowsers being drenched with blood?" This of itself was conclusive against the hypothesis of the Lord Advocate that the prisoner committed the murders. There was no doubt that the instrument employed was of a very heavy kind—that was proved by the surgeons; but no such instrument had been found, and none was traced to the prisoner. The knife produced was not the one specified in the libel, and his learned friend had felt he could make nothing of it. As to the evidence of what passed in the prison of Edinburgh, the testimony of such men should be viewed with the utmost jealousy. "The learned counsel concluded a most eloquent and ingenious address by calling on the jury for an acquittal."

The Lord Justice-Clerk then charged the jury. His Lordship's observations, which occupied four hours, fortunately for us are not preserved. On their conclusion the jury retired, and after an absence of twenty-five

minutes returned with a unanimous verdict of guilty. "As soon as it was announced, there was a yell of exultation from those in the gallery. The audience in the other parts of the court did not join in that fiendish applause." The Lord Justice-Clerk pronounced sentence of death in the usual form, which at that time included the public dissection of the deceased convict by the Professor of Anatomy, and the Court rose.

On the morning of Wednesday 17th March Emond paid the penalty of his crimes on the gibbet at the head of Libberton's Wynd, as may be read at painful length in the local press.<sup>1</sup> Like all criminals of exceptional ferocity he made an edifying end, and enjoyed during his period of probation the flattering attentions of many ministers; but it is satisfactory to know that his broken slumbers were haunted by the phantoms of his bleeding victims.

It is curious that a crime which had nothing to commend it but its brutality should have so intrigued the Edinburgh of the day. In addition to copious reports in the newspapers, I have seen no fewer than seven broadsides relating to the case, issued for sale by the street criers. Of these the most considerable is a large sheet, containing five columns of print, embellished with rough woodcuts of the scene of the crime and "a correct portrait" of the murderer, entitled:

*THE HADDINGTON MURDERS! The Life, History, and Transactions of Robert Emonds [sic], with his Confession of the manner in which he committed the Murders; also the Life and History of his wife, and Mrs. Franks and her daughter; together with the full particulars of Emond's Behaviour and Conversation in the Jail up to this day, Monday 15th February.*

"Price Two Pence," and wonderful value for the money. One turns naturally to the "Confession." Stricken with

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<sup>1</sup> *Courant*, 18th March 1830.

remorse for his ill-usage of his wife, he determined to be revenged on her whom he deemed the disturber of his home. Having fastened his bedroom door to make his family believe him in bed, he let himself down by the window and set out for the Abbey "with a predetermined purpose to murder Mrs. Franks." When he reached the cottage he knocked, and was admitted by his sister-in-law. They talked for a time until she was off her guard, and he struck her down with a bludgeon; but rallying from the blow she fled from the house for help. Before she reached the garden door the murderer overtook her, grappled with her, cut her throat with his penknife, and threw her into the pigstye. He next bethought him that Madelina still survived to testify against him, so, having dispatched the mother, he returned to the house and with his bludgeon beat in the brains of the daughter.

He had no sooner done so, however, than he was struck with remorse, and in order to conceal from his view the shattered head of his innocent victim, he covered it up hastily with the carpet. And having thus murdered Madelina he took a tableknife, dabbled it in her blood, stuck on it some gray hairs torn from the head of Mrs. Franks (in order to create a belief that the murders had been perpetrated by this instrument), and threw it carelessly from him.

Whether or not the "Confession" be genuine it makes no mention of the robbery nor of the broken window, neither does it explain how a "bludgeon" could produce the incised wounds, as described by the surgeons. Another broadside "Confession" contains the simpler statement, "I am the man who committed the murders for which I am so justly condemned."<sup>1</sup> Emond found time, during the intervals of his devotional exercises, to write an autobiography, which was published, price one penny, on 18th March, too late to benefit the author, who was then in Surgeons' Hall.<sup>2</sup> From this it appears that he was a

<sup>1</sup> *An account of the confession made yesterday morning by Robert Emond, the Murderer, on his arrival in Jail from his Trial. Edinburgh, 10th February 1830.*

<sup>2</sup> *Full, True, and Particular Account of the Life of Robert Emond the Murderer, written by himself, and also of the Meeting between the Murderer and his Wife, in his*

native of Selkirk, served for some years in the army, travelled the Borders as a hawker, and married in 1827. On the occasion of Mrs. Franks' last visit, when the question of her boxes became acute, exasperated by the united upbraidings of the sisters, "he formed the resolution of attempting the destruction of them both after they had retired to rest." In furtherance of this amiable design he took a quantity of sulphur, a bundle of rags, and a light, intending "to suffocate them to death like a hive of bees"; but his conscience reproving him, he abandoned the scheme in favour of a more practical project.

Despite the exemplary piety of his demeanour after conviction, as unctuously chronicled by the journals, it appears that the old Adam was not wholly eradicated in the penitent, for we read in an account of his last hours—

Some time after, Governor Rose said to him, "Do you know who was with your wife to-day?" To which he replied, "No I did not see." "Well, it was Mrs. Cron." At the mention of this woman's name, he started up and exclaimed, "I have that woman to blame for my present situation." Then clenching his fists and appearing exceedingly animated he added, "I would to God that infernal woman had been in the place of the girl (meaning Madelina Franks). Captain Rose, were I as free as ever, I would be hanged this night if I had her here and had my revenge!"

Captain Rose was the governor of the prison; Mrs. Cron, as the reader may remember, was the busybody who incited the schoolmaster to enter Emond's room, and so destroyed his alibi.

As in the classic instance of Burke and Hare, the ballad-mongers were instigated by the atrocity of the case to perpetrate in rhyme fresh outrages of their own: *The Haddington Murders, A New Song*, published on 18th February, and consisting of seven stanzas

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*cell, on Friday last, and of the desire which he expressed, even then, to murder Mrs. Cron, who had given evidence against him; and also his Plan for Murdering both his Wife and Mrs. Franks, by Suffocating them with Brimstone.*

as shocking as the crimes they sought to commemorate, beginning—

Come all you worthy people, give ear unto my tale,  
And when I do relate the same it makes me to bewail ;  
Now Robert Emond is my name I cannot well deny,  
And for that cruel murder, now for it I must die ;

and *Emond, the Haddington Murderer*, published on 22nd February, in six stanzas, beginning—

Oh heard ye that shriek,  
From yon dark cell of sorrow ?  
'Tis Emond the murderer  
Who dies on the morrow.  
He dreams of the dead,  
Who rise gory before him ;  
And tortures his soul  
As in wrath they bend o'er him.

These samples will probably be deemed sufficient ; I mercifully refrain from further quotation. The other broadsides to which I have referred include *A full and particular account of the Trial and Sentence*, etc., and *An Account of the Execution*, etc.

For the professional reader the case presents certain interesting points of law, noted by Bell in his annotations on Hume.<sup>1</sup> These relate to the admission of evidence (1) of the behaviour, manner, expressions, and even looks of the pannel,<sup>2</sup> (2) of his fellow-prisoners as to statements made by him to them,<sup>3</sup> (3) of a copy of a map prepared by a witness for another purpose,<sup>4</sup> (4) of statements made by the pannel as to his quarrel with his sister-in-law,<sup>5</sup> and (5) of the import of threats uttered by him against the deceased, as reported by her to a witness.<sup>6</sup>

One conceives how De Quincey would have taken this ugly and disgusting crime and made of it a thing bizarre

<sup>1</sup> *A Supplement to Hume's Commentaries on the Law of Scotland respecting Crimes*. Edinburgh : 1844.

<sup>2</sup> *Ibid.*, p. 243.

<sup>3</sup> *Ibid.*, p. 247.

<sup>4</sup> *Ibid.*, p. 280.

<sup>5</sup> *Ibid.*, p. 289.

<sup>6</sup> *Ibid.*, p. 293.

and memorable. We should have seen the mean figure of the murderer stealing, like Jonas Chuzzlewit, from the silent room where he was supposed to lie abed, through the midnight dark, along the vacant roads of the sleeping countryside, towards his infernal goal; his black heart hot with hatred, the weapon hid beneath his coat. We should have seen him entering the cottage by the window and appearing suddenly, a dreadful image of death, at the bedside of his hapless kinswomen. The widow, reading in his face his fiendish errand, flees from the room and from the house, swiftly and without a cry—no call for aid reaches the friendly neighbours; pursued and overtaken at the garden gate, she is struck down and slaughtered, and her bleeding body is cast into the pigstye, to be devoured, it may be, by the hungry occupant. (How Toad-in-the-hole would have appreciated that touch!) Then back to the house in the fulfilment of his hellish programme hurries the murderer. None but De Quincey could describe the scene that follows in that chamber of horror. The panic-stricken girl has begun tremblingly to dress herself, her stocking is half pulled on, when the murderer reappears in the doorway with his dripping weapon. . . . Even he was fain to cover from his sight the hideous fact, and his rest—what remained of it—was broken by that fearful vision. The drawers ransacked to create an illusion of robbery, the murderer goes home. By the way, he disposes of his bloodstained coat and weapon, washes in some stream his gory garments and his tell-tale shoes—“a little water clears us of this deed”—and in the grey of the morning gains his abode and safety. All through the night his thoughts have been busy about that closed and barricaded door, upon the sanctity of which his life depends. But the secret of the empty room has been violated; and he knows that henceforth, however he may twist and turn, there is nothing before him but the gibbet.

WILLIAM ROUGHEAD.