

PRISON MUSEUM POST

*The Official Newsletter of the Historic Burlington County Prison Museum Association
Incorporated in 1966*

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THANK YOU TO OUR MEMBERS

We are elated by the response to this year's membership campaign. Not only did almost everyone renew, but many also made donations so generous that we were able to upgrade our internet service and computer software to accommodate our rapidly burgeoning database. If you renewed and your name does not appear on the membership list, contact us at our new email, info@pma1811.net or call us on our new phone number, 609-288-6372.

THE TRIAL AND EXECUTION OF CYRUS EMLAY

Pamphlets pertaining to murder trials were popular in the 1800s. We sell reproductions of two of them [The Trial of Wesley Warner (1894) and The Confession of Joel Clough (1833)] in our gift shop. We recently found another one recounting the 1801 murder trial of Cyrus Emlay. It is being reproduced as this goes to press, and we expect that it will be a hot seller.

Born in Springfield in the 1760s, Cyrus Emlay worked for various Burlington County farmers as a teamster, taking their goods to market. He was a "progressive" sort of criminal - he not only pilfered from several of these employers but also engaged in an early form of identity theft by obtaining goods under false pretenses and charging them to people he pretended to be. He joined the merchant marine and went to Liverpool, England, where he embezzled the ship's supplies. Back in Burlington County, he took a job with Chesterfield farmer Humphrey Wall, who was apparently the first to put a crimp in Emlay's criminal lifestyle. Wall, who was also the town constable, pressed charges against Emlay for skimming his crops. Emlay spent two months in the county jail (then in Burlington City). Incarceration didn't seem to bother him as much as Wall's garnishment of his pay to cover the cost of the stolen goods. This irked him so much that he resolved to murder Wall.

For reasons unknown, Wall hired Emlay again in March of 1801. On the night of Saturday, March 14, 1801, Wall was sleeping in front of his fireplace when Emlay snuck up behind him and split his head open with his own axe.

Emlay heaved the dead man into the fireplace along with the murder weapon and set the house ablaze after stealing everything of value. He was caught the next day in Black Horse (Columbus) at the home of his wife's employer, Adam Quann. Emlay's wife, Betsy, had been staying there since he took the job with Wall three weeks before.

He initially claimed that the fire had been accidental, and that he had merely salvaged the items he had in fact stolen. He might have gotten away with it had he not made the fatal error of heaving the body into the fireplace. The massive fireplace remained intact while everything around it burned to the ground. Thus, enough of the corpse remained to show unmistakable axe wounds. The metal axe head was also retrieved, with blood and brains on the cutting edge.

He was indicted on May 27, 1801 in the Olde Court House in Mt. Holly. Two attorneys, named Read and McIlvaine, were appointed to represent him. New Jersey Supreme Court Justice Elisha Boudinot presided. Eleven witnesses were heard over two days. The jury was out for three hours before finding him guilty on May 29. Justice Boudinot sentenced him to death in an eloquent speech in which he "beseeched and intreated" him to confess his sins and seek God's forgiveness. He was hanged on June 12 about a mile from Burlington City. Before he met his maker, he did in fact confess to the murder and all his other past transgressions. He also wrote to and received correspondence from his mother, sister and brother. The confession, the letters, the judge's sentencing speech and a synopsis of the witnesses' testimony are all outlined in the pamphlet. Also included is an account of the speech Emlay gave at the gallows, in which he exhorted those in attendance to give up "drinking and carousing", which he maintained caused him to go astray.

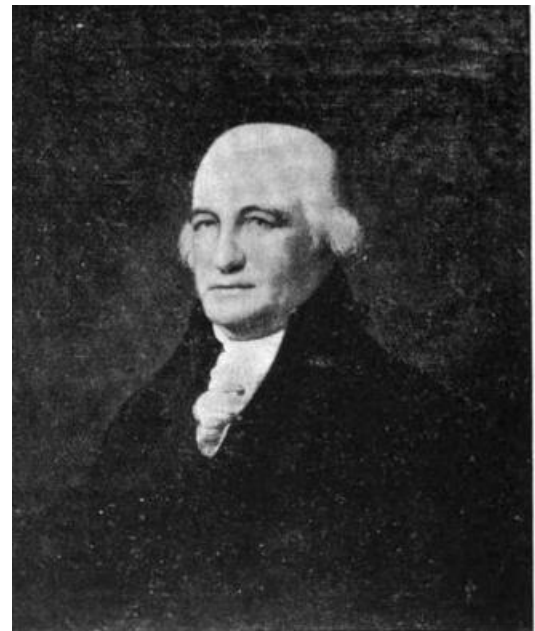
Murder investigations and trials are always interesting reading. This pamphlet is much more than just a "good read", however:

INTERESTING THINGS WE LEARN FROM THE PAMPHLET

- Emlay was tried in the "Court of Oyer and Terminer and General Gaol Delivery". This court was a carry-over from England and continued in New Jersey until the new state constitution abolished it in 1948. "Oyer and terminer" means "to hear and decide" in French. Local county judges heard most civil matters and some minor criminal matters in the Court of General Sessions. Criminal matters (adultery, arson, bigamy, burglary, cutting

timber, forgery, fornication, gambling, murder, manslaughter, polygamy, perjury, rape, sodomy, treason and crimes punishable by death) were heard in the county where the crime was committed by Supreme Court justices who rode the circuit from county to county. They were joined on the bench by the local judges in the "Court of Oyer and Terminer". Whenever a Supreme Court justice was sitting in Oyer and Terminer, he also had jurisdiction to hear the case of anyone who was currently jailed. The jail could be "emptied" and the prisoners "delivered" to the court for disposition of their cases - thus the term the "Court of General Gaol Delivery".

- Supreme Court Justice Elisha Boudinot presided over the Emlay trial. He is not to be confused with his older brother, Elias Boudinot, who lived in Burlington at the end of his life and is buried at St. Mary's Episcopal Churchyard in Burlington. Elisha was born in Philadelphia in 1749 and studied law under his brother Elias. After being accepted to the bar, Elisha moved to and practiced in Newark. He was appointed to the New Jersey Supreme Court in 1798 and held the position until 1804. Like his brother, he was a devout Presbyterian. He died in 1819 in Newark.



ELISHA BOUDINOT.
Copy of original oil painting by C. W. Peale.

- An original copy of the pamphlet was gifted from a private collector in 1990 to Rutgers University, where it is currently preserved in the school's Special Collections and Archives.
- We know little about Read and McIlvaine, the attorneys assigned to represent Emlay. The pamphlet doesn't identify the prosecutor.
- James Thorn, the constable who investigated the case, asked to search the house of Adam Quann, who employed Emlay's wife. Quann refused, but the constable searched it anyway, and found nothing. As Thorn was leaving, Emlay's wife said she wanted to be honest, and brought forth the items that were stolen from the Wall home.

- It is interesting to see how the spelling of various words has changed in the last 220 years - for example, "show" is spelled "shew", so we can speculate that the word "show" was pronounced "shew" at that time.
- Emlay alleged that he purchased some of the stolen items in Trenton at a "sheriff's vendue", which was what a sheriff's sale was called at the time. Sheriffs' sales were common. There was no bankruptcy law in 1801. If a creditor had a judgment against a debtor, the sheriff would be directed to seize all the debtor's property and sell it, turning all proceeds over to the creditor. If the proceeds were insufficient to cover the debt, the debtor could be incarcerated. It's unclear how many were actually incarcerated for debt; this is a subject which the PMA wants to investigate.
- We don't know who wrote the pamphlet, which states only that it was written by "a gentleman who was present on the occasion". It was printed in 1801 by S.C. Ustick of Burlington for travelling book salesman Robert Stewart.
- Murder was rare in 1801. When one occurred, it was of great interest far and wide. People as far away as Vermont were interested in the Emlay trial, as is evidenced by an article which appeared in

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Please help us preserve and promote the museum by joining the PMA. Annual dues are \$15(individual)/\$25 (family). Membership benefits include a quarterly newsletter, event updates and free admission to the museum. Go on the website for an application.

Destroy not the ancient landmarks which the fathers have set. Proverbs 22:28

the *Vergennes Gazette*. Vergennes, the first town chartered in Vermont, still exists in the northern part of the state near the New York border. Population: 2500. Here is the article which appeared in the July 2, 1801 of the *Vergennes Gazzette*:

On Friday last was executed at Burlington, in the presence of a vast concourse of people, pursuant to his sentence, CYUS EMLEY, a black man, for the murder of Mr. Humphrey Wall, and the burning of his house. Our readers will recollect that immediately on his conviction, he confessed his guilt, but uniformly insisted that others were accessory to the horrid crime. He was attended in his last moments by the Rev. Mr. Stoughton, and the Rev. Mr. Coats, who administered with pious zeal the last sad offices of clerical duty. On his arrival at the place of execution, he addressed the spectators in a settled tone of voice, and warned them against the vices which had brought him to his then awful situation. He was launched into eternity at half past one, and after hanging for the space of fifteen minutes, his body was taken down and given to the surgeon for dissection.

A LIGHT NOTE TO LEAVE ON

After all the blood and gore in this issue, we thought we'd leave you on a lighter note with two excerpts from the January 1898 issue of the Mt. Holly Herald:

"A lively scrap occurred before his Honor, Justice Maiers, the other day while a trial was in progress. One of the attorneys, C.T. Atkinson, didn't treat the Court with that deference which the Court thought it should receive, so a constable was ordered to eject Mr. Atkinson. In the scuffle that followed, the latter was thrown violently to the floor and his head cut. This rather disturbed the serenity of the trial. It is said that Atkinson will bring suit for damages against 'Squire Maiers and the constable.'"

"The stone road committee of the Board of Freeholders met at the Courthouse on Monday and decided to reject all the bids on the proposed stone roads, for the reason that they were all too high. It looks as if the contractors have formed a combination. If they have, it didn't work."

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