

Alexander Hutchinson (6626)

Perth Circuit Court
Thursday, April 25, 1861

The sittings of this Court were resumed to-day at ten o'clock, in the Justiciary Hall—Lords Cowan and Ardmillan presiding. There was a large attendance of the public.

CHARGE OF WIFE-MURDER IN DUNDEE

Alexander Hutchinson was placed at the bar on a charge of murder, in so far as, on Saturday the 6th April, in the house occupied by him in St Mary Street, Upper Pleasance, Dundee, he did wickedly and feloniously attack and assault Christina Fowler or Hutchinson, his wife, and did with a poker strike her several severe blows about the head, and did knock or throw her down on the floor, and did kick her about the head, face, side, thighs, legs, and other parts of her person, by which she was mortally injured, and died, and was thus murdered by the prisoner.

The panel pleaded not guilty, and the case accordingly went to trial.

Mr W Ivory, Advocate-Depute, conducted the prosecution, and Mr J Campbell Smith, advocate, Edinburgh, appeared for the defence.

A jury having been empanelled, the following evidence was led for the prosecution

James McKenzie, brassmoulder, examined by the Advocate-Depute, deponed – I live in St Mary Street, Upper Pleasance, Dundee. The prisoner occupied a house next to me. I have a kitchen and one room on one side of the tenement, and there are another kitchen and room on the other, occupied by the prisoner. If a person is speaking loud in the one house it can be heard in the other. If the outer door is open we can hear better. All these rooms are on the ground floor. The prisoner, his wife and two children lived together in that house. The names of the children are Anne and Euphemia. I know both children. I would suppose Anne to be about six years of age. She appears to be an intelligent child. I have spoken to her frequently. I remember leaving my house about five o'clock on the afternoon of 6th April last. I then saw the prisoner coming in from the lane to his house. I spoke to him. He appeared sober. He had on working clothes (Identifies prisoner's clothes). I returned home about seven o'clock. I found my children, James and John, in the house on my return. James is eleven years old and John is nine. There was no one else in the house. Mrs Kelly, who is my housekeeper, was at the door. These are all the inmates of my house. I again went out about a quarter before eight with Mrs Kelly. I left my two boys and George Hepburn, who is a brother of Mrs Kelly. He is thirteen years of age. I came back about eleven o'clock. There was no noise in prisoner's house during the night, nor next morning. My two were in at eleven when I came home. When I opened the door the eldest boy told me that the man in the other house had killed his wife, for that he had seen her lying dead on the floor. I ordered the children away to their beds. I remained up for about an hour afterwards, but made no inquiry into the truth of the statement because I knew that Hutchinson and his wife had frequent quarrels before, and I did not want to interfere. I went to bed, and slept till about six. About seven I heard the prisoner's door open, and Mrs Nicoll knocked at the door and told me that Mrs Hutchinson had been murdered by some one, and a policeman was sent for.

I saw the prisoner's clothes and boots on 7th April when they were all bloody. I did not see any blood on them on the Saturday; they were quite clean then. I saw the prisoner's wife at her door at three o'clock on the Saturday afternoon. She appeared in her ordinary state.

Cross examined – I always considered the prisoner a very peaceably man. He kept regular hours, and appeared to be industrious, for he used to work at night at home. I have seen his wife frequently the worse of drink. I never saw the prisoner worse of drink. I believed she was addicted to drink. I was aware of her pawning the prisoner's clothes and furniture to get drink. I was very seldom in the prisoner's house. I have observed a water-barrel with sharp edge standing in the house. I saw the face of deceased, and saw the round cut in temple, but I don't know whether the barrel was in such a position that she could have fallen on it. If all was quiet I could hear the least "mudge" from my house. If the prisoner had been abusing his wife after I came in I think I would have heard it.

By Lord Ardmillan – I told my boy when I came home that he must be mistaken about

prisoner's wife being dead; and said that perhaps he had got a dream, and they had quarrelled. That was the reason that I made no inquiry that night. After I came in at eleven o'clock till I fell asleep, I did not hear any one come out or into the prisoner's house. I always considered that the previous quarrels had been occasioned by the deceased's drinking.

Euphemia Baxter, confectioner, Dundee, deposed – The deceased Mrs Hutchinson was my aunt. I remembered calling at her house on 6th April last at seven o'clock. Prisoner was in the house alone. He was the worse of drink. He told me he was in that state. I asked for his wife, and he said she was out on errands. I waited in the house about half an hour for her. He asked me to sit down till his wife came in, and I did so for a while. Margaret Crockatt came in and asked the prisoner why he had sent his wife with the money. I went away, because I was afraid that if the wife came in that he would strike her down when I was in the house. I went away with Crockatt. I saw the deceased on the road about 400 yards from her house. Deceased was the worse of drink. She was sitting on the road. Mrs Crockatt went away, and I went up to deceased. She was very much the worse of drink. She told me to go on my way, and she would go hers. She also said she had given Crockatt all the money she got. I went two or three yards, up the road with her, and then left her. She had her children with her. Annie is not quite six years old. She is an intelligent child. The children went home with her. This would be about eight o'clock. I observed the prisoner's clothes before I left on the Saturday. I afterwards saw them on the Monday in the Police Office, when they were all blood. There was no blood upon the floor or walls on the Saturday (Shown and identified prisoner's trousers, covered with blood). Anne went home with me on the Monday, and has stayed with me ever since. I think she is quite capable of giving a distinct account of what took place that night.

Cross examined – My aunt drank a good deal sometimes. She has done that ever since I remember. I know that she used to pawn the prisoner's clothes. She has also taken articles belonging to my father and myself. She was tried for theft for pawning my things.

By the Court – There were no marks on my aunt's face when I saw her on the Saturday night, neither was there any blood upon her.

George Hepburn – I am thirteen years of age. I am a brother of Mrs Kelly. I was at Mackenzie's house on the night of the 6th April. My sister and James Mackenzie went out about eight o'clock. About twenty minutes after they went out I heard deceased calling out "Murder" two or three times. I knew her voice. After that I heard an awful noise, and the woman moaning dreadfully. I heard prisoner say – "that will surely 'spane' you from drinking again". I heard the noise as if of constant blows. I thought they were blows given with the prisoner's feet. The floor is of stone. I also heard a poker thrown down. It was nearly nine o'clock before the noise ceased. I did not hear Mrs Hutchinson make any remark beyond what I have told, but I heard her moan two or three times. Some of the blows that I heard might have been knocking of some one's head against the table. I heard him say, "Look at your mother now Annie", and she replied "No, I winna". I heard the last moaning, and it was immediately after I heard prisoner saying that to little Annie. I heard Annie "greetin". I was in the house a little while after I heard the last moaning. I was listening at the wall to hear what was going on. Mackenzie's door was shut. The noise was not very loud, but I heard distinctly all I have told you. Little Jamie Mackenzie and his brother were listening also. James Mackenzie and I went out for about a quarter of an hour. Prisoner's door was shut when we went out and it was wide open when we returned. We looked into the prisoner's house. We saw deceased lying naked on the floor and a napkin over her face. The man was sitting at her head with his hands clasped, looking over her. The body was quite motionless. I did not see any marks or blood upon it. I just looked in and went into the other house. I was frightened (Identified prisoner's clothes). When I was listening at the wall I did not hear the prisoner asking deceased about money.

Cross examined – The candle was burning in the house when I looked in. I don't live near Hutchinson. I never heard him or his wife speak before that night.

Re-examined – I heard deceased speak about a week before this occurrence. I had spoken to and seen Annie before, and knew her voice quite well. I did not see Annie when I looked in. It was the kitchen that I saw into. I have no doubt about it being the voice of a man I heard

saying "That will spave you from drinking" and the cries of "murder" were those of a woman. The prisoner at the bar is the man I saw sitting with his hands clasped over the woman. James Mackenzie, eleven years of age, and John Mackenzie, nine years of age, sons of the first witness corroborated the evidence of George Hepburn as to what they overheard and saw in the prisoner's house. John added – I heard the prisoner asking deceased about his money, and she only moaned. Prisoner said, "Annie look at the limmer lying there now" and Annie replied "No, I winna". I know the prisoner's voice well, and I am sure it was him who said that.

Annie Hutchinson, six years of age, deponed – I am the daughter of the prisoner. I was in the house when my mother died. I saw my father give my mother one pound, and my mother went out then. After that I went out to seek for her, and found her sitting on some steps. I asked her to come home. She was not able to walk. She had my little sister with her. My cousin, Euphemia Baxter, came up then, and took away my little sister. My mother then went home with me. My father was in the house when we came in. When we went in, my father gave my mother a skelp on the side of the head and knocked her down, then he took the poker to her, and trampled her. He then asked my mother for his money. He trampled on her with his feet. He struck her on the head with the poker, and trampled on her head. My mother never was able to cry when she was on the floor. My father said to me "Do you see your old bitch of a mother lying on the floor". I did not see my mother more after that. He tore all my mother's clothes off. I never spoke. I was afraid my father would come and hit me if I spoke. My father made me take off my sister's clothes and my own and go to bed. My father trailed my mother "but-and-ben" the house before he went to bed. I saw Jamie and Johnnie Mackenzie looking into the house. There were no clothes on my mother at that time. I saw my father taking them off. I saw blood on the floor when I went to bed. I saw some on my father's clothes. There was no blood his clothes before I went out.

Cross-examined by Mr Smith – I saw blood on the Sunday morning. I saw blood on my mother's face before I went to bed. Interrogated – did you say that to me this morning Annie? – depones- "I just said what I said enow". My father drew my mother but-and-ben the house four times. My mother took off none of her clothes; my father took them all off. He tore them off. He tore off her stays too. The blood was about my mother's eyes. My father had on his working trousers; he did not put on his clean ones when he came in. He was wearing his boots. He did not take off his boots when he came in. I did not say this morning to you (Mr Smith) that he had them off. Neither my uncle nor my cousin has been saying anything to me this morning. (Identifies poker) It was that which my father hit my mother with. My mother was lying on the floor when my father struck. He trampled on her side with his feet. She was lying on her back at that time. My little sister was sitting in the arm-chair roaring "Oh, mammy, mammy". My father did not tramp on any other place but my mother's side. I saw her fall on the street that night. She did not lie long there. She did not try to rise herself but somebody helped her up. She fell oftener that once on the street.

By a Juror – Did anybody tell you what to say when you came here? Ay, they told me to tell what my father did to my mother.

Margaret Luckie or Crockatt deponed – My mother keeps a provision shop. I remember deceased coming on 6th April. She paid my mother 13d 6d. She was due £1 3s. I went to Hutchinson's house and told him what I had got. He said it was a bad job. I left with Euphemia Baxter. We met Mrs Hutchinson between seven and eight. I saw no marks or injury or blood upon her. There was no blood on the prisoner's clothes when I saw him.

Cross-examined – She never got leave to come to the shop with the money. He always came himself.

Helen Mennie or Nicol deponed – I lived next door to Hutchinson. I last saw Mrs Hutchinson on the Saturday night at eight o'clock. There were a number of children following her. She was the worse of drink. There were no marks of injury or blood upon her. She had on all her clothes at that time. Mrs Ramsay came to me next morning, and asked me to go and see Mrs Hutchinson. I went and found Mrs Hutchinson lying on the floor before the bed in the back room. There were several cuts and marks on her body. The face was mangled a good deal.

The prisoner asked me what I thought of her, and I said she was dead. He said, "Surely she's no dead". I said, "Yes, and she's been dead for hours". He said he had been in bed and did not know anything about it. I asked how she was lying on the floor, and he said he would like her to be put in bed. I said, "I'm afraid you'll get into trouble about this", and he said, "There's no doubt about that". He said, "Oh, curse that drink". The floor looked as if it had been newly washed but there were parts of it, beside the wall, spotted with blood. I saw the body dissected.

Cross-examined – The prisoner seemed to have difficulty in believing she was really dead.

Elizabeth Whitton or Ramsay deponed – I met prisoner on the morning of Sunday the 7th inst. He had the key of his house in his hands. He said he was looking for me, and I went into his house. I saw his wife lying there quite dead. She had only a pair of stockings on. I threw some things over the body. The appearance of the face was greatly altered. I said she had been a long time dead. He said, "Oh no' you're joking; that's always the way she lies when she gets a glass", and that some boys fetched her in in that state. The prisoner asked me to go and tell his wife's folk.

Cross-examined – The prisoner said some boys had brought in his wife just, as I saw her, dead and naked.

Mrs Elizabeth Kelly, housekeeper to James McKenzie, corroborated her evidence, and identified the clothes worn by the prisoner and his wife on the night in question. The whole of these articles were soaked with blood.

William Morrison and James Young, police-constables, Dundee and Alexander McLean, deponed to the custody of the body of deceased, and identification of the clothes.

Lieutenant Morrison, Dundee – I apprehended the prisoner at Hawkhill. I overtook the prisoner going westward, and turned him around, and charged him with the murder of his wife. He said he didn't do it. He appeared to be under the influence of drink. The deceased was twice tried before the Police Court, and twice remitted.

Dr Greig, Dundee – I, along with Dr Webster, made a post-mortem examination of the body of deceased on Sunday the 7th April. Dr Greig then read the report which stated that "the deceased was a strong, healthy, middle-aged woman. There was a deep lacerated wound below the chin about one inch in length, besides a deep lacerated wound running all along the nose. There was another semi-circular wound about an inch in length on the left temple and face. The hands and elbows bore abrasions and bruises, as also the legs and face. All these wounds were evidently the result of external violence". Dr Greig added that it was his opinion that death had been caused chiefly by the effusion of blood from the brain. The injuries could not have been caused by falls. The injuries in the head were particularly severe. There were some injuries about the haunches which appeared to have been kicks.

By the Court – I am quite satisfied that there were repeated and separate blows, and that the injuries in the face were quite separate from those on the head. I have no doubt whatever that the woman died from the injuries inflicted, and not from disease.

Dr Webster corroborated the evidence, and the declaration of the prisoner was then read. It stated that he is a labourer and quarrier, and forty three years of age. In 1841 he married his late wife, when she was nineteen years of age. On Saturday, 6th April, he gave her £1 about six o'clock in the evening and asked her to pay for provisions and get some more. She returned in about two hours very much the worse of liquor. He went out for a time, and on his return found his wife lying on the floor with her face cut. She continued lying on the floor all night, and died, he thought, about six o'clock in the morning. He did not strike or assault his wife in any way either on the Saturday or Sunday morning.

Exculpatory Evidence

Mr Smith then proceeded to examine witnesses for the defence, and called William Smith, quarrier, who deponed – I was a fellow-worker of the prisoner; we worked in free-stone, and our clothes were consequently dyed red. The prisoner was of a mild disposition.

Jane Livie, residing in Upper Pleasance, Dundee deponed – I saw the deceased in such a state of intoxication on the day in question that she fell down and was unable to rise.

Jane Thomson and Jane Goldie saw the deceased lying in the street the night in question. She seemed unable to speak, and appeared to be dying.

Wm Yeoman, quarrymaster at Lochee – prisoner wrought with me for some time before he was apprehended. He was remarkably steady and industrious. He did not altogether answer my purpose but I kept him solely for his steadiness and industry.

This concluded the evidence and Mr Ivory addressed the jury for the prosecution, contending that the evidence of the boys Mackenzie and Hepburn, of the daughter of the prisoner, and of the medical gentlemen examined was amply sufficient to justify the jury to bring in a verdict in accordance with the libel.

Mr J Campbell Smith next addressed the jury for the defence. He maintained that there was not sufficient evidence to justify a jury bringing in a verdict of guilty against the prisoner, for the evidence was not so closely connected with him as to lead them to the conclusion that he and he alone had occasioned the death of his wife. Although he believed that the prisoner had struck his wife that night, yet it should be remembered that he was greatly exasperated at her for having mis-spent the money which he had given her to pay for provisions and also at the condition in which she was on her return from that errand. The question was, did he intend to kill his wife. He (Mr Smith) thought there was no evidence to sustain such a belief; there was no evidence whatever that the prisoner intended to commit any such crime, and he therefore felt certain that the strongest verdict which the jury could on the evidence return would be one of culpable homicide.

Lord Ardmillan having summed up, the jury retired at five o'clock to consider their verdict. On their return twenty minutes later.

The Foreman said the jury by a majority found the prisoner guilty as libelled, but on account of the continued provocation he had received, strongly recommended him to mercy.

After some minor cases had been disposed of, Lord Ardmillan pronounced judgement. He said that the verdict which the jury had recorded was one which he thought was perfectly in accordance with the evidence. The verdict which had been returned rendered it necessary that the sentence for such a crime should be death. He then sentenced the prisoner to be hanged at Dundee on the 22nd day of May. He could hold out no hope of mercy to the prisoner.

The prisoner remained unmoved during the trial and when he received his sentence.

Note: Hutchinson [6626] arrived per *York* in 1862.

Convicts in WA, 1850-1887, says he was married, 3 children, brewer and maltster which does not agree with his own evidence (2 children, labourer and quarrier, and now a widower)

References and Notes:

The Scotsman, Perth Circuit Court, 25 April 1861, p4

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