

The 1907 Lhanbryde Murder

By Stuart Farrell

There occurred on 24th September 1907 a case of murder at Lhanbryde when Joseph Hume, an army deserter, killed John Barclay Smith, road contractor. Hume was executed at Inverness Prison on the 5th March 1908, and was the last hanging at Inverness.

John Barclay Smith, son of Robert Smith, Dyker and Agnes Smith nee Smith, was born on 28th April 1859 at Craigside, Parish of Banchory-Ternan, Kincardine-shire. His parents only married on the 14th January 1859 in the Free Church at Banchory. Robert Smith, 21, Labourer, of Banchory (son of George Smith, Tailor and Mary Smith nee Grant (deceased)) and Agnes Smith, 20, Domestic Servant, of Craigside (daughter of John Smith, Mason and Agnes Smith nee Webster). Witnesses were James Smith and Robert Smith.

In the 1861 Census his parents were at Craigside, Tilwhilly, Parish of Banchory-Ternan of Robert Smith, 23, Mason's Labourer, Agnes Smith, 22, wife, John Smith, 2, Margaret Smith, under 1, and Mary Smith, sister of Robert Smith, 9. His father may have been working for his father-in-law and learned how to become a mason. By the 1871 Census the family were living at Beltside, Strachan, though his father was absent, of Agnes Smith, 32, head, John Smith, 11, Scholar, Margaret Smith, 10, Scholar, Agnes Smith, 9, Scholar, Mary Smith, 5, Scholar and Catherine Smith, 1. By the 1881 Census he and his family were living at Hillhead of Auchattie, Parish of Banchory-Ternan, Kincardineshire of Robert Smith, 43, Mason, Agnes Smith, 42, Wife, John Smith, 21, General Labourer, Catherine Smith, 11, Scholar, Isabella Smith, 9, Scholar, Betsy Smith, 7, Scholar, Christina Smith, 5, Jane A. Smith, 2 and George Smith, under 1. By the 1891 Census John, aged 32, was possibly working as an Agricultural Labourer at Arnbarrow, Furdoun, Kincardineshire. Unable to find him in the 1901 Census.

Death certificate states he died of a 'fracture of the skull, not certified' with note that body saw after death by Dr James Alexander Stephen and Dr Thomas Hood Wilson Alexander, both of Elgin. Noted as 'Registered on the information of R. B. Gordon, Procurator-Fiscal.'

Commemorated on family headstone in the Kirkyard of Banchory-Ternan, headstone reads: 'Sacred to the memory of Robert Smith Mason, Crownest Banchory died Feb 9 1901, aged 63 years. Also his children, Helen died Sept 15 1883, aged 7 months. Agnes died July 19 1884, aged 21 years. George died Oct 11 1896, aged 16 years, Jeanie died May 2 1903, aged 24 years Bessie died June 1 1904, aged 29 years. John died Sept 24th 1907, aged 48 years. Also Agnes Smith widow of the above R. Smith died August 13th 1918 aged 80 years. "*Brief life is here our portion.*"

The Elgin Courant and Courier 1st October 1907

'Murder At Lhanbryde. A Brutal Affair. It is well nigh seventy years since the people of Morayshire have experienced unpleasantness of a murder having taken place in their midst. The last occasion was when Noble murdered Ritchie, and, strange to say, it occurred in the same locality as where another ghastly crime took place last week. The murder was committed on the public road leading to Fochabers, near Barmuckity. Noble was a young man, and had no possible motive for murdering Ritchie, who was a stranger to him, and he had nothing upon him worth robbing. It seems to have proceeded from an irresistible desire for mischief, and, in the circumstances, the man's sanity may be doubted. The Town Council seems to have had to pay for the execution – about £50; and, although they remonstrated with the Government, it appears doubtful whether they got any relief.

What was the exact day on which the present crime was committed is not known, but it was not until Sunday forenoon that it was discovered. The scene of the tragedy is in the village of Lhanbryde, some three miles from Elgin. The victim of the murder was John B. Smith, a contractor with the Elgin County Council. Smith is said to belong to Tilquhillie, near Banchory, and came to Morayshire about the beginning of the year. He secured a contract with Elgin County Council to supply road metal for roads in the Urquhart district. The contract was a fairly big one, Smith's contract price being £140. Mr William Douglas, carting contractor, St Peter's Road, Aberdeen, became surety for Smith, and assisted him by working along with him and supplying horses and carts. When Smith had finished his contract he appears to occupied his time by working at other odd jobs in different parts of the county. As a rule always returned at night or at the week-end to the lower flat or house near the Railway Station, Lhanbryde, which he had rented. The house is of the ordinary cottage style, with the door in the centre and a room on either side. On the upper flat live a Mr Macgillivray and family, and on Sunday they felt a strong smell coming from the lower flat. Constable Robertson was sent for, but on his arrival he found the door locked. On forcing an entry, a revolting sight was presented. Smith was lying in bed partly covered with blankets, with the front of his head almost battered to pulp. A mash hammer, such as is used in breaking large stones, was standing on its end about a yard from the foot of the bed, with the iron besmeared with blood, showing that a deliberate murder had been committed. A careful examination showed marks of the hammer on the bedstead, which seemed to indicate that some of the strokes had missed the victim. The room was miserably furnished, the bedstead being mainly composed of rough wood. The room in the other end of the house contained tools, etc., for working on the roads.

When the murder took place is not known, but from the appearance of the body it is supposed to have been committed about Tuesday or Wednesday last. It is stated that for several days Smith had been keeping company with a man of the vagrant type. Whoever committed the murder must have locked the door behind him. Inside the house it looked as if preparations had been made for a meal, as slices of bread and other eatables were lying on the table. Several bottles, which had previously contained spirits, were also found in the room.

Prior to coming to Morayshire, Smith resided at 43 Summerfield Terrace, Aberdeen. He was about 48 years of age, and was a powerfully-built man, and would in ordinary circumstances have been well able to defend himself. As yet no reason can be assigned for the crime.

Immediately on receipt of the news in Elgin, Mr R. B. Gordon, the procurator-fiscal, Chief Constable J. B. Mair, and Drs Stephen and Alexander motored out to Lhanbryde to make enquiries into the matter. Later in the evening the body was conveyed to the mortuary at Elgin Police Station.

Yesterday the murder was the whole topic of conversation in Lhanbryde and district. Smith was very little known, for it appears he did not associate much with the people in the village, and was only known by one or two. Early in the forenoon a post mortem examination was made on the body by Drs Stephen and Alexander, and later the remains were interred in Elgin Cemetery. Up to this morning no arrest had been made.

Inquiries by Aberdeen City Police. Acting on information received from Elgin, the Aberdeen City Police were engaged on Sunday in making inquiries regarding the murdered man's connection with Aberdeen. A post-mortem examination of the remains was held yesterday, and, accordingly, the Morayshire Police wished to obtain information about Smith's relatives, of whom there are several residing in Aberdeen. Owing to the late hour at which information regarding the murder was received in Aberdeen, the City Police were unable to complete their inquiries on Sunday night, none of the relatives having been interviewed. Mr Douglas, carting contractor, St Peter's Place, who was engaged in the Lhanbryde contract with the deceased, was seen, but could give no information bearing on

the tragic affair. He stated that, his part of the contract being finished, he left Smith at Lhanbryde about three weeks ago, and had not seen nor heard from him since. He states that Smith was not of a quarrelsome disposition, but was given to drink. When he was last in Aberdeen Smith lodged in Summerfield Terrace, but he had no home of his own in the city, and moved about from place to place, carrying out contracts similar to that in which he was engaged at Lhanbryde. When lodging in Summerfield Terrace, Smith was understood to be a single man, but it is stated that he married a widow, who resided in the Banchory district. Mr Douglas was not aware of any person who had an ill-will against the deceased, and he had not the slightest suspicion as to the perpetrator of the foul deed. The news of which horrified and shocked him, and he could imagine no reason for the crime. The police on Monday continued their search for the relatives of the deceased residing in Aberdeen.

The information telegraphed to the Aberdeen police was to the effect that the movements of the murdered man had been traced by the Morayshire police up till Wednesday. From which day he had not been seen, so that it is believed that the murder took place on Wednesday. The room in which the body was found bore no signs of a struggle having taken place, and it is not known whether robbery was the motive for the crime.'

The Elgin Courant and Courier 4th October 1907

'**The Lhanbryde Murder.** The recent murder still continues to be the chief topic of conversation in the Lhanbryde district. The police are still endeavouring to find the man who was seen in the company of Smith for several days. In Aberdeenshire a keen and sharp lookout is being kept on all parts. On Wednesday the Aberdeen detectives arrested a man who appeared to answer the description furnished. Judging by his appearance, apparently the man belonged to the tramp class, and was asked to accompany the officers to the Central Police Station in Lodge Walk. Inquiry and explanations resulted in his liberation after detention of half an hour.

The police are also pursuing a clue in the Tarves district. A tramp was seen in the locality, to whom suspicion attached, and the police are now on the search for the man.

The following circular was sent out by Mr J. B. Mair, chief constable on Elginshire, to all the police officers in Scotland on Sunday evening – the day the murder was discovered –

Murder. About noon today, John Barclay Smith, contractor, Lhanbryde, who lived alone in a small house in Lhanbryde, was found dead in bed, and, from the result of the medical examination, it would appear he has been wilfully murdered, the skull being battered in by a heavy hammer which was found near his bed covered with blood. A neighbour was alarmed on account of a strong smell issuing from the house, and informed the police, who forced an entrance and found matters as stated.

He was last seen alive at 7.45 a.m. on Wednesday, 25th inst., in Elgin, and stated he was waiting to get a drink when the public-houses were opened. He was then in company of a man of the following description, who, it has been ascertained, had been living with him for three or four days, and is believed to have been assisting Smith in breaking road metal:- Aged about 25 years, height about 5 feet 6 inches, proportionate build, dark hair, slight dark moustache, thin face, sunken eyes, sallow complexion, legs somewhat bandy below knees. Dress – Dark or navy blue jacket suit, dark single peaked cap, blue striped muffler, strong heavy boot, clothing in fair condition, was seen on one occasion wearing a red necktie or small muffler.

It is supposed that the murder was committed on Wednesday night, and early on Thursday morning a man of the above description was seen hurrying along the road towards Fochabers.

An useful information will be thankfully received by the subscriber. Jno. B. Blair, Chief Constable of Elginshire. Chief Constable's Office, Elgin, 29th September, 1907.'

The Elgin Courant and Courier 8th October 1907

‘The Lhanbryde Murder. Suspect Arrested At Fochabers. On Sunday last a tramp was arrested at Fochabers in connection with the murder of the man Smith at Lhanbryde. The man, who answered to the descriptions of the wanted person, was a tramp, and it is stated he could not give a satisfactory account of his movements. A number of witnesses were taken to Fochabers, but they could not identify the man as the suspected person, and he was liberated. A man was also arrested in Inverness last week, but from inquiries in Lanarkshire and Nairnshire his movements were satisfactorily accounted for.

The murder was committed on a Thursday, and it now turns out that the suspected tramp was traced by the Elginshire police from Lhanbryde to a place where he had called on Friday near Hill of Kilbaudie, which lies between Keith and Cullen. An amended description of the man wanted has been sent out to the police forces of Scotland.

Our Keith correspondent writes: - On Saturday members of the Elginshire Constabulary were in Keith district making a thorough investigation for any traces of the tramp who had been keeping company with the murdered man Smith. It is understood that the constables were all through the Newmill and Crossroads district. Their visit gave rise to an abundant crop of rumours, chief of which was that the tramp in question had a length been found.

A Detective’s Theory. It is the opinion of an old detective of the Banffshire Constabulary that the man who committed the murder did so, not with the intention of robbery, as Smith had but little money at the time. The man it may be supposed, committed the crime most likely through being in a state of delirium tremors brought on by drink, and on coming so far to himself, he hurried to the river Spey and drowned himself. There have been thousands of such cases, some of them not far distant from Lhanbryde. If the offender had been in life, the exertions the police have made must have resulted in his capture. As to delirium tremors says this officer, I saw a man lately who, in that state, fancied he was attacked by rats. With a big stick he was lashing the air, and if he had not been restrained he most likely would have cracked a few skulls.’

The Elgin Courant and Courier 15th October 1907

‘The Lhanbryde Murder. There still remains little to be chronicled in connection with the murder at Lhanbryde. The police continue to pursue their investigations, and have so far succeeded in that they have been able to obtain a photograph of the tramp who stayed for some days in the company of the murdered man. Yesterday it was freely rumoured that the “wanted” man had been arrested at Perth, but inquiry at the Police Office showed that there was no truth in the statement.’

The Elgin Courant and Courier 22nd October 1907

‘The Lhanbryde Murder. There are no further developments yet in the Lhanbryde case. The alleged murderer has been traced to Edinburgh, it is stated, and the police are making vigilant inquiries and following up the slightest clue. A man was arrested in Aberdeen on Sunday, but after examination was released.’

The Elgin Courant and Courier 25th October 1907

‘The Lhanbryde Murder. Suspect Arrested at Stirling. Late on Wednesday evening Chief Constable J. B. Mair received information by telephone at that the Stirling Police had arrested Joseph Hume, for whom a Sheriff’s warrant had been granted for his arrested in connection with the murder at Lhanbryde. Ever since the murder was committed the police have been daily gathering information, and some time ago they succeeded in getting a photograph of Hume, who is strongly suspected of being connected with the murder. Thousands of circulars were sent to all police stations, and, as stated, Hume was arrested on Wednesday evening.

Hume, it may be mentioned, is a deserter from the Highland Light Infantry. He was working as a labourer under the name of Joseph Middleton, but he admitted that his name was Joseph Hume, the man wanted by the police. He denied all knowledge of the murder. Yesterday he was remitted to the Elgin authorities. The Stirling police, while inquiring into the case on Wednesday, ascertained that a man answering the description circulated was working with Messrs Ronald, builders. One member of the firm at once identified the photograph as that of Joseph Middleton, who had been in his employment since 15th inst. Further inquiries elicited the fact that Middleton was putting up at Ballingham's lodging-house, 23 St John Street. On Wednesday night at half-past nine o'clock Sergeant Gilmour and Constable Greenhill apprehended the man wanted in St John Street. On being taken to the police office he gave the name of Joseph Middleton. The sergeant informed him that it was suspected his proper name was Joseph Hume, and that he had been arrested in connection with the murder of John Barclay Smith at Lhanbryde on or about September 25. The officer gave the usual caution that anything which the man might say would be used against him. The prisoner then admitted that his proper name was Joseph Hume, that he had deserted from the Highland Light Infantry at Fort George, that he again enlisted in the same regiment under the name of Joseph Rutherford, and that he was the man described in the police information, but that he knew nothing about the murder, and that there must be some mistake.

An examination of his clothing showed that he was dressed in the jacket and vest described in the police report, while his braces were stamped "H.L.I. 10211." While they were examining his trousers he observed "They are not the same." He then explained that he meant that the trousers were not the pair that he had when he deserted, he having given them up to his brother. He also stated that he had received the clothing from a recruit in Fort George whom he did not know. It appears that Hume patronised another lodging-house before he went to Ballingham's on Friday, 11th. On Saturday, October 12, two men who gave the name of Middleton got beds in the Mulbean's lodging-house in St Mary's Wynd. One of the men was afterwards identified as Joseph Hume.

On the following Monday night there was an altercation in regard to cooking, Hume having threatened violence to one of the attendants, and in consequence the woman left next morning. The other man is believed to be Hume's brother.

The proceedings in the Police Court yesterday were brief.

When the prisoner appeared in the dock, Captain Ferguson, the chief constable, put to him the question – "What is your name?"

"Joseph Hume, sir," was the reply. The prosecutor explained that the man had been apprehended on information from the Elginshire police, and he asked that he be remitted to the authorities of that county. Judge Steed, the presiding Magistrate, granted the request.

The prisoner, whose face wore an anxious expression, was removed to the cells. In the course of the afternoon he was handed to the custody of the officers from Elgin.

It is understood that the Edinburgh police have been on the track of the person arrested for some time.

An important clue is in the possession of the police, upon which great stress is laid. The dead man's watch was recovered in a loan office in Edinburgh, and the question they have been investigating is – Who pledged it?

Yesterday, Superintendent D. Cameron, Elgin, and Constable Robertson, Lhanbryde, left for Stirling to convey Hume to Elgin. It was expected that the police officers and Hume would arrive in Elgin last night, and a large crowd assembled at the top of Greyfriars Street. Hume, however, will not arrive in Elgin until this forenoon, when, in all probability, he will be brought before the Sheriff and emit a declaration.

It is understood that for several years previous to entering the Army, Hume resided about Edinburgh, where he had been four times convicted of dishonest appropriation of property, and

where he served six months' hard labour for fraud and theft. He deserted from Fort George on the 18th ultimo, and was first seen in Elgin on the afternoon of the following day. His father is Joseph Hume, a stone mason, and resides at Howdens' Hall, Penicuik, near Edinburgh.'

The Scotsman 25th October 1907

'The Lhanbryde Murder. Suspect Arrested at Stirling. Acting on information received from the Elginshire police, the Stirling burgh constables made a search of the various lodging-houses in Stirling on Wednesday in quest of a man named Joseph Hume *alias* Rutherford, &c, a labourer, twenty-five years of age, who is alleged to be connected with the murder of John Barclay Smith at Lhanbryde, Morayshire, on Wednesday, 25th September.

On Wednesday Sergeant Gilmour learned that a man answering the description of Hume, and assuming the name of Joseph Middleton, was employed with a builder in Stirling. The police, on showing the photograph of Hume to the builder, were informed by the latter that it was that of the man giving the name of Joseph Middleton, who had been in his employment since 15th October. Sergeant Gilmour further ascertained that Hume resided in a lodging-house in St John Street, and on the same day the man was apprehended and conveyed to the Police Office, where he was charged on suspicion that his proper name was Joseph Hume, and that he was connected with the murder of John Barclay Smith. The man admitted that his name was Joseph Hume, that he had deserted from the Highland Light Infantry at Fort-George, and had listed in that regiment under the name of Joseph Rutherford. He, however, denied having any knowledge of the murder whatever. Hume was brought before Judge Steel at the Burgh Police Court yesterday, and at the request of Chief-Constable Ferguson was remitted to the Elginshire police. Hume, who did not show much agitation while in the dock, is a dark-haired man, standing about five feet four inches in height, and was attired in the garb of a labourer.

The Prisoner's Edinburgh Connection. The Edinburgh City Police took no small part in the search for Hume. After the description of the alleged murderer had been issued, the name of the man wanted was not known, though he was said to belong to Edinburgh. Inquiries were immediately set on foot, and the matter was put into the hands of Detectives Rothnie and Munro, of the Edinburgh City Police. After they had read the circulated description of the man wanted, they immediately associated it with Hume, whom they knew. They began a search in the city, having reason to believe that Hume had been in Edinburgh since the date of the murder, and that he was fairly well supplied with money. The efforts of the detectives, however, were fruitless. But they made one important discovery. After the tragedy was committed it was thought by the authorities that the discovery of a silver watch stolen from the victim would materially assist in the tracing of the murderer. This watch the detectives found in a pawn office in Edinburgh. There is no information that Hume had anything to do with the pawning of the watch. It is stated, however, that the man who pawned the article tallied with the circulated description of the alleged murderer. Hume is a native of Edinburgh, and has been employed as a labourer in various towns, and particularly in towns and villages in Mid-Lothian. His father, it may be mentioned, resides in Mid-Lothian.'

Papers in the National Records of Scotland (AD15/08/153) 'Precognition against Joseph Hume for the crime of murder at Lhanbryde' indicate that he was to be case No.3 on the 4th February 1908 at the High Court at Aberdeen, but unfortunately the witness statements which normally form part of the precognition material have not survived. Papers in the associated Court Papers (JC 26/1908/26) include claims for travel expenses, the Indictment, Joseph Hume's declaration made at Elgin and medical report.

1908. High Court, Aberdeen, February. Indictment against Joseph Hume (Murder). 1st Diet, 25th Jan – Inverness. 2nd Diet, 4th Feb. – Aberdeen.

Joseph Hume, prisoner in the prison of Inverness, you are Indicted at the instance of the Right Honourable Thomas Shaw, His Majesty's Advocate, and the charge against you is that, on 24th or 25th September 1907, within the dwelling-house in the village of Lhanbryde, in the Parish of St Andrews-Lhanbryde, and County of Elgin, sometime occupied by the now deceased John Smith, contractor, you did assault the said John Smith, and did strike him on the head with a roadman's mash hammer or other weapon and did fracture his skull and did murder him. A.M. Anderson, A.D.

List of Productions.

1 – Declaration of accused.

2 – Joint Medical Report (with two relative photographs) by James Alexander Stephen, M.B., and Thomas Hood Wilson Alexander, M.B., C.M., both North Street, Elgin, dated 30th September 1907.

3 – Extract Entry of Birth of John Smith, from Register Book of Births, Parish of Banchory-Ternan, extracted May 14th, 1859.

Label No.1. Silver watch, with chain attached.

Label No.2. Piece of watch chain, with leather lace attached.

Label No.3. Roadman's mash hammer.

Label No.4. A piece of board.

Label No.5. A jacket.

Label No.6. A jacket.

Label No.7. A pair of trousers.

Label No.8. A pair of trousers.

Label No.9. A vest.

Label No.10. A shirt.

Label No.11. A waterproof coat.

Label No.12. A muffler.

Label No.13. A pair of boots.

Label No.14. A pair of boots.

Label No.15. Bed-cover.

Label No.16. Blanket.

Label No.17. Pillow.

Label No.18. Pillow-case.

Label No.19. Quantity of tea in parcel.

Label No.20. Quantity of sugar in parcel.

Label No.21. Jacket, vest, trousers, muffler, cap. A.M. Anderson, A.D.

List of Witnesses.

1. George Mackie Robertson, police constable, Lhanbryde.

2. Alexander Cobban, senior, and

3. James Cobban, both carpenters, Lhanbryde.

4. John Bagrie Mair, chief constable of Elginshire, Elgin.

5. Donald Cameron, superintendent of police, Elgin.

6. Isabella Smith, 22 Allan Street, Aberdeen.

7. William Douglas, 20 St Peter Street, Aberdeen.

8. Thomas Christie, police constable. Garmouth.

9. James Duncan, labourer, Urquhart.

10. William Thomson, labourer, Fosterseat, Lhanbryde.

11. Hugh Griffith, colour-sergeant, Highland Light Infantry, Fort George.

12. William McMillan, Cairneyhill, Dunfermline.

13. Charles George, Willow Bank, Bishopmill, Elgin.
14. James Stuart, 285 High Street, Elgin.
15. James Walker, junior, Lady Lane, Elgin.
16. John Proctor, junior, Sawmills, Lhanbryde.
17. Murdo Fraser, Hillview, Lhanbryde.
18. John Milne, assistant grocer, Lhanbryde.
19. Henry Baxter, railway porter, Lhanbryde.
20. John Stevenson, stationmaster, Lhanbryde.
21. John Bowie, police constable, Elgin.
22. Charles Duncan, junior, residing with Charles Duncan, tailor, Lhanbryde.
23. Alexander Cobban, junior, apprentice carpenter, Lhanbryde.
24. Neil Campbell, 14 Lossie Wynd, Elgin.
25. Margaret McGillivray, daughter of, and residing with Alexander McGillivray, labourer, Lhanbryde.
26. William Edwards, Station Road, Lhanbryde.
27. Peter Duncan, residing with Andrew Duncan, carter, Lhanbryde.
28. Mrs Isabella MacKerron, 425 Dumbarton Road, Partick, near Glasgow.
29. Jane Ann McGillivray, Longmorn.
30. John Anderson, stationmaster, Great North of Scotland Railway, Elgin.
31. Ann Hume, 6 Russell Row, Bathgate.
32. Jane Kelly, Craiglockhart Hospital, Edinburgh.
33. Isabella Ross Graham, 11 Lothian Road, Edinburgh.
34. Mrs Mary Armstrong, and
35. Mary Armstrong, both at 41 Lower Viewcraig Row, Edinburgh.
36. James Smith, 7 Westfield Street, Edinburgh.
37. James Miller, 5 Springvalley Terrace, Edinburgh.
38. James Farquharson, detective constable, Edinburgh City Police.
39. Andrew Charles Junner, Watchmaker, Moss Terrace, Elgin.
40. Charles Goodwin, inspector of police, Bathgate.
41. Janet Laing, 31 St Mary's Wynd, Stirling.
42. George Gilmour, sergeant, and
43. William Coutts, inspector, both of the Stirling Burgh Police.
44. The said James Alexander Stephen.
45. The said Thomas Hood Wilson Alexander. A.M. Anderson, A.D.

Declaration of Joseph Hume 1907, Elginshire.

At Elgin, the twenty fifth day of October Nineteen Hundred and Seven years. In presence of James Gray Webster Esquire, Sheriff-Substitute of Inverness, Elgin, and Nairn.

Compeared a Prisoner, along with Mr Alexander Donald McCaskie Solicitor in Elgin, as his Agent, and the charge against the Prisoner having been read over and explained to him, and he having been judicially admonished and examined thereanent, Declares:- My name is Joseph Hume. I am twenty five years of age. I am a labourer and reside at Howden's Hall Liberton near Edinburgh. I am unmarried. (Interrogated) Do you wish to say anything with regard to the charge which has made against you. (Declares) I have nothing to say.

Joseph Hume (signed) James Gray Webster (signed)

The foregoing Declaration, written (so far as not printed) on the first page here of by James Henry Kissach, Sheriff Clerk Depute of Elginshire, was of the date which it bears, freely and voluntarily emitted by the therein designed Joseph Hume while in his sound and sober senses, and, on being read over, was adhered to by him, and was subscribed by him and the said Sheriff-substitute, before and in presence of George Mackie Robertson and Donald Cameron,

Constable and Superintendent respectively, both in the Elginshire Constabulary; Robertson Barclay Gordon, Procurator Fiscal of Elginshire and the said James Henry Kissach.

Geo. M. Robertson (signed)

Donald Cameron (signed)

R B Gordon (signed)

Jas H. Kissach (signed)

Joint Medical Report by James Alexander Stephen M.B. & Thomas Hood Wilson Alexander M.B. and 2 Photos. Dated Elgin 30th Sept 1907, Elginshire.

We hereby certify on soul and conscience, that on the afternoon of Sunday the 29th day of September 1907, by instructions from the Procurator Fiscal & Chief Constable of Morayshire, we visited the cottage at Lhanbryde, occupied by John Barclay Smith, roadman.

On approaching the cottage we detected a markedly offensive odour, which became very intense on entering the dwelling.

In the west room of the cottage the dead body of a middle aged man lay on his back, in a rough bed, in an attitude as of sleep, the body being covered with bedclothes as usual.

The bed was placed in an East and West direction behind the door, the feet of the man being at the end of the bed next the East wall, and the head at the end next the fireplace.

The head was uncovered and rested on a pillow close to the top of the bed, the face which, excepting for the injuries, wore a placid expression, was turned slightly towards the south, the left side thus being uppermost.

On removing the bed coverings, the body was found clothed with a blue shirt, the right shoulder of which was soaked with blood, and other portions on front were splattered with blood.

The body was also clothed with coarse worsted under-shirt, drawers and socks.

The arms were slightly flexed on the chest, with the hands semi-clenched, and on the backs of the hands were a few spots of blood.

The legs were slightly drawn up, and the body showed such signs of decomposition that it was necessary to have it removed to Elgin for further examination.

The bedding under the head and shoulders was soaked with blood, which had found its way through to the floor, there forming a large pool of dark semi-fluid consistence.

Beside the fireplace lay a large hammer stained with blood and having a few hairs adhering to the handle.

On the cross board of bed opposite deceased's head was a notch which might have been caused by a blow from the afore mentioned hammer.

Beside the bed was a pail containing about a pint of urine.

We further certify on soul & conscience that at Elgin Prison on Monday the 30th day of September 1907, we continued our examination of the said John Barclay Smith.

External examination :- The body measured 5 feet 8½ inches in length, and was well nourished.

Decomposition had set in, the skin being of a light green hue with the dependant parts of a darker green. There was considerable distension of the chest, abdomen and private parts.

Port-mortem rigidity had disappeared, and the sphincters were relaxed.

The left side of face was battered in and covered with blood, the protruded nearly an inch and was much swollen, fluid and froth exuded from the mouth and right ear and a clot of blood was present in the left ear.

The right eyelids were much swollen.

The injuries on left side of head and face consisted of several lacerated extensive wounds involving the soft parts, bone and brain.

The injured area measured 4½ inches from A to B and from C to D as shown in Photograph no.1. Above the point C in photographs was a mark corresponding to the end of the hammer found near deceased.

The area so injured was depressed to the extent of one inch below the normal surface, the depression being most marked beneath the rectangular mark at C.

Internal examination:- On reflecting the scalp and soft parts of face we observed an extensive comminuted fracture involving all the bones under the injured area. The extent of the injuries to the bones measured 7½ inches from A to B, and 5½ inches from C to D in Photograph no.2.

On removing the skull cap, the brain was found to be in such a pulpy condition that it was impossible to recognise the different parts.

The fractures extended through the middle fossa to the base of skull.

On opening the chest and abdomen gas escaped freely. The internal organs were all healthy, but showed signs of putrefaction.

No foreign bodies were present in the mouth or air passages, and the stomach and bladder were both empty.

We further certify on soul and conscience that from these inspections we are of the opinion that John Barclay Smith died from the above described injuries to the head, resulting from external violence.

Elgin 30th Sept 1907.

James A Stephen M.B. (signed)

Thos H W Alexander M.B. (signed)

The Elgin Courant and Courier 29th October 1907

‘The Lhanbryde Murder. Hume Before The Sheriff. The man Joseph Hume, arrested in Stirling on Wednesday evening on suspicion of being connected with the murder of John Barclay Smith at Lhanbryde last month, was conveyed to Elgin on Friday morning last. As stated in our Friday’s issue, Superintendent Cameron, Elgin, and Constable Geo. Robertson, Lhanbryde, left Elgin early on Thursday morning to convey Hume to Elgin. At first it was expected the officers would arrive in Elgin with some of the last trains on Thursday evening, and in the belief of this hundred gathered at the stations, while a large crowd also assembled at the top of Commerce Street and in the vicinity of the police office. It was ascertained, however, that Hume would not arrive in Elgin until Friday forenoon. With the hope of getting a glimpse of the prisoner, a large crowd gathered within the Highland Railway Station to meet the arrival of the 10.40 train. Chief Constable Mair and a number of constables were present. When the train drew up, the officer came out of a carriage at the rear of the train. Hume was securely handcuffed to Constable Robertson. The crowd at once gathered round the officers and their prisoner, but they pushed their way through and entered a cab waiting at the outside of the station. At the Police Office another large crowd had assembled.

During the afternoon Hume was brought before Sheriff-Substitute Gray Webster. The proceedings lasted about twenty minutes. The examination was held with closed doors. Hume was seated in the dock between two policemen. He was accompanied by his agent, Mr A. D. McCaskie, solicitor, Elgin. The others present in court included Mr R. B. Gordon, procurator-fiscal, and Mr J. B. Mair, chief constable. On his name being called, Hume sprang with military-like alertness to his feet. He evinced no concern as the indictment was read over to him by Mr J. H. Kissach, sheriff-clerk depute. He appeared to listen closely to the charge, which was to the effect that he did assault and murder John Barclay Smith at Lhanbryde between 24th and 26th September. Hume emitted a declaration, and committed to prison.

During the whole of the proceedings Hume looked steadily in front. He is a native of Jarrow, 25 years of age, and about 5 feet 4¾ inches in height. He is of very slight build, with deep-

set, keen, dark eyes, and an usually pallid complexion. On arrival at Elgin Hume was very untidy, while his face bore a very hunted and worried expression. His cap was well drawn over his head, but it could be seen that his hair was very long and unkempt. Round his neck a muffler was loosely arranged. His coat and trousers were of dark, rough cloth. During the court proceedings a number of people looked through the glass panelled entrance door of the court.

Excitement in Stirling. As in Elgin, there was a good deal of excitement in Stirling when it became known that Hume had been arrested. It appears he had resided in Stirling since 11th October under the name of Joseph Middleton, and latterly had been employed as a mason's labourer with Messrs J. & W. Ronald, builders. A dense crowd assembled in Broad Street, in the vicinity of the Police Office, and not until long after midnight did the last of those anxious to get a glimpse of the prisoner give up their wait. Superintendent Cameron and Constable Robertson left with Hume for Elgin by the 5.12 a.m. train, and, early though it was, two or three dozen people saw the party off.

His Identification. During the afternoon over a score of persons attended at the Police Office for the purpose of identifying the prisoner. Of these, some fourteen or fifteen were from Lhanbryde. That Hume was the last man seen in the company of Smith there cannot be the least doubt. Four men were paraded in the prison yard during the forenoon, and one by one they were taken in to see the man. Not a word was spoken, but they were questioned by the police when they got out in the yard if they could identify the man they saw in Lhanbryde with Smith. Henry Baxter, porter at Lhanbryde Railway Station, who, it may be remembered, sold tickets to Smith and the man with him on the Tuesday morning before the murder, was consulted, and said he identified him at first glance. Amongst others who identified him easily were John Proctor, jun., Sawmills, Lhanbryde; Charles Duncan, Lhanbryde; Alexander McArthur, Lhanbryde; James Smith, Lhanbryde; Margaret McGilivray, Lhanbryde; and William Stewart, roadman, High Street, Elgin, who, it may be remembered spoke several times to the man who broke road metal with Smith near Mosstowie, also identified him. There were said to be others who had no difficulty in picking out Hume as the man, but the numbers were not given, neither was it stated if any of the people failed in doing so.

Accused Conveyed to Inverness. After his examination before the Sheriff, Hume was again locked up in the cells until about 4.30 p.m., when he was again driven in a cab to the Highland Railway Station, to be taken to the prison at Inverness. The public had no idea that Hume was to leave Elgin during the afternoon, consequently only one or two passers-by were on the street when he came out of the prison yard. The cab went by way of Abbey Street, and on arrival at the station, the news rapidly spread through the town. Being the usual market day in Elgin, there was a large number of farmers and other people from the country assembled within the station. The crowd, however, was soon largely augmented by scores of others, who had by this time learned the news of Hume's departure. Hume was in the custody of Superintendent Cameron, Sergeant Morrison, and Constables Robertson and Pirie. Immediately on arrival of the train, Hume was put on board a third-class carriage, the blinds of which were drawn. He was again handcuffed to Constable Robertson, and sat next to the window, Sergeant Morrison being in the opposite corner. Superintendent Cameron and Constable Pirie remained on the platform until the train departed no one being allowed near the carriage. Hume, who sat erect, for the most part kept his eyes riveted on the lamp in the roof of the compartment, but occasionally glanced blankly at the people on the platform. He appeared considerably freshened up, apparently having a good wash.

How Prisoner was Caught. Particulars have now been ascertained of how it came about that Hume was run to earth. It will be remembered that when the murder was discovered, the only information the police had to work upon was that a man, apparently belonging to the tramp fraternity, had been seen in the company of and resided with Smith for several days. Only

having been a few days in the district, the police did not even know the man's name, and all the information that could be got was a rather vague description, gathered from inquiries made at several persons in the village. Among the notices of deserters mentioned in a recent issue of the "Police Gazette" was a description of a man which complied in almost every detail with the man suspected of having been connected with Smith's murder. The description stated that the man had enlisted in the Highland Light Infantry under the name of Joseph Rutherford, and he deserted from Fort George on the 18th September, or about a week prior to the murder. Following up this clue, it was ascertained that the man had enlisted under an alias, and his real name was believed to be Joseph Hume. Having thus got so far, it is only the matter of a short time before Chief Constable Mair was in possession of Hume's photograph. Circulars with the photograph and a full description of Hume were soon sent out, and the last of the circulars had only been an hour or two posted when, as previously stated, information arrived by telephone that Hume had been arrested in Stirling.'

The Elgin Courant and Courier 7th February 1908

'Aberdeen Circuit Court. The Lhanbryde Murder. Trial of Hume. Interesting Evidence. Unusual interest was manifested in the trial of Joseph Hume in connection with the Lhanbryde Murder, when the case came up before Lord Mackenzie at the sitting of the High Court of Justiciary in Aberdeen yesterday. Long before ten o'clock, the hour at which the court was fixed to meet, a large crowd congregated on the street anxiously awaiting admission. Owing to the large number of witnesses, however, there was only accommodation for a limited number and the vacant seats were soon filled up. Lord Mackenzie took his seat on the bench promptly at ten o'clock.

The Indictment. The indictment runs as follows:- Joseph Hume, prisoner, in the prison of Inverness, you are indicted at the instance of the Right Honourable Thomas Shaw, His Majesty's Advocate, and the charge against you is that, on September 24 or 25, 1907, within the dwelling-house in the village of Lhanbryde, in the parish of St Andrews-Lhanbryde, and county of Elgin, some time occupied by the now deceased John Smith, contractor, you did assault the said John Smith, and did strike him on the head with a roadman's mash hammer or other weapon and did fracture his skull, and did murder him.

Mr A. M. Anderson, advocate depute, assisted by Mr W. M. Millar Craig, prosecuted, while Mr Alexander Moncrieff, assisted by Mr Dallas, appeared for the prisoner, and Mr A. D. McCaskie, solicitor, Elgin.

The first witness was George Mackie Robertson (36), police constable at Lhanbryde, who, examined by the Advocate-Depute, spoke as to the discovery of the murdered man's body and his examination of Smith's cottage. He spoke as to finding Smith lying on the bed, and a hammer, with blood on the handle, lying on the floor. Witness proceeded to Elgin, and reported the matter to the Chief Constable. He returned on the same day to the deceased's house, along with Superintendent Donald Cameron, and made a closer examination of the body. He found, on examining the head of the deceased on that second occasion, that the skull had been battered in with the hammer produced. He took possession of a board from the head of the bed, because there was a mark on it as if caused by a hammer.

With reference to the vest, do you remember noticing particularly the position in which the vest was? – Yes. It was twisted so that the left breast, containing the small pocket where a watch is usually kept, was lying upwards on the pillow. Witness proceeded to tell of his visit to Stirling with Superintendent Cameron. At Stirling Police Office, James Millar, pawnbroker, Edinburgh, identified the accused as the man who pawned a watch, now produced, in Edinburgh. That was on Thursday, October 24. Witness was also present when Superintendent Cameron cautioned the accused in the usual way, and then charged him with the murder of Smith.

What reply did the accused make to the charge in your hearing? – He said – “I ken nae-thing about it. I never saw Smith.”

Did he make a further voluntary statement to you and Cameron, explaining his movements after the cautioning and the charge? – Yes.

What did he say? – After leaving Stirling on October 25, he said – “If this occurred on September 25, I was in Edinburgh at 8 o’clock in the morning on September 25, went to a lodging house in Grove Street, took a bed for the night, and then knocked about the streets until about 4 o’clock in the afternoon, when I went to my brother’s house.” He said he walked from Nairn to Inverness on Tuesday, 24th. He caught a train leaving Inverness about 10 o’clock at night for Perth. He got in below a seat in a railway carriage. Witness, in cross-examination, described the dimensions and arrangements of the room where the murder took place.

Mr Moncrieff asked questions about murders committed under circumstances similar to those in the present case, but before he proceeded far said he would reserve that examination for the Chief Constable.

Alexander Cobban, sen., (55), carpenter, Lhanbryde, said he lived in the same line of buildings as that occupied by the deceased James Barclay Smith. Between 11 and 12 on the Sunday morning, his son came to tell him that Constable Robertson wanted him, and he proceeded to Smith’s house. He spoke to the finding of the body. He saw Smith lying on the bed, and he noticed blood on Smith’s face. He also perceived a pool of blood on the floor below where Smith’s head had been lying. He saw the hammer near the fireplace. There was blood upon it. There was an almost unbearable smell in the house. He and his son did not wait long in the house. He came out and left his son and the constable to secure the door.

You were asked by the police and the Procurator-Fiscal shortly after the discovery of the body when you had last seen Smith alive – Yes.

You then said, as you say now, it was 6 o’clock in the morning of Tuesday? – Yes.

James Cobban (19), son of the late witness, spoke as to entering the cottage with Constable Robertson, and described the scene in the interior. Witness didn’t remember what the bedding consisted of. He helped to make a coffin for deceased and assisted to put deceased into the coffin. He noticed then that Smith had got a severe and serious blow on the head, on the brow, which was knocked in and partly flattened.

Chief Constable Mair, Elgin. John Bagrie Mair, chief constable for Elginshire, spoke of the case being reported to him on Sunday, 29th September, and of his visit to the cottage.

Did you form an opinion at the time, looking to the condition of the body as regards decomposition, how long the man had been dead? – I formed the idea that he must have been dead for several days.

He left Superintendent Cameron and Constable Robertson and Dr Stephen on the premises, and returned to Elgin in the doctor’s motor. He afterwards returned to Smith’s house in the motor with Dr Alexander and a photographer. The photographer took photographs of the room and body before anything had been touched, and of the outside of the house. The two doctors made an external inspection of the body, but resolved not to make a post-mortem there and then. With the object of making a post-mortem examination, the body was removed to the mortuary at the Police Office in Elgin the same evening – Sunday, September 29 – and the two doctors made the post-mortem examination on Monday, September 30. Witness was present. Having examined Smith’s house that evening, witness made a more particular examination on the Monday. Mr Mair told in detail what he saw on examining the interior of the cottage. There was no mattress in connection with the wooden bedstead, but there was hay covered by a sheet. He observed that beneath the head of deceased the blood had soaked through the hay to the floor. He found the body partly undressed, lying on its back, in a restful, peaceful position, with the arms folded over the body. He noticed spots of blood on

the roof, over where the head was lying. The roof was only about 7 feet 6 inches high. There were also blood stains on the partition opposite the head, but there were no blood stains on the board, which was taken from a position in close proximity to where the head was resting. In the passage he found some turnips, evidently pulled about a week before, and also some portions of underclothing. The east room was evidently used as a lumber-room solely, and in it he found a number of roadmen's tools. The whole house was in a very dirty condition. He saw no signs by way of broken, overturned, or disarranged furniture, indicative of a struggle having taken place. Accused was arrested in Stirling in October.

Would you tell the jury the method adopted in having him identified by witnesses? – I got three other prisoners as nearly identical with accused as possible, and arranged the accused along with them. I took the prisoners up in front of the prisoners, round behind them, and some distance from them, before I asked them anything. The witnesses he took in at once identified the accused. The various witnesses were taken in separately.

Did any of them pick out as the person some one other than the prisoner? – Yes. I believe so. I believe Mrs Smith and William Edwards did. These witnesses were taken in by Superintendent Cameron. Out of seventeen witnesses, two identified persons other than prisoner, and fifteen identified prisoner.

Witness then spoke of the apprehension of Hume, and of his discovery that a person of Joseph Rutherford had deserted from Fort George, and a photograph was identified as that of Joseph Hume at the Barracks at Fort George.

How did they know that a man, whose army name was Rutherford, was known elsewhere as Joseph Hume? – The officers at the barracks identified the photograph of Joseph Hume as the person serving in the army as Joseph Rutherford.

Beyond the fact that certain witnesses believed they had seen Hume or Rutherford with the deceased, had you any reason, when you applied for the warrant to apprehend the suspect, that he had murdered Smith? – I suspected that the person that was last seen in the company of Smith was the last person who committed the murder.

Witness further stated that in Smith's house there was some "iron brew" on the table, and in a cupboard there was a good deal of food. There were also some papers belonging to Smith on a shelf. They were not very tidily put together, but they might possibly have been left with Smith in that way.

Superintendent Cameron, Elgin. Superintendent Donald Cameron (38), Elgin, deposed that on October 24, along with Constable Robertson, he went to Stirling, and was present in the Police Office there where accused Hume was identified by a witness, James Millar, as a man who had pawned a watch – the watch produced in this case – in Edinburgh. On that day, in presence of Robertson, he cautioned accused in the usual way, and charged him with the murder of Smith. Witness then spoke as to Hume's statements as to his movements.

Did you receive a silver watch and chain from Edinburgh for the purpose of having it identified by a watchmaker? – Yes.

Did you submit the watch to A. C. Junner, watchmaker, Elgin, and did he identify, in your presence, the watch shown by you to him as a watch he had repaired for the deceased, John Smith. Do you remember? – Yes.

He assisted the Chief Constable of Elginshire in getting accused identified by a number of witnesses. He showed 11 witnesses altogether, and these Miss Smith and a lad named Edwards identified another man as having been with Smith and not this man.

Did the nine other identify the prisoner? – No, some of them did not.

Lord Mackenzie – How many of the nine could not identify the prisoner? – James Smith, railway worker, Lhanbryde, said he was not sure.

Witness said the other eight identified the prisoner. They were – Henry Baxter, Neil Campbell, Jessie Bella Smith, Alexander Winchester McArthur, John Edwards, James Stewart, James Walker, and John Milne.

Were you present at Fochabers when the prisoner was shown, among others, to Jane McGillivray? – Yes.

Did she pick out some one other than the prisoner? – At Fochabers a man Robert Stephenson was arrested.

Did Jane McGillivray pick out some one other than the prisoner? – Yes.

And, in your presence at Lhanbryde, did Mrs Smith and William Edwards also pick out some one other than the prisoner? – Yes.

Re-examined – Do you know that with reference to Jane McGillivray only one man was shown to her? – She said she never saw that man in deceased's company.

Was that it? She said she thought she saw that man – who was not accused – in Smith's company at Lhanbryde.

William Douglas (52), carting contractor, 20 St Peter Street, Aberdeen, said he made the acquaintance of the deceased man Smith about two years ago. He referred to his dealings with Smith in carrying out a road metal contract with the Elgin County Council. The contract was finished about the end of August 1907. He remembered settling with the Road Surveyor, and getting a balance of £30 due on the contract. Of this sum he paid £4 5s or £4 6s to deceased.

A Garmouth Constable. Constable Christie (39), Garmouth, said that on April 3, 1907, he arrested a man on a charge of being drunk and incapable. The man gave the name of John Barclay Smith, road contractor, Lhanbryde. He was for a little time in custody in the police cells in Garmouth, but was liberated on bail. On going to the cell after the man was gone, he found in the bed a watch chain (produced in court). The chain must have belonged to the man Smith. Thinking it of little value, witness retained it until he handed it over to the Procurator-Fiscal in connection with this case.

Employees of Smith. James Duncan (20), roadman, Urquhart, said he was employed by Smith in breaking metal in the spring and summer of 1907. Two jackets were produced as having belonged to Smith, and witness said he had seen Smith with one of them. He was not sure about the other.

William Thomson (50), labourer, Fosterseat, Elgin, said he was a roadman, and broke metal for the deceased man Smith during the spring of 1907. He saw Smith at intervals, until within a fortnight of the discovery of his death. He had seen Smith with a change of suit during that year. He remembered having a drink with him in Elgin a fortnight and a day before the discovery of his death, when he wore a brown tweed jacket like the one produced. Prior to that, on a Sunday afternoon, Smith and his partner Douglas called upon witness at witness's house. Smith was then wearing a different suit of clothes, and witness was satisfied that he had more than one suit of clothes.

Colour-Sergeant Griffith. Hugh Griffith (32), colour-sergeant, Highland Light Infantry, Fort George, examined by the Advocate-Depute, said accused was a soldier in his regiment at Fort George.

What was his regimental name? – Joseph Rutherford. He belonged to witness's company. He deserted on September 18, 1907, from Fort George.

Did a man called William McMillan join on September 18?

You never saw Rutherford or Hume with a watch? – No.

You know that he had no money when he left on the 18th? He received 1s of pay on that morning.

By Mr Moncrieff – You know that Rutherford has 1s of pay on 18th, but do you know anything at all about what money he held? – No, sir.

When Rutherford left Fort George, did you examine his kit box? – On the following day I did.

Did you find it empty? – Yes.

When McMillan enlisted he was furnished with a uniform complete, and the plain clothes he brought to the Fort were thereafter entirely at his own disposal.

Re-examined – When a man became a private soldier, the Government supplied him with tartans, two tunics, boots and underclothing – three shirts.

Did accused take away his uniform when he left? – He disposed of it.

You don't know whether he sold it or what he did? – No.

Supposing he sold it, what would he get for it? Sometimes they got a mere trifle – a few shillings.

A Soldier's Story. William McMillan (19), Cairneyhill, Dunfermline, examined by the Advocate-Depute, said he enlisted in the Highland Light Infantry, and was sent to Fort George on September 17. On the following day a uniform was handed to him, and he was shown into a room to change. He found a man in the room. Hume is the man I found in the room. Witness put his own clothes in a parcel and tied them up. He addressed the parcel to his father, and, as he could not get out himself, he gave it to the prisoner, who offered to post it.

You did not see the man until you were shown him in the prison in Inverness? – No. His father wrote saying he had not received the clothes. Witness was then shown clothes, and he said those were the clothes he was wearing when he went to Fort George.

Charles George, Bishopmill. Charles George, Willow Bank, Bishopmill (35), said he was a foreman at Kingsmill, Elgin. About 4 o'clock on the afternoon of Thursday, September 19, 1907, a man called at the mills asking for work. Witness told him he would require men in the first of the week, and if he called back on Monday he would probably give him a job. The man said he would require two days' work to keep him over Sunday, but witness told him he could not give him work right away.

Did he come back on the Monday? – No.

Did he come back at all? – No.

On November 6 of last year were you shown at Inverness, in the prison hall, three men, all dressed in ordinary clothing? – Yes.

Did you identify one of the three men as the man who called at Kingsmills on Thursday, September 19, inquiring for work? – Yes.

Would you look at the accused? Is that the man? – yes.

Cross-examined by Mr Moncrieff – Do you remember seeing the man whom you identified on November 6 after the Thursday? – No.

It was partly by his clothes you identified him? – No; by his face.

A Stonebreaker's Story. James Stewart, 285 High Street, Elgin (65), examined by the Advocate-Depute, said he was a stonebreaker, and during the last half of September he was breaking stones at the side of the turnpike road, leading from Elgin to Nairn, not far from Newton Quarries. On Friday, September 20, while witness was at work, a young man came up to witness from the direction of Elgin, and inquired where the Newton Quarries were, as he was looking for work. Witness pointed out the quarries to him. Within half-an-hour or so he returned to where witness was still at work, and said he could not get work at the quarries.

Witness suggested to the man he might get employment at the sewerage works at Elgin, and he went towards Elgin. On the morning of Monday September 23, a man came up to where witness was working. He knew it was Smith, a road contractor. Smith told him he was breaking stones under contract for the road surveyor of Elginshire, and asked the loan of a mash hammer.

Did you give him a mash hammer? – Yes.

You got it back again? – Yes; on the following day, Tuesday, September 24.

Was it Hume who returned the hammer which Smith had borrowed from you on the previous day? – Yes.

Did Hume say where he was staying? – Yes, with Smith, the contractor.

Did he say he would get his food and bed from Smith at Lhanbryde? – Yes.

Witness saw Smith that same afternoon – Tuesday, September 24 – working at a bing of metal about 150 yards from his own. That was the last occasion on which he saw Smith or the young man.

On Tuesday, 24th, the prisoner came and returned the hammer which Smith had borrowed from you, and told you that he was working with Smith breaking metal? – Yes.

And you saw him going down in the direction of Smith's bing, and thereafter you saw two men breaking metal at Smith's bing? – Yes.

You could recognise one of the men as Smith and the other as the prisoner? – Yes.

When you went to Smith's bing it was the dinner-hour, and when, on the road towards the bing, you did not see any of them, you went up to the bing to see if the men were sitting at the roadside, and what progress they were making with their work? – Yes.

James Walker, Elgin. James Walker, jun. (23), labourer, Lady Lane, Elgin, said he was working at the Elgin Sewage Works in the month of September last. He remembered Friday, September 20, that a young man came and spoke to him, and asked him where the foreman was, as he wished a job. He told the young man the foreman's name. On the following morning, that was Saturday, September 21, the weather was very wet, and in consequence nothing was done at the sewage works.

Did you see the same young man who had been there on the Friday on the Saturday morning in High Street, Elgin? – Yes; at eight o'clock in the morning.

You remember those days. Why do you remember the Saturday? – Because it was wet, and we could not work.

Was there any one with the young man when you saw him on the Saturday in High Street, Elgin? – He was in company with a man I did not know.

Would you give me a description of the man? – He was about 5 feet 10 inches in height, well built, had a reddish kind of whisker, and wore a light waterproof coat.

Did you speak to the young man? – Yes, I asked if he had got work, and he said yes, he started on the road.

On Friday, October 25 last, in Elgin prison yard, were you shown four men, and did you identify one of the four men as the young man you had seen on these occasions? – Yes.

Look at the prisoner. Is that the man? – Yes, that is the man I saw.

Was 6 p.m. on Tuesday the last time you saw those two men? – Yes.

Councillor Junner, Elgin. Andrew Charles Junner (50), watchmaker, Elgin, said he remembered a man calling at his shop about a week prior to September 14, and leaving a silver watch to be cleaned. The man gave his name as John Smith, Lhanbryde. The watch was cleaned in witness's shop, and Smith returned for it on Saturday, September 14, and paid 2s 6d for having it cleaned. Witness examined the watch, which was a pair-cased watch, numbered 514. After hearing of the death of Smith, the police called at witness's shop some time after, inquiring about a watch, and he supplied them with particulars about it. On the evening of Sunday, October 13, the police again called and showed him a pair-cased silver verge watch. The watch had a white-metal chain attached to it.

The watch and chain was produced, and witness recognised the watch as that which Smith handed to him to be cleaned, adding, "I find in the watch my private mark, indicating that I repaired the watch." The watch, continued witness, had a chain of some sort attached to it, and he put one of his keys on to it. He could not swear that it was a white-metal chain.

John proctor, jun. (23), Sawmills, Lhanbryde, also gave evidence.

Murdo Fraser. Murdo Fraser (14), Lhanbryde, said he remembered about Smith's body having been found. It was on a Sunday. On the Sunday before that – September 22 – about 2 o'clock in the afternoon, he saw Smith outside Macpherson's shop, near Smith's house. There was a young man along with him. He had seen the same man in Lhanbryde on the previous day twice. About 2 o'clock on the Sunday afternoon he saw Smith and the young man going in the direction of Smith's house. They were in company, and were talking together. He was shown four men on October 25 in Elgin prison, and he identified one of the men as the young man he saw twice on the Saturday and along with Smith on the Sunday.

Cross-examined by Mr Moncrieff – The Sunday was the only time he ever saw Smith speak to this man.

A Link in the Chain. John Milne (22), apprentice grocer, Lhanbryde, in the employment of Mr Taylor, grocer, there, said between six and seven o'clock in the evening of Monday, 23rd, or Tuesday, September 24, a young man came into the shop and made some purchases. What purchases did he make? – A pennyworth of tea, a pennyworth of sugar, a half loaf, and two pence worth of butter. He was shown four men in Elgin prison on October 25, and he identified one of them who purchased the groceries in Taylor's shop. He identified that man as the prisoner.

A Railway Porter. Henry Baxter (31) railway porter, Lhanbryde, said on Sunday, September 22, he saw Smith and another man on a seat on the platform at Lhanbryde. He did not know the other man, but he appeared to be about 25 or 26 years of age. On the morning of Tuesday, September 24, witness was on duty at the railway station when Smith and another man left Lhanbryde for Elgin by the 5.30 am train. The other man was the same young man who had been with Smith on the Sunday.

Were you shown on October 25, in Elgin prison, four men, and did you identify one of those men as the young man you had seen with Smith on Sunday 22, and as the young man who had travelled with him from Lhanbryde to Elgin on the morning of Tuesday, September 24? – Yes.

Look at the prisoner. Is that the man? – Oh, yes; there's no doubt about it.

Cross-examined by Mr Moncrieff – After 5.30 on Tuesday morning did you ever see that young man again? – No.

Did you see Smith again? – No.

The Lhanbryde Stationmaster. John Stevenson (43), stationmaster, Lhanbryde, said either on the Monday, September 23, or Tuesday 24, he saw Smith coming off the train from Elgin, arriving at Lhanbryde at 7.30. He rather thought it was on the Tuesday. He collected deceased's ticket that night. Deceased gave him one ticket. There was another man came out after Smith. The last train leaving Lhanbryde for Edinburgh on Tuesday was due at 7.40, but left at 7.46.

John Bowie (31), police constable, Elgin, said he was stationed at Lhanbryde during the spring and summer of 1907. He was well acquainted with the deceased Smith, who was well known in Lhanbryde as "Bothy" Smith, and his house at the "Bothy."

When did you last see Smith alive? – On the morning of Monday, September 23, at 7.15 and 7.45. That was on High Street, Elgin, and I spoke to him the second time.

Was there another man with him? – Yes.

Did they both look as if they had been drinking the previous night? – Yes.

What did you say to him? – I said "You are surely dry when you are in the town so early."

Did you think he was waiting for the opening of the public-house? – As a matter of fact he said he was.

Did you note the appearance of the man with Smith? – Yes.

Was that the only time you had seen that man? – Yes.

Look at the prisoner. Is that the man? – Yes.

A Schoolboy in the Box. Charles Duncan, jun (13), said he was a schoolboy, and the son of Charles Duncan, tailor, Lhanbryde, with whom he lived. He remembered that one Tuesday in September going to spend a day with his grandmother at Lossiemouth. It was Tuesday, September 24. Going home to Lhanbryde from Lossiemouth that night witness came by train, leaving Elgin at 7.20 pm. When he was at the station at Elgin waiting for his train for Lhanbryde, he saw a Lhanbryde man whom he knew very well. It was John Smith, whose nickname was "Bothy." Smith was sitting on a form in the railway station, near the gent's waiting-room. He seemed to be the worse of drink. There was another man sitting beside him, and witness thought he also had had too much drink. The two men were in company, and speaking with one another in quite a friendly manner.

Did you see Smith and the man who was with him get into the train for Lhanbryde? – Yes.

Did you also get into the train? – yes.

They both got into the same compartment. Did you see that? – Yes.

When you came to Lhanbryde and got out, did you see Smith and the man who was with him leave their compartment also? – Yes.

Did Smith and his companion leave the station in front of you? – Yes.

Did you come down the station road that night? – Yes.

When you come to the main road at the foot of the station road, you turn to the right hand to get to your house? – Yes.

Is there a footpath leaving the station road just after you leave the station going to Smith's house? – Yes.

Did you see Smith and the man who was with him go off from the station road along that footpath as if making for Smith's house together? – Yes.

Was that the last time you saw Smith? – Yes.

Was the next time you saw the man who was along with Smith on October 25 in Elgin prison? – Yes.

Did you pick him out from among four men who were all standing there together? – Yes.

Smith's Neighbours. Margaret McGillivray (22), daughter of and residing with Alexander McGillivray, labourer, Lhanbryde, explained that her father's house was upstairs, above the house which the deceased John Smith occupied. Witness remembered on Saturday, September 21, about three o'clock in the afternoon, looking into Smith's garden and seeing a strange man lifting potatoes.

On the following day, Sunday, September 22, about 11 o'clock in the forenoon, did you see the stranger in Smith's house? – Yes; he was throwing out a basin of water.

Did he see you? – Yes; he drew in quickly.

A little later on the same day, when coming from the well, did you again see the man inside Smith's house? – Yes; at the lobby door.

Did you think the man saw you? – Yes; his face was towards me, and he drew in.

At that time did you see the deceased? – Yes, sitting beside the front kitchen window.

Continuing, witness said she did not see either of the men again that day, but five o'clock next morning she heard them making a noise as if they were preparing to go to work. She was visiting at Birnie and Longmorn during the afternoon, and returned home about a quarter past nine, and she did not see any light in deceased's house. On Tuesday, September 24, she was engaged washing blankets with her sister-in-law – Mrs Jane McGillivray, from Longmorn. She did not see any person about Smith's house or hear any movements. She went to Longmorn with her sister-in-law at four o'clock, and returned at 7.30. She did not see any light in deceased's house on her return at that hour. She afterwards went out and did not return till ten o'clock, and even then she heard nobody going about in deceased's house. There was no light. On Wednesday, September 25, between one and two o'clock, she went to

the well for water, and saw some boys pulling peas in Smith's garden. One of the boys was Willie Edwards.

Did you hear one of the boys call out something to you? – Yes.

What? – “Is ‘Bothy’ in.”

What did your reply? – I said “I didn’t know.”

You knew Smith kept his key under a stone and you lifted the stone to see if it was there? – Yes.

Was it? – No.

After looking for the key she knocked at the door. She got no reply. She then looked in at the window of the kitchen to see if she could see whether he was in or not.

What did you see when you looked in? – I saw what I took to be the form of some person lying on the bed.

Did you see anything on the floor? – A “sail” of water. On that day, about 4.30 in the afternoon, she went to Longmorn, and then to a place called the Level. She stayed there that night, and returned home on Thursday night, after darkness had set in. Nobody was in the house at the time she returned. She lighted the lamp. The kitchen of their house was over the kitchen of Smith's house.

When witness lit the lamp and had been in the kitchen for a little, she felt a disagreeable smell. She thought it was coming from wet clothes which she had left in the house. On the morning of the next day, September 27, about 10 o'clock, her sister-in-law, Mrs McGillivray, came from Longmorn to help her paper the kitchen. On the Friday morning she perceived that the smell was rather worse. Did your sister-in-law say anything about the smell? – She said it was a smell like dead rats.

Witness then spoke of her sister-in-law calling at her mother's house on Sunday, and, after referring to the smell, she called on Constable Robertson.

Mrs Hume, sister-in-law of the accused, also spoke of Hume arriving at her house flush of cash on the Wednesday, and also of having a silver watch, which, he stated, he bought on the way from Fort George.

After other evidence, the court adjourned until today (Friday) at 10 am.'

The Elgin Courant and Courier 11th February 1908

'The Lhanbryde Murder. Hume Sentenced To Death. The Closing Scenes. The second and last day's hearing in the Lhanbryde murder case was opened at the High Court of Justiciary in Aberdeen on Friday morning. Great interest seems to have been shown in the trial, and the courtroom was crowded, a large number of ladies being present. The prisoner if Joseph Hume, who is charged with the murder of John Barclay Smith, a road contractor. The evidence for the Crown closed about midday, and the last witness for the defence had left the box by 3 o'clock. After an interval of five minutes, held for the purpose of airing the courtroom, the atmosphere of which had become decidedly oppressive, counsel addressed the jury, and Lord Mackenzie delivered his charge, the speeches occupying about three hours. The jury retired, and, after an absence of an hour, returned a unanimous verdict of guilty against the prisoner. The Judge assumed the black cap, and passed sentence of death, Hume staggering perceptibly when the Judge had concluded, and as he was removed from the dock he waved his hand to some acquaintance in the audience.

The first witness for the day was William Edwards (11), Station Road, Lhanbryde. He said he lived with his father. He said that on Sunday, September 22nd, he saw Smith going across the plank over the burn, and a young man was with him. He did not see either of the two men after that. He also spoke as to being in Smith's garden on the Wednesday pulling peas with another lad. When they were in the garden they saw Margaret McGillivray, and they spoke to

her. She lifted a stone to see if the key was there. It was not there, and she then rapped at the door, and then she looked in at the window. Miss McGillivray said that Smith was in.

John Anderson, stationmaster, G.N.S.R., Elgin, gave evidence as to train connections from Elgin and Lhanbryde to the south.

Mrs Mary Armstrong, examined by the Advocate-Depute, said she was a widow, and resided at 41 Lower Viewcraig Row, Edinburgh. She knew the accused Joseph Hume. A considerable time ago he had been paying attentions to her daughter for about a year. She remembered seeing Hume in Edinburgh on Wednesday, September 25 last, about 4 o'clock in the afternoon. She saw him in West Richmond Street, in the south side of Edinburgh, near Potter Row. Witness spoke to Hume, and she saw him again on the next day (Thursday) in the forenoon at 11 o'clock. He was going past the bedroom window.

A Former Sweetheart. Miss Mary Armstrong (23), daughter of the previous witness, and residing at 41 Lower Craigview Row, Edinburgh, said she knew prisoner.

I think he paid attentions to you from September, 1906, onwards? – Yes. He was a soldier in Edinburgh at that time.

Do you remember seeing him in Edinburgh in the month of September last? – Yes, sir, on Thursday, 26th, at 11 o'clock in the forenoon. He passed the window of the witness's house and knocked at the door in passing. Her mother did not let him in. She next saw him on Friday, September 27, at 12 o'clock noon. She was then alone in the house. She saw him on Friday, October 4, at the top of Watson's Avenue, near her house. That was about 10 o'clock at night. When he saw her he took hold of her.

What did he say? – He told me he had pledged a watch and chain, and had spent the 25s he got for it. He said he had pledged it a week before that.

Cross-examined by Mr Moncrieff – Did he say he got the money from the bottle works for working? – Yes.

Did he make any other explanation of where he got the money? – Yes; he said he had gambled for money in barracks, and won. He made no other explanation about his watch and chain, except that he said he bought them. He didn't say where.

James Smith (35), 7 Westfield Street, Edinburgh, examined by the Advocate-Depute, said he was a foreman mason with Messrs Turner & Sons, builders, Gorgie. In the month of September there was a man employed by his firm, named Robert Hume (brother of the accused). He started on September 6. On Thursday, September 26, he called at the yard about 4 o'clock in the afternoon, and lifted his pay. When Robert called for his wages on the Thursday, witness noticed he had a curb chain of white metal or silver.

A chain similar to that (producing a curd)? He did not notice him having a chain before that day. When Robert Hume got his money on Thursday afternoon there was another with him, whom he now recognised as the prisoner.

James Millar (25), 5 Springvalley Terrace, Edinburgh, examined by the Advocate-Depute, said he was manager with Mr Quinn, pawnbroker, 51 Candlemaker Row, Edinburgh, near Potter Row. He told the story of the pawning of the watch by Hume, who gave the address of John Middlemas, 12 Grassmarket.

James Farquharson, detective in the Edinburgh City Police, said he went to 12 Grassmarket to inquire whether a John Middlemass had been staying there. He ascertained that no person of that name had been residing there.

Identifying the Watch. Charles Goodwin (44), police inspector, Bathgate, deponed that on October 18 he received from the Elginshire police the verge watch and chain produced, for the purpose of showing it the witness Mrs Hume for identification. The method he adopted for identification was that he procured three other watches identical with the one from Elgin, and, placing them alongside, he showed them to Mrs Hume. She looked at them for a time,

and then identified the watch produced as the watch her brother-in-law had shown her on September 25 and 26.

At the times you were showing the watches to Mrs Hume, was there attached to the watch produced in court, the silver chain now fixed to it? – Yes. There was attached also the watch-key, which was of a very unusual pattern. The chain and key were concealed from Mrs Hume.

Janet Laing (28), examined by the Advocate-Depute, said she was a domestic servant with Mrs Multern, who kept a lodging-house at 31 St Mary's Wynd, Stirling, in October last. Witness helped her in working the house and looking after the lodgers. It was a common lodging-house for working men, who paid by the night for their beds. The men who occupied the house a rule brought in their own food, and did their own cooking. She remembered on a Friday night, towards the middle of October, two men coming to the lodging-house and asking her if they could give them lodgings. She told them they could get lodgings, and they just took one room and one bed between them. She did not remember the names given.

On the Wednesday of the following week were you shown a photograph by Constable Dewar of the Stirling Police, and did you recognise the photograph as that of the man you now see? – Yes.

On the next day she was shown in the Burgh Police Office in Stirling the man at the bar, and identified him as one of the lodgers.

The Arrest. Sergeant George Gilmour, Stirling Burgh Police, said he learned that accused was supposed to be working with a firm of builders in Stirling. He saw one of the partners of the firm he was supposed to be working with, and showed him the photograph of Hume. He told witness that one of his workmen, Joseph Middleton, resembled the photograph as that of the man in his employment. Joseph Middleton had been in the employment of this firm for about a week. He apprehended Hume on the 23rd, and he gave the name of Middleton. He charged him with Murder. Accused said his name was Joseph Hume, and that he had been in the Highland Light Infantry under the name Joseph Rutherford, but had deserted. He said he did not know John Barclay Smith, that he knew nothing about the matter, and there must be a mistake.

When you were examining his trousers, did he say anything? – he said, “They are not the same.”

Did you ask him what he meant by that? – Yes.

What did he reply? – He said they were not the trousers he deserted in when he left Fort George. He did not tell witness that he had deserted in his uniform.

William Coutts, inspector, Stirling Burgh Police, generally corroborated.

Medical Evidence. Dr Alexander, Elgin, said on Sunday, September 29, he, along with Dr Stephen and the Procurator-Fiscal of Elginshire, went to Lhanbryde and examined the dead man lying in a bed in a cottage. He found the deceased, John Barclay Smith, lying on a rough bed, with extensive injuries on the left side of his face and head, his skull having been crushed in. He concluded that the injuries were caused by the use of a hammer which he saw lying with blood upon it. Witness then read the report which Dr Stephen and he had drawn up. The report gave a detailed description of Smith's injuries. The left side of the face was battered in, and covered with blood, and the tongue was much swollen. The injured area was depressed about one inch below the normal surface. As regards the internal injuries, the report stated that when the skull cap was removed the brain was found in such a pulpy condition that it was impossible to recognise the different parts. The internal organs were all healthy, but showed signs of putrefaction. The report concluded: - “We further certify that from these inspections we are of opinion that John Barclay Smith died from the above injuries to the head, resulting from external violence.” He formed the impression that deceased was murdered in his sleep. Decomposition was well advanced in this case.

In addition to the micro-organisms, do you occasionally find, when there has been a wound on part of the surface of the body open to the atmosphere, that the dead body is attacked by maggots, or the larvae of the blue-bottle fly? – Yes.

Did you find in this case that the body had been attacked by those maggots? – Yes, on the back of the head. He fixed the date of the death at four days prior to Sunday, for the reason that maggots are a stage in the existence of the ordinary fly, and that this stage occupies about eight or ten days. These maggots as far as we could determine by their appearance, had at least passed their half stage of development. That is to say, they had probably been in existence for four or more days.

Cross-examined with regard to the presence of bloodstains on Hume's clothing, witness was asked – If there had been bloodstains, large or small, not dissolved, would not your investigations have disclosed them – We may have failed to detect them.

On the ground of being small? – Yes.

What is the latest date you think, from your own observation, apart from what you have been asked to assume, would explain the appearance of the body and surroundings? – I think every date after Monday would make it much more improbable. I think it highly improbable that death took place after Tuesday.

It is impossible that death could have taken place on Wednesday? – It is possible, but highly improbable.

Dr Stephen, Elgin, concurred in the statement contained in the report spoken to by Dr Alexander, and generally corroborated. According to probability from the appearances he saw, Monday might have been the date of death. It was possible that death might have taken place on Friday the 20th, and it was possible that death might have taken place on an earlier date.

The Defence. John Edwards, Lhanbryde, said he remembered seeing a man in Smith's company on Monday September 23rd, or Tuesday, September 24th. The prisoner was the man. On Wednesday, 25th, he saw Smith and the prisoner coming in the direction of the constable's house on the path leading on to the public road to Elgin. That was about ten minutes past six.

By the Advocate-Depute – The last time you saw Smith he was accompanied by the man who is now sitting in court? – Yes. He thought it was on the Tuesday morning they came off the train, and that the last time he saw them was on the following morning, Wednesday, but he was not quite sure.

James Smith, railway worker, Lhanbryde, said the last time he saw deceased was on Wednesday, September 25th, and he was walking towards Elgin with another man. They overtook him on the road, and he walked behind until he lost sight of them. That was about 6.20 am., and the Lhanbryde to Elgin train had left. He had a good look at the men as they passed them. He knew Smith perfectly well. He heard of the murder on the Sunday. Witness was proceeding to his work in Elgin. It was his custom to walk along that road to his work in Elgin every day of the week about the same time.

Might it not have been one of the other days that you saw the two men? – Well, it might, but I am almost certain that it was Wednesday.

Have you anything to fix Wednesday rather than Tuesday or Monday? – I have nothing definite that I could swear by, but I am almost certain that it was Wednesday.

Isabella Smith, wife of the late witness, said she told her husband of the news of the murder, and she remembered him telling her that Smith passed him one morning going to Elgin.

Did he on Sunday do his best to remember the day on which he had last seen Smith, and did he say he thought Wednesday was the last day? – Yes.

Her father's farm was at Queen's Park, near Lhanbryde. She remembered going there on Tuesday, Wednesday, and Thursday. Her daughter Bella was with her on Thursday. At the cross-roads on Thursday they saw a man who looked like a working man. Her daughter said

that was the “new Bothy man.” Smith was known as the “Bothy man.” It was reported in Lhanbryde at the time that a man was staying with Smith, and this man was known in Lhanbryde as “the new Bothy man.”

On October 25 were you shown four men in the Elgin Prison Yard, and asked to point out the man you had seen on September 26? – Yes.

Look at the prisoner, is that the man you picked out? – No.

Lord Mackenzie – On the Thursday, Mrs Smith, had you a good look at the man your daughter pointed to and said that it was the new “bothy” man? – I did not get a particularly good look.

Lord Mackenzie – How far were you from him? – I don’t know.

A Youthful Witness. Jessie Bella Smith (9), Lhanbryde, said she remembered before the body was found going with her mother to her grandfather’s at Queen’s Park Farm that week. Her mother had been there before that week. After the day witness went with her mother, she did not go that week again to her grandfather’s. It was a Thursday she went with her mother. At the cross-road she noticed a man looking at the signpost, and she recognised him as the new “bothy” man.

By the Advocate-Depute – She was quite sure it was Thursday she saw the new bothy man. She remembered being taken to the Elgin Prison Yard and being shown four men and picking out one of the four as the man she had seen on Thursday near the Fochabers road. The man she saw in the dock was the man she saw in the Elgin prison Yard, and he was something like the man she had seen on the Thursday.

James Petrie Ross, grocer in Elgin, and living in Lhanbryde, said he cycled between Lhanbryde and Elgin every day. He saw Smith and a stranger on the road four times altogether.

Were you asked at Inverness to pick out the man you had seen at Lhanbryde and on the road in company with Smith, and were you able to do so? – Not exactly. I said one man was something like him.

Was the man whom you thought something like the prisoner? – No.

Do you remember the day before the murder was discovered going home by bicycle for dinner? Yes. I left Lhanbryde about one o’clock. On the journey he passed a wood called Teathill Wood.

As you passed that wood did you see anything? – I saw three men.

Did you know any of them? – Smith was one of them.

Did you make any remark to any of them? – I said to Smith it was a fine day.

What day was that? – I think that was on the Wednesday.

You think that was the Wednesday immediately before the discovery of the body – Yes; I thought so.

Do you remember just before the body was discovered anything exceptional taking place on the Wednesday half-holiday? – I don’t usually go home on Wednesdays for dinner, but I went home that day as I was working in the shop in the afternoon.

When you heard of the discovery of the body, did you say anything to the person who informed you? – Yes, I said, “I saw Smith quite lately; it must have been Wednesday.”

By the Lord Advocate – Was either of the two men who was with Smith on the Lhanbryde Road the prisoner? – I am not certain.

Most of the days of the week, except Wednesdays, you are in Elgin all day? – Yes, that is oftenest the way.

What is your usual procedure on Wednesdays? – I get home at 2 o’clock, and stay at Lhanbryde for the afternoon.

Can you give me any good reason for saying if this was a Wednesday that it was not Wednesday, 18th, but Wednesday, 25th? – I was in Lhanbryde then.

Was it not Wednesday, September 11? – I am only speaking from memory.

You won't swear now that it was Wednesday, 25th? – No.

A Baker's Evidence. Alexander Brodie, baker with William Taylor, Lhanbryde, residing at Sheriffston Cottages, said he last saw Smith on Wednesday, 25th. That was the Wednesday before the discovery of the body. He was walking along the Lhanbryde Road by himself about 11 o'clock.

Do you know Mrs Margach, and do you remember the night Smith's body was found having a talk with her about the murder? – Yes.

Did you say to her you had seen Smith some day in the beginning of the previous week? – Yes.

Did you say it was Wednesday, the 25th? – Yes.

Did you have a talk with Inspector Cameron as to the day when you last saw Smith, and did you say it was either Tuesday, 24th, or Wednesday, 25th? – Yes.

Alexander Winchester McArthur, gardener, Lhanbryde, said as far as he could think he saw last saw Smith on Wednesday, 25th, about ten minutes past four on the Elgin Road, but he was not sure.

Just before the body was discovered, do you remember seeing anybody coming out of the grocer's shop in Lhanbryde? – Yes.

Did you remember passing a remark about him? – I do.

What did you say about him? – I said, "I wonder what kind of skulking fellow that is because I don't like his appearance."

What time was that? – As near as I could say, about ten minutes to seven.

Were you afterwards taken to Elgin prison on October 25 and shown four men? – Yes.

Did you pick out one of the men? – I did, to resemble the man I saw.

Is this (prisoner) the man? – That is the man I pecked out, but I could not say definitely it was him. The man I saw in Lhanbryde was like the prisoner.

Did you pass any remark beyond that? – I asked who he was. He had heard on the Wednesday night that it was the "new bothy man." He was certain that was on Wednesday, because he had to go to his choir practice.

Did you see him do something with his watch when you saw him? – I saw him put his hand to his watch.

Witness said a chain produced was not the one he saw. The chain which Smith had was one with a longish link of about half an inch, he thought.

Were you near him? – As near as I am to you, sir.

Did you speak to him? – I remarked on the weather.

The Lord Advocate (showing witness a watch chain) – Would you change your impression if you are told that this chain was in Edinburgh on Wednesday? – No; I stick to my conscience.

Re-examined by Mr Moncrieff – Have you any impression that this was immediately before the discovery of the body? – That I cannot decide, because it was some time after before I thought about it.

Edinburgh Lodging-House Keeper. George Douglas Thomson, manager of the lodging-house at 72 Grosvenor Street, Edinburgh, stated that he had brought his account book with him. On September 25, as his book showed, a man booked a bed under the name of Armstrong. That was about ten o'clock.

Did you pass any remarks with him? I did. I asked if he was any relation to Armstrong the freebooter, and he said, "He said he was afraid he was not related." Witness further stated that he had a general look at the man.

Look at the prisoner. Is that the man? – Well, he resembles the man, but we see so many I could not say it was he. I think I have seen him before.

Was this photograph shown you (producing photo. of the accused) – Yes.

Did you recognise that as the man? – Yes.

Lord Mackenzie – Now you have seen the prisoner you cannot be sure it was the man who gave Armstrong as his name? – No, I would not like to swear to the man.

By Mr Moncrieff – I think the photograph was shown to you after an interval, you thought you saw a likeness then? – I thought I saw a likeness to a man I had certainly seen before.

This closed the evidence for the defence at ten minutes to three.

Speeches by Counsel. The Advocate Depute addressed the jury. The prisoner had been defended with skill and courage, and in the course of a criminal experience, now not inconsiderable, he (counsel) had never seen a trial presided over with greater care, greater fairness, and greater skill, and greater dignity than the one with which they were now concerned. They were dealing with a crime of peculiar atrocity. They had heard from the evidence of the doctors that this man was struck down by at least two violent blows with the deadly weapon produced, while he was lying on his bed in slumber, and this distressing feature of aggravation was associated with the crime, that it was committed by one who was being benefitted by him. If they had followed the evidence, it had clearly proved that this man Hume, penniless, homeless, lacking food, and lacking employment, was taken in hand by the dead man, was fed, and provided with an opportunity of earning an honest livelihood, and his requital was to send him to a speedy and cruel death. Another feature of the case that marked it as a serious and painful one was that there was no middle course open to them. This was not a case in which they could for a moment consider the possibility of returning a verdict of culpable homicide. Accordingly their duty was either to acquit prisoner or convict him of the crime libelled. He was positively sure it would not require any eloquent urging on behalf of prisoner by his counsel to induce them to give this unhappy man the benefit of every doubt. But if they had a duty to prisoner, they had not less other duties to discharge. They had a duty to the dead man, who was so cruelly done to death, and a duty to the community and the public, and society, whose representatives they were at that assize, and he looked to them to see to it that a crime of this nature should not go unpunished. They had a duty to discharge, and if they did not discharge it faithfully they would be guilty of a grave dereliction of public duty, and furthermore, they would loose on society a ruffian who might have the chance of seeking another victim. The crime was obviously murder, and the question they had to consider was, Who was the murderer? He thought he could unfold the evidence which the Crown had adduced – evidence which he was going to maintain was terribly convincing and completely conclusive.

What Probably Took Place. What he asked them to hold was that the situation was that the two men returned in the evening, supper was in the course of being prepared, and it was partially cooked when the deed was done. He said it was supper and not breakfast that was being prepared, because the dish was a supper one. There was no proof that tea was being prepared, which would have been the case had the meal been for breakfast. In the third place, he thought they would be satisfied that Smith was partially dressed, and what probably took place was that Smith, who had been drinking, practically undressed himself and prepared for bed, while the supper was being cooked fell asleep, and was done to death before anything further occurred. He thought they might hold it proved reasonably and satisfactorily that it occurred on the evening of Tuesday, 24th, after the arrival of the 7.30 pm train from Elgin and before the hour of ten, when Margaret McGillivray passed the house it was in darkness. Then they had the evidence of James Stewart, careful and truthful, who said that the men, who were breaking stones near his bing, were working on the Tuesday, but did not turn up on the Wednesday. The explanation was that one of the men had been done to death, and the murderer had left for Edinburgh. The Advocate-Depute then proceeded to speak of the most important points of the evidence. If Smith was really about on Wednesday, it was a most extraordinary thing that out of 30 or 40 Crown witnesses brought from the locality, not one of

them saw after 7.30 on the Tuesday night. The evidence for the defence was really of a most extraordinary character, for it seemed from their story that Smith did nothing on the Wednesday but walk between Lhanbryde and Elgin. If Mr Ross was right in saying that he saw Smith on the road, then Margaret McGillivray must be wrong when she said that she saw Smith lying on the bed in the cottage. The evidence for the defence was evidence to which they could not give weight owing to the undecisiveness of the witnesses, when they contrasted then with those for the Crown. The Advocate-Depute then dealt with Smith's movements about the time of the murder. He thought the jury had no alternative but to hold that the story told by the accused was a tissue of falsehoods from beginning to end. Smith had taken the man by the hand, and was willing to help him, and the accused stayed with Smith from Saturday to Tuesday. What took place on the evening no one could with certainty tell. Witnesses might forget, they might exaggerate, or they might unconsciously fail to reveal all they saw, circumstances would not lie; facts were things they could not get over. They had a complete and conclusive chain of evidence pointing to the prisoner as having been guilty of this dreadful deed. He asked the jury to give that existence its logical effect, and return the verdict demanded of them by the law – that the prisoner was guilty of this crime of murder.

The Counsel for the Defence. Mr Moncrieff reviewed the evidence for the defence at some length. It was suggested that the murder was committed for the purpose of gain, but he submitted except that what had been spoken to that no great gain resulted from the murder. No attempt seemed to have been made to explore the various places where money might have been stored in Smith's house, and there was no indication that the pockets had been touched. Whether or not the crime was committed for the purposes of gain, or whether or not any gain resulted from the crime, how did that lead them to conclude that the man that committed the crime and acquired the gain was Joseph Hume any more than the innumerable unknown persons who might well at this period have had access to the house. Mr Moncrieff pointed out that they had the evidence of four witnesses that on Wednesday Smith was seen alive. The circumstances, he held, disproved that the man who committed the crime could have been the prisoner. Dealing with the clothing question, counsel said prisoner when apprehended was wearing the clothing he got at Fort George, but he quite frankly told the police that the trousers he was wearing were not the same. If prisoner wanted to conceal his identity, was it conceivable he would not have concealed the clothing? This was not a case said counsel, in which there could be found extenuating circumstances. His position was that the prisoner was not proved to have been guilty of the murder, but if they thought otherwise their duty was clear.

Summing Up. Lord Mackenzie, in reviewing the evidence, said he thought Margaret McGillivray was a very important witness in the case, and from what the jury heard from, and saw of her in the box they would know what weight to attach to her evidence. They knew very little about deceased's previous life. As to the appearance of Smith's house, there was nothing to suggest a struggle, and both doctors were of opinion that death could not have been caused by one blow, but by two blows of the big hammer which had been produced in Court. There could be no reasonable doubt that death followed as the result of one or more blows inflicted by the hammer. His lordship called attention to the statement made by the prisoner after his apprehension that he did not know John Barclay Smith. It was admitted by the Advocate-Depute, that if the evidence for the defence was correct Smith was in life at the time spoken to by the first witnesses, and that prisoner could not have been the man who killed him. The case was the Crown was that the defence witnesses were mistaken, and it was for the jury to form an opinion after deliberation whether they considered that the evidence for the Crown so closed in round prisoner as not to make it reasonable possible for the defence witnesses to be correct in making the statements they did.

The Verdict. Sentence of Death Passed. The Judge closed his summing up at ten minutes past six o'clock, and the jury retired. Waiting for the verdict was a very anxious and trying time. The Judge left the bench and the counsel left the court for a time. All the officials engaged in the case discussed the situation, and the probabilities of the verdict. The prisoner looked calm and betrayed little feeling. He often cast his eyes towards the jury seat waiting for the sound of the bell that would tell of their arrival and settle life or death for him. The strain was severe on everybody. The macer came in adroitly with the black cap, and placed it near the seat of the Judge on the bench. It was concealed, but it was there, and ready if the jury so decreed it. It was a period of extreme tension. The audience in the gallery rose in their seats and gazed at the prisoner, and the people in the court did likewise. Many women were in court – some in fashionable attire. They were in their places at ten o'clock in the morning, and remained till the court rose. The jury were away for exactly an hour. They had retired at ten minutes past six o'clock, and did not return till ten minutes past seven. They took their seats very quietly, and their solemn look betrayed their verdict.

The Clerk of Court – Gentlemen, have you agreed on your verdict?

Mr D. W. Abernethy, foreman of the jury – The unanimous verdict of the jury is that the prisoner is guilty as libelled.

A hush fell upon the court. Amidst a painful silence the Clerk recorded the verdict, and reading it, asked the jury if that was the verdict they returned?

The foreman assented.

There were some official acts to be performed. The Clerk made an entry in an official volume, which was handed to the Judge.

Lord Mackenzie, addressing the condemned man, said – Joseph Hume, the jury have found you guilty of the crime of murder on evidence which leaves little room for doubt. One sentence alone can follow upon that verdict, and the kindest thing I can say to you is this, use the time that remains in repentance for the past and in preparation for the future.

Lord Mackenzie then assumed the black cap, and pronounced sentence as follows: The sentence upon you is – In respect of the foregoing verdict Lord Mackenzie decerns and adjudges the said Joseph Hume, panel, to be carried from the bar to the prison of Aberdeen, thence to be forthwith transmitted to the prison of Inverness, therein to be detained to the fifth day of March next, and upon that day between the hours of eight and ten o'clock forenoon, within the walls of the said prison of Inverness, by the hands of the common executioner, to be hanged by the neck upon a gibbet until he be dead, and his body thereafter to be buried within the walls of the said prison of Inverness, and ordains his whole movable goods and gear to be escheat and inbrought to His Majesty's use which is pronounced for doom, and may the Lord have mercy on your soul.

The prisoner staggered when he heard the sentence. The trap door was opened. As he descended the stair he looked straight at the judge, and was evidently on the point of making an observation. Then he moved his gaze to the left, kissed his hand to somebody in the audience, and disappeared below.

Lord Mackenzie bowed to the magistrates and left the bench. The court rose at 7.30. A great crowd gathered on the street. Hume was driven to Craiginches, where he will be watched by warders night and day till his removal to Inverness.

Hume's Removal to Inverness. Joseph Hume, the Lhanbryde murderer, was removed from Craiginches and was conveyed from Aberdeen to Inverness by the 9.40 train on Saturday forenoon. The entraining was gone about so quietly that few except the station officials knew of his departure. He was driven up in a cab along with two warders in plain clothes just before the train left, and walked rapidly from the cab across the platform into a third-class reserve carriage. Lord Mackenzie left for Edinburgh by the 9.30 North British train on Saturday forenoon. It was not generally known in Elgin that Hume was a passenger in the

12.45 train, and only a few even of those who were at the station were aware of the fact. The blinds of the compartment in which the condemned man sat were drawn down, and a warder stood looking out of the window, thus preventing any one getting a glimpse of Hume. At Inverness quite a crowd had gathered in anticipation of the arrival of the prisoner, and when the train drew up at the platform they at once made for the compartment with the drawn blinds. The way was cleared by the police, and Hume stepped on to the platform with one of the warders to whom he was handcuffed. He appeared to be surprised at the crowd, and had a scared look on his face. He appeared thin and white and was careworn and haggard. He was marched smartly along the platform and conveyed to a cab, which was driven quickly away to prison. At the prison service on Sunday the condemned man was present. The service was conducted by Rev. Gavin Laing, the prison chaplain. He is being watched night and day by two warders; otherwise he is being treated as an ordinary prisoner, receiving the same food and attention as the other prisoners. There is no special provision in the prison for executions or internments of prisoners, and it will have to be made for the first time in this case. It is expected that the execution will be strictly private, only the magistrates and officials being present. The black flag will be hoisted as soon as the execution is carried out. The magistrates have not yet made any arrangements as to the executioner.

A Jurymen's Story. A jurymen, seen on Saturday, said there was the greatest unanimity as to the guilt of the prisoner, but some of the jurymen refused to return a verdict of guilty on the ground of conscience, and argued that it was an awful thing to sentence a man to death. A discussion then arose as to what conscience was, and the result was that the attitude adopted by the jurymen in question was not due to conscience but to sentiment, and the waverers acquiesced in the decision. It was shown that no other verdict was possible in the circumstances. In order to satisfy those men who were conscience-smitten, however, the question of making a recommendation for mercy on the ground of the prisoner's youth was raised. The member who brought forward the suggestion received a unanimous negative reply, and so it was agreed that the verdict of "guilty as libelled" should be returned without the addition of a recommendation for mercy.'

The Elgin Courant and Courier 28th February 1908

'The Lhanbryde Murder. Petitions for Reprieve. Mr A. D. McCaskie, solicitor, Elgin, agent for the condemned man, Joseph Hume, on Tuesday forwarded to the authorities the signatures which have been obtained in Elgin and district to the petition for the reprieve of the prisoner. Between 600 and 700 persons had signed. Mr McCaskie said he considered the result a very good one when it was remembered that practically only two whole days – Saturday last and Monday – were available for securing the signatures.

It is understood the signatures obtained in Inverness were to be forwarded direct to the authorities.

Rev. Dr C. C. MacDonald reports that he received 2031 signatures to the petition in favour of a commutation of the sentence.

The Inverness petition was dispatched on Tuesday to the Home Secretary. It was signed by 3689 people. A considerable number of young people resident in Inverness were among the signatories. A strong protest has been made regarding the methods employed by certain parties in soliciting the signatures of children. Canon Eyre Brook, of St Andrew's Cathedral, Inverness, questions the right of the meeting of local ecclesiastics held last Wednesday to say they represent the clergy of Inverness. The movement for the reprieve of Hume simply represents the views of the generality of citizens on the question of capital punishment. The vast majority of those who have adhibited their names to the petition do not sympathise with the condemned man. On the other hand, they are terribly anxious that Inverness should not be compulsorily selected as the venue of hanging.

In Nairn 190 signed the petition. Many refused to sign.

Questions in Parliament. In the House of Commons yesterday, Mr J. Annan Bryce asked the Secretary for Scotland, in connection with the case of Joseph Hume, who is condemned to be executed in Inverness on Thursday next – (1) whether he had received from Inverness the petition for a reprieve, signed by nearly 4000 person, or about one-sixth of the whole population, and including some of the principal inhabitants of the town? (2) whether the case for the Crown required that the murder, if committed by Hume, must have been committed on the evening of September 24th, while several witnesses deposed to their belief in having seen the murdered man on the following day? (3) whether it was true that, although the verdict was said to be unanimous, the jury were absent from court for an hour, and whether it was true that there were some of them who held out for a recommendation to mercy, and gave way only on the assurance from the foreman that there was no likelihood of the death sentence being carried out, and whether one of the jurymen had signed the petition for the reprieve? (4) whether, the evidence having been entirely circumstantial, the right hon. gentleman was disposed to give favourable consideration to the petition, in view of the recent notorious case where a reprieve was granted although the crime had been committed in the presence of several witnesses? and, finally, whether the right hon. gentleman was aware that several of Hume's near relatives had been inmates of lunatic asylums?

Mr Sinclair replied – I am aware of the public interest in this case, which is now being anxiously considered. The petition to which my hon. friend refers has been received. I must decline to follow him into discussion on the remaining points.

The Scaffold Erected. Our Inverness correspondent, telegraphing last night, says:- All the arrangements have been completed for the execution of Joseph Hume, the Lhanbryde murderer. The scaffold has been erected within Inverness Prison, and the rope has arrived from Holloway Prison. No answer has been received to the petition forwarded to the Secretary for Scotland asking for the commutation of sentence to penal servitude. Hume is bearing up well, although occasionally depressed.'

The Elgin Courant and Courier 3rd March 1908

'The Lhanbryde Murder. No Reprieve Yet Granted. No official communication has yet been received in Inverness as to the result of the petitions forwarded to the Secretary for Scotland craving a reprieve on behalf of Joseph Hume, the Lhanbryde murderer. It is expected that the reply will be received today (Tuesday). All the arrangements for the execution have been completed by the burgh magistrates. It is understood that Pierpoint, the executioner, will arrive in Inverness tomorrow, and he will put up at the prison. On Sunday Hume was present at the ordinary religious service conducted by Rev. Gavin Lang, the prison chaplain. He continues in good health. On Saturday afternoon Hume was visited by his father and mother, his three brothers, and his three sisters, who arrived in Inverness by the morning mail from Edinburgh. They remained with Hume for a period of two hours. Hume, who strongly expressed to his relatives his innocence of the crime, seemed wonderfully bright, and he was confident that he would be reprieved. He stated that he was thoroughly pleased with the treatment he obtained in prison, and had no complaints to make. The parting between Hume and his relatives was an affecting one. The presence of Hume's relatives in the town became known, and a large crowd witnessed their departure by the 3.50 pm train.

Councillor Austin, Elgin, visited the prison on Saturday, as a member of the Prison Visiting Committee. He was shown the condemned cell in which Hume is watched, night and day by two warders, and he found everything in excellent order. He had a chat with Hume, who said he had no complaints to make in regard to his food or general comforts. He expressed himself hopeful of being reprieved. The Magistrates, at a meeting held a week ago, considered the question of admitting representatives of the press to the execution, and decided that the last

penalty of the law should be carried out in private. An official statement will be made after the prisoner has been executed.

Hume's Time Short. It was expected yesterday morning that an answer would be received in Inverness to petitions sent to the Secretary for Scotland, praying for the commutation of the death sentence on Joseph Hume, the Lhanbryde murderer, whose execution is fixed for Thursday. So far no reply has been received. Pierpont, the executioner, is now on his way from Bradford, and is expected to arrive in Inverness today.'

The Scotsman 5th March 1908

'The Lhanbryde Murder. Execution at Inverness Today. While Provost Gossip and the Magistrates of Inverness were visiting the prison yesterday in connection with the final arrangements for the execution of Joseph Hume, who had been guilty of the murder of John Barclay Smith at Lhanbryde, near Elgin, a telegram was delivered to the Provost. It was a reply from the Secretary for Scotland to the petitions in favour of a commutation of the sentence. The telegram, which was signed by Sir Reginald MacLeod, Under Secretary, stated that the Secretary for Scotland regretted that he was unable to discover sufficient evidence to justify him advising interference with the due course of the law. A similar telegram was received by Mr Nicol, the Governor of the prison. The Town-clerk telegraphed an acknowledgement of the intimation.

At the request of the Provost, Pierrepoint, the executioner, who has been lodged in the prison for two nights, was with the Magistrates, and the completed scaffold was inspected in his presence. The decision of the Secretary for Scotland was communicated to the prisoner by the Rev. Gavin Lang, who, as chaplain, has been with Hume daily during the past month. Hume, who had been hopeful until a day or two ago that there would be a commutation of the sentence, received the news calmly, and again protested that he was innocent of the crime. It is said that he informed the chaplain on Tuesday, in view of there being no favourable response to the petitions, that he was prepared for the worst. The prisoner, who is under thirty years of age, has retained his health and spirits, wonderfully, and he has been very attentive and grateful to the chaplain for his ministrations. He had an affectionate letter yesterday morning from his parents, who are in Edinburgh, and he asked that his kind remembrances should be sent to them after his death.

It cannot be said that the refusal of the prayer of petitions, which had about seven thousand signatures, has caused much surprise in Inverness. It is felt and regretted that Inverness is receiving unpleasant notoriety in having the execution in the centre of town, where the prison stands; but as the condemned man is an absolute stranger to the district, and as the circumstances of the crime of which he was found guilty showed extreme cruelty and callousness in the perpetration, any sentiment there may be in favour of the prisoner is not really deep or widespread. On the other hand, there is a very general opinion in Inverness in favour of the abolition of capital punishment. Hume will be executed at eight o'clock this morning.'

The Elgin Courant and Courier 6th March 1908

'The Lhanbryde Murder. Execution of Joseph Hume. No Confession. At 8 o'clock yesterday morning Joseph Hume was hanged for the murder of John Barclay Smith, contractor, committed at the village of Lhanbryde on September 24th or 25th last. There was little or no excitement, and only about 200 people assembled in the vicinity of the prison. All those who were to be present at the execution arrived shortly after 7 o'clock. The execution was carried out in private.

Scenes in the Condemned Cell and on the Scaffold. At 8 o'clock yesterday morning the party in the prison proceeded to the condemned cell. The official report is to the effect that

there were present the two Junior Bailies, the Town Clerk-Depute, the governor of the prison, the chaplain (Rev. Gavin Lang), surgeon (Dr Murray), the Sheriff Clerk, the Chief Constable, and the Burgh Surveyor.

On entering the cell, Mr Lang asked the prisoner if he had any confession to make, and said – “I adjure thee in the presence of these witnesses if you have any confession to make, to make it.”

The prisoner answered – “No, sir,” and gripped his lips firmly.

The procession to the scaffold was then started, the executioner following behind the prisoner, who was accompanied by two warders, and on the way Rev. Mr Lang commenced a religious service. Hume walked up the steps to the scaffold, and appeared almost immediately to faint. There was no time to strap him, the lever was pulled, and Hume was executed.

Hume had slept up to 4 o'clock in the morning, and he took a good breakfast. He was perfectly calm, and the last words he uttered were – “Goodbye, Father,” and then to the executioner, “Don't blindfold me.”

An Official Report. An official account of the execution was supplied by the Town Clerk Depute (Mr George Smith Laing). The last penalty of the law was carried out with great solemnity and impressiveness. The prisoner spent a fairly good night, and enjoyed undisturbed rest till 4 o'clock in the morning. He rose at that hour, and partook of breakfast. Up to 8 o'clock in the morning, Hume, though agitated, is described as having been perfectly calm and collected, and he did not outwardly betray the strain of his approaching end.

A minute or two before 8 o'clock the official party entered the condemned man's cell, and Hume rose immediately and stood at attention.

There were present – rev. Gavin Lang (chaplain), Bailies Birnie and McKenzie, Dr Murray (prison surgeon), Mr And. McDonald (sheriff clerk), Mr Nicoll (governor of prison), Chief-Constable MacDonald, Mr George Smith Laing (town clerk-depute), and Mr T. H. Scott (burgh surveyor).

Mr Lang asked the prisoner if he had any confession to make, the words the chaplain used being – “I adjure thee in the presence of these witnesses, if you have any confession to make, to make it.”

Hume, standing erect, with marked soldierly bearing, responded – “No, sir.”

He gripped his lips firmly, and spoke with decision and determination.

The executioner thereafter pinioned the prisoner's arms, and the procession to the scaffold was formed.

Rev. Gavin Lang preceded the party, conducting the while a religious service. Behind walked the prisoner, attended by two warders. The executioner was immediately behind the culprit, and the officials in the rear.

Hume, so far, had walked unassisted, but when he faced the scaffold he visibly faltered. He was assisted up the four steps leading to the platform of the scaffold. He stood erect, and said – “Goodbye, Father.” “Don't blindfold me.”

He was immediately overcome, and was in a fainting condition.

There was no time to strap his legs, and Pierpont, realising the situation, drew the lever, and the collapsed prisoner died instantaneously.

He had a drop of 7½ feet.

The prisoner weighed 9½ stones.

Dr Murray, the prison surgeon, immediately afterwards examined the body, and certified that death had been painless and instantaneous, Hume's neck having been dislocated.

Impressive Religious Service. Rev. Gavin Lang, the prison chaplain, who arrived at the prison at 7 o'clock, held a short religious service in the presence of Governor Nicol and the warders. The service, which was an impressive one, continued until about 10 minutes to 8 o'clock.

The Governor afterwards stated that the arrangements were now ready for the execution. The procession to the scaffold was thereafter formed.

Rev. Mr Lang had previously said to the condemned man – “Joseph Hume, in the presence of the Magistrates here, I adjure you by Almighty God, into whose presence you are about to go, that if you did this deed, make a confession.”

Hume at once replied, “I have nothing to confess.”

As the procession walked along, Mr Lang repeated the words – “I am the resurrection and the Life.” Hume ascended the steps to the scaffold very firmly. He had previously been pinioned by the executioner.

As the rope was being adjusted, Mr Land said – “Lord have mercy on the soul of our brother, the Lord Jesus receive his spirit.”

Hume, who had a piteous look, exclaimed – “Goodbye, Father,” “Don’t blindfold me, don’t blindfold me.”

In a few seconds the lever was drawn, and the condemned man disappeared below, death being instantaneous.

The body was left suspended for about half-an-hour.

Hume was accompanied to the scaffold by the Governor and two wardens, who were on each side of him. The certificate of death was afterwards signed by all persons, according to the law.

Dr Murray, the prison surgeon, examined the body, and stated that death had been instantaneous. The neck had been completely dislocated.

The execution was carried out under cover.

Upon Rev. Mr Lang entering the condemned cell, Hume was in a calm condition. He had evidently been writing to his friends up to the last moment. He had slept well, and rose shortly before 6 o’clock. He took a substantial breakfast of fish and eggs. He bore up bravely, and was very responsive to the exhortations of Rev. Mr Lang. He had evidently no idea that Mr Land was to adjure him as quoted above, and he uttered the words “I have nothing to confess” with the utmost clearness and promptness. He never broke down and was wonderfully resigned. It was a touching incident when, shortly before the execution, the warders who had been in constant attendance upon the condemned man night and day since his incarceration came forward and shook hands with him. Hume was only 24 years of age. He was of slight, alert build, and he walked perfectly straight in the procession. He was of sallow complexion, and wore a slight beard. Rev. Gavin Lang, who had attended the condemned man daily in his cell, found Hume reverential and earnest in his demeanour. Mr Lang was very confident that Hume was absolutely sane. He was both receptive and responsive to Mr Lang’s exhortations. He was very grateful to Mr Lang for all the attention which he had shown to him. Mr Lang has expressed the view that someday there might be a revelation in connection with the murder. He has steadfastly adhered to the view that there has been a remarkable mystery about the case, and that in all the circumstances a reprieve should have been granted.

Departure of Executioner. The executioner left for the south at 11.5. A crowd quickly gathered at the station, and saw him depart. He was in a reserved compartment, and the blinds were drawn. Pierpont has carried out over 100 executions. What impressed the officials and others present was the expertness of the executioner. Before they could realise the terrible situation, Pierpont had done his work.’

Joseph Hume’s death certificate, states his occupation as Labourer, with his father, Joseph Hume, listed as Mason Journeyman. Cause of death given as ‘dislocation of cervical vertebrae by legal execution’. Informant was the Governor of the Prison. Corrected entry states cause of death as ‘execution’.

Joseph Hume was born circa 1882/3 but I have been unable to find his birth, Census of 1891 states he was born in England. His younger brother Abraham was born on the 12th September 1886 at Duke Street, Coldstream (father Joseph Hume Stonemason (journeyman) and wife Mary Hume nee Wilson who had married 9 Dec 1878 at Kelso). Whilst his older brother Robert John was born on the 24th February 1880 at Linburn Street, Galashiels (father Joseph Hume Stonemason (journeyman) and wife Mary Hume nee Wilson). Therefore it looks like the family moved around before settling later in Midlothian.

The 1881 Census found his mother and older brother at 53 West Port, Edinburgh of Mary Hume (head) 22 and Robert Hume, 1. No indication of where his father was. By the 1891 Census they were living in Haugh Street, Edinburgh of Joseph Hume, 32, Free Stone Cutter, Mary Hume, 32, Wife, Robert J Hume, 11, Scholar, Joseph Hume, 9, Scholar, Abraham Hume, 4, Mary Hume, 1, Janet Stewart, Sister, 40 and Joseph Stewart, Nephew, 5. By the 1901 Census his family living at 43 Well Court, Edinburgh of Joseph Hume, 42, Mason, Mary Hume, 22, Wife, Abraham Hume, 14, Message Boy, Mary Hume, 11, Scholar, William Hume, 9, Scholar, Margaret J Hume, 7, Scholar and Jane O Hume, 4.

Joseph Hume possibly as 'Joseph Rutherford' enlisted as Pte. 7450 in the 5th Battalion Northumberland Fusiliers at Alnwick on 11th April 1906, stated he was born at Newcastle in the Parish of St. Nicholas, Northumberland, gave his age as 22 years 11 months. Occupation stated as Labourer with address of 208 Pilgrim Street, M'Coy's Lodging House. Described as 5 feet 5 inches tall with fresh complexion, hazel eyes and brown hair. Note on Service Sheet as had enlisted Highland Light Infantry 31st July 1906. (Ref. WO396/91/349) No mention of Hume or Rutherford in the Highland Light Infantry Chronicle for 1906 or 1907 under new recruits. It was the 2nd Battalion who were stationed at Fort George in 1907. An inquiry to the Highland Light Infantry Museum at Glasgow re Hume yielded no reply.

After his death, his family by the 1911 Census was at Yewlands Cottages, Midlothian. Mary Hume 52, Cleaner (School) Head, William 19, Miner's Dawl, Collieries, Mary 21, Shop Girl (Unemployed), Maggie 17, General Domestic Servant, Janet 14 and Lizzie 1, grand-daughter. No indication of where his father was, no death listed in Scotland's People for period 1908-1911. His brother Robert John Hume was killed on the 1st of July 1916, the first day of the Somme, whilst serving as Private 19631 in the 15th Battalion Durham Light Infantry. He had enlisted 22nd September 1914 at West Hartlepool. Mother Mrs M Hume living at Yewland Cottage, Liberton, Midlothian in 1920, when his medals were sent to her. His brother William Hume enlisted as Gunner 84370 in the Royal Field Artillery on 21st August 1914 but was discharged as permanently unfit 7th May 1915, gave his mother as next-of-kin. There is an Ann Hume, 6 Russell Row, Bathgate on Witness List for the trial but no mention in newspapers, who was this?

Overall Hume seems to have killed John Smith for reasons unknown except the fact that he robbed him of his cash and watch. Although Witnesses for the defence thought they say Hume on the Wednesday morning after Smith's death most were unsure if they were correct. Although there was a petition against Hume being executed, it was unsuccessful (as were a few other petitions against capital punishment at the time) and he was executed at Inverness Prison and lies in an unmarked grave within the current prison.

Sources

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National Records of Scotland – AD15/08/153 & JC26/1908/26