



**THE MURDER OF
WILLIAM HENRY HENDERSHOTT**

By Len Hendershott

2014

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RESEARCH NOTE

There was a great deal of press coverage of the arrest, trial and execution of Hendershott and Welter. There are frequent references to these newspaper articles. Beyond these scattered items, there are four primary sources of material cited in this book.

First, the Garton Scrapbook is a collection of news clippings at the St. Thomas Public Library covering the period bounding the murder and trial. There are about twenty-five pages devoted to the coverage. For more information see [St Thomas Public Library](#).

Second, the preliminary (magistrate's) trial manuscripts are held in the Elgin County Historical Board at their archives on Sunset Drive, south of St Thomas. They consist of over a thousand pages of testimony between January 4 and 11, 1895.

Third, a synopsis of the murder and trial was written in 1945 by Edwin C. Guillet. It is titled "Famous Canadian Trials: Easy Money: a study of the evidence in the Queen versus John Hendershott and William David Welter for the murder of William Henry Hendershott, 1894-1895". The copy that I reviewed was located at the Toronto Reference Library, though there are copies also available at Osgoode Law Library and York University in Toronto.

Fourth, John Wilson Murray provides an account of his involvement in the case in *Memoirs of a Great Detective*. The chapter titled "The Middlemarch Mystery" is devoted to the Hendershott-Welter case.

Name References:

In discussing the people involved the victim, William Henry Hendershott, is referred to as "Will", the name he was known by. The murderer, William David Welter, was also usually referred to as Will, though Guillet cited him as "Dave", his middle name. He will be called William to distinguish him from the victim. Lastly, the accomplice, or second murderer depending on the version of events referenced, John Aaron Hendershott, the victim's uncle, will be referred to as "John A".

Special Thanks to Steve Peters, St Thomas historian for providing several photos that are displayed in this publication, Holly Martelle for providing the information on the exhumed bodies of William Welter and John Hendershott and Patricia Montgomery for editing. Several pictures are taken from the [Elgin County Historical Society web site](#).

BEYOND DOUBT

On December 14, 1894 John Aaron Hendershott's two farmhands - his nephew Will Hendershott and his neighbour's son (and his wife's cousin) William Welter, both aged 24 at the time, went to Wardell's Woods, east of St Thomas to cut wood. Hours later, William Welter showed up at the home of his uncle and neighbour, Charles Welter to report the accidental death of his companion, killed when the tree they were cutting fell upon him.

At first, there was no reason to question William Welter's story, but subsequent investigation of the accident scene and the suspicions created by the discovery of insurance policies valued at \$11,000 on the life of Will Hendershott with John Aaron Hendershott as the beneficiary suggested the need for an inquest.

The weight of the Canadian legal establishment was about to descend upon unsuspecting John Aaron Hendershott and William David Welter. The fledgling life insurance industry had become inundated with insurance fraud, including murders. They were actively promoting more intense investigation of crimes where insurance payouts were involved. First, the "Great Detective", John Wilson Murray, was summoned from Toronto to St. Thomas to examine evidence pertaining to the supposed accident. Second, Chief Justice Meredith, having just stepped down as leader of the Provincial Tories, was chosen to preside over the trial. Last, Britton Bath Osler, the Crown lawyer responsible for obtaining the conviction that led to the hanging of Louis Riel, was chosen to prosecute. All this legal and political experience aligned against the defense team of two small town barristers, Norman Macdonald and John A Robinson.

Wilson Murray lived up to his billing. The "Great Detective" (the inspiration for the CBC production of *The Murdock Mysteries*) was dispatched to assist Elgin County Sherriff Dugald Brown. He exhumed the body of the accident victim Will Hendershott and had the head detached for a more in-depth forensic examination by experts. He inspected the accident scene and suggested that the blood was methodically "*smear*ed" and not "*splatter*ed" on trees and objects. Wilson Murray questioned William Welter's story of how the tree had

fallen upon the unsuspecting victim. He uncovered previous attempts by John Aaron Hendershott to take out life insurance on other locals. On the basis of the unfolding evidence he charged William David Welter with murder and John Aaron Hendershott as his accomplice.

John Aaron Hendershott may have believed that at least he might escape conviction since the evidence was entirely circumstantial. There were similar reported incidents in the press of the day where the perpetrators of insurance murder had escaped justice because the crime could not be proven *beyond doubt*. This optimism soon evaporated, however, when Chief Justice Meredith delivered an eclectic summary of the importance of circumstantial evidence in proving guilt. "*Circumstantial evidence is sufficient, if it brings home conviction of guilt, to justify a jury in convicting*"¹.

Britton Bath Osler, already a highly regarded Crown Attorney, had been asked by John A Macdonald to help prosecute Louis Riel in Manitoba. By focusing the trial on Riel's ordering of the "execution" of a vocal opponent (murder being a capital crime), Osler got Riel hung without fomenting open rebellion. The issue of Riel's hanging still rankles many French Canadians. Osler was described in at least one newspaper as the "*best crown attorney in Ontario*."

The Hendershott/Welter trial took place in the Elgin County Courthouse between March 7th and 14th, 1895. The trial was reported in newspapers from San Francisco to New York, often conspicuous for their sensationalism and lack of accuracy. The courtroom was filled daily by reporters and interested onlookers. Eighty-five witnesses were called and an encircling chain of circumstantial evidence was methodically forged by Crown Attorney Osler. A guilty verdict was likely but not assured given local sympathies and the final address by Justice Meredith to the jurists. But, the jury found them both guilty. The sentence was pronounced by Justice Meredith. Meredith entertained no stays of execution despite the overtures of defense barrister Macdonald to revisit key evidence.

Norman Macdonald, John A Hendershott's daughter Mary Lily and Reverend David Spencer, the spiritual advisor to the convicted

¹ Reported in Medicine Hat New, 24 April, 1894

murderers, continued to make representations to the Federal Cabinet to commute the sentences to life imprisonment. But, after having placed Meredith in the position of Chief Justice, it would have been impolitic for the Cabinet to entertain such a reversal when Meredith had adamantly refused further reviews. The men were executed by Canada's hard-drinking hangman at the time - John Radcliffe - renowned for his skill in the deadly art.

The hangings were one of only two double executions in Canada and the last performed in the St. Thomas jail yard. The bodies were not buried in the family's graveyard but rather, within the confines of the jailyard itself.² The graves were rediscovered in 2010 when the courthouse underwent expansion. No relative came forward to claim them and they were reinterred in the West Avenue Cemetery in St. Thomas, well removed from any other Welters or Hendershotts, including Hendershott's two daughters and his wife Sarah Elizabeth.

This is a tale of murder - morally repulsive murder, parricidal, bloody murder committed in the most gruesome manner. It was premeditated, calculated murder for financial gain. "*Nothing worse has happened out of fiction. It was a terrible crime, and it has a fearful expiration.*"³

² There was confusion as to the actual location of the burials. Newspapers reported them being buried below the gallows, but they were unearthed in 2010 in a corner of the jailyard.

³ London Adviser, Garton Scrapbook, p. 250

CHAPTER 1 - ORIGINS AND CONTEXT



Figure 1 - Canada In 1894

In 1894, Canada had only been a country for twenty-five years. Its' boundaries differed dramatically from what exists today. What had been Upper and Lower Canada was divided into districts. While some counties had existed prior to 1849, thereafter they replaced the district systems in administering local government and courts in Ontario. Elgin was created from part of Middlesex County in 1851 with the county seat established in St. Thomas.

In 1891, the Liberal-Conservatives Party, led by John A MacDonal, was re-elected with its fifth majority and MacDonal's final election before his death on June 6, 1891. John Abbot then became Prime Minister until replaced by John Thompson in December, 1892. Shortly thereafter, In December 1894, John Thompson died suddenly and Mackenzie Bowell, as the most senior Cabinet minister, was appointed in Thompson's place by the Governor General.⁴

⁴ Bowell thus became the second of just two Canadian Prime Ministers to hold that office while serving in the Senate rather than the House of Commons.

In Ontario, the provincial election in 1894 was the eighth held in the province. On June 26, ninety-four members were elected to the Legislative Assembly of Ontario ("MLAs"). The main issues at the time were the Liberals' *Ontario System*, French language schools, farmer interests, support for Toronto business, woman suffrage, the temperance movement, and the demands of labour unions. The Ontario Liberal Party, led by Oliver Mowat, formed the government for the seventh consecutive time, even though some of its members were elected under joint banners: either with the Patrons of Industry or the Protestant Protective Association. The Ontario Conservative Party, led by William Ralph Meredith, again formed the official opposition.

Meredith's dispute with the Catholic Church had undoubtedly contributed to yet another embarrassing electoral defeat, and the Conservative government in Ottawa now viewed him as a "*governmental impossibility*" in Ontario, and decided it might be more prudent to place him in a position better suited to his talents. So, in 1894 he retired from politics and accepted the position of Chief Justice of the Common Pleas and of the Ontario High Court of Justice. This appointment made available a high profile, politically-minded judge to be the Chief Justice for the trial of John Aaron Hendershott and William David Welter in Elgin County.

Prohibition

An **Ontario prohibition plebiscite** was held on January 1, 1894, in conjunction with municipal elections under the Prohibition Plebiscite Act, on the legality of alcoholic beverages and the implementation of prohibition. 63.5% voted in favour of prohibition. The plebiscite passed but the results were non-binding. Prohibition faced another roadblock in 1896 when the Queen's Privy Council for Canada determined that provinces lacked the authority to prohibit the importation of alcohol. Prohibition occurred in Ontario in 1916.

ROOTS

By 1890, both the Hendershott and the Welter families were well established in America and in Upper Canada. Both families had emigrated from New Jersey as United Empire Loyalists, and they were connected, ancestrally through Anne Hendershot (1775 - about 1850) who married John Partial Welter in 1795. Both were originally Palatines, Germans who migrated to America between 1680 and 1760, with Pennsylvania, New Jersey and New York Colonies their favored destinations. They came for a variety of reasons: declining opportunities for farm ownership in Central Europe, persecution of some religious groups and to avoid military conscription in Germany.

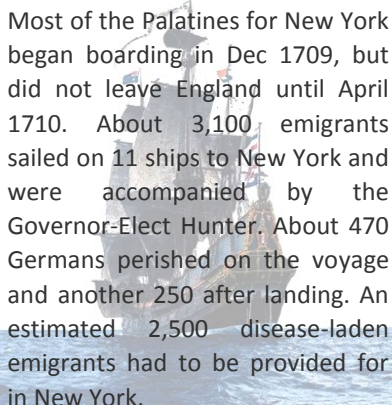
The really critical period came with the black years of 1707-1709. A foreign invasion was followed by crop failure, and then by the coldest winter in living memory, and finally famine. At this very time, colonizing agents passed through the Rhine Valley singing the praises of pioneering in Pennsylvania, and of the generous protection of England's Queen Anne. The Palatines were quick to respond to such an appealing alternative. They sought better economic conditions, especially the opportunity to own land, and to enjoy religious freedom. Before departing many received *Letters of Denization* granting them the right to hold property in the new colonies. They often paid for their passage by selling their labor for a period of years as indentured servants.

Denization

A process in England dating back to the 13th century by which a foreigner, through letters patent, obtained rights normally enjoyed by the King's (or Queen's) subjects. The denizen was not a citizen because he did not have any political rights: he could not be a member of parliament or hold any civil or military office. However, a denizen could purchase, but not inherit, property.

Johan Michael Hinneshied (also referenced as Hinterscheid) undertook the trek in 1709, when Protestant Germans from the Pfalz region of Germany fled conditions of hardship, traveling first to Rotterdam and then to London, England.⁶ There Queen Anne of Great Britain would help Michael and his family relocate to her colonies in America. The trip would be long and arduous because of the poor quality of food and water aboard ships and the infectious disease typhus. Many, particularly children, would die before reaching America.

Palatine Emigration



Most of the Palatines for New York began boarding in Dec 1709, but did not leave England until April 1710. About 3,100 emigrants sailed on 11 ships to New York and were accompanied by the Governor-Elect Hunter. About 470 Germans perished on the voyage and another 250 after landing. An estimated 2,500 disease-laden emigrants had to be provided for in New York.

Johann Michael was born in 1694 in München, Bayern, Germany. With his wife, Anna Catharina Schneider and five children he set sail for New York Colony arriving on June 13, 1710 aboard the ship *Lyon of Keith*. At Nutten Island⁷, New York - the port of entry, Hinneschied was phoneticized as Hendershot and became a template for subsequent emigration under that name. Michael settled in Raritan, New Jersey Colony, had four more children and died in Rockaway,

Morris County, New Jersey Colony. Johan Michael was not liked by all his neighbours, a family characteristic that was to resurface generations later with John Aaron Hendershott.

“This man (Johan Michael) had stained his soul with many sins of unrighteousness as I learned from people who had known him from his youth up . . . but he made himself out so pious,

⁵ A Hof was roughly equivalent to an English manor owned by an absentee landlord. Essentially a Hof was an estate, sometimes one of many, which belonged to a nobleman who rented it to common farmers.

⁶ Immigrant Ships, Transcribers Guild, Simmendinger Register A-L, at http://immigrantships.net/v4/1700v4/simmendinger17100100A_L.html

⁷ Palatines from England to New York 1709, [Olive Tree Genealogy](#)

that I had almost never met a man so pious as he appeared to be.”⁸

A son who immigrated with Johan was Casper Wilhelm Hendershot (1699-1786), the great, great grandfather of John A. Casper had nine boys. Three of them (Peter, Isaac and Jacob) fought in the War of Independence for the New Jersey Volunteers. Casper and his oldest son, Peter, immigrated to Niagara, Ontario after the American War of Independence. John A's great grandfather, Christian Hendershot, immigrated with seventeen of his children in 1805 to the Hamilton-Toronto area. He served in the British army at Queenston Heights in the War of 1812 along with sons Daniel and John (who was reported to be the first casualty of the war, killed by a sniper while on sentry duty). Another son, Samuel, defected to the Americans and returned to New Jersey.

Christian Hendershot (1734-1812) married three times and fathered over twenty children from 1754 to 1804. One was John A's grandfather, Daniel Hendershot (1790-1888). Daniel fought as a Loyalist alongside his father in the War of 1812. As was his right, he petitioned for land in Upper Canada and moved into Norfolk County in 1824. Daniel had at least eleven children (one report stated he had twenty-three). One of these was John A's father, Jacob Hendershott.

Derivation of Name

The surname Hinneschied/Hendershot is literally based on *Hund*, the ancient word for a 'hundred, or the chief of a hundred'. The first vowel caused writers so much difficulty to render that it must have been a diphthong, either ä, ö, or ü. Thus, it must have derived from either *Hönscheid* or *Hänscheid*, hamlets close together near Blankenberg, in Berg. Freely translated these mean the 'township meeting place,' a community clearing ("Scheid") in the primeval forest which covered much of Germany during the early Middle Ages. So Hinneschied/Hendershot would mean a person from the one particular place of this name. The first syllable of the place-name evolved from *Hund*, a word used both in Old German and Old English. A 'hundred' was in both countries a small local jurisdiction of roughly the area of a Canadian township. Use of a person *Hund* meant the chief man of the area. In English a 'hundreder' was either an inhabitant or the chief of the

⁸ Sinners, preachers and others,

JACOB HENDERSHOTT AND CHARITY HORNING

Jacob (1825-1909) settled in Ancaster, Ontario and married Charity Horning (1824-1909). Jacob and Charity had six boys followed by four girls between 1847 and 1865. The oldest was David Marshall Hendershott (1847-1925), the father of the murder victim, William Henry Hendershott. John Aaron Hendershott was the third of the ten children. The family lived in Norfolk but moved to St Clair, Michigan for a period of time between 1850 and 1865. Upon their return they settled in Elgin County:

CHILDREN OF JACOB AND CHARITY

- **David Marshall Hendershott** (1847-1925) - Walsingham, Norfolk South, father of the victim. In addition to William David Marshall there was an older boy, Phillip;
- **John Aaron Hendershott** (1850-1895) - Middlemarch, Southwold Township, Elgin County. John A married **Sarah Elizabeth Welter**, a cousin from his great, great grandmother - Anne Hendershot (daughter of Christian Hendershott [1734-1812]). John A had two daughters – Mary Lily (age 19 in 1895) and Rosa Maud (age 13 in 1895);
- William Peter Hendershott (1854-1937) - Frome, Southwold Township, Elgin County (the author's great grandfather),
- Wellington Frances Hendershott (1856-1918) - Norfolk County;
- **Archibald Duncan Hendershott** (1858-1944) - Norfolk County. (Duncan provided evidence at the trial and took care of Mary Lily and Rosa after John A went to jail);
- Mary Ann Hendershott & Sarah Ann Hendershott (1859-Unknown). Twins probably died early;
- **Malinda A Ketchabaw** (nee. Hendershott) (1863-1941) Eden, Ontario (married **John Ketchabaw** whom John A visited on the day of the murder);
- **Rachel House** (nee. Hendershott) (1865-Unknown), (mother of **Henry House** who provided evidence at trial).

ISAAC WELTER AND SAMANTHA DINGMAN

William David Welter, the convicted murderer of William Henry Hendershott was the son of Isaac Welter who lived on the property adjoining John A's. Isaac was the son of David Welter (1798-1865) and the grandson of John Partial Welter (1770-1855) who had also emigrated from New Jersey. John Partial's brother David Welter (1798-1865) was the father of John Aaron Hendershott's neighbour, Isaac Welter, making Isaac and his wife, Sarah Elizabeth, cousins, once removed.

CHILDREN OF ISAAC AND SAMANTHA

- Aurilla Webb (nee. Welter) (1858-1939) – Elgin County;
- Ida Belle Lamond (nee. Welter) (1861-after 1910) – Elgin County, moved to San Diego California;
- Harriet Amelia Lamond (nee. Welter) (1863-1934) – Elgin County, moved to Portage-La-Prairie, Manitoba, Canada;
- **Edith Almira Boughner** (nee. Welter) (1864-1959) – St. Thomas (Edith accompanied Mary Lily Hendershott to Ottawa to intercede on behalf of William Welter for commutation of his sentence to life imprisonment);
- Oscar Welter (1866-1901) - Southwold, Elgin West, Ontario, Canada;
- **William David Welter** (1870-1895) - Southwold, Elgin West, Ontario, Canada. Hung for murder of William Henry Hendershott;
- Alma Astella Welter (1874-1888) - Southwold, Elgin West, Ontario, Canada. (Died at age 14 when William Welter was 18);
- **Albert Roy Welter** (1876-1947) - Southwold, Elgin West, Ontario, Canada (married John A Hendershott's youngest daughter, Rosa Maud. Moves to Saskatchewan, then to Montreal Quebec);
- Eva Pearl Welter – (1885-Unknown)

ELGIN COUNTY

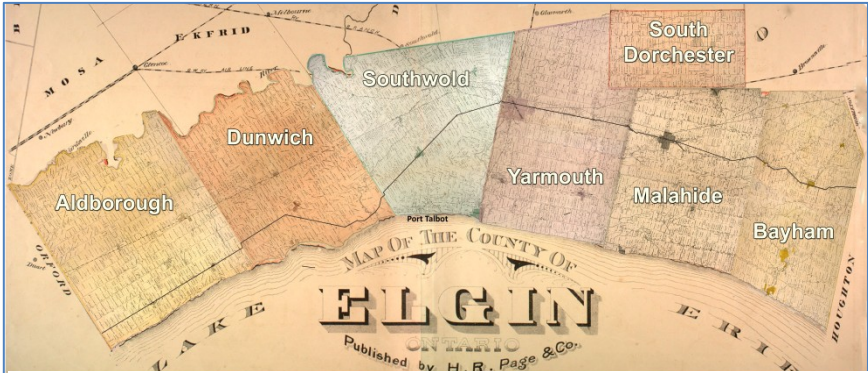


Figure 2 - Townships of Elgin County with Talbot Road

Elgin County,⁹ located in Southwestern Ontario on the north shore of Lake Erie, was comprised of seven townships: Aldborough, Dunwich, Southwold, Yarmouth, Malahide, Bayham, and South Dorchester. It was bordered on the west by Orford township in Kent County; on the north by Mosa, Ekfrid, Caradoc, Delaware, Westminster and North Dorchester townships in Middlesex County, and Dereham township in Oxford County; and to the east by Middleton and Houghton townships in Norfolk County. To the south was Lake Erie. Aylmer was the only town and St. Thomas the only city located in the county.

In the early 1800s John Graves Simcoe toured Upper Canada as its first Lieutenant-Governor with his young aide-de-camp, Lieutenant Thomas Talbot¹⁰. Talbot fell in love with the Ontario wilds, and, after resigning from the military, returned in 1803 to establish a small agricultural community on 5,000 acres at Port Talbot.

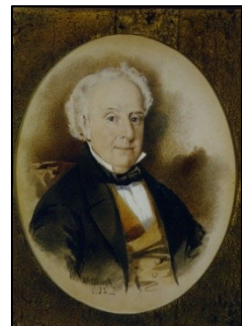


Figure 3 – Lt. Thomas Talbot

In 1803, the Talbot Settlement comprised the whole of the current county of Elgin and part of Essex, Kent, Middlesex and Norfolk

⁹ Taken from Elgin County Branch of the Ontario Genealogical Society web site at <http://www.elginogs.ca>

¹⁰ Picture from Elgin County Archives, [The Talbot Family](#)

counties: five thousand acres of land granted on the condition that he convey fifty acres out of every two hundred to an actual settler. He was also commissioned additional grants scattered about in 28 townships with 618,000 acres of the Western Peninsula along the Lake Erie shore, south of the Thames River to Lake Erie and from Windsor in the West

Conditions of Settlement

Depending on circumstances, the settler got his land for little or nothing but hard work. If he had been in the military service in England or had fought in the American Revolution as an Empire Loyalist, he was entitled to at least 200 acres free (more if he was an officer), as was each of his children at the age of 21. When the settler was assigned his lot, he had to clear five acres of land and build a log shanty (a minimum size was required) and open the road in front of their lot, Talbot then issued them a certificate, which, with fees they could take to York to claim their patent and register ownership. If their duties were not preformed, or in some cases if they proved rebellious, their names were rubbed out and replaced by others. (Firby n.d.)

to almost Long Point in the East. Talbot established himself on the bluff of Lake Erie, at what is now Port Talbot, and from here arranged land for settlers. Talbot arranged for the building of the Talbot Road and the construction of a mill but he had attracted only 27 settlers by 1812.

In 1809, Mahlon Burwell surveyed the Talbot Road from Port



Figure 4 - Mahlon Burwell

Talbot through Southwold, Yarmouth, Malahide and Bayham townships.¹¹ By 1811 the road had continued westward through Aldborough and Dunwich townships. With its' completion there was a flood of applicants for land along it. Colonel Talbot persuaded the government that lots along the road should be open for settlers. Wherever practical, clergymen should be located adjacent to it

on the north and south sides. As a settlement duty, each settler was responsible for the upkeep of the road in front of his property. The

¹¹ For a description of this see Mahlon Burwell - Surveying the Talbot Settlement at <http://elginhistoricalsociety.ca/ehs/content/mahlon-burwell-surveying-talbot-settlement>

first settlers in 1810 were Daniel Rapelje and David Mandeville, who settled at Talbot Road and Kettle Creek. These were St. Thomas' first citizens.

In 1823, Talbot decided to name the nearest port after his friend Baron Edward George Stanley, 14th Earl of Derby, whose son, Frederick Arthur Stanley would become Canada's governor general and donate to the hockey world the elusive trophy, which still bears his name.

1812 had the settlers laying down their ploughs and taking up muskets as the United States declared war on Great Britain. Most of the settlers served in the militia but continued to plant their crops between periods of service. The Summer of 1812 saw victory at Detroit

and British control of Lake Erie ensured that no Americans could remain for long in the Talbot settlement. But, in 1813, the Americans won a battle on Lake Erie and Tecumseh, the great Shawnee Chieftain, was killed. The Americans thereupon controlled all of Southwestern Ontario from Chatham to almost Delaware. The Talbot Settlement was in no-man's land between the British land in Oxford County area and the American land to the west. American General Duncan McArthur led a thousand mounted Kentucky soldiers on a foray down the Talbot Road to the Long Point area and then back again, destroying the mills and farms along the way. Port Talbot, the home of Thomas Talbot, was leveled during this raid and never rebuilt. However, the British prevailed and finally, on December 24, 1814 a peace treaty was signed at Ghent, ending the war of 1812.¹² Southwestern Ontario, Elgin County and the settlers along the Talbot Road would remain British.

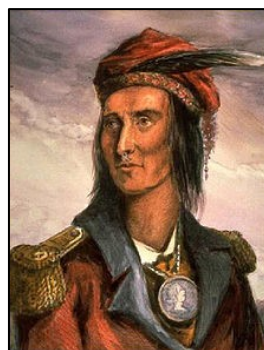


Figure 5 - Tecumseh

By mid-century, most of Southwestern Ontario had been surveyed and much of the land was owned by either speculators, the Crown or the Anglican Church. Prior to the war of 1812, Talbot had arranged to receive two hundred acres of land for each settler that he located in the original grant. He settled many of them on land in Aldborough and

¹² A Brief History Interesting Landmarks, St. Thomas Cemetery Company Today, at <http://guilltokeyboard.files.wordpress.com/2013/11/st-thomascemeterybook-doc.pdf>

Dunwich Townships. Only later, did he place settlers on lands in Southwold, Yarmouth, Malahide, Bayham and adjacent townships. Nonetheless, he eventually had settlers in twenty-six of the townships. They were expected to farm a certain amount of land, pay a settlement fee and clear the front of their property for a road.

In 1851 the Legislature of Upper Canada passed the *Act to Establish the County of Elgin*, and in 1852 a council for the County of Elgin was appointed and a building was erected on lands donated by Benjamin Drake for a Courthouse and County Seat. Once St. Thomas had received the prestigious honour of being the County Seat, it was incorporated as a village with David Parish appointed as the first Reeve.

By 1850 the population of Upper Canada had reached 12,000 people and there were over 60,000 acres under cultivation. John A's father, Jacob Hendershott, was part of this growth. He was resident in Elgin County for the 1851 census, thereafter moving between Southwold and Norfolk Counties, but returning to Elgin by 1890.

ST. THOMAS

Commerce expanded rapidly in the region with the building of railroads. The first line was the London and Port Stanley Railway (L&PS). Construction began in 1856. The railway provided connections between London, St. Thomas and Port Stanley, Ontario. It was built primarily to facilitate trade with the United States, particularly of wood and coal. As a result of its rail connection, a substantial investment was made in the port facilities of Port Stanley, which in turn attracted American and Canadian shipping. The railroad also proved popular with local residents, particularly in the Summer when many commuters utilized the system to travel to Port Stanley's beach and resort facilities. Unfortunately, the railway's service was not always impeccable, as it also earned the nicknames *Late & Poor Service*, *Lost & Presumed Sunk*, and *Lean, Push & Shove*.

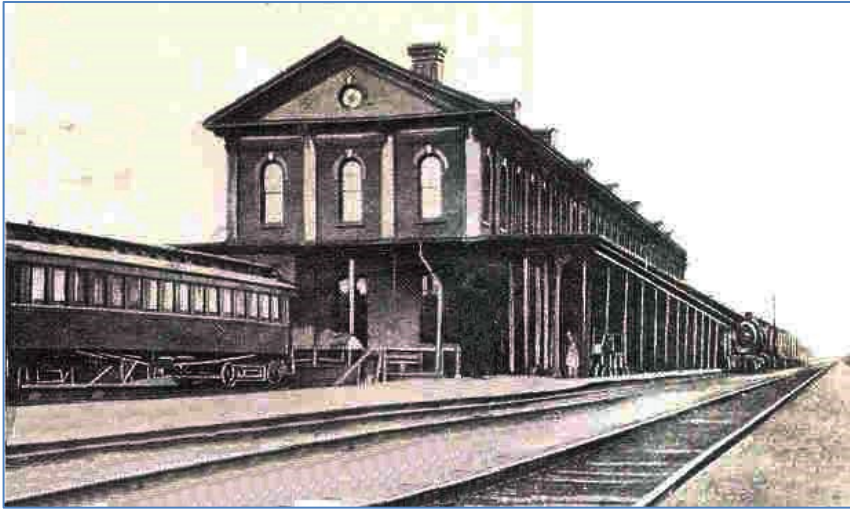


Figure 6 - Canadian Southern Railway Depot, St Thomas, C 1895

There was more profitable commerce to consider. As the shortest distance between Detroit and Buffalo, railway lines began to spread east-west across Southwestern Ontario joining the region to cities and ports in Canada and the United States. The Canadian Southern Railway was the first to realize the potential of this route. In 1860 the Canada Southern Railway needed a large piece of land for their station and car shop. The offer of \$25,000 in bonus money was enough to entice them to choose St. Thomas as the site. They located on Talbot Street near Manitoba St. The site was actually between the Village of St. Thomas and its tiny rival town, Millersburg. In 1861, St. Thomas was incorporated as a town and M.T. Moore, a prominent tanner, was the first mayor. At the height of the railway boom between 1872 and 1873 the population virtually doubled, growing from 2,906 to 5,073. And, it quadrupled in the span of not much more than a decade.

To remain competitive, the Great Western railroad in 1871 recognized the need to connect their Sarnia-London-Hamilton-Toronto line to the port and city of New York. They built the so-called *Airline Loop* from Glencoe, Ontario to Niagara Falls, Ontario with a stop on their main line, through St. Thomas and Aylmer. In St. Thomas, this rail line ran across the trestle above Athletic Park. In later years, the Grand Trunk Railroad took control of the Great Western, leased running rights to the Wabash and became the Canadian National. It then absorbed the Wabash's successor, the Norfolk & Western and became the Norfolk & Southern. These rail businesses had a station and shops

at the north end of St. Catherine Street and employed many local men, most of whom lived north off Talbot Street. Among these was John A Hendershott's younger brother, William Hendershott.



Figure 7 - Grand Trunk Railroad across Athletic Park - 1872

Of lesser impact, but still an important link at that time, was the Credit Valley Railway. Credit Valley laid tracks from Woodstock to St. Thomas in 1881 which linked the main line of the Canadian Pacific to the Michigan Central and opened access for local passengers and freight. In 1895, the Credit Valley Railway was absorbed by CPR, which ran trains into St. Thomas' industrial area.¹³

¹³ History provided by The Firby Family History, Life In The 1700 and 1800's In Elgin, at <http://www.execulink.com/~firby/history.html>

MIDDLEMARCH



Figure 8 - Southwold Township Lot Numbers

"Today, after recalling the coming of the pioneers of Middlemarch district we are reminded of their sacrifice, their strength of character, in the face of perils and want, proud of those who have carved from the forest primeval homes and fertile fields as our heritage."¹⁴

Middlemarch is located about three miles or five kilometers west of St. Thomas on the old Talbot Road. It started as an Indian Road, then in 1827 became a corduroy road connecting Colonel Talbot's home at Port Talbot with St. Thomas. A large log hotel on the property of Calvin Whitt was used extensively by Colonel Talbot to host his anniversaries, as well as

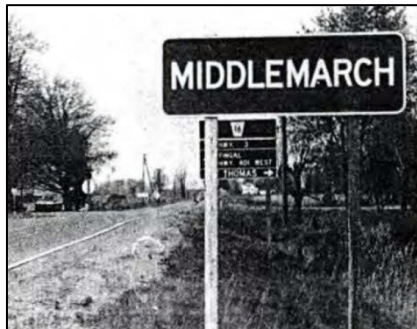


Figure 9 - Middlemarch Ontario

many auction sales. Originally known as Smoke's Corners, it was to be changed to *Hatherley* when the post office was to be established in 1875, but since there was already an Atherley Post Office this was considered to be a source of confusion. Jabel Robinson, responsible for inaugurating the post office, was reading the book *Middlemarch* by

¹⁴ Jessie Fletcher, *Memories of Middlemarch*, pp. 16-29, Elgin County Archives at <http://www.elgin.ca/ElginCounty/CulturalServices/Archives/tweedsmuir/Middlemarch%20Vol%201/page%20016%20-%20029.pdf>

George Elliot at the time - he thought that would be an apt name. By 1895, Middlemarch had a hotel, a school and the Grange Hall which was used to host the inquest into the death of Will Hendershott in late December, 1894. Middle-march is on the corner of the original Talbot Road and what became John Wyse Line (Figure 8 - Southwold Township Lot Numbers).

Christopher Hendershott, an uncle of John A, had been deeded the west half of lot #32 in Southwold Township from Christopher Long in 1828. In 1831 he returned to Norfolk County and the property was sold to Colin McPhedron. In 1842 it was split between Peter and then Hector McLean and John Welter, John Stubbs, Joseph Barnes and David Lyle. In 1896 Isaac Welter, father of William Welter - the murderer, bought portions of the lot which was assumed by his son Albert Roy and Rosa Maud Hendershott (the youngest daughter of John A) after his death.

Lot #33 was owned by Peter Stokes and Jacob and John Welter. John Welter left his portions to his children in 1886 - Sarah Elizabeth Welter (wife of John A), Mary Jane Stanton and Charles Welter. In 1896, Mary Jane's husband, James Stanton and David Lyle purchased portions of Lot 33.¹⁵

Lot #34 was owned in 1820 by Joseph Smith, then Mr. Conns and Thomas Casey who, by 1895, also owned lot #33 south of the Talbot Road. In 1841 the south side of lot #34 was purchased by Salathiel Curtis from Joshua Wardell, his wife and son having emigrated from Devonshire, England. The back part of lot #34 was settled by George Ballantine and passed down to Richard Sanders.

Lot #35 was originally settled by Benjamin Fuller and was sold to Joshua Wardell in 1825. Wardell was a United Empire Loyalist and a soldier in the war of 1812 (it was rumoured that Joshua Wardell attended the funeral of General Brock, under whom he had served). Joshua's son Edwin Wardell lived on the side road opposite the Curtis home. Edwin was a lieutenant in the militia and, in 1848 married the daughter of James McQueen.

¹⁵ A Book of Lady Tweedmuir's Library, Middlemarch & District, at <http://www.elgin.ca/ElginCounty/CulturalServices/Archives/tweedmuir/Middlemarch%20Vol%202/page%20001%20-%200015.pdf>

Lot #37 was settled by Peter Graves, a shoemaker, who came from Pennsylvania in 1820. He made and repaired shoes and farmed the acreage on lot 37. The land south of the Talbot Road was passed on to his grandson, Charles Welter. Immigrating with Peter Graves was Elijah Mann. Mann's home was assumed by Frank Curtis and then his son, Elijah. Elijah sold it to Isaac Welter the father of executed William David Welter.

Lot 39 was approximately two miles west of St. Thomas and was purchased in 1833 from the Crown by Bryant Wade. He sold the west half to Richard Mandeville who later passed it on to John and James Mandeville and then to Richard Nichols. John Lyle,



Figure 10 - House of Industry, St Thomas

bought it and lived there for many years. Later the west half was sold to his son-in-law, Charles Butler who, with his son Kenneth Butler, farmed the land. Bryant Wade sold the east half to John and William Lodge, next to William Chaplow and finally to John Cole. The east fifty acres were sold on June 22, 1875 by John Cole to Elgin County for \$3,000 for the establishment a *House of Industry and Refuge*. A large brick building was erected and the House of Industry and Refuge was officially opened February 11, 1876 by George Suffel of Vienna, Warden of Elgin County. At that time, there were only two or three such institutions in the province.

The House of Industry and Refuge was a home for many types of people. These individuals were considered *Inmates* and participated in the upkeep of the building and working of the land. Reasons for admission were listed as “*weak minds, idiots, insane, destitution, sickness, old age, intemperance, crippled, blind, pregnant, etc.*” The home held approximately 35-40 female and male inmates.

The house was operated by the County through a committee of three people who were appointed annually. William Aldritt was appointed Manager on January 27, 1888 and served for twelve years.

ST. THOMAS POLICE DEPARTMENT

Major urban centres had begun introducing police forces in the 1830s. In 1852, when St. Thomas was incorporated as the *Municipality of the Village of St. Thomas*, a by-law was passed appointing two police constables – Richard Willis and Robert Cusack. Then in 1858 an amendment to the Municipal Corporations Act required towns of more than 15,000 people to establish their own constabularies.



Figure 11 - Police Chief Fewings

Thirty years later in 1888, St Thomas Police Chief, James Angell Fewings, published a book of rules and regulations based on the principles and goals held by Sir Robert Peel. The book outlined the main objectives as "*crime prevention, security of person and property, and the preservation of public tranquility.*" Fewings outlined the qualifications of a constable as possessing "*the general knowledge of police duties, an able body, be no shorter than 5'10" in stature, good tempered, and able to pass examinations in reading, writing and arithmetic.*"¹⁶ The primary weapon was a baton or night stick which constables needed to purchase themselves.

By 1894, the force consisted of four positions -- Chief, Sergeant, Senior and Junior Constables. Officers included William Thomas Fairbrother, James McQueen, John Hopkins, Sidney Chote, Huffman and Campbell. For events, special Constables could be hired at a rate of \$1.50 a day.¹⁷ The clothing allowance for the winter of 1898 was

¹⁶ History Of Policing In St. Thomas, St. Thomas Police web site at

<http://www.stps.on.ca/index.php/OurHistory/Index>

¹⁷ Hired on the day of the Hendershott-Welter execution (June 18, 1895) were constables Elliot, Frank Golding, William Metcalf and Edward Travers -- Garton Scrapbook

\$111.50. The Chief was allowed \$22 for a coat while a Sergeant got \$20 and a Constables \$19 for theirs. In 1902, Constables earned \$50 per month and the Sergeant \$60. Transportation at that time consisted of two bicycles and foot patrol. Shifts were determined by seniority with the junior constable working straight night shifts.¹⁸

There was little or no capacity for detective work by constables. They were not trained in detection nor adequately remunerated to seek competency. As a result, the collection of evidence most often was the responsibility of county crown attorneys, who did no investigative work but



Figure 12 - Constable Circa 1895

prosecuted on the basis of whatever information police could provide. While detectives might be provided by the new dominion government for crimes within their realm such as the guarding of public buildings or the investigation of counterfeiting operations, detectives were not systematically used by any municipal or county jurisdictions.

By the 1870s three principal weaknesses with the policing system, especially in rural areas, had been identified:

1. the constable, who was "*usually a poor man*", could afford only to "*take a look about the immediate neighbourhood*"; he went no further because the fees were "*totally inadequate to reimburse him for either his time or necessary expenses*,"
2. parochialism often led to patronage, corruption, and jurisdictional disputes, which hampered the investigation of crimes involving prominent figures and of many major crimes,
3. there was an increasing perception that rural constables were simply not capable of investigating anything but

¹⁸ The Evolution of Policing in St. Thomas, at <http://www.stps.on.ca/index.php/OurHistory/Index>

minor offences. Judge William Aird Ross of Carleton County, for example, underlined in 1882 the necessity in the rural parts of the county for "*a competent officer . . . to take prompt, immediate proceedings for the detection and arrest of . . . guilty parties.*" It was coming to be believed that experience and training were required for an effective system of detection.¹⁹

This was the quality of crime detection that John A and William Welter could expect to find following the demise of so unimportant a figure as Will Hendershott. But \$11,000 was a lot of money at the time (equivalent to about \$330,000 in 2014) and the insurance industry was tiring of paying out money on what many presumed were murders. As the investigation and trial unfolded, the meager local resources were vastly supplemented by more competent detectives, better prosecutors and a more prominent judge. The bench strength of the judicial system the accused faced was far deeper and better skilled than they first appeared to be.

¹⁹ Extracted from Dictionary of Canadian Biography,
http://www.biographi.ca/en/bio.php?id_nbr=6951

VICTIM AND PERPETRATORS

Top names of the 1890s²⁰

The 10 most popular given names for male and female babies born during 1890 - 1899

Rank	Men	Women
1	John	Mary
2	William	Anna
3	James	Margaret
4	George	Helen
5	Charles	Elizabeth
6	Joseph	Ruth
7	Frank	Florence
8	Robert	Ethel
9	Edward	Emma
10	Henry	Marie

THE LAMB - WILLIAM HENRY HENDERSHOTT

William Henry "Will" Hendershott (1870-1894) was the eldest of two sons born to David Marshall Hendershott (1847-1925) -- the brother of John Aaron "John A" -- and Sarah House (1843-1926). Will had a quarrel with his father and left home in 1894, whereupon he worked for John McLachlin in Fingal²¹ between April and December, 1894 for \$18 per month plus board and washing. During this period he reportedly spent two to three evenings per week in Fingal with his uncle Duncan Hendershott. Will had intermittently been living with John A but, in December 1894 John A invited him to move in and help him around his farm.²²

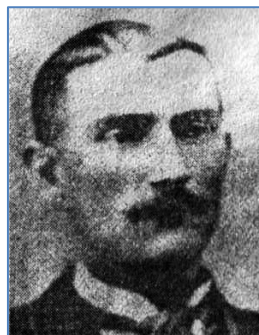


Figure 13 - Wm Henry Hendershott

²⁰ Taken from a universe that includes 1,231,347 male births and 2,353,385 female births, Source: [.100 Most Popular Names](#) in the 1890's:

²¹ Duncan Hendershott reported that William would "*not leave his father a cent*" since his father would "*not let him have a top buggy he bought before he left*". Mag Manuscript, p. 606

²² On October 31, 1894, William had spent a few days with John A while his father and grandfather, Jacob Hendershott were visiting John A, Magistrate's Trial Manuscript, p. 678

Will started *keeping company* with Edith Welter in July, 1894.²³ Edith declared at the trial that they were engaged, and Will had purchased a necklace for her that was found in his trunk. He had also purchased a fine suit that he referred to as "*his wedding suit.*"

Will was regarded as a "*poor boy*" by William Welter, with few possessions, one of which was a prize watch -- the object of his demise according to the story of the accident by William Welter. The watch was also Welter's downfall for he stole it from the dead body of Will Hendershott, providing the Crown additional motive for the murder.

Will was to be paid about \$20 a month by his uncle for doing chores and farm work. He purportedly managed to have some savings in a bank in St. Thomas. How he could sustain making the insurance premiums on even one of the two policies without the continued financial assistance of someone else remains a mystery known foremost to Will. His uncle Duncan, whom he saw often, had a policy for \$2,000 and John A spoke often and favorably about the value of life insurance. It is easy to speculate that John A had planted the seed in young Will's mind, perhaps suggested as security for Edith Welter, whom Will was courting. John A was present in the office of Doctor Duncombe when he conducted Will's medical examination and John A lent him the money for the first premium. In an apparent attempt to obtain a better insurance rate Will was apparently going to switch companies. He would let his \$5,000 policy with Covenant Mutual lapse in favour of the new \$6,000 policy with the New York Mutual Reserve Fund. John A knew about the switch and accompanied Will to see Gilbert Roche, the insurance agent for the New York Mutual Reserve Association. The period of dual coverage created a window of unimaginable benefit - *a risky period for sheep when there were hungry wolves about!*

²³ Magistrate's trial manuscript, p. 815. Although William Welter has a sister - Edith Alvira, this is not her. However, they are second or third cousins.

THE WOLF - WILLIAM DAVID WELTER

William David Welter was described by Detective Murray as *"a massive fellow, over six feet tall, deep-chested, broad-shouldered, powerful."*²⁴ Defense Barrister Norman Macdonald said he was *"ten times as strong as an ordinary man."*²⁵ A *Machinaw*, Michigan newspaper had identified him as being resident there about 1891 when he would have been about 20 years of age. It reported that *"he was prominent in social and church circles, a worker in the Sunday School and a singer in the choir. He was a general favorite with those who came in contact with him."*²⁶

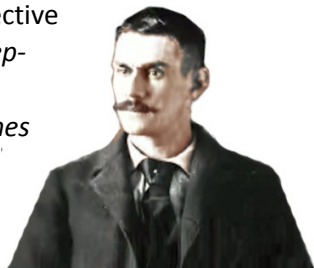


Figure 14 - William Welter

Four or five years older than John A's daughter Mary Lily, William Welter must have appeared travelled and quite debonair to her. But, his father Isaac Welter, had issues²⁷ with John A, his neighbour and husband to his cousin Elizabeth Hendershott (nee Welter). Isaac objected strongly to his son having anything to do with the family including any romantic relationship with Mary Lily.²⁸ In defiance, William left home in the Spring of 1893 to work as a resident farmhand for John A, "plowing and cutting wood."²⁹ William's relationship with the Hendershott's may well have been deeper for he commented in his deposition at the inquest into the death of Will Hendershott *"I am on intimate terms with John Hendershott, we sleep together."*³⁰

²⁴ *Memoirs of a Great Detective, The Middlemarch Mystery*

²⁵ *St. Thomas Daily Times, March 13, 1895*

²⁶ *Machinaw Island, June 18, 1895, in Garton Scrapbook, p. 252*

²⁷ John A's wife and Isaac Welter's cousin, Elizabeth Hendershott (nee. Welter) had died the previous April under suspicious circumstances that, one newspaper reported, had included John A receiving \$2,000 in insurance.

²⁸ The suggestion that John A Hendershott's wife Sarah Elizabeth Welter died under unusual circumstances indicated that many neighbours were suspicious of John A's involvement. This suspicion is supported when Sarah Elizabeth modifies her will one week prior to her death, leaving her estate to her daughters.

²⁹ Described in Welter's deposition at the inquest and contained in Magistrate's trial manuscript.

³⁰ Welter deposition at inquest. There is a possibility that Hendershott and Welter were "intimate" but, if true, one must wonder why this line was never pursued by Crown Attorney Osler. It certainly would have provided motive for Welter's seemingly reckless involvement in a crime for which Hendershott promised to be the chief beneficiary.

Mary Lily, described her relationship with Welter as “*keeping company*.” The press coverage of the trial described her as very beautiful. To Welter, she might have appeared even more attractive after the death of her mother,³¹ Sarah Elizabeth in April, 1894, for she and her sister Rosa had been made the inheritors of her mother's properties - to the exclusion of her husband, John A who was made executor.

THE FOX - JOHN AARON HENDERSHOTT

John Aaron Hendershott (1850-1895) was the third of six brothers born between 1847 and 1858. His mother's family, the Hornings had, like John A's father, Jacob Hendershott, emigrated from New Jersey. Jacob Hendershott (1825-1904), moved the boys to Michigan in 1850s but, returned to settle in Norfolk County by 1871.



Figure 15 - John A Hendershott

Married Women's Property Act 1870

The Married Women's Property Act 1870 (33 & 34 Vict. c.93) allowed women to be the legal owners of the money they earned and to inherit property. In 1882, this principle was extended to all property, regardless of its source or the time of its acquisition, thereby protecting a woman not only from her husband gaining control of her property but also from people that worked for him, his creditors.

John A's wife, Sarah Elizabeth Welter, was the oldest daughter of John Welter (Unknown-1886) and Mary Ann Graves (1830-1901). John A and Sarah married on February 23, 1875. Sarah Elizabeth inherited a portion of her father's property (along with her brother Charles and her sister

³¹ In providing testimony at the trial Mary Lily referred to their relationship as "keeping company." Trial Manuscripts, p. 57

Mary Jane Stanton) upon the death of her father on June 7, 1886.³² Her uncle, Isaac Welter, who owned the adjoining property, witnessed the probation of the will.³³

Sarah Elizabeth apparently contracted cancer which resulted in her death on April 11, 1894.³⁴ Knowing her fate, Sarah had her will changed one week before her death, leaving her personal estate entirely to her two daughters, Mary Lily (age 18) and Rosa (age 12). John A would be the executor of the will. Mary Lily would receive her inheritance in the next year or so when she legally became an adult.

John A owned his brick home and lot at Middlemarch. It was valued at from \$1,200 to \$1,500 and had been co-owned with his wife who had bequeathed her half to her daughters. He also owned a house and lot in Aylmer and had bought a lot in Middlemarch paying \$400 subject to a \$900 mortgage. The Aylmer property was also owned jointly with his wife Elizabeth and her portion was bequeathed to the two daughters. There were no encumbrances on either property at the time of the inquest in December, 1894, though John A testified at the inquest that he had \$600 or \$700 in outstanding bank notes.³⁵ John A had leased Edwin Wardell's lot across the road from which he was cutting wood, in spite of a clause in the lease agreement that no wood could be cut (though existing felled wood could be used for firewood). He was \$24 in arrears to Wardell at the time of the death of Will Hendershott. John A's lawyer, John Robinson paid the debt prior to the Preliminary trial on January 4, 1895. David Hendershott testified that John A still owed his son \$50 in past wages at the time of the killing and John A would not even honour an *order* for another \$10.

Sarah Elizabeth Hendershott's will made Mary Lily a good catch for the local young men, not that the added incentive was necessary, for Mary Lily was reportedly quite beautiful. According to press coverage at the time of the trial, she caught the attention of William

³² Probated will.

³³ John A and Sarah E Hendershott are listed as co-owners of the property at Middlemarch for the purposes of mortgages on 6 Nov 1893 and 4 Dec 1893

³⁴ There was local sentiment that Elizabeth had died uncertainly, casting aspersions on her husband

³⁵ Deposition of John A Hendershott at Inquest

Welter who started "*seeing her*." John A testified in his deposition that he had no knowledge of any engagement between the two.

About the same time, John A's older brother David Marshall Hendershott had antagonized his son, William Henry. David Marshall had lived in Elgin County but had moved back to Norfolk County by 1871. Rather than remain at home, Will went to work as a farmhand for local farmers. Between jobs he was known to stay with his uncle, John A. Following a stint as a labourer with John McLachlin of Fingal, John A offered Will work and a room in his house in December, 1894. He and William Welter, both now farmhands for John A, had been requested to cut wood while John A went to see his sister, Malinda Ketchabaw in Eden, Ontario over the weekend of Dec 15-16, 1894. He was to leave with his oldest daughter and neighbour, Charles Welter the morning of Friday, December 14th.

John A fancied himself a gentleman, deserving of a better life. Past ventures running a hotel in New Sarum were unsuccessful when he lost his license "*owing to the way he kept the place*." It was rumored that he had perpetrated a fraud on the Ancient Order of Forresters³⁶ by falsely receiving sick benefits.³⁷ He was considered by many locals to be "*a sleek, shrewd fellow, rather inclined to take advantage in bargain*." Cousin Emily McConnell thought he preferred to "gad" about in his buggy rather than work. More damaging, however, were the reports that John A had many enemies. "*[T]hey had grudges against him, and it was evident that they were doing him as much harm as they could*"³⁸.

Edwin C. Guillet contended that by December, 1894 John's finances were in disarray -- he needed money and soon.

"John Hendershott sometimes borrowed money at 7% and 8%. When his wife died he borrowed to pay for her funeral, and again to pay for the monument over her grave, he borrowed some more in the Autumn of 1894 and paid most of the first installment of the premium on nephew Will's

³⁶ By the early 1890s, the Foresters had become one of North America's leading fraternal benefit societies, and, by 1906 membership had reached 257,000

³⁷ Preliminary Trial manuscript, pp 174-178

³⁸ Enemies of Hendershott Work Hard to Convict, Garton Scrapbook

insurance; but then he would soon owe Will for working for him, and besides he could afford to help him out when he was the beneficiary of the \$11,000 insurance. But, unfortunately, some more would fall due in a few weeks."³⁹

Among these debts were several to local merchants and land owners who would have a role to play in the ensuing drama. He was behind on his payments to Edwin Wardell for the lease of Wardell's Woods where he got firewood and he still owed Undertaker Kerr \$40 for the burial of his wife, Sarah Elizabeth, the prior April. John had mortgages on both his properties in Middlemarch and Aylmer. While he was considered to be *comfortable enough financially* by local standard, he, nonetheless, felt "*extremely frustrated with the limitations of poverty and life in general.*"⁴⁰

John A had ideas on how this situation might be remedied, ways not involving a lot of work. He had become enraptured with the possibilities of speculative insurance ventures. He bragged to relatives of the ease with which one could make money through scamming insurance companies. A more circumspect man would not have engaged in the following exchange with cousins Emily McConnell and her sister Anna French which came out at the trial after Detective Murray had tracked down the two ladies.

John Hendershott: Well, Emily, you've got things pretty slick about you here.

Emily McConnell: Yes, John, but I've worked hard for it. So might you have if you stayed at home and did less gadding about the country.

John Hendershott: Well, I'd have been well fixed if I had only insured my father-in-law [John Partial Welter] when the agent asked me to. He only lived six months after that. I missed my chance. This insurance game is easy money.

Emily McConnell: Why so? A hundred other men might live twenty-five years.

³⁹ Edwin C Guillet, *Easy Money*, 1945, p.3

⁴⁰ Lori Rieger, Even Tiny Middlemarch was Scene for a Murder, found at [Elgin County Archives](#)

John Hendershott: Oh, you women don't understand business. Suppose I ensure three or four fellows. One is sure to die and I will get back far more than enough to keep up the premiums on the rest.

Emily McConnell: Yes, but suppose he don't die, you are in the poorhouse paying the premiums. "

John Hendershott: You can always get rid of one.

Emily McConnell: What, John? You wouldn't do that.

John Hendershott: I mean there are accidents, or what pass off as such. I've heard of some that only looked that way but nobody bothered about it. It's easy money. I tell you, if you know the business and work it right.

The next day Hendershott drove onto Mrs. French's. Insurance was still on his mind, and he told her he had plans to get a little easy money. "There's no use gabbing to you women, he said when she objected. "You don't know business, that's all."⁴¹

John A had, on at least one prior occasion, tried to put these beliefs into practice. He attempted in July, 1894 to take out insurance on Patsy Dillen Fitzpatrick but could not get a local doctor in either St. Thomas or Aylmer to lie about the drinking habits of Fitzpatrick, the local town drunk.

It is unclear whether John A talked Will Hendershott into taking out a policy worth \$5,000 with Covenant Mutual and then another worth \$6,000 with the New York Reserve Association, or the young man came up with the idea on his own. Nonetheless, it was a golden opportunity. John A expedited matters by lending his nephew the money to pay for the premiums.

This didn't appear to be all there was, however. John Roche, the insurance agent for Mutual Reserve testified that when he handed over the insurance policy for Will Hendershott "*I told him it was up*

⁴¹ Cited in Edwin C Guillet, *Easy Money*, 1945, Chapter VI - The Crown Case

*there, together with some other policies of his, four insurance policies.*⁴² John A was known to have a fire insurance policy with Roche, but the other two remain a mystery. The case of Fitzpatrick was put aside as *irrelevant* by Justice Meredith at the trial. Surely insurance policies on other people would have been treated the same way. But, in the arena of local public opinion, the other policies were probably common knowledge, hence adding to the general belief of John A's involvement in the death of his nephew.

LIFE INSURANCE IN 1890 ONTARIO

The sale of life insurance began in the New World in the 1760s. From the beginning it was risky business. Between 1787 and 1837 more than two dozen life insurance companies were started, but fewer than half a dozen survived. To encourage the industry the Colony of Upper Canada in 1836 authorized the creation of mutual insurance companies, owned by the holders of the company's policies.

By the time of Confederation in 1867, life insurance was sold throughout rural Ontario by agents criss-crossing the backwaters of Ontario. Canada Life, in describing its early history, cited two agents named Smyth and Stoney who visited the town of Brussels, north of London. *"In less than two weeks, they signed up 20 people, including four carpenters, three clergymen, two harness makers, two blacksmiths, a manufacturer of woolen goods, a grocer, a druggist, a music dealer, a mill owner, a jeweler, a school teacher, a lumber dealer, and the town's physician. The town doctor, who was usually signed up first, was paid a 25 cent fee to give medical examinations to other applicants."*⁴³ Because of the dangers associated with certain jobs, Canada Life would not insure hotel and tavern keepers, and was reluctant to insure railway workers or sailors on the Great Lakes. Accident policies were not granted to people planning to travel to the wilds of Western Canada or to the Southern United States, because of difficulties in settling claims.

⁴² Magistrate's Trial manuscripts, p 967

⁴³ Canada Life: The Early Years, at www.canadalife.com

In the United States, the industry was regulated almost exclusively by the individual state governments, typically through State Departments of insurance. The first state commissioner of insurance was appointed in New Hampshire in 1851 following an eight-year boom that saw the founding of insurance giants like Aetna, Massachusetts Mutual, and New York Life. The Mutual Life Insurance Company of New York (MONY), chartered in 1892 is the oldest continuous writer of insurance policies in the United States.

MONY concentrated its organization and sales in large eastern cities, but, as the company expanded full-time MONY agents established themselves in far-flung cities and contracted with local agents to sell insurance in the territories - including Ontario, Canada. Like Canada Life, MONY was cautious about whom it insured. At first standard rates were given only to those living in northern states and in the settled parts of the Northwest Territories, areas with comparatively lower death rates.

In the 1890s at least three insurance agents were active in and around St. Thomas. John Cook, representing the Covenant Mutual Insurance Company of Galesburg Illinois, sold Duncan Hendershott a policy for \$2,000 and then a larger policy to Will Hendershott for \$5,000 coverage. Gilbert Roche from the Mutual Reserve Association of New York also sold Will Hendershott a \$6,000 policy. Both were financed with money borrowed from John A and with John A as beneficiary. A third insurance company operating from Fingal was mentioned by Roche in his testimony as also courting Will Hendershott.

According to William Welter, his cousin and John A's neighbour Charles Welter had written a letter of reference to Covenant Mutual attesting to the character of Will Hendershott. John A had also tried unsuccessfully to take a risk on a local drunk named Patsy Fitzpatrick of St. Thomas for \$2,500, but was refused because Patsy was a poor risk (Patsy Fitzpatrick died shortly thereafter of consumption). John A frequently spoke of life insurance as a method to get money without working hard - one simply had to hide the true risks either by neglecting to mention the person's health or their personal habits (as in the case of Fitzpatrick). John A had bragged to his cousin Emily

McConnell that the process might be expedited by creating an accident.

By 1894, murder for life insurance money was becoming epidemic:⁴⁴

- December 1894, Minneapolis, Minnesota - Hayward Insurance gang kills and collects five insurance policies, each for \$5,000. Police investigate and uncover plot (Maryland 1894);
- April, 1879, New York, New York - Six men are on trial at Lebanon for the murder of Joseph Raber in order to secure \$10,000 insurance. Five life insurance companies are represented by counsel (News 1879) ;
- In Belgium, Marie Janiaux procured life insurance on the lives of her sister, brother and uncle and then murdered them all;
- Dr Alfred Meyer was accused of poisoning his wife, child and several other neighbours for insurance money. He was caught and sent to prison. John A reportedly had read of Dr Meyer's insurance swindles and "*concluded that here was a racket that would afford plenty of easy money and relieve him from pressing debt;*"⁴⁵
- Mr. Chrome ensured the life of his first wife for 75,000 German marks. A month later his wife died, and it was reported by Chrome that her death was the result of injuries received from being kicked by a horse, but investigation indicated that Chrome poisoned the woman for the insurance money.⁴⁶

⁴⁴ Hamilton Spectator, report in Garton Scrapbook, p.250

⁴⁵ Edwin Guillet, Easy Money, Chapter X.

⁴⁶ Lock Haven Express, 1894

Life Insurance – Speculative Risk

Risks are categorized on the basis of possible outcomes of an event. *Pure* risks are those, which would not result in any gain. Risks of death, injury or damage to property are pure risks as these events invariably cause losses to the sufferer, and do not attribute any gain. *Speculative* risks are those where there might be gain or loss in any event. Risks taken in investing in the stock market or in gambling are speculative risks as they may result in either gain or loss in the transaction.

Insurance can be taken only on pure risks. Speculative risks are uninsurable. An insurance policy taken with the intention of gaining from it is called a *wagering* (gambling) contract and is invalid as it goes against the concept of insurable interest. To ensure the insurable interest, life insurance companies ascertain that beneficiaries of the policy have a monetary interest in the life of the insured, and the amount of insurance does not exceed the extent of the loss. Today, lack of insurable interest in an insurance contract makes the policy invalid even if a life insurance company inadvertently issues such a policy.

Kaninika Mishra, Fundamentals of Life Insurance: Theories And Applications, p. 11

In 1903 Mr. Alexander Colin Campbell, reflecting on the effects upon society of the abuses of insurance, noted that in dealing with recent cases of murder for insurance money "*... the difficulty is not to find instances, but to choose from a sickening mass of such material those cases that show the danger that follows abuses of the life insurance system and most clearly teach the need for public vigilance.*"⁴⁷ In reacting to the Hendershott/Welter crime in 1895 the New York Times bemoaned:

"The enormous growth of the life insurance business has been accompanied by the development of a most revolting industry. The most detestable and cold-blooded criminals in these days are those who undertake to defraud insurance companies by means of murder... It is necessary that those who are identified with the beneficent system so largely developed here should strive earnestly for the sake of their companies, their honest

⁴⁷ Gleaner, 1903

policy holders, and the interests of society to put such wretches down and bring them to justice.”⁴⁸

In Victorian England insurance speculation was rampant. People would take out policies on other people's lives betting on their longevity. They would publish news of deaths in the newspaper and speculators would receive a payout. The Gambling Act of 1774 had banned the purchase of insurance on lives in which the policyholder did not have a real and documented financial interest. The Act brought an end to the kind of insurance that was no more than a bet on whether someone would live or die: its very existence had provided a motive for murder.

St. Thomas Insurance agent Gilbert Roche, in this testimony at the Preliminary trial, indicated that an amount above \$8,000 would have been considered speculative.

Elgin Crown Attorney Donohue: But you would not consider \$11,000 safe.

Roche: No

Donohue: Why would you consider the \$8,000 safe⁴⁹ and the \$11,000 unsafe?

Roche: Well, this policy is a policy we class as a *speculative* policy; it is made away from all his near relatives to his uncle; and that would be one reason why it would not be politic to take a larger policy.⁵⁰

Most *term* life insurance policies recognize a difference between the insured and the policy owner, although the owner and the insured may be the same person. If Will Hendershott bought a policy on his own life, he was both the owner and the insured. But if his uncle John A bought a policy on Will's life, then he was the owner and Will was the insured. The policy owner is the *guarantor* and will be the person to pay for the policy. The insured is a participant in the contract, but

⁴⁸ [Criminals of the Worst Kind](#), New York Times, July 17, 1895

⁴⁹ because "any young man in the township of Southwold as strong and healthy as Will Hendershott was would be able to pay \$125 premiums", Magistrate's Trial manuscript, p. 1000

⁵⁰ Magistrate's Trial manuscript, p. 996

not necessarily a party to it. Requiring the payer and owner to be different, was a key recommendation in calling for insurance reform.

The St. Thomas Daily Times, in speculating on the life insurance policies taken out on the life of Will Hendershott, noted that they were taken out at different times. The policy for \$5,000 with Covenant Mutual was taken out first "*and it was not till after that the two men decided that their nephew and cousin were to be the victim.*" The second policy for \$6,000 with the New York Mutual Reserve Association was purchased with the victim believing that the first would be cancelled. Though John A had made the first payment to New York Mutual, Will must have acknowledged, at least to himself, that at some point he needed to assume the continuing costs. It had been reported that he had plans to make Edith Welter, his betrothed, the beneficiary. Quick action was required on the part of John A and William Welter to cash in on both policies.

INSPIRATION FOR MURDER

***“a Canadian farmer could not fail at a game
in which an old countryman was smart
enough to save his life”***

Without at least one eye witness to a crime, circumstantial evidence, on its own, might prove insufficient to prove guilt *Beyond Doubt*. This possibility was editorialized in a much publicized trial in 1893. The Ardlamont Case in Scotland⁵¹ was widely reported in newspapers throughout the British colonies. John A might well have read about the trial and taken note of the verdict.

Alfred John Monson worked as a gentleman's tutor for the Hambrough family in Argyll, Scotland in 1891. On 10 August 1893, he took Cecil Hambrough, his twenty-year-old pupil, for a day's hunting in

⁵¹ Spectator Archive, THE ARDLAMONT MYSTERY. The Ardlamont trial is a sharp object-lesson, 30 December, 1893 at <http://archive.spectator.co.uk/article/30th-december-1893/12/the-ardlamont-mystery-t-he-ardlamont-trial-is-a-sh> . Cited in Garton Scrapbook, p. 254

an area of woodland on the Ardlamont Estate in Argyll, Scotland. A third man joined them, Edward Scott, a friend of Monson who had arrived at the estate a few days earlier.



Figure 16 - Cecil Hambrough

Estate workers heard a shot and then saw Monson and Scott running to Ardlamont House carrying their guns. They were cleaning the weapons when the butler asked what had become of Mr. Hambrough. Monson replied that he had shot himself in the head by accident while climbing a fence. When the incident was reported, a member of the Inverary prosecutor's office was sent to the estate to investigate. He returned, saying it had been a tragic accident; but two weeks later, Monson appeared at the prosecutor's office to report that Hambrough had taken out

two life insurance policies worth £20,000 only six days before he died, and that they were made out in the name of Monson's wife. After thorough searches of the estate and interviews with staff, Monson was charged with murder. Scott, now on the run, was named as his accomplice.

Among the witnesses for the prosecution was Dr Joseph Bell, the Edinburgh surgeon and forensic detective who was the inspiration for Sherlock Holmes. He told the jury that, in his opinion, Monson had murdered Cecil Hambrough. However, sufficient doubt had been sown in the minds of the jury by Monson's advocate, and he was set free with the verdict of "*not proven*."⁵² The alleged beneficiary of the Ardlamont murder was saved from the

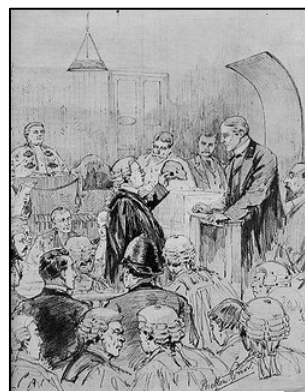


Figure 17 - Ardlamont Trial

⁵² a option available in the Scottish courts when, although there remains a suspicion as to guilt, the jury are not convinced that the case has been proved. Pictures from Flickr by [Snapper31](#)

gallows by this verdict. In 1933 Robert Churchill, who was for decades Scotland Yard's most senior firearms expert, wrote of the trial transcript: "*It is more thrilling than anything Edgar Wallace (a British crime writer) ever wrote ... The evidence is 100% for conviction, so the jury were either blind or kind.*"⁵³

In truth, the jurists were captivated by the oratory of John Comrie Thomson, the Scottish equivalent of Ontario's Britton Bath Osler. It was suggested that Thomson was less certain of the innocence of Monson than his courtroom performance suggested, *but he sowed sufficient doubt in the minds of the jury*. John A might easily have been convinced by the Ardlamont murder trial that even if caught a shrewd and careful man could escape punishment. What he missed was that the shrewd and careful man also needed a good defender. The Toronto Telegram hypothesized that Hendershott probably thought that a "Canadian farmer could not fail at a game in which an old countryman was smart enough to save his life."⁵⁴ However, the Toronto Telegram also noted "*The wretched man could not see that he was taking the capital of a fool into the business of a rogue.*"⁵⁵

⁵³ The Ardlamont mystery: Tragic mistake or calculated evil? at <http://www.scotsman.com/news/the-ardlamont-mystery-tragic-mistake-or-calculated-evil-1-466095>

⁵⁴ Toronto Telegram, June, 1895

⁵⁵ Ibid.

CHAPTER 2 - THE DEATH OF WILL HENDERSHOTT



Figure 18 - Middlemarch - 1894

On Friday, December 14, 1894 at about 3 o'clock in the afternoon William Welter came to the home of Charles Welter, John A's brother-in-law and neighbour and William Welter's uncle, to report that Will Hendershott had been accidentally killed when the tree they were cutting in Wardell's Woods fell upon him.

Charles Welter wasn't home when his nephew arrived, but his wife Theresa (1871-1931) was there with company. Theresa went next door to Miss Mann's to see if there were any *men folk* who might go into the woods to look into the affair. Miss Mann then hitched the horses to take Theresa into St. Thomas to locate her husband while William Welter and George Craig, Charles Welter's hired man, went to Middlemarch for help.



Figure 19 - Will Hendershott

Theresa looked for her husband at the Penwarden House in St. Thomas. He wasn't there. Instead she found Mr. Jones, who accompanied her and Miss Mann to the Courthouse where they located Charles. Theresa then told Charles about the *accident* and then she and Miss Mann returned home to Middlemarch while husband Charles and William Partridge searched for the Coroner. On the basis of the information passed from William to Theresa to Charles Welter, Coroner E. W. Gustin judged that an inquest was unnecessary. Charles

Welter then sent a telegram to the absent uncle, John A, notifying him that "*William Hendershott is dead, come home quickly.*"⁵⁶

Meanwhile, George Craig and William Welter had found assistance near Middlemarch. Craig, Edwin Wardell, Henry House, Robert Stevenson, Richard Sanders and Richard Curtis⁵⁷ moved the dead corpse of Will Hendershott to Wardell's barnyard using an old carpet provided by Wardell's wife. They wrapped him in it and placed him in Charles Welter's democrat.⁵⁸ They then hooked up the team and took him to John A's farm where he was put on a bench in the sitting room and covered by a sheet.⁵⁹



Figure 20 - Craig, Wardell, House, Stevenson moved body to home of John Hendershott

Duncan Hendershott, John A's brother and the deceased boy's uncle, sent a telegram that night (Friday, December 14th) at 8 pm, to his father, Jacob Hendershott in Walsingham, Norfolk County, to inform him and his brother David, who lived near Jacob, that David's son, Will had been hurt (not killed so as not to alarm Will's elderly grandmother, Charity). David Hendershott, the dead boy's father, then left at midnight for St. Thomas. In the morning he met John Hatherley⁶⁰ in the city who told him that Will had actually been killed and not just hurt. David Hendershott then continued on to his brother John A's in Middlemarch arriving between 10am and 11am on Saturday morning.

⁵⁶ Notice the absence of the reference to the William being William Henry. To the recipients of the telegram there is no way to tell whether the reference applied to the young William Hendershott or his uncle William Hendershott, younger brother to David and John A.

⁵⁷ Richard Sanders, Richard Curtis. Curtis, in his testimony at the Magistrate's trial cites the body carriers as Sanders, Duncan Hendershott, Henry House, James Hooker, young Pierce and George Craig - p. 444

⁵⁸ a light farm wagon or ranch wagon that has two or more seats and is usually drawn by two horses.

⁵⁹ Magistrate's Trial manuscript, p 275

⁶⁰ John Hatherley is interesting because he appears as grantor of loans using John A's property as collateral several times beginning in 1893 and also in May, 1895 while John A was awaiting hanging. Hatherley eventually married Mary Lily Hendershott in 1901.

The body of Will Hendershott remained in the sitting room at John A's place attended to by Undertaker William Kerr and his assistant, James Cannon who had arrived together about 9:30 Friday night. Undertaker Kerr removed the cadaver to the woodshed where he and Cannon went about their preparation of the body. Immediate tasks completed, they returned it to the drawing room with instructions that no one was to view it until they returned to finish the job. This applied to everyone including Charles Welter and William Partridge, both of whom remained at John A's from after supper, Friday night until Saturday morning. David Hendershott spent the night nearby with his brother-in-law, Henry House.

On Sunday, following the revelation of suspicious blood stains in Wardell's Woods and the insurance policies on the victim, Elgin Crown Attorney Dennis Donohue requested that Coroner Gustin convene an inquest into Will Hendershott's death. Gustin ordered it to take place on Tuesday, December 18th at the Middlemarch Hall.

John A returned home the next day. Will Hendershott's death was still considered an accident, and the body was buried at John A's expense. The funeral was held at 10am on Tuesday in Fingal Cemetery.



Figure 21 -Will Hendershott Was Buried at Fingal Cemetery at 10 am on Tuesday, December 18, 1894

“Come on boys, and have dinner with me”

Elgin County Constable William Thomas Fairbrother had been notified and visited the scene of the accident on Sunday, December 16. Expanding the search area slightly he noticed suspicious clots of blood in one or two places away from the fallen tree. He gathered portions of the sticks and

leaves at these points and notified County Crown Attorney Donohue, who then visited the scene later that day. On the basis of what he saw he ordered an inquest, which was opened by Dr. E. W. Gustin, Coroner for St. Thomas, on Monday, December 17th.

Inquest

A judicial inquiry held to determine the cause of a person's death. Generally, inquests are only conducted when deaths are sudden or unexplained. An inquest may be called at the behest of a coroner, judge, prosecutor, or, in some jurisdictions, upon a formal request from the public.

For this inquest they were "*charged to inquire for our Lady the Queen, when, where, and how and by what means the said William H Hendershott came to his death.*"

Elphalet Wilbur Gustin

Gustin was a prominent physician, a popular St. Thomas citizen and surgeon for the Great Western Railway Company. In 1883-84 he was Mayor of St. Thomas. By 1895 he had become Chief Coroner for Elgin County. In 1905 he went into partnership in his medical practice with Frank O Lawrence.

A postmortem examination by Dr. Frank Lawrence showed that beside scratches there were five cuts on the:

1. face before the scalp;
2. top of the head - one and three-quarter inches long;
3. back of the head - extending across four inches;
4. front side of the head - one and a quarter inch long;
5. right side of the back of the head - one and a half inch long.

The skull, which was unusually thick, was fractured at the base on the right side, and also in the temporal region on the same side. The lobes of both ears were cut to the extent of half an inch, and the left lobe was cut a half an inch from the attachment to the scalp. Death was caused, in Dr. Lawrence's opinion, by the fractures at the base of the skull and by the effusion of blood on the brain. *Lawrence was positive in his evidence as to the wounds not being caused by the tree, but thought possibly they were caused by blows from some such instrument as the back of an axe.*

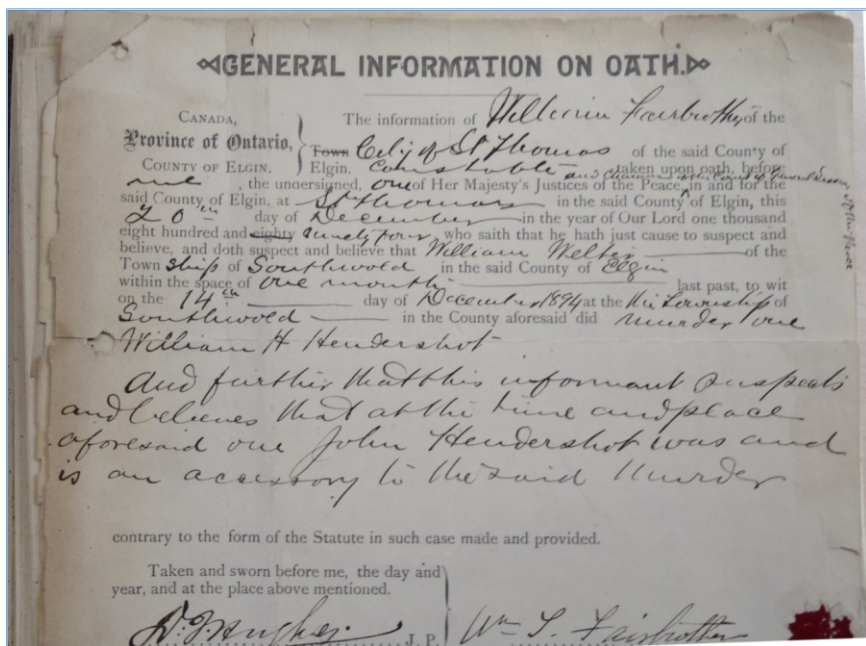


Figure 22 - Arrest Warrant for Welter and Hendershott

William David Welter and John Aaron Hendershott both appeared at the inquest and both provided depositions [included in Appendices] on the first day (December 17, 1894). However, the next morning prior to the second day continuance of the inquest, Detective John Wilson Murray, believing John A was about to flee, had both of them arrested by Constable Fairbrother. They attended in Murray's custody *"the clanking chains raising the assembled rustics to a high state of excitement."*⁶¹ Crown Attorney Donohue wished them to testify, but

⁶¹ Edwin C. Guillet, *Easy Money*, 1945, Chapter III - The Inquest

Norman Macdonald, now representing the two of them, would not allow it claiming it was their right not to incriminate themselves. John A faced his accusers with bravado: "*Come on boys, and have dinner with me – the whole crowd,*" he shouted and when he was allowed to go home under escort he repeated the invitation to assembled neighbors.⁶² It would be his last opportunity to host a dinner for anyone.

THE ACCIDENT

The tree had crushed Will Hendershott's skull, killing him instantly.

In his deposition at the inquest William Welter stated that he and Will Hendershott went about one mile from John A's place to Wardell's Woods between 12 noon and 1 pm to cut wood.⁶³ The weather was mild (see Figure at right).⁶⁴ It had been for several days: a good day for cutting wood. Later, William Welter stated in his deposition, they thought they might go to the Penwarden House in St. Thomas; maybe they would see Edith Welter, William Welter's cousin and Will Hendershott's sweetheart.

The tools were already in the woods: one cross-cut saw and an axe. They cut down a small beech tree and then commenced work on cutting a larger tree nearby. Will Hendershott took off his coat and

Day	Max Celsius	Min Celsius	Rain (mm)	Snow (mm)
11	5.0	2.2	13.3	
12	7.8	1.7	27.4	
13	7.8	1.1	0.3	
14	2.2	0.0		
15	7.2	2.8		
16	8.3	3.9		
17	5.6	-0.6	0.3	
18	1.1	-2.2		
19	5.0	0.0		
20	5.6	-1.1		
21	6.1	1.7	0.8	
22	7.2	-2.2		0.3
23	0.6	-7.2		
24	3.3	0.0	1.5	
25	3.3	-4.4		0.5
26	-2.8	-9.4		
27	-1.7	-13.3		0.5
28	-12.8	-19.4		0.3
29	-5.6	-17.2		0.5
30	-3.9	-6.7		0.5
31	-5.6	-12.2		0.3

Figure 23 - December 1894 Weather Conditions

⁶² Ibid, Chapter III - The Inquest

⁶³ They were seen by Charles Harpin at the Middlemarch Corner at 12:50 pm

⁶⁴ Historic Weather for Port Stanley (about 5 km south of Middlemarch) – see [Government of Canada Climate database](#)

vest and placed them on the small beech tree, but when the larger tree began to fall, he noticed that they were in its path.



Figure 24 - Will Hendershott and William Welter In Wardell's Woods. Clip Taken From Murder Re-Enactment Video Available at St. Thomas Library

When he recognized what was happening, he ran towards the trees shouting "*Oh my watch,*" his prize possession was in his vest pocket. Running to get it, he stubbed his toe and fell. Then the tree "*fell across his head and killed him.*"⁶⁵ William Welter stated that he sat stunned for ten to fifteen minutes taking in what had happened, after which he checked his companion for his pulse. Finding none, he set off for help.

The tree had crushed Will Hendershott's skull, killing him, William Welter reported, instantly. According to Welter the tree was partly rotten which accounted for it breaking suddenly. As it fell Will Hendershott was struck by one of the limbs and thrown to the ground. Then the trunk struck Will Hendershott while he was prostrate. At the location on the tree where it hit him was a knot with blood on it. It was later suggested that this knot provided the actual killing blow.⁶⁶

⁶⁵ Wording said by Welter to Mary Bancroft, wife of proprietor at Penwarden House, on Friday night, Dec 14 when Welter went there for 10 minutes, Magistrate's Trial manuscript, p. 776. Osler questioned this -- "*there is no probability that any man would run after his watch at the expense of his life*" (Edwin C Guillet, *Easy Money, 1945, Chapter VIII - The Addresses to the Jury*)

⁶⁶ later Detective Murray observed that the blood had been *smear*ed and not *splatter*ed on the knot - *Memoirs of a Great Detective, The Middlemarch Mystery*

William Welter went to his Uncle Charles Welter's home between 3 and 3:30 pm,⁶⁷ even though it took a full fifteen minutes and there were other houses much nearer. His uncle was in St. Thomas but Charles Welter's wife Theresa was there as well as their hired man, George Craig. Theresa got her neighbour, Miss Mann, to take her to St. Thomas to find her husband and report the incident to Coroner Gustin, while William Welter, using John A's horse and buggy, went looking in Middlemarch for more help. After finding men to help and directing them to the Woods he set off for Fingal to report the accident to the dead man's uncle, Duncan Hendershott, arriving just after 4 pm. William Welter drove Duncan Hendershott as far as Wardell's gate and from there Duncan walked across the field and into the woods, joining up with Edwin Wardell who had just arrived from his nearby farmhouse.



Figure 25 - William Welter's Movements on Day of Crime

⁶⁷ Evidence of Theresa Welter, Magistrate's Manuscripts, p. 207

“the sharpness of their axe.”

All appeared to be going as planned and a verdict of accidental death was expected by both men and their lawyers. William Welter was doing an outstanding job of showing the required amount of grief, weeping and sobbing between performing his chores. But a hitch developed when one of the empanelled jurists, a veteran woodsman named Henry Couse examined the axe that William Welter had said they were using. He ran a thumb along the edge of the blade, took a look at the size of the tree trunk and shook his head back and forth.

"That piece of timber couldn't have been felled like you claim in an hour," he told Welter. "Nor in two hours, nor in three - not by the best woodsman, or pair of woodsmen. The tree is too thick and axe is too dull."

The rest of the jury huddled and then agreed with him. Coroner Gustin recessed the inquest pending further investigation. When Sherriff Dugald Brown heard of this, he concluded that foul play might be involved. He returned to St. Thomas and sent a wire to Toronto to John Wilson Murray of the Ontario Provincial Police for assistance.



Figure 26 - The Axe Was Too Dull

Wilson Murray received the telegram on December 18, 1894. He knew St. Thomas well having worked there as a detective for the Canadian Southern Railway years earlier. He welcomed the opportunity of renewing old friendships. Murray caught the next train to St. Thomas.

Sherriff Brown met Murray at the railway station. Murray observed that Brown looked troubled indicating that the case was undoubtedly more puzzling than had been conveyed in the telegram.

"Murder?" posed Wilson Murray to Brown as the two headed from the train station to the hotel.

In response Brown posed his own question - "*Murray, how long would it take two men, spelling one another, to cut down an oak [sic beech] tree two feet in diameter?*"

Wilson Murray responded that "*It would depend on the strength and experience of the men, and the sharpness of their axe.*"

"*Exactly,*" said the Sherriff, echoing the sentiment of the empanelled woodsman, "*The sharpness of the axe.*"

Wilson Murray was no ordinary detective. His deductive faculties clicked into high gear. Clearly, if William Welter had not produced the actual axe with which he and young Hendershott had been chopping, there must've been a reason for the deception. There could be only one possible explanation. Perhaps, after all, it was not the tree trunk which bashed in the poor lad's skull, but an axe. If this were true then doubtless the axe had been bloodied in the process. There was evidence to be uncovered and Murray was the man to discover it.

“follow criminals to any place and run them down.”

John Wilson Murray (1839-1906 and known as Wilson)⁶⁸ was the son of Scottish sea captain, Daniel Duncan Murray and his American wife Jeanette Wilson (1842-1890). The family immigrated to New York City while John was a lad. In June 1857 Wilson enlisted in the United States Navy sailing from Chicago aboard the lightly armed steamer Michigan, based out of Erie, Pennsylvania. The Michigan was assigned to Great Lakes patrols, recruiting, and the supervision of the prison camp for Confederate officers on Johnson’s Island, opposite Sandusky, Ohio. During the period in which Murray served on the Michigan, two attempts were made by Confederate agents to capture the ship and liberate the confederates from the prison. Murray was honorably discharged from the navy on January 31, 1866. In 1868 Wilson Murray joined the Erie, Pennsylvania police force as a detective, from whence he became acquainted with William Lawrence Scott, an Erie businessman who became President of the Canada

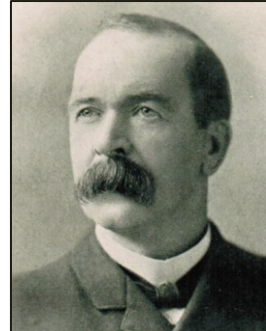


Figure 27 - John Wilson Murray

Million Dollar Counterfeiting Case

Murray's first case was to investigate the forgery of Canadian bills. The forgeries were identified by an expert at the US Treasury Department in Washington when he noticed the bills were suspiciously beautiful. Murray consulted with former counterfeiters; they were impressed by the forgeries, which they declared could only be the work of master engraver Edwin Johnson, the *king of counterfeiting*. In 1880, five years after the first forged bill was found, Johnson was arrested for using a fake bill to buy a necktie. Johnson’s fatal flaw was his penchant for using the counterfeit money when he was inebriated. Murray noted: *“Crime lost a genius when old man Johnson died.”* He had printed one million dollars' worth of counterfeit bills using 21 engraved copper plates.

⁶⁸ Extracted from Dictionary of Canadian Biography, http://www.biographi.ca/en/bio.php?id_nbr=6951

Southern Railway (CSR). In June 1873, Scott offered him the position of detective for the railroad.⁶⁹ The CSR, which linked Buffalo, New York and Detroit, Michigan through Ontario, with its mid-point junction in St. Thomas, was in intense competition with the Great Western Railway, and it is probable that Murray's appointment was as much a response to the occasional excesses of commercial rivalry as it was to crime *per se*. He was based out of St. Thomas and, on more than one occasion, was successful in forestalling attempts to derail and/or rob CSR trains. While stationed in St. Thomas he met several locals who would later assist him in his investigation of the Hendershott/Welter murder.

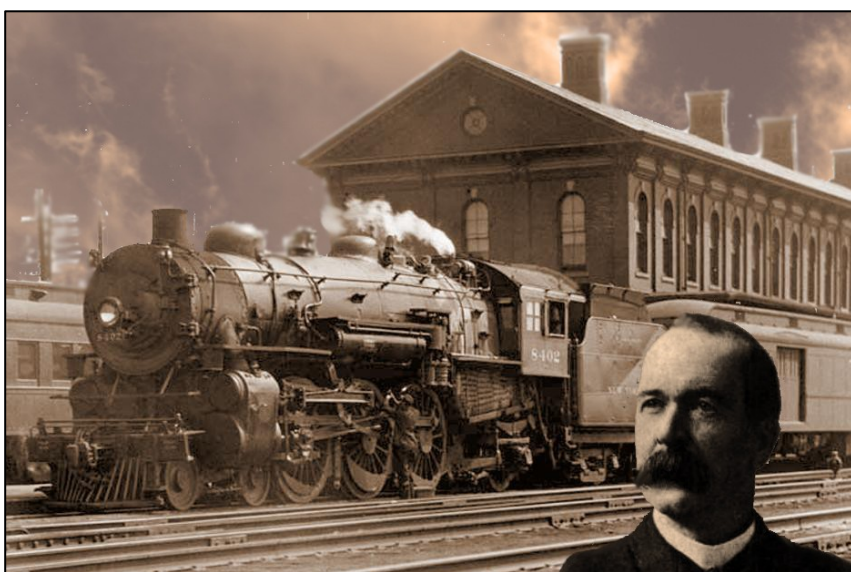


Figure 28 - Train in Station in St. Thomas with Wilson Murray

His work for the CSR quickly earned him a reputation for being "*well up in his business,*" and as early as the autumn of 1874 he was seconded to the government to track down a counterfeiting operation. His May 1875 success in *The Million Dollar Counterfeiting Case* led to him being offered the position of *Government Detective Officer* by the Ontario Provincial Police at an annual salary of \$1,500. The position was designated to cover *every county and district in Ontario*, with the

⁶⁹ It was common practice at this time for railways to use private security services, sometimes to deal with labour organizers, but also to combat theft by employees and others.

authority to act in any part of the province. In 1884 he moved to an office on King Street West, Toronto.⁷⁰

Murray's job, in his own words, was to "*follow criminals to any place and run them down.*" Wilson Murray would not intervene in a case until his help was requested by local authorities such as Sherriff Brown, but such requests were evidently numerous, for his memoirs, government correspondence, and newspaper reports reveal his involvement in cases in many communities: Cornwall, Ottawa, Pickering, Toronto, Caledonia, Welland, and Manitoulin Island. He became a well-known figure among those in the criminal justice system. By the time Wilson Murray died he was the "*most famous police official in Canada*" and "*thousands of people knew him by sight,*" according to the front-page story in the Toronto Globe. "*His career is a record of events outrivaling the detective tales of fiction; for fact, in its fullest scope, is stranger by far than fiction.*"⁷¹ In his obituary in the Toronto Daily Mail and Empire his name was said to have been "*intimately associated with the prosecution of nearly every criminal case of importance in the province outside of the larger cities.*" He died while still employed, on June 12, 1906, at home on Toronto's Brunswick Avenue from a stroke.

Murray's career marked something of a watershed in Canadian police history and was representative of the increasing importance of detection to policing generally. An officer who could work without regard to jurisdictional boundaries, local prejudices, and concern about fees had more success, if only because of the perceived importance in supporting local efforts. Perhaps this point was best made by T. Matchett, Clerk of Victoria County, who noted in 1882 that the presence of a government detective following a "*flagrant crime, difficult of detection,* had "*a stimulating effect upon the local officers of the peace.*"

Murray's effectiveness is demonstrated by the first case in which he was involved after taking up his full-time appointment, an inquiry into the murder of Ralph Findlay, a Lambton County farmer. While local constables scurried about seeking clues suspecting that it was a

⁷⁰ Until this time, Murray was Ontario's only full-time detective, but after the move to King Street, Joseph E. Rogers was appointed and, then these two were joined in 1887 by William Greer, who had taken cases on contract after Murray's appointment.

⁷¹ Attica Daily Ledger, 1909

stranger who was surprised while stealing horses, the county attorney, Julius Pousett Bucke, demanded the assistance of the government detective. It was Murray who wrung a confession from the dead man's wife that she had assisted her lover in the deed.

The appointment of a government detective represented a measure of central government intervention at a crucial juncture in the life of rural communities. But, the intervention was minimal. There was little overt resentment of it, perhaps because from the first Murray had been instructed to cooperate with local authorities and keep them informed. Murray's appointment can best be seen as a compromise between leaving the existing, decentralized system in place and replacing it with a central police force administered from Ottawa or Toronto.⁷²

JOHN AARON HENDERSHOTT IS IMPLICATED

“Takes a fool to leave his watch under a falling tree”

While with the Canadian Southern Railway (CSR) in St. Thomas, Murray had befriended the town drunk whom he knew as “Paddy the Diver” (called Diver because of his actions after having drank too much). Paddy liked Murray because, while Murray worked for CSR, he would sometimes buy Paddy drinks and occasionally allow him to sleep his sessions off in one of the empty railway cars.

Paddy, whose real name was Patrick Dillen Fitzpatrick



Figure 29 - Murray in March, 1895 leaving St. Thomas Courthouse

⁷² Extracted from Dictionary of Canadian Biography, http://www.biographi.ca/en/bio.php?id_nbr=6951

had, several months earlier been approached by William Welter and John A with a proposal. Plying him with drinks over several occasions they had convinced him to take out an insurance policy on himself with John A as the beneficiary. Unfortunately for Welter and John A, but no doubt fortunately for Paddy the Diver, he failed the medical examination. Welter and John A had him retry getting the insurance by altering his name to secure the necessary doctor's certificate of health but they didn't change his name enough. The insurance company again refused the coverage.

Paddy visited Murray at his hotel the night Wilson Murray arrived.⁷³ *"I heard about Bill Hendershott's death, and about his insurance. I connected that up with your being in town,"* said Paddy to Wilson Murray.⁷⁴ This new evidence strongly suggested that Welter and Hendershott might well be a team, with John A his confederate in a murder scheme. Had the uncle, to create an alibi, absented himself intentionally, leaving the actual job of killing to his accomplice? Conceivably, the uncle had only pretended to leave, and had taken part in the deed. The next day, Thursday, December 20, Wilson Murray called at the St. Thomas telegraph office and verified the existence of the telegraph message dated 3:45pm the Friday before and directed to John Hendershott visiting in Eden - *"William Hendershott is dead, come quickly."*

To verify the message, Murray borrowed a rig from Sheriff Brown and drove to Eden where the message had been received. The recipient, John Ketchabaw, John A's brother-in-law, informed him that the telegraph had arrived before John A had. They didn't open it, but waited till John A arrived at between 10 and 11 that night. John A read his message and announced that he and his daughter would have to leave for home early the next morning. Ketchabaw noted what John A had said: *"It's too bad about Will, but he was always something of a fool. Takes a fool to leave his watch under a falling tree and then run out and try to save it."* For Murray this was the clincher. How could John A have known about the watch unless he had been there or had rehearsed the story beforehand? Wilson Murray returned to St.

⁷³ This version of the meeting between Sherriff Brown and Wilson Murray was published in the Milwaukee Sentinel, July 22, 1951

⁷⁴ Fitzpatrick died on 21 Sept 1895 of consumption

Thomas the following day and made the arrests on a warrant issued by Judge David John Hughes.

Without the intervention of Wilson Murray there might well have been insufficient evidence to continue with the inquest or to charge William Welter with the murder. It seems almost certain that John A would not have been charged. Wilson Murray had questioned the lacerations on the head of Will Hendershott, Murray had detected that the placement of blood at the crime scene did not conform to an accidental “*splattering*”. And, he was able to extract important evidence, sometimes from people reluctant to provide information injurious to William Welter or John A.

William Thomas Fairbrother

Murray was ably assisted by local Constable Fairbrother. He provided a great deal of the leg work in uncovering clues and interviewing people for Murray. Fairbrother lived to be 99 and had a long history in Elgin County.

Under the name of Fairbrother and Harrington, he manufactured carriages and wagons between 1867 and 1887. The industry grew and prospered for several years but machine-made, cheaper and lighter vehicles started crowding the markets and business fell off under the pressure of this competition.

Being in prime physical condition with considerable experience in constabulary work he joined the St. Thomas Police Department in 1889, continuing in this capacity until his retirement in 1903. He was well known and a popular member of the police force. His beat for many years was the Ross Street district. He was devoted to duty, walking the beat day after day and night after night when many men his junior in years had retired from active work.

Many people, after hearing the damaging evidence of his cousins Emily McConnell of Ingersoll and Anna French of West Oxford at the trial, wondered how Wilson Murray had collected it. They had both stated positively that they told nobody about what they knew, as far as they could remember. But, St. Thomas Police Chief James Fewings, regarded as one of the best *thief takers* in Ontario, had received an anonymous letter which was signed only "M".⁷⁵ The postal mark was

⁷⁵ Presumably one or the other of the two women relayed the story to someone in Ingersoll with the first or last name starting with the letter M

largely obliterated, but with the help of a microscope, Fewings identified it as coming from Ingersoll. He placed these facts into the hands of Detective Murray and Constable Fairbrother. The two of them then made the connection that Emily McConnell and Anna French were cousins of John A's and that John A had visited them the previous May. Detective Murray needed to talk to the ladies. He had to make several trips before they would divulge what they knew. In the end, Murray bluffed the ladies saying he was already in possession of certain information and he would have them subpoenaed. Defense lawyer Macdonald questioned the admissibility of their evidence but Meredith permitted it.

John A would certainly not have expected that Ontario would have its own version of Sherlock Holmes scrutinizing his and Welter's movements and motives. If circumstantial evidence was all there would be then the strands were being collected by a master collector. We will see later that they would then be woven by a master weaver.

John Wilson Murray⁷⁶ recorded his exploits in Memoirs of a Great Detective which he published around 1905. A chapter entitled "The Middlemarch Mystery" chronicles his detection of Welter and Hendershott and is included as an Appendix.

⁷⁶ Murray died of a stroke with his daughter at his side in early June 1906 while investigating a string of cattle-poisonings in Etobicoke, Ontario. It was noted that at least one of the people he had apprehended had attended the funeral, but it is doubtful that there were any Hendershotts or Welters in attendance.

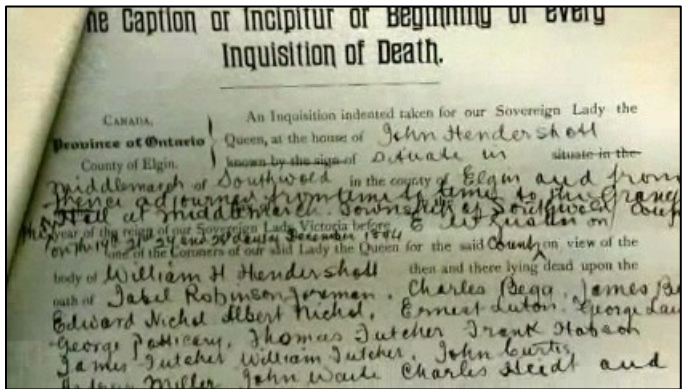


Figure 30 - Inquest Notification Extracted From "If Only the Walls Could Talk", Elgin County Courthouse, Elgin Historical Society

Coroner Eliphalet Wilbur Gustin transferred the inquest to a Magi-strate's Court at the Elgin County Courthouse in accordance with the new Criminal Code enacted in 1892. The Preliminary Hearing was convened on January 4th, 1895 and presided over by St. Thomas Magistrate, William Joshua White supported on the bench by Donald Turner, Dugald Ferguson and Frank Hunt. Dennis J Donohue represented the Crown while Norman Macdonald was the defense lawyer for William Welter and John A Robinson defended John A. Many hours were devoted to calling witnesses who provided evidence as to the state of



Figure 31 - Ad for Nelson R Butcher – Stenographer for The Inquest and Preliminary Trial

⁷⁷ Stenographic duties were provided by Nelson Butcher out of Toronto and would have been paid privately by someone at the time. It is interesting to note that no transcript appears to exist of the trial itself and notation at the Ontario Archives state "criminal records are less common, and, outside of the files found in RG 22-392 (Criminal Assize Clerk criminal indictment files 1853-1929)

the immediate woods where Will Hendershott was killed, the position of the body and the tree relative to it, what branches may have fallen and whether and where the knot in the tree was relative to the head. Those who witnessed the removal of Will Hendershott's body⁷⁸ were in agreement that if the body had been under the tree as it fell, the knot would have smashed young Will's head "to atoms."⁷⁹ Crown Attorney Dennis Donohue established that there was room between the knot and the ground and between the tree limbs and the ground for a body to be placed after the tree had been felled.

At the time the incident was presumed accidental. Consequently, the body had been moved to the home of John A to await preparation by Undertaker William James Kerr. It remained there until moved by him, the burial scheduled for the Monday following a weekend rife with investigations of the woods by officials and curious observers. There was opportunity during this interval to groom the scene of the incident or otherwise modify artifacts of the killing. Attorney Donohue devoted many hours to pointing out that the crime scene had significantly changed between the morning of December 14th and the hearing. He also examined many witnesses as to the inconsistencies in testimonies amongst them and between their testimony presented at the inquest and the preliminary session.

At the inquest most people assumed that the accused were innocent and the evidence presented supported that presumption. However, suspicions about William Welter's story and John A's involvement were spreading throughout the community. The situation was growing ominous for the accused. Many witnesses were reluctant to present evidence lest it prove detrimental to one of them. Not only were many witnesses kinfolk to one or the other of the accused, but numerous others were neighbours who, regardless of their current opinion of the men, would have to live with them if they were found innocent. Crown Attorney Dennis Donohue was consistently required to badger the witnesses to draw out evidence on which they "*could not be certain.*" His inability to do so may well have been instrumental in assigning Britton Osler as the lead Crown Attorney for the trial. A

⁷⁸ Edwin Wardell, Richard Sanders, Edwin Pierce, Robert Stephens, Henry House, Richard Curtis

⁷⁹ Attributable to Edwin Wardell's testimony. At the time the atom was thought to be the smallest indivisible particle. This was about to be dispelled when in 1897 when J.J. Thomson discovered the electron through his work on cathode rays.

review of the trial makes it clear that Osler was masterful in developing and keeping to a master plan. He wove the tapestry of circumstantial evidence, ably collected by Detective Murray, so intricately that thereafter he was the attorney *to go to* when a murder conviction was required. The *dry run* offered by the Preliminary Hearing would have been of inestimable value to Osler in determining which threads would work best in stitching his tapestry.

The crime scene had been altered dramatically since the morning of December 14th by those involved in moving the body and then trampled on⁸⁰ by the curious. Macdonald continually prodded witnesses who might now have suspicions of the guilt of the men to state that they didn't harbor them at the time of the incident. It was in the interest of the defense to establish that opinions formed at the time were more reliable, unaffected by memory loss and the machinations and trampling of over three hundred curious *crime detectives*.

Preliminary Hearings, or Magistrate's Trials, were a new provision of the Criminal Code enacted only three years previously and were relatively new to those involved. The boundaries distinguishing this forum from an Inquest and from a criminal trial were not well understood amongst Magistrate White, Crown Attorney Donohue and Barristers Macdonald and Robinson. Macdonald made enumerable "objections" to evidence presented, but no one was sure of their admissibility, so Magistrate White would invariably allow it and defer any decision on admissibility to the trial judge. The burden of proof at the hearing was not *Beyond Doubt*, but rather "Was there enough evidence to proceed further?" Any uncertainty was quickly extinguished once proceedings got under way. As Magistrate White put it, "*It cannot be supposed for a moment, that this examination is to be tied down to the strict mode of legal evidence that may be observed in the higher Courts.*"⁸¹

⁸⁰ in testimony there were as many as 200 people visiting the crime scene on the Sunday following the crime on Friday

⁸¹ Magistrates Trial manuscript, p. 592. To which Macdonald replied - "*I would not admit that, since the Code has been changed [reference to 1892 Criminal Code]. That would be so with old magisterial inquiries, but where they reside themselves into actual trial the evidence ought to be relevant*"

"Irresistibly Driven"

The volume of circumstantial evidence was mounting as Dennis Donohue, Wilson Murray and William Fairbrother talked to local people who had dealt with either or both of William Welter and John A Hendershott. Barrister Macdonald, by the end of the Preliminary Hearing, was requesting virtually every witness to distinguish between whether they were paraphrasing or dictating the exact words spoken by William Welter or John A Hendershott.

"Take either of the courses that I map out for you: either way, to begin with, that you think yourself unable to state accurately and positively word for word, what was said, or, on the other hand, swear positively to every word that was said just as it was said....

Do you hold yourself up to this Court as being able to accurately and word for word repeat that conversation upon your oath, remembering the issues that depend upon it?"⁸²

As if such memorization was possible! Few people could repeat verbatim what they heard days previously. Many replied to Macdonald's unreasonable request with something like "*I do not have to make myself swear to every word.*" Crown Attorney Dennis Donohue did not contest the badgering, allowing Macdonald to appear rather foolish; fumbling with the sheer volume of disparaging testimony. Finally Magistrate White interceded, "*I think the witness has undertaken to give all that a reasonable man is supposed to do. Very few men can repeat conversations word for word.*"⁸³ Nonetheless, Macdonald continued unabated for several more minutes. It was as if he had a vendetta against some witnesses, particularly James L Bancroft, proprietor of the Penwarden House, who seemed experienced in giving testimony under duress (court

⁸² Magistrate's Trial manuscript, pp. 800,801

⁸³ Ibid, pp. 810

appearances might have been commonplace to the proprietor of a public house).

In another exchange Macdonald questioned the medical knowledge of one of the local doctors, Frank O Lawrence, who had performed the post-mortem examination.⁸⁴

Macdonald: Take the ordinary case of striking a man over the head with a baseball club: it cuts as clean a wound as a knife could?

Lawrence: No, I don't think it could.

Macdonald: Do you know the books so lay it down?

Lawrence: I don't know any book that lays it down that way.

Macdonald: You say you are not aware that up-to-date books lay down that as fact?

Lawrence: No, I am not.

Macdonald: What ones have you read lately upon the subject?

Lawrence: I have read Taylor⁸⁵ and I have read Husband.⁸⁶ That is all that I have looked at.

Macdonald [abandoning the tactic of attacking the credibility of Lawrence on the topic]: Then, as I understand it, to sum up as to that wound, the reason you give why you think your mind is *irresistibly driven* to the instrument is that the edges are clean cut?

Lawrence: That is the reason.

Macdonald appears to have been floundering, unsure exactly how to proceed. Consider the ensuing exchange between himself and Crown Attorney Donohue:

⁸⁴ Ibid, pp. 845

⁸⁵ Frederick Taylor, *A Manual of the Practice of Medicine*, Blakiston, Son & Company, 1890

⁸⁶ Henry Aubrey Husband, *The Student's Handbook of Forensic Medicine and Medical Police*, E & S Livingstone, Edinburgh, Scotland, 1883

Donohue: Are you going to the bush to kill a man or are you going to say a tree killed him? Your contention is this tree killed him.

Macdonald: You don't know what my contention was, I have not stated it.

Donohue: Your client has stated it.

Macdonald's confused tactics were just as evident with Coroner Gustin as he tried incessantly to move him from his position that the lacerations on Will Hendershott's head were caused by "*an instrument of man*" and not an "*accident of the woods.*" In distinguishing how the cuts were made, Macdonald was largely dismissing the deposition of his client William Welter and entertaining any reason for the cut other than the axe. Like Frank Lawrence, Coroner Gustin lashed out at Macdonald, "*I am going to say what I mean; I say there is a bare possibility of anything in the world, if you want me to say that, but that is not a fair way of putting it. I say positively that it is impossible, that it is my belief that that wound was caused by some instrument outside of anything that could be brought on ordinarily in the woods.*"⁸⁷

Macdonald re-examined witnesses called by Donohue but closed the case without calling any for the defense. At the end of the seven laborious days of testimony the proceedings concluded at 3:45 pm on Saturday, January 12, 1895. As expected, Magistrate White committed the two prisoners for criminal trial.

⁸⁷ Magistrate's Trial manuscript, p. 897

CHAPTER 3 - WELTER - HENDERSHOTT TRIAL



Figure 32- Elgin County Courthouse - 1877

The Jury

Benjamin Marlatt, Yarmouth
(Foreman)
John D Patterson, Alderborough
A.A. Luton, Yarmouth
Duncan Patterson, Yarmouth
Ralph Marlatt, St Thomas
Silas Brown, Dunwich
Fred A Johnston, Yarmouth
George Simpson, South Dorchester
Duncan Gilchrist, Dunwich
Neil Love, Dunwich
Duncan A Sommerville, Alderborough
Samual Clark, Dunwich

The trial took place between March 7 and 15, 1895 in the Elgin County courtroom, St. Thomas. It was presided over by Chief Justice William Ralph Meredith, his first trial since returning from provincial politics as the leader of the Tories. He was assisted by Elgin County Judges David John Hughes and Charles Oakes Ermatinger. The Crown's case was largely prepared by County Crown Attorney Dennis J Donohue,

but was presented in court by Britton Bath Osler, perhaps the most eminent criminal lawyer in Ontario at the time.

The defense was prepared by St. Thomas lawyer, Norman Macdonald assisted by his partner John A Robinson. The entire first afternoon was occupied in selecting a jury. A double panel of ninety-six

jurors had been summoned, of which thirty-six were stood aside by the Crown. Nineteen were peremptorily challenged for William Welter and seventeen for John Aaron Hendershott.

Peremptory Challenge

A right in jury selection for the attorneys to reject a certain number of potential jurors without stating a reason.

Edwin C. Guillet observed of the scene as the trial unfolded, "*The two prisoners looked anxious, both were well-dressed, and Welter made a particularly good appearance. Many other relatives were in court, the women frequently in tears; while one young woman, apparently Welter's fiancée, clung compassionately to him just before the case opened.*"⁸⁸

The trial proceeded continuously every day, except Sunday until March 15, seven and one half days. It took six hours to select jurors. All but one was a farmer. The evidence for the Crown took up four days, fifty-seven witnesses being examined. The defense took two days using thirty-seven witnesses. Seven witnesses were called for rebuttal by the Crown. One whole day was given to the addresses by Chief Justice Meredith and by Crown Attorney Osler. It was noted that amongst the locals that

*"A feverish anxiety to become connected with the case some way or other was manifested. The most important man in the community was not the richest nor the wisest, nor the most influential, but he who had been able to supply the most proof that a murder had been committed and that the prisoners were guilty of the crime. People to whom the defendants had ever said anything at all tried to recollect the conversation and made it apply to the thinking of Will Hendershott."*⁸⁹

⁸⁸ Edwin C Guillet, *Easy Money*, 1945, Chapter V - The Trial Opens

⁸⁹ Garton Scrapbook, p about 265

THE WEIGHT OF JUSTICE

The Constitution Act, 1867 set the division of powers between Parliament and the provincial legislatures. Each was supreme within its jurisdiction and no other institution had the jurisdiction to declare its laws unconstitutional. Section 91(27) of the Act gives exclusive legislative jurisdiction for the Criminal Code to the Federal government, but the provinces are responsible for the *administration* of it, including criminal trials within their respective provinces, despite their inability to enact criminal laws.

The Canadian legal system is also *bijural*.⁹⁰ It operates under two distinct systems of law: the English common law (based on precedent) and statutory and Roman law (a comprehensive statement of rules, many of which are framed as broad general principles). Ontario, like other provinces except Quebec, adheres to the doctrine of *stare decisis* - lower courts are bound by the decisions of higher courts. So all Ontario lower courts are bound by the decisions of the Ontario Court of Appeal and, all British Columbia lower courts are bound by the decisions of the BC Court of Appeal. But, no Ontario court is bound by decisions of any British Columbia court and vice versa. Nonetheless, decisions made by another province's highest court (provincial Courts of Appeal) are often considered as "persuasive" even though they are not binding on other provinces.

The Ontario High Courts of Justice encompassing the Common Pleas Division were centrally located in Toronto but travelled to Ontario counties and districts to hear criminal and civil cases at sittings called *Assizes*. The Courts have jurisdiction over all summary and indictable offences including murder, manslaughter, treason, piracy, rape, judicial corruption and frauds on the government. In 1894, William Ralph Meredith, Leader of the Ontario Tory Party, retired from politics and accepted the position of Chief Justice of the Common Pleas and of the Ontario High Court of Justice. He was knighted in this capacity two years later.

⁹⁰ Legislation enacted by the Federal Parliament must be applied in the civil law province of Quebec as well as in the common law practices of other provinces. Legislation must adapt itself in some fashion to both legal systems.

In 1892, the Criminal Code was enacted in Canada. It codified the actions that were to take place upon a death. In Ontario, any person knowing of a death was to notify a Coroner of it. The Coroner would take possession of the body of the deceased and determine whether further investigation was required. If yes, an inquest would be launched, witnesses called and depositions taken. The inquest was essentially an inquiry by a fact-finding tribunal composed of a presiding coroner and lay jurors to determine when, where, how and by what method(s) a deceased person met their death.

The Criminal Code stipulated that no person could be committed for trial on the verdict of an inquest, in effect establishing an additional judicial layer in the proceedings. Section 568 stated:

Every coroner, upon any inquisition taken before him whereby any person is charged with manslaughter or murder, shall, if the person or persons, or either of them, affected by the verdict or finding is not already charged with the said offence before a magistrate of justice, by a warrant under his hand, direct that that person be taken into custody and be conveyed with all convenient speed before a magistrate or justice.⁹¹

Often a trial would be proceeded by a Magistrate's Court where preliminary evidence would be presented and vetted to determine its admissibility for trial. The intent was to expedite proceedings for the criminal trial where a congregation of expensive judges and attorneys would be assembled. The Magistrate's trial for Hendershott and Welter was held beginning January 4, 1895 and was presided over by St. Thomas Magistrate, William Joshua White.

⁹¹ J.C.E. Wood, *Discovering the Ontario Inquest*, Osgoode Hall Law Library, p. 247

***"The proof lies upon him who affirms, not upon him who denies; since, by the nature of things, he who denies a fact cannot produce any proof."*⁹²**

Presumption of Innocence is a bedrock principle of English Common Law. It means that the accuser has the obligation to prove each element of the offense *beyond a reasonable doubt* (or some other level of proof depending on the criminal justice system) and that the accused bears no burden of proof. This is often expressed in the phrase *innocent until proven guilty*, coined by the English lawyer Sir William Garrow (1760–1840). Garrow insisted that accusers be robustly tested in court. *An objective observer in the position of the juror must reasonably conclude that the defendant almost certainly committed the crime.* To ensure this legal protection is maintained, a set of three related rules govern the procedure of criminal trials. The presumption means:

1. With respect to the critical facts of the case, whether the crime charged was committed and whether the defendant was the person who committed the crime. The state has the entire burden of proof.
2. With respect to the critical facts of the case, the defendant does not have any burden of proof whatsoever. The defendant does not have to testify, call witnesses or present any other evidence, and *if the defendant elects not to testify or present evidence, this decision cannot be used against them* [italics are author's].
3. The jury or judge is not to draw any negative inferences from the fact the defendant has been charged with a crime and is present in court and represented by an attorney. They must decide the case solely on evidence presented during the trial.

⁹² Ibid

REASONABLE DOUBT

If the purposeful assumption that the accused is innocent is so important, then it must also take more than a simple probability of guilt to dismiss it. Beyond a reasonable doubt presents a much higher bar of certainty than a balance of probabilities or a 51% chance that the accused is guilty. Any reasonable doubt about the evidence or the logic of the case presented by the Crown must be settled in favour of the accused. But, beyond a reasonable doubt is not the same as absolute certainty. A reasonable doubt can't be frivolous or based on sympathy. It's a tricky standard to describe and to this day judges struggle with instructing juries.

Throughout the inquest, preliminary hearing and criminal trial, Norman Macdonald made frequent reference to the degree of surety properly expressed in testimony of this kind:

Don't get strong. I want you to get weaker: you are not very certain about it?⁹³

Remember, lives depend on your answers: *you may be mistaken?*⁹⁴

It is the requirement for reasonable doubt that led to the verdict of "not proven" in the famous Ardlamont Case. John A undoubtedly placed a great deal of reliance on this. His scheme had unraveled in several details, culminating in certainty of their guilt by the jurists and rendering reasonable doubt unreachable:

- William Welter stole Will Hendershott's watch;
- the murder scene and placement of the dead body were not well planned nor executed;
- a useable axe should have been left at the murder scene;
- John A left far too many testimonials as to his belief that insurance payouts were *easy money*;
- John A needed to be more circumspect in reacting to the news of Will Hendershott's death -- not divulging details he should not have known.

⁹³ Magistrate's Trial manuscript, p 403

⁹⁴ *Ibid.*, p 403

CIRCUMSTANTIAL EVIDENCE

Circumstantial evidence is based on reasoning and inference-drawing through probability. The judge must apply logic, common sense and experience to the evidence. They must consider the inherent probabilities and improbabilities, frequently eliminating the possibility of coincidence.

Examples of circumstantial evidence include:

- motive (past hostility to the victim);
- opportunity (including exclusive opportunity);
- means, capacity and skills;
- post-offence conduct (flight, false alibi, destruction of evidence);
- knowledge and state of mind;
- habit;
- disposition to violence by victim.

In applying circumstantial evidence, judges and lawyers frequently reference the Hodges Case of 1838 for precedence.

2 Lewin 227, 168 E.R. 1136 per Baron Alderson regarding a case made entirely of circumstantial evidence, the court must be satisfied "*not only that those circumstances were consistent with his having committed the act, but they must also be satisfied that the facts were such as to be inconsistent with any other rational conclusion than that the prisoner was the guilty person.*"

The rule says that one can only convict on circumstantial evidence if the evidence is consistent with guilt and inconsistent with any other rational conclusion. Other rational conclusions must be based on inferences from facts and not merely speculative. Underlying the rule is the principle of reasonable doubt.

Norman Macdonald argued for an even greater burden of proof:

“Circumstantial evidence has been compared to a chain. If one link is broken the whole chain is broken. It may be impossible to rebut the whole of the evidence for the Crown but if the critical portions are rebutted it is your duty to release the prisoners.”⁹⁵

⁹⁵ St. Thomas Daily Times, March 13, 1895

PARTICIPANTS

Trial evidence is cumulative; that is evidence presented at the Inquest and Preliminary Hearing can be read in to form part of the criminal trial. Some eight-five witnesses were called during the criminal trial held in March, 1895; many were repeats from the Preliminary Hearing. There are no transcripts available from the March 1895 dates to verify the number nor the evidence presented.⁹⁶ Evidence presented at the trial is primarily gleaned from newspaper articles following each of the daily court sessions.⁹⁷

“THE CHIEF” - JUSTICE WILLIAM RALPH MEREDITH

Only “justice-serving presentations of a case”

William Ralph Meredith was born in 1840 in Westminster Township, Upper Canada. It would be difficult to find a more distinguished family in Upper Canada at the time. He was the eldest son of John Walsingham Cooke Meredith and a member of a well-regarded legal family in Ireland and Canada. He and his brothers were recognized as the *Eight London Merediths*.⁹⁸

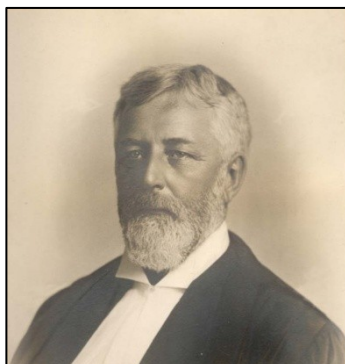


Figure 33 - Chief Justice William Ralph Meredith

⁹⁶ Criminal records during this period are rare. It is rarer to have found the Inquest and Magistrate Trial manuscripts. Recording of transcripts in 1895 would have been deliberate with someone other than the Province paying the stenographer's costs, Butcher in this case. One must speculate as to whom did this in the case of the Magistrate's Trial - the Crown or the Defense. In the case of the criminal trial, given it being the Chief Justice's first trial upon his return to the bench, he might not have wanted a record of the proceedings to rebound upon any appeal or review by the Cabinet, so that he might well have insisted that no transcription occur.

⁹⁷ The main, though not exclusive source, being the Garton Scrapbook.

⁹⁸ Included among them Chief Justice Richard Martin Meredith, Sir Vincent Meredith, Thomas Graves Meredith and Charles Meredith. The brothers were first cousins of The Rt. Hon. Richard Edmund Meredith, Master of the Rolls in Ireland, and Frederick Walsingham Meredith (1859–1924), President of the Law Society of Ireland. Meredith's father was a first cousin of Chief Justice Sir William Collis Meredith, Edmund Allen Meredith and Sir James Creed Meredith. The last

Meredith articulated with Thomas Scatcherd before winning a two year scholarship to the University of Toronto to study law. He was called to the Bar in 1861, entered into partnership with Scatcherd and soon became the acknowledged leader of the London Bar. By 1875, he was a Queen's Counsel and then succeeded Scatcherd as London's City solicitor after his death. In 1888, he left London to take over William Alexander Foster's successful law firm in Toronto, and, that same year become an honorary member of the University of Toronto Faculty of Law, which granted him an honorary Doctor of Law in 1889.

Meredith entered into politics in 1872 as a Conservative, when he succeeded Sir John Carling as London's representative to the Legislative Assembly of Ontario. In 1878 after the retirement of John Hillyard Cameron he was then named Deputy Leader of the Party and then, without even the formality of a ballot, was chosen as the Party's Leader. Charles Biggar, the biographer of Meredith's chief political rival, Sir Oliver Mowat, wrote:

There was no man in the ranks of the Opposition upon whom the choice could more worthily have fallen... Always ready in debate, and judicial in the tone of his arguments, he was a generous and formidable opponent. Especially in Committee of the Whole House, where details of legislation were worked out and party issues are for the moment forgotten, Mr. Meredith's services to the Province were simply invaluable. His personal popularity was great. The "Montreal Witness", a Liberal Journal, declared him to be perhaps "the most popular public man personally we have ever had in Canada"; and the House testified its' appreciation of his services by voting him a salary of \$2,000 per annum, which, however, he declined to accept.⁹⁹

named was the father of Judge James Creed Meredith, uncle of Chief Justice Sir Herbert Ribton Meredith.

⁹⁹ Charles Robert Webster Biggar, cited in wiki article on [Meredith](#)



Figure 34 - Oliver Mowat

Unfortunately for Meredith, the Conservatives could never trump the superior political skill of Sir Oliver Mowat. Moreover, Meredith saw himself as only a temporary politician, maintaining his full-time legal practice in Toronto. His distaste with Federal Leader, John A MacDonalD culminated in his and his immediate friends refusing to take part in Macdonald's electoral campaign of 1891. Considered as one of the best campaign orators, Meredith's decision caused both shock and dismay within the Tory ranks. Meredith saw

Macdonald's campaign, led by Sir Charles Tupper, as *a slanderous crusade against his fellow countrymen*.

Though the Meredith family was Anglo-Irish, William's paternal grandmother was from a prominent Catholic family in Ireland, and as such the Catholic population in Ontario had initially hailed Meredith as one of their own. But in his later political years, Meredith felt that Mowat's Liberals were granting *humiliating concessions* to the Catholic minority, and this led to his final political demise. As a matter of conscience and increasingly frustrated by Macdonald's refusal to listen to him, Meredith launched an attack on what he saw as unfair advantages enjoyed by the separate Catholic schools. He denounced the Catholics' rights to a guaranteed seat on all secondary school boards and the use of unapproved texts in separate schools. It was enough to draw the wrath of the Catholic population who immediately swung their support firmly behind the Liberals.

The resultant dispute with the Catholic Church led to yet another embarrassing electoral defeat, and the government in Ottawa now viewed him as a *governmental impossibility* in Ontario, and decided it might be more prudent to put Meredith in a position more suited to his talents. In 1894, he retired from politics and accepted the position of Chief Justice of the Common Pleas and of the Ontario High Court of Justice. He was knighted in that capacity two years later.

Meredith advocated the doctrine of applying precedents -- avoiding narrow or restrictive interpretations of the law. In his obituary, Toronto City Solicitor William Johnston praised him for being "one of the best versed judges in municipal law." Within the courtroom Meredith was considered dignified and courteous, but he could also be *severe*. At times he appeared irritable and imperious. Barristers who were unprepared and or not properly informed about the law often received harsh reprimands. "*His genial courtesy*", former justice Wallace Nesbitt confirmed, "*always overbore a slight tendency to explosive indignation at anything which he conceived to be a technical rather than a justice-serving presentation of a case.*" Meredith reveled in challenging colleagues to meet his exacting standards of legal argument and authority. Respected and affectionately known among his fellow judges as "The Chief", he was a kindly man with "very few intimates."¹⁰⁰

All of this presented a high standard of legal agility for Norman Macdonald and John A Robinson, the Elgin County barristers representing Hendershott and Welter. In Meredith's address to the jury he laid down the challenge for the defense.

MERDITH'S CHARGE TO THE JURY

So far as anything I may say relates to matters of law you are to be guided by what I say. So far as it relates to matters of fact you are not bound to follow my opinion. The jury is not to be influenced by any *suspicion if the evidence carrying it is no higher than suspicion*. Circumstantial evidence is sufficient, if it brings home conviction of guilt, to justify a jury in convicting. Circumstantial evidence might be weak or it might be strong, depending upon circumstances upon which conclusions were to be drawn. It is weak when the danger may arise of incorrect conclusions being drawn from those facts. It is strong when the facts are few and when conclusions to be drawn are inevitable and cumulative in their force.¹⁰¹

¹⁰⁰ Dictionary of Canadian Biography, MEREDITH, Sir WILLIAM RALPH -->
http://www.biographi.ca/en/bio/meredith_william_ralph_15E.html

¹⁰¹ Reported in Medicine Hat New, 24 April, 1894

“The most eminent lawyer in Ontario”

Louis Riel and the Metis

The Metis were the offspring of mixed European and Indian marriages who depended on the bison for their livelihood: the bison were in turn dependant on free and open ranges. Furious at the off-handed way the Canadian government had declared its sovereignty over the new province of Manitoba and had begun to survey the land in preparation for its sale to immigrants, Riel and his people seized control and expelled the government officials. Riel then attempted to negotiate a better deal for the Metis and native peoples, but, when faced with an approaching army, he fled to the United States.

Several years later he returned, summoned by his people who had begun to feel the full effects of the encroachment of settlers and the loss of the bison herds. This time the native Indian tribes rose with the Metis. The Canadian Government was faced with a serious challenge that may have resulted in the loss of all the western territories. The Macdonald Government responded swiftly with an army led by the British General Wollesley. Skirmishes and full flung battles took place between red coats and Metis / Native warriors with the early victories going to the latter. But, Riel was eventually defeated, captured and put on trial.

Britton Bath Osler (1839-1901) was admitted as a student-at-law by the Law Society of Upper Canada in 1859, and was called to the Bar in 1862. He practiced law in Dundas, Hamilton, and Toronto, Ontario, and served as a Crown Attorney in Hamilton from 1874 to 1880. He was appointed a Queen's Counsel by the Ontario government in 1876 and by the Canadian Government in 1880. Osler served as a bencher of the Law Society of Upper Canada from 1880 to 1881, and again from 1885 to 1901.

Britton Osler is most famous as the Crown Attorney in the 1885 trial of Louis David Riel, the leader of two Metis / Indian "rebellions" in Western Canada.

¹⁰² [Source: Achives Canada](#)

Riel's trial proved to be one of the most sensitive issues of that time. Riel and many of the Metis were Catholics and had family in French speaking Québec. Naturally, their cause had wide spread support there, a province that contained half of the population of Canada. Riel's prosecution had to be handled in such a way as to leave no doubt that he deserved the sentence of the court. It required a superb Crown Attorney. Britton Bath Osler was chosen. Osler achieved the end without fomenting excessive controversy by focusing on Riel's ordering of the execution/murder of a vocal opponent (murder being a capital crime) and avoiding direct reference to politically charged issues. Riel's hanging still rankles many French Canadians.

By 1895, no lawyer ever had a better reputation than Britton Osler. The evidence of Edith Welter at the upcoming trial as to recommending Osler to defend her cousin William Welter is plausible enough, for,

Maria Hartley

was charged with poisoning her husband. For the defense Osler argued "*The evidence of all constables should be taken with care. They are hunters of men and have the hunting instinct about them. They start with the conviction that men are guilty.*" On this occasion, he succeeded in discrediting the police amid an outburst of cheers.

through sound defense, he had obtained an acquittal in the Maria Hartley poisoning case a few months earlier at Brantford.¹⁰³

OSLER'S ADDRESS TO THE JURY

The duty of a Crown Counsel is most important. He is not here unfairly to press *but to be just to the prisoner as well as to the community*; not by an impassioned appeal to call for the verdict against the accused. He is here to bring home the facts, the facts alone, to enable you to give a verdict. Mercy and compassion is not for you, if it is I could also plead for compassion – compassion for that young man cut off in the

¹⁰³ Toronto Daily Mail, October 24, 1894, p. 16. Citation from Patrick Brode, *Death in the Queen City: Clara Ford on Trial, 1895*, p. 100

midst of his life and for the bereaved family. Mercy asked, but mercy hast no place here. You, gentlemen, are not to be swayed by any idea as to the policy of capital punishment. That is not for you, it is not for the court, it is the law of the land - the death penalty is exacted only in cases where guilt is clear. The evidence is reviewed by his Lordship and submitted to the executive, and if errors or mistakes occur a new trial may be secured. Yours is the greater responsibility; yours are the words of life or death that responsibility must not be shirked. You must do your duty to the community just as you must to the prisoner. A man who insures to kill does so skillfully, by every means in his power, to enjoy the ill-gotten gains. You may have to dig deeper to find the truth or guilt. *The evidence is always circumstantial in a dangerous crime, that is, a crime of deliberation. The dangerous criminal is a scheming criminal, and the circumstantial evidence is what generally brings the crime out.* How did the death occur? Was there a killing? Was it an accident? If you find it was a killing, who did it? If you find it was a killing, was it done by Welter; was the other prisoner, though probably¹⁰⁴ not in the woods, behind the transaction? These are the questions upon which you may find, as it is open for you define, both guilty."¹⁰⁵ [italics are author's]

¹⁰⁴ The injection of **probably** should be inferred as *we cannot prove it or we don't need to prove it*
-- he would hang just as easily as the accomplice.

¹⁰⁵ Reported in Medicine Hat New, 24 April, 1894

“It is impossible for the utmost efforts of the defense to equal these forces”¹⁰⁶

In 1894 Norman Macdonald (1860-1895) was a young St. Thomas barrister who had married Jennie McPherson a few years prior to the murder trial. After the inquest was suspended on December 18, 1894 Macdonald was asked (probably by Welter’s father Isaac), to defend William Welter. John A was represented by Norman’s partner, John A Robinson, but the majority of the court work fell on Macdonald.



Figure 36 - Norman Macdonald

Macdonald provided as good a defense as could be expected from a small town lawyer but he was unquestionably outgunned and disadvantaged by the combination of Detective Wilson Murray and Crown Attorney Britton Osler and overwhelmed by the amount and strength of the evidence they assembled. He opened the case for both prisoners by an emotional address that had numerous female relatives of the accused weeping profusely and at times interrupting the proceedings. His clients *were poor men, unable to provide for their defense,*¹⁰⁷ he said, and could not retain counsel of the stature and renown of Mr. Osler,¹⁰⁸ nor spend money proportionate to that expended by the Crown to convict them. Macdonald outlined their uphill task when he said *“On the other side we have the whole detective force of the county, probably the Province, the highest ability in the legal profession and the County Crown Attorney all arrayed against us.”*¹⁰⁹ With this keynote address, perhaps the most effective given the circumstances, Norman Macdonald went on to state that the charges against John A were absurd and “no

¹⁰⁶ St. Thomas Daily Times, March 13, 1895

¹⁰⁷ *ibid*

¹⁰⁸ This was suggested by Edith Welter to her cousin William Welter.

¹⁰⁹ *Ibid*, It would have been impolitic to include Justice Meredith amongst these forces but Macdonald, no doubt, counted him amongst them.

reliance should be placed on the gossip that has found its way into the court proceedings."¹¹⁰

Robinson opened his defense of John A by requesting that the case against him be discharged for lack of evidence. The Crown had produced no evidence, he stated, that John A was anywhere near the scene of the tragedy. Therefore, Robinson contended, it was incumbent on them to demonstrate that John A counseled or procured the murder. There was no evidence for this either. There would be testimonies that John A had taken out insurance on his nephew but, as his bragging indicated, he was *playing the odds* that someone would die. Testimonies that he knew details of the incident were the recitation of likely causes and events associated with circumstances, they were obvious conclusions. But, Meredith denied the argument. "*We must let the case go to the jury.*"¹¹¹

Macdonald counseled the jury as to their obligation.

"The onus of proving the guilt of the prisoners devolves on the Crown. It is their duty to bring such weight of evidence as to result in the undoubted guilt of the prisoners. It is not part of the defense to prove their innocence. The Crown must prove their guilt *beyond reasonable doubt*. The evidence must be so strong, cogent and overpowering that it cannot be broken."¹¹²

He needed this burden of proof. In reference to Welter, Macdonald stated:

"We can bring no witnesses to corroborate him and verify his story. *You must believe his story of the tragedy*. Yet we will bring doctors to substantiate his claim that a tree killed his companion, and we will show you parts of the tree which will bear him out."¹¹³

He called several witnesses to state their belief that the wounds on Will Hendershott were mainly attributable to a tree falling. They were systematically challenged by Osler and countered by witnesses with greater credentials but who had not visited the crime scene or

¹¹⁰ *Ibid.*

¹¹¹ St. Thomas Daily Times, March 13, 1895.

¹¹² *Ibid*

¹¹³ *ibid*

inspected the victim immediately following the incident. In the end, most defense witnesses retracted their belief that "an axe could not have produced the wounds." It would be *Beyond Doubt* that the wounds were caused by the blow of an axe by the end of the trial.

Macdonald, who spoke for both prisoners in his closing address to the trial jury, made a highly emotional appeal. Relatives sobbed aloud, the rest of the audience dried their eyes, and even the jurors were affected. For two hours and eighteen minutes he presented their case. John A, particularly, must have been surprised at the saintly picture of himself that was portrayed. Barrister Macdonald provided the best possible interpretation on everything.

"You must not convict these innocent men on some mere theory or suggestion. You cannot convict them and send them to their deaths on evidence that is gossip and the fertile imaginations of women who had no such story to tell until the men were charged with murder.¹¹⁴ There is no evidence of conspiracy between the two accused men. Surely the watch is not a sufficient motive for one man to kill another. Hendershott was in debt, but not sufficiently to plan a murder of a relative for his insurance. There is no evidence that he was in the woods at the time of the tragedy, but rather that he was miles away; nor did he make the trip to avoid being near a crime, but rather because he had business in Eden."¹¹⁵

Macdonald continued to represent Welter and Hendershott after the trial and attempted to get the insurance money for the Hendershott's two girls, Lily and Rosa , as well as a share for Edith Welter, the betrothed of the victim Will Hendershott.

Macdonald may well have paid heavily for his deliberations. He died unexpectedly on September 9, 1895, just three months after the executions. The cause was reported as *insomnia*¹¹⁶ but was probably heart failure. There is no information as to the outcomes of his interventions on behalf of the Hendershott daughters and Edith Welter.

¹¹⁴ Reference is to Emily McConnell and Anna French, cousins of John Hendershott who provided evidence suggesting his predilection for insurance fraud

¹¹⁵ Edwin C. Guillet, *Easy Money*, 1945, Chapter VII - The Addresses to the Jury

¹¹⁶ "*Norman MacDonald, barrister, St. Thomas, died on Monday night of insomnia. Though he had been ailing for some time, his death was wholly unexpected.*" Essex Free Press, September 3, 1895, p 5

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In addressing the jury Osler noted the choices available to them...

"It is open for you to find both guilty. It is open you find Welter guilty alone, and you must remember it is your duty, more or less, to find Welter guilty of the actual killing, although you may believe there was a guiltier man behind, while you *may not be satisfied that the evidence is conclusive*. Sometimes a jury makes the mistake of discharging one man because they do not believe the other guilty. *It was hard to tell which was the more guilty – the man who schemes to commit murder or the man who has not the brains to scheme but takes an axe and commits it.*"¹¹⁷

Osler's strategy was to treat Welter and Hendershott as equal conspirators. They were two halves of the same crime: the brains and the brawn; the wolf and the fox. Osler argued that Welter could not go free just because he was seen as the dupe of the smarter, savvier man, and Hendershott could not escape justice merely because he did not commit the crime.

In his preliminary presentation of the Crown case Mr. Osler showed the court a plan of the district around the village of Middlemarch, prepared by County Engineer Bell (FIGURE 38): Wardell's Woods – the scene of young Hendershott's death, the house near it, and the surrounding village. With the precision for which he was famous, Mr. Osler developed that the disposition of the Hendershott household on the day of the tragedy was something more than a suggestion that the arrangements were planned for a purpose. In any event, it was certain that the two young men had gone off to the woods to chop, while John Hendershott and his daughter Lily went off to Eden in his buggy.¹¹⁸

Neither Macdonald nor Robinson offered anything unique in the defense of John A from that presented for William Welter. Neither John A nor William Welter testified in their own defense. Many newspapermen suggested that the case for the Crown was in no way reduced and was perhaps even strengthened after the defense

¹¹⁷ Reported in Medicine Hat New, 24 April, 1894

¹¹⁸ Edwin C Guillet, Easy Money, 1945, Chapter V - The Trial Opens

presented its' medical evidence. Osler had set the tone at the beginning of the trial by asking the following three questions of John A:

1. Where did you last see William Henry Hendershott alive?
2. Did you try to affect insurance on the life of Patrick Fitzpatrick?
3. Were you preparing to go away when you are arrested?

Welter and John A appeared to remain on friendly terms throughout and after the trial. They both shared the apparent affection of John A's daughter, Mary Lily Hendershott and post-trial interventions to commute the sentences applied equally to both conspirators.

The Crown's strategy was simple in concept and impossible for the defense to attack effectively:

1. prove the wounds could not, in their entirety, be caused by the beech tree falling on the victim thereby establishing that a crime had been committed;
2. identify the axe as the likely weapon and prove it belonged to and/or was in the possession of Welter;
3. establish the presence of Welter in Wardell's Woods in the company of Will Hendershott and discredit his version of the *accident*;
4. establish the insurance policies as motive of financial gain and demonstrate collusion between Welter and John A in obtaining the insurance money.

What the Crown did not, or more likely could not, establish were:

1. although there was an hour unaccounted for in the morning, they could not establish the presence and involvement of John A in the actual killing, at least without accusing daughter Mary Lily Hendershott of perjury;
2. the motives behind William Welter's participation – a cut of the insurance money and/or attachment to Mary Lily and/or John A;

3. Any trail of past insurance scams on the part of John A, including but not exclusive to insurance on his wife and on the local drunkard, Patrick Fitzpatrick. The former, if true, was never brought out in trial: the later was ruled inadmissible by Justice Meredith.

CAUSE OF DEATH

“a blunt manufactured instrument and not something natural to the woods”¹¹⁹



Figure 37 - Four views of the head of William Henry Hendershott showing wounds

William Welter claimed that the falling beech tree had created the wounds and lacerations on Will Hendershott. This had gone unquestioned when the body was removed from the woods and during the autopsy. The evidence was buried following the autopsy three days later when Will Hendershott was placed in the Fingal Cemetery.

But, after hearing the story of the inquest from Sherriff Dugald Brown, Detective Wilson Murray had the body exhumed and the head detached and re-analyzed. Greater scrutiny of the lacerations suggested that several, if not most, of the wounds were more likely caused by something more substantive than tree limbs - a blunt *manufactured* instrument and not something *natural* to the woods as argued by Defense Lawyer Macdonald. It was further concluded that if the body fell where it was discovered the knot on the fallen tree would have smashed the victim's head "to atoms."

¹¹⁹ Question posed by Attorney Donohue to Richard Sanders, Magistrates Trial Manuscript, p. 359

At the Preliminary Hearing, Defense Lawyer Macdonald had Dr. Frank Lawrence go over every laceration on the head of Will Hendershott asking him whether that wound, by itself could have been made by the limb of a tree, or "*was [he] irresistibly driven to the use of an instrument because it was a clean cut.*"¹²⁰ This line was stubbornly sustained by Macdonald at the trial, the contention being that the wounds were caused by the sweep of the branches as the tree caught Will Hendershott. John Z. Long, St. Thomas architect, testified that the tree would have "*come down unexpectedly because the west side and centre were rotten.*"¹²¹ If the branches of a falling tree caused the death of Will Hendershott then the only tactic open to the Crown would be to establish that the felling of the tree had been purposefully done by Welter. Indeed, this may well have been the original belief. In another version of the affair, the dead body was placed under the tree and the chopping completed. But, the Crown argued that the tree didn't fall exactly as expected and the body needed to be repositioned, the head being placed below where the knot was located.

First to testify were the witnesses who at the Preliminary Hearing had been satisfied that the wounds were caused by the falling of the beech tree. Their previous belief that death had been caused by the falling of the tree was challenged by several additional *expert* witnesses. At stake would be their pride, maybe even their professional reputations, if they were proven to be mistaken.

More damaging was the postmortem examination made by Dr. Frank Lawrence while the body was at the house of John A. Lawrence had found some cuts, beside scratches on the face, on the scalp, head, back of the head and the right side of the back of the head. The skull was fractured on the right side below and above the temporal region and the lobes of both ears were lacerated. In Lawrence's opinion, the fractures at the base the skull and the effusion of blood on the brain caused death.

Seeing the need for greater expertise than they had mustered at the Preliminary Hearing, Barrister Macdonald started with expert medical witnesses of his own. First, Dr. Waugh from London and a graduate of McGill University, testified to examining the body twice.

¹²⁰ Magistrate's Trial manuscript, pp. 834-860

¹²¹ Garton Scrapbook, p. 245

He stated, "*They were certainly not caused by the front of the axe. The wounds are all of the same sort. There is nothing in any wound that would lead to the conclusion that they were caused by an axe. I could account for them all by blows of a branch and of the tree.*"¹²² But, under cross-examination by Osler, Waugh was forced to admit that "*the injuries on his head are not consistent with the tree only striking the head. There would have to be blows from other directions to produce them.*"¹²³

Additional testimony for the defense was provided by doctors VanBuskirk (St. Thomas) and Wishart (London), and by professors Nancreed (Ann Arbor), Mason and Going (Windsor). They thought it improbable that all the wounds could have been caused by an axe, and that it was more probable that, taken collectively, they were caused by the branches of the tree. Dr. VanBuskirk examined the head of the victim twice. He stated that the wounds could be caused by the branches, and were more probably caused that way than by the axe. "*I account for them all this way except the one on the occipital bone (at the back of the head), four inches long, which was caused by blows from above and below. I think this was caused by the trunk of the tree.*" He continued, "*I will not say that it was not the axe, but I don't believe it was.*" But, he further added "*I will not contradict the opinion of those that do.*"¹²⁴

Osler systematically challenged these witnesses. Consider the following cross-examinations by Osler.

Crown Attorney Osler: I have not had much experience with head injuries [author's note: notice the folksy introduction]. Is it at all probable that these injuries were the result from the blow of a branch of the tree?

Dr. Waugh: They could have been produced in this way.

Osler: I ask you, was it probable that they were produced in this way?

Dr. Waugh: I think it more probable that they were caused by the branches and the tree than by an axe.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid

Osler: Then you have to combine the blows of the branch and the tree to produce these wounds?

Dr. Waugh: I am not combining them.

Osler: To what class would you contribute the violence causing these wounds?

Dr. Waugh: I don't understand you.

Osler: You are an intelligent man; professional man and yet you don't understand that question.

Dr. Waugh: I found two fractures in the skull.

Osler: You gave as a reason that you did not think the wounds were caused by an axe that there was no serious injury to the skull and yet you found two serious injuries.

Dr. Waugh: Yes. I don't think the wound at the back of the head was caused by an axe, because the skull was not injured at the point of contact.

Osler: But eight or nine doctors who examined the skull, say it was injured at that point, and you think it makes no difference.

Dr. Waugh: I am not criticizing what the other doctors say, but I still think the wound was not caused by an axe. In all probability the trunk of the tree struck the head. There is no wound that would, of its' own, cause concussion or produce unconsciousness. I was speaking of the scalp wounds. The basilar fracture would produce unconsciousness, and I would not expect much movement.

Mr. Osler then read a passage from renowned doctor Taylor¹²⁵ that a person might live for several days after such a blow and asked Dr. Waugh if he agreed with it. After some hesitation Dr Waugh said he would have to, but added...

Dr. Waugh: All the wounds except the four inch wound at the head and the punctured wound back of the head at the right side of the head could be produced by an axe. I do not think

¹²⁵ Frederick Taylor, A Manual of the Practice of Medicine, Blakiston, Son & Company, 1890

the punctured wound could be caused by a blow of an axe, because it could not be applied.

Osler then asked the witness that if the man were lying prone, could not the blows be applied by the outer corner of the back of the axe.

Dr. Waugh: No, because I would expect the zygomatic process to be broken.

Osler: But it is broken.

Dr. Waugh: Is it?

Osler: Yes, there is a sliver off it. Did you not notice it in your examination [turning to Defense Lawyer Robinson]. If the skull were struck by the axe at the back of the head I would expect it to be broken in at point of contact.

Osler then addressed Dr. Wishart who admitted:

Dr. Wishart: Any one of these wounds might be caused by the branch of a tree. I would not go so far as to say that all the wounds on the right temple were *not* caused by an axe."

Given the reservations then expressed by Drs. Waugh and Wishart, many thought the testimony of the defense witnesses actually strengthened the case for the Crown.

The debate might easily have been settled by matching the blows on the head to those on the axe. The Crown wanted to present the head of Will Hendershott into evidence for this purpose, but the defense strenuously objected and won "*and they were very prudent in so doing*" stated Osler for "*we were willing to stand by the results.*"¹²⁶

¹²⁶ Cited by Osler and quoted in Edwin C Guillet, *Easy Money*, 1945, Chapter VIII - The Addresses to the Jury.

WARDELL'S WOODS

"the production of the wounds collectively is more consistent with the axe theory than with the tree theory"¹²⁷

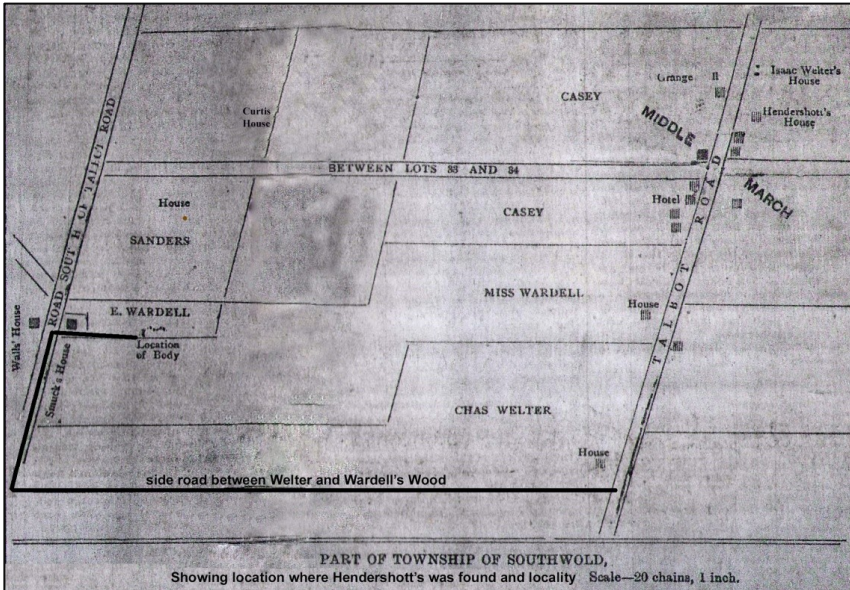


Figure 38 - Wardell Woods and Environs Produced At Magistrate's Trial

Wardell's Woods was a parcel of land (located at Edwin Wardell's in the FIGURE 38¹²⁸). It was located on the southern extremity of Southwold lot #35, and had been leased by John A from Edwin Wardell, a retired farmer. Payments by John A to Wardell were in arrears at the time of the incident.¹²⁹ Edwin Wardell testified that he would point out the trees that Hendershott might cut. *"There was plenty of timber without cutting more,"* he had stated. According to John A, he had shown his nephew Will three trees that were to be cut down some time before the Friday morning and Will was to inform

¹²⁷ Quoted by Dr Colin Sinclair, St. Thomas Daily Times, Wednesday, March 13, 1895

¹²⁸ taken from St. Thomas Times, March 8, 1895

¹²⁹ Evidence of Edwin Wardell presented at inquest.

William Welter of them when they went to the woods on the Friday morning.¹³⁰

The dead or dying body of Will Hendershott was located below a knot in the fallen beech tree. This knot had apparently created a hole in the ground when the tree fell. It was a common belief at the outset that it was this knot that had directly caused Will's death, but the absence of corresponding marks on his skull was anomalous. Edwin Wardell, who had watched over the body for two hours while awaiting the Coroner, observed of the knot, *"If the tree fell on him it could not have helped mashing him to atoms and killing him: there would have been nothing of the arm and head left."* Whether William Welter was lying or not would appear to hinge on whether the knot would have crushed the head. Dr. T. W. Duncombe believed it might not necessarily have done so. His reservations, and indeed, the crux of the defenses' case would rest on which statement the jury believed in an upcoming criminal trial. Consider the following exchange between Dr. Duncombe and Crown Attorney Donohue.

Crown Attorney Donohue: Now if that is true, and if it be true also that the man's head was immediately under the knot, what condition would you expect to find his head in if it had been struck by the knot?

Dr. Duncombe: Very badly bruised and injured, not necessarily crushed, no; it depends upon the ground beneath, the hardness of the ground, and the condition of the ground under the tree.¹³¹

On Sunday, December 16, Will Hendershott's father and mother, David and Sarah Hendershott paid a visit to Wardell's Wood to see where their son had died. They inspected the knot on the tree said to have killed him but saw no blood on it, or on the ground below it where it would be expected. But, Sarah Hendershott found dribbled blood nearer to a stump removed from where her son's body had been found. Her husband, David, questioned his brother on this point. John A suggested that it had been distributed by feral dogs that had ravaged the carcass of a dead horse from an adjoining field. David rejoined

¹³⁰ told by John A Hendershott to Mary Bancroft in the Penwarden House on Saturday, December 15 upon Hendershott's return from Eden Ontario, Magistrate' Trial manuscripts, p. 778

¹³¹ Magistrate's Trial manuscript, pp 872,3

*"that blood never was carried there by dogs, nor no blood from the horse I says: I say there is where Will was killed."*¹³² According to David Hendershott's testimony, John A visited the scene two days later and, while acknowledging the incongruity, stated that if he got the insurance alright *"he would do well by him."* John A would frequently refer to the dead horse as the source of blood around the crime scene,¹³³ at the scene and on the blood-stained axe later discovered. Several jurors from the inquest tried to embellish his story by distributing drops of blood from the carcass of the horse nearer to where the body of Will Hendershott had been found.¹³⁴

Constable Fairbrother, along with John Lyle, Samuel Crocker and John Begg, took measurements of where blood was located at the scene. These and later measurements produced by County Engineer Bell and Detective Wilson Murray were used to produce the map presented in Figure 39 - Outline of Wardell Woods Produced By County Engineer Bell.

Detective Wilson Murray visited Wardell's Woods along with the forensic doctors and William Welter on Wednesday, December 19th. Detective Murray had Welter crawl under the tree so as to point out to the group the position in which the body of the dead Will Hendershott had lain. Wilson Murray had previously noted that *"the only marks were on the head. There was not a scratch on the remainder of the body. Clearly, if a tree fell on him it must have fallen on the head alone."*¹³⁵ Asked the following question at the Preliminary Hearing *"Could the body have been placed in the position you found it after the tree was down?"* Wardell replied, *"Yes, it could have been placed that way."*¹³⁶ In his testimony Dr. Frank Lawrence pronounced that if the head was under the knot *"I would expect it to be smashed out of all recognition, and if it was higher up I would expect it would be smashed also, but not to the same extent as if under the knot."*¹³⁷

¹³² Ibid, p. 674

¹³³ According to testimony John A had got Edgar Bowsby to shoot an old blind and lame horse that had belonged to Philip Horning

¹³⁴ But detective John Wilson Murray had already taken samples from the site.

¹³⁵ Memoirs of a Great Detective, The Middlemarch Mystery

¹³⁶ Magistrate's Trial manuscript, p. 390.

¹³⁷ Magistrate's Trial manuscript, p. 836

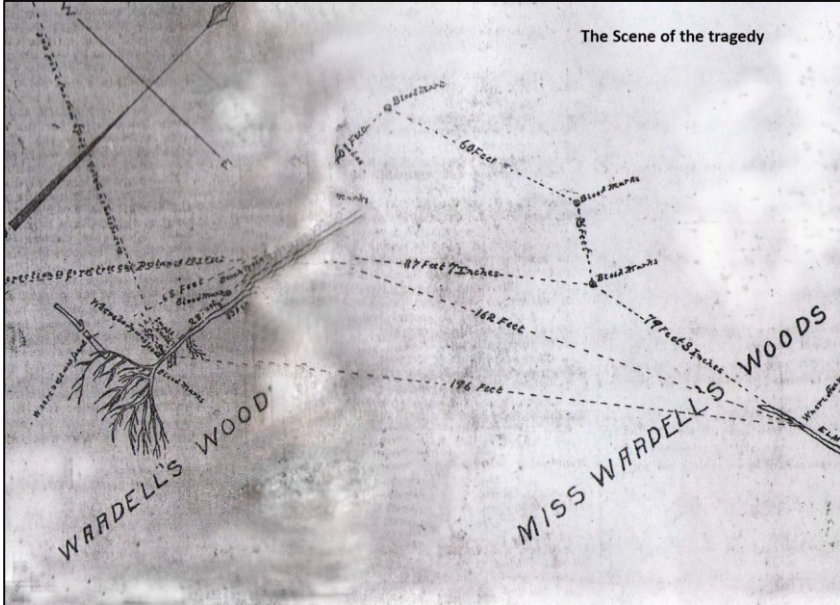


Figure 39 - Outline of Wardell Woods Produced By County Engineer Bell

Murray had found a trail of blood drops leading from a pool of water to a place fifty feet from the stump. There was a great deal more blood at this point. He concluded that Will Hendershott had been killed at the water pool, moved under the top of the tree, and then repositioned to where the knot was located on the tree. *"The murderer had washed his hands, and perchance his weapon, in the little pool... I believed the weapon used was the axe that chopped the tree. I searched the woods thrice and could not find it, but at last it was revealed."*¹³⁸ Evidence was produced demonstrating that the head could not originally have been under the branches of the tree, as alleged by the defense, but had to have been moved there instead. The head would have been hit from all sides if the wounds were caused by portions of a tree.

This version of the incident was strongly sustained, in spite of challenges from Macdonald. At the trial, Professor William Hodgson Ellis of the School of Practical Science, Toronto, testified as to his examination of the blood on the axe handle and leaves. It seemed to

¹³⁸ *Memoirs of a Great Detective, The Middlemarch Mystery.* The axe was actually found by Neil Campbell and Sylvester Swisher upon the advice of Henry Couse to search for it. Map - Figure 20 taken from *St. Thomas Times*, March 8, 1895

be human blood, he said, and was definitely not that of a horse, but beyond that he would not swear.¹³⁹

Wardell's Woods was quickly becoming a popular spot for the curious. It was estimated that on the Sunday, two days after the killing, three hundred men¹⁴⁰ visited the area looking for evidence of the prisoner's guilt. Some looked for bloodstains on the ground and leaves. Others searched for signs of a struggle; or they measured the distance from a spot of blood to the tree beside which the dead body had been found; or they made calculations to show that if the victim had been running to the stump on which his vest and watch had rested, he would not have been hit by the branches.

"In short, they were doing the things that detectives did in cheap novels so popular at the time when working on crime mysteries. It is not likely that in any other part of the country there could be found so many Vidocos and old sleuths as Elgin County supplied at that time."¹⁴¹

There had been so much disturbance that Donohue noted at the Preliminary Hearing,

"... this tree has been tampered with since the killing of the body, and that it is not at all in the same condition now, when the medical witnesses of my learned friend [Macdonald] went out there to see it yesterday [about January 4, 1895]: it is not in the same position now as it was at the time when the other medical men went out [at the inquest]."¹⁴²

¹³⁹ Cited in Edwin C. Guillet, *Easy Money*, 1945, Chapter VI - The Crown Case

¹⁴⁰ Newspaper number, Number was given as 200 at Magistrate's trial

¹⁴¹ Garton Scrapbook,

¹⁴² Magistrate's Trial manuscript, pp 397-98. Square brackets are author's clarification.

“I think the larger majority of the cuts could be made with an axe.”

Most tree cutting projects would involve a combination of saw, axes and wedges. It is most likely that William Welter and Will Hendershott, both about 24 years of age, had hewn many trees, and were well versed in the basics of tree cutting. Nuances such as the age of the wood and variations in its' growth as well as small deviations in the angle at which the tree would fall might well be outside a rudimentary education, restricted to more experienced woodsmen such as their neighbour Henry Couse.

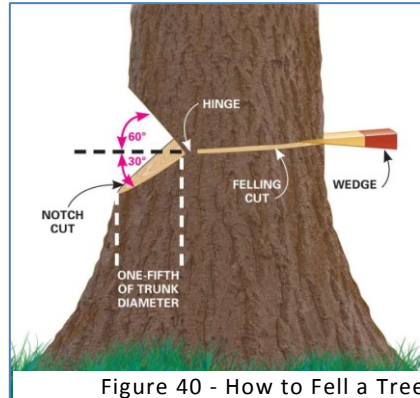


Figure 40 - How to Fell a Tree

The axe that William Welter had displayed at the inquest had been declared *too dull* to cut trees. It had been advanced by William Welter as the one used to notch the tree. Clearly, it was not. If they were cutting trees at all, there had to be other implements involved.

Sylvester Swisher, in the company of Neil Campbell, found the axe that was alleged to be the killing weapon while searching the crime scene on Sunday, December 23rd. *"It had been shoved in between the bark and the log of an old tree trunk. It never would have been discovered if one of the searchers had not stumbled on the log and smashed the bark off so that the axe fell out. It had been partially washed, but there were tell-tale traces on it."*¹⁴³ Henry Couse, with twenty plus years experience in chopping trees, had noticed a small niche in the axe which would make a corresponding mark when used. He was positive that it was this axe that had been used on the beech tree, *"and the sapling and in making the skid."*¹⁴⁴ Later analysis found sets of blood stains on the handle and at the trial, Professor Ellis testified that there were *"two stains of blood on the handle and*

¹⁴³ Memoirs of a Great Detective, The Middlemarch Mystery

¹⁴⁴ Magistrate's trial manuscript, p. 517

although he could not possibly tell, yet from the size of the corpuscles did not think it was horses' blood," as had been suggested by John A. Jerriah Fortner identified the handle of the axe as one made for John A on February 17, 1892.

There was a great deal of controversy amongst the forensic experts about whether an axe could create all of the wounds on Will Hendershott's head. Certainly, the sharp end of the axe would have made far deeper lacerations than occurred. Dr. Frank Lawrence stated that "*Under certain conditions, I think the larger majority of the cuts could be made with an axe.*"¹⁴⁵ The backside of the axe could be used, but, the wedges used by most woodmen, would be even more likely. None were found, but, a post-hanging news item postulated their use. "*It [a wedge] was this weapon which made many of the wounds on young Hendershott's head that surgeons had difficulty in accounting for after the murder. This wedge was driven in the ground and is still in Wardell's Woods.*"¹⁴⁶

WHERE DID ALL THE AXES GO?

"He said there were two."

At the inquest William Welter claimed there had been the saw and a single axe used in cutting the tree. The axe at the site, claimed by the woodman at the inquest as being "too dull" to be used in felling trees, was the only axe found on the day of the death. But John A and William Welter did not have their stories entirely straight: Welter said there was a single axe, while Hendershott claimed there were two. Edwin Wardell noticed this difference at the Preliminary Hearing...

Donohue: How many axes did Welter say were there?

Edwin Wardell: Only one.

Donohue: And how many axes did Hendershott say were there?

Edwin Wardell: He said there were two there.

¹⁴⁵ Magistrate's trial manuscript, p. 836

¹⁴⁶ Story of the Crime, Cited in Garton Scrapbook, pp. 256-258

To address the discrepancy John A produced a second axe just after the funeral which, he contended "*Will Welter had carried up and put in the drive barn*" and which he had not known had been moved since he said there were two. John A produced an old, rusty axe which he presented as the "*missing axe*" identified at the inquest.

As previously noted, a second axe had been found by Neil Campbell and Sylvester Swisher in the woods on the Sunday between the bark in an old oak log about 171 feet from the stump of the tree. The Crown now claimed that this axe was the one that killed Will Hendershott.¹⁴⁷ It had blood stains on the handle. At the Preliminary hearing, Edwin Wardell had identified it as belonging to John A.¹⁴⁸ At the trial, Jerriah Fortner reinforced this evidence by identifying the handle of the axe as one made by him for John A three years earlier.¹⁴⁹ Henry Couse, an expert chopper, had been there when Campbell and Swisher found the axe and handed it to John Hopkins who put it back under the log until Constable Fairbrother arrived two hours later to take possession of it. Couse compared the axe to the indentations in the cut wood on the skid and concluded that it was the exact axe that had been used to cut down the tree.¹⁵⁰ He also identified that there was blood on the axe when found (he had inspected it through a magnifying glass). At the trial Professor Ellis testified that there were two stains of blood on the handle and "*although he could not possibly tell, yet from the size of the corpuscles did not think it was horses' blood,*" as had been suggested by John A.

Couse, in his testimony, went further. In addition to looking for the axe, he was also looking for bloodied clothing or a wedge typically used in cutting trees. Since the axe previously found was claimed as "too dull" it was suggested there might even be a third axe to be found (presumably Couse thought that John A had been in the woods as well before leaving for Eden).

¹⁴⁷ Edwin C Guillet in Easy Money suggests that this axe was planted in the woods by David Hendershott but given that this is the only axe of the three with the sharpness to cut wood this seems unlikely, see Chapter VII - The Address to the Jury

¹⁴⁸ Wardell had borrowed and used it himself for a couple of months --"The way I distinguish was the iron wedge in there: it kept coming out once in a while when it was warmish weather and I kept driving it in". Magistrate's Trial Transcripts, p 386

¹⁴⁹ February 1842. Magistrate's Trial manuscript, p. 422

¹⁵⁰ Magistrate's Trial manuscript, pp. 51-530

***A brief window when there was \$11,000
insurance payable on the life of Will Hendershott***

John A may well have been inspired by the Ardlamont murder. But, there were also other cases, much closer to home, being reported upon at the time.

A year or so earlier, John A reportedly had read of the insurance swindles perpetrated by Doctor Henry C. F. Meyer,¹⁵¹ convicted and serving life in Sing Sing penitentiary in Ossining, New York State for a clever poisoning. These cases suggested that here was a racket that might afford plenty of *easy money* and according to Guillet, relieve him from pressing debt.¹⁵²

Meyer Murders

Dr. Henry C. F. Meyer and his wife Mary murdered by poisoning their victims including two of his former wives, her alleged husband, and innocent servant girl and no one knows how many others. The last case and the one most conclusively proven, was the poisoning in New York of their confederate, Ludwig Brandt. Meyer frequently collected insurance on the victims.

¹⁵¹ Crime-related Newspaper Stories of Cook County 1894 at
<http://genealogytrails.com/ill/cook/crimedata.html>

¹⁵² Edwin C. Guillet, *Easy Money*, 1945, Chapter X - Reflections on the Case



But, contrary to the popular press at the time, John A may not have been in such dire financial straits. His wife, Sarah Elizabeth Hendershott (nee Welter) had died

on April 11, 1894. Local talk was that her death was suspicious. An article written in the Rochester Democrat Chronicle stated that John A had collected \$2,000 in insurance on her death. Perhaps suspecting John A of something like poisoning, she had her will altered one week before her death, leaving her personal estate to her two daughters.

“Since young Hendershott’s death, people have begun to talk about the death of his aunt, John Hendershott’s wife. She was insured for \$2,000 and her husband got the money a year or so ago. Another circumstance which makes it look bad for John Hendershott, is the fact that she died rather suddenly. She died of stomach trouble, though she had always been regarded as a healthy woman.”¹⁵³

There was never any mention of this at either the preliminary or criminal trials. Perhaps it was deemed inadmissible by Justice Meredith, but it never had any other press coverage than the Rochester paper. Elizabeth reportedly died of cancer but, at the time, this might be consistent with *stomach trouble*.

Supporting this supposition is the ease with which John A could come up with money when needed. Though, according to William Welter, he owed back wages to both he and Will Hendershott, he had no trouble in paying off the last payment on his wife’s headstone on the day of the murder, nor in reimbursing his brother David

¹⁵³ Rochester Democrat Chronicle, Dec 29, 1894, Vol. 62, no 363

Hendershott for the cost of Will Hendershott's necklace for Edith Welter, and he had his attorney John A Robinson pay off his back payments on the lease of Wardell's Woods shortly after the killing. He was poor when he needed to be but had enough cash on hand when it was required.

John A tried to affect a \$2,000 insurance policy the previous June on the life of Patrick Dillen Fitzpatrick, *a drunken, worthless fellow*, but several doctors, after medical examinations,¹⁵⁴ refused to approve him as a good health risk (he died of cirrhosis of the liver a few years later). At the Preliminary Hearing Fitzpatrick told how John A and Welter had plied him with alcohol on several occasions in order to ingratiate themselves, but they had sunk too low in selecting their victim; a more reliable fellow in better apparent health would be required.¹⁵⁵ Justice Meredith did not allow Fitzpatrick's evidence to be presented at the trial on the grounds of irrelevance, but, *there is no doubt ... that the jurors had heard of it or had it brought to their attention by those of their number who had.*¹⁵⁶ As a replacement for this testimony, Donohue and Osler had George De Lacy testify that Hendershott had bragged to him about taking out insurance on a boy who was breaking in colts, a risky business in which he might easily collect without needing to actively murder the boy. "*... the colt would break the young fellow's neck, and he would get the insurance.*"¹⁵⁷

This may have been Will Hendershott being referenced; breaking colts would have been a normal role for a farmhand such as Will. More than once John A had referred to him as clumsy. Will had stayed with his uncle on several occasions for brief stays prior to finally moving in around the first of December, 1894; ample time to hear John A's sermons on the value of life insurance. Sometime between September¹⁵⁸ and December, 1894, John A alerted his insurance agent

¹⁵⁴ Dr McLarty, Dr Duncombe, Dr Marlatt all refused. Of note is the mention of insurance agent Cook for Covenant Mutual Insurance Company who is mentioned in Fitzpatrick's testimony as having taken him personally to examinations and having been present in discussions at local beer parlors, Magistrate Trial manuscripts, pp. 911-947

¹⁵⁵ Magistrate's Trial manuscript, pp 917-948

¹⁵⁶ Edwin C Guillet, *Easy Money*, 1945, Chapter X - Reflections on the Trial

¹⁵⁷ Garton Scrapbook, p. 240

¹⁵⁸ when Edith Welter testified that Will first indicated his intention to take out insurance, Magistrate's Trial manuscript, p. 822

acquaintances that Will Hendershott was considering life insurance. It was like informing wolves that lambs were in the next pasture. Will first purchased a \$5,000 policy from John Cook, the agent representing Covenant Mutual. Premiums amounted to about \$25 per month. John A agreed to loan him the money for the first payment and he obtained a letter of reference from Charles Welter attesting to his character. Apparently, Will Hendershott continued to look around for a better deal, because he was reportedly going to switch this policy in favour of one for \$6,000 with the New York Mutual Reserve Fund. John A introduced him to the agent for New York Mutual, Gilbert Roche and then accompanied him to Doctor Duncombe's office for the medical examination. Roche accepted \$5 down on the first payment with \$43 outstanding which was then paid by John A, with an additional payment of \$13.80 due on April 1, 1895. This policy had originally been refused because Head Office took exception to John A being the beneficiary, but Roche interceded on behalf of Will Hendershott and the company asked for a re-examination of Will by Doctor Colin McLarty.¹⁵⁹ This presented a brief window when there was \$11,000 insurance payable on the life of Will Hendershott, an extraordinary amount that would have, in Roche's opinion, made the policy speculative and have required additional review to ensure that the applicant could continue to meet the payments. At the trial Britton Bath Osler put the idiocy of the situation to the jury:

"The first premium on these policies was \$9 more than a year's earnings as a farmhand for his uncle, so how could he ever hope to pay it to his uncle, who, was in debt and borrowing at a high rate of interest at the time, so this was insurance that was taken out to be realized upon. In fact witnesses will testify that they heard him say that there was easy money to be made in insurance,¹⁶⁰ even though you might have to get rid of a person to obtain it: and although Hendershott had denied it, it was a significant fact that he carried these policies with him on the day his nephew was killed."¹⁶¹

¹⁵⁹ Had previously been Reeve of Town of St. Thomas, 1877-78

¹⁶⁰ Reference to the testimony of John A's cousins Emily McConnell and Anna French.

¹⁶¹ B.B. Osler, quoted in Edwin C Guillet, *Easy Money*, 1945, Chapter V - The Trial Opens

Gilbert Roche, in his testimony at the Preliminary Hearing, claimed that it was entirely the initiative of Will Hendershott to make his uncle the beneficiary. John A had no part in arranging the policy other than to provide the age of his father, Jacob (William's grandfather) to Mr. Roche. *"I suggested it could be made payable to the uncle and when he got married it could be transferred to his wife."* Will reportedly replied, *"I thought some of doing that, and I just wrote down 'John A. Hendershott', beneficiary."*¹⁶²

Number 349, W. H. Hendershott, Silver Ore case, number 29077, Hampton Gladiator, number 94172, warranted five years, case coat B.M.I., movement coat I.I.M. Chain and Locket cost B.I.I.

Clause 9 in the insurance application asked whether the applicant was insured by another company, in this case Covenant Mutual. Will Hendershott had said "No", either lying deliberately or believing the second policy would not be in effect until after the first lapsed. Insurance Agent Gilbert Roche, in his testimony, swore he didn't know about the first policy at the time the second was signed (it might well have been the end for him representing New York Mutual Reserve).¹⁶³

John A was not likely to pocket all \$11,000. There were undoubtedly payments to be made to accomplices and to silence others. First, was the question of William Welter who had committed the crime. Whatever had motivated the man to do what he did, he would most certainly be entitled to a cut of the proceeds. Second, there was his brother David who was making noises about the blood at the scene. John A and Welter made overtures to David to buy his silence, *"John will do the fair thing with you if you do the fair thing with him."* But David Hendershott had advanced that *"half was fair."* William Welter offered no reply; half was probably too steep, and David Hendershott testified that he had ended the discussion by stating *"if I thought he was killed in any other way but the falling of the tree I would not want any of the insurance."*¹⁶⁴

On the Sunday, after visiting the site of his son's death, David Hendershott asked his brother, John A about the insurance. John A replied *"if I get this money all right, for to fix you in a good shape."*

¹⁶² Magistrate's Trial Manuscripts, p. 982

¹⁶³ Magistrate's Trial Manuscripts, p. 995

¹⁶⁴ Magistrate's Trial Manuscripts, p. 658

David retorted that John A had no right to any of it, to which John A rejoined that "*he had, for Will had left it with him.*" David said no more about it because "*I seen he thought I was too fast.*"¹⁶⁵

WATCH THE WATCHES

Welter didn't know where he got the watch

Will Hendershott owned a new watch which he was very proud of, *a screwed-case watch with a distinctive break in the crystal.* The day of his demise he had it tucked neatly in the pocket of his vest while he and William Welter sawed and chopped wood. Welter said Will took his vest off with the watch in it and placed it on the tree. He then tried to save it from the falling tree and in doing so had the tree fell upon him, killing him instantly.

The night of the accident Duncan Hendershott (John A's brother and another uncle to Will Hendershott) had retrieved what he thought was Will's watch from his dead nephew's vest after it had been brought from the woods to John A's home. Duncan later gave it to his other brother, the dead boy's father, David Hendershott on the Saturday after the killing. The coat and vest were taken by Constable Fairbrother as evidence. The watch was not known about by either Constable Fairbrother or Detective Murray at this time. David gave it to his wife, Sarah who placed it in the sleeve of a shirt in her dead son's trunk.

¹⁶⁵ Magistrate's Trial Manuscript pp. 666-667



Stem-Winder Watch

After the U.S. Civil War, the latest and neatest thing to possess was a *stem-winding* watch. This had been perfected by a French maker, Adrien Philippe, while working in Geneva in the 1840s. Before his invention, watches were wound like clocks, using a key. This was an awkward procedure and wise watch owners kept the key on their fob chain to be sure of not losing it.

M Philippe added a knurled knob attached to a rod (or stem), which was permanently connected to the spring mechanism, making it much easier to wind. Hence *stem-winding watch*, or *stem-winder*. In the second half of the nineteenth century, *a stem-winder watch was state-of-the-art, something to boast about.*

At the Preliminary Hearing David Hendershott testified that this watch was not the same watch he had seen on his son when he had visited him at John A's on the previous Halloween.¹⁶⁶ The watch he had seen then was in the possession of Edward Langan and Nelson Moore, the jailors at the courthouse who were holding the possessions of William Welter. The watch, number 5674882, and the warranty had been found in Will Hendershott's trunk. David identified a mark on the watch produced as having been seen that night. Welter's watch was a "key winder" and not a stem-winder like Will Hendershott's. The watch had been sold to Will Hendershott by William T Jackson, a Jeweler in St. Thomas on August 26, 1891 for \$10.

David Hendershott took possession of the watch. The jailer at the time, Edward Langan asked Welter where he got the watch. Welter said he got it at the Penwarden House six to eight weeks previous (around the first of November) and proceeded to relate a fanciful story (this is not the last fanciful story narrated by Welter):

¹⁶⁶ David testified he had Welter's watch in his hands because they were talking about exchanging watches themselves, Magistrate trial manuscript, p. 695

"he got it in the Penwarden House, and you asked who from and he said he didn't know who it was, he said a man asked him if he wanted to buy a watch, and he says no, I have got one of my own; he said well, I am broke, and I would like to sell you a watch, and he said no, I don't want it, and he walked out, and walking down through the hall to a washroom, and he stumped him for a trade. He said he would trade even; so the fellow said, I wouldn't be any better off that way than I am now; he says how much will you give me to boot; he said I will give you a dollar to boot; so the fellow said all right."¹⁶⁷

Of course, Welter didn't know the man so there was no way to validate the story. When Welter was asked if Will Hendershott had ever carried that watch he said *he had not*. Welter was then asked where he got the watch which he used for the trade. His answer was "*he didn't know where he got it.*"

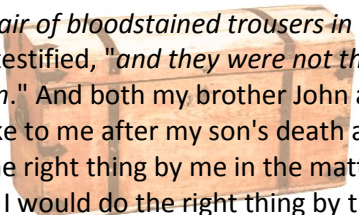
¹⁶⁷ Told by David Hendershott in his testimony. Magistrate's Trial transcripts, pp. 717-18

"I found a pair of bloodstained trousers in the trunk in his house, and they were not those worn by my dead son."

Will Hendershott also had a trunk at John A's home where his possessions were held. David Hendershott inspected it upon his arrival on Saturday, December 15th. It was unlocked, the key being in the trunk. In it he found *"a coat and a vest and a hat., some papers, and a fine shirt, and some collars, cuffs, and the like of that... There were no pants at all. There was a card with a necklace in it."*¹⁶⁸ John A requested that the boy's father, David Hendershott take possession of Will's clothing. With the help of his brother Duncan Hendershott, the trunk and clothing were taken to David's brother-in-law, Henry House where David Hendershott was staying.

Fearing trouble with the authorities for removing evidence, Duncan, upon the advice of Barrister Robinson and without the permission of Will's father, David, returned the trunk to John A's house. The trunk was now locked. David had the key to it from the Saturday after the crime. Inspector Murray issued a search warrant on the trunk, but, after inspecting it allowed David to have the trunk back. On Wednesday, December 19th David again inspected the trunk to find *"a bloody pair of pants put in there that I never saw into it rolled up."*¹⁶⁹ The bloody pants had been placed in the trunk between Saturday, December 15th and Friday, December 21st while at John A's. Edwin Guillet, in his account of the murder noted what David Hendershott said:

*"I found a pair of bloodstained trousers in the trunk in his house", he testified, "and they were not those worn by my dead son." And both my brother John and Dave Welter spoke to me after my son's death and said they would do the right thing by me in the matter of the insurance if I would do the right thing by them."*¹⁷⁰



¹⁶⁸ The necklace was a gift for Edith Welter. Magistrate's Trial manuscript, p 649

¹⁶⁹ Magistrate's Trial manuscript, p 652

¹⁷⁰ Edwin C Guillet, Easy Money, 1945, Chapter III - The Inquest

If there was blood around the crime scene and on the axe there was likely to be some on the murderers as well. At the inquest on December 22 it was reported that two pairs of bloodied overalls had been found at John A's, one pair in the trunk of Will Hendershott, which his father swore at the adjourned inquest were not in the trunk the previous Saturday, December 15th. The undertaker, William Kerr, had also sworn at the inquest that the bloodied overalls were not on the corpse when it was handed over to him on Friday, December 14th evening to prepare for burial. Someone was playing with evidence, but the movement of the bloodied overalls was confusing and not strenuously pursued at the trial.

JOHN A HENDERSHOTT'S ALIBI

An Evening in Eden

John A gave three reasons for his trip to Aylmer and Eden on the morning of December 14th that effectively removed him from the scene of the killing. He said he had an appointment with Hutchinson, an Aylmer marble dealer, that he had to pay taxes on some property in Eden¹⁷¹ and that he was going to pick up a robe which was being made for him by John Ketchabaw with whom he would stay overnight. Charles Welter reported at the trial that originally he was to accompany John A and his daughter Mary Lily to Eden for the visitation. His other daughter, Rosa was to remain with Theresa Welter at their place. However, Millie Griffin had visited Charles and Theresa Welter and they were unable to accompany him to Eden. Millie Griffin reported seeing John A going east towards Eden, presumably after dropping his other daughter Rosa off to stay with Theresa Welter. Rosa confirmed seeing John A head east when he left home.

¹⁷¹ John A paid \$150 on his account according to Hutchinson's testimony

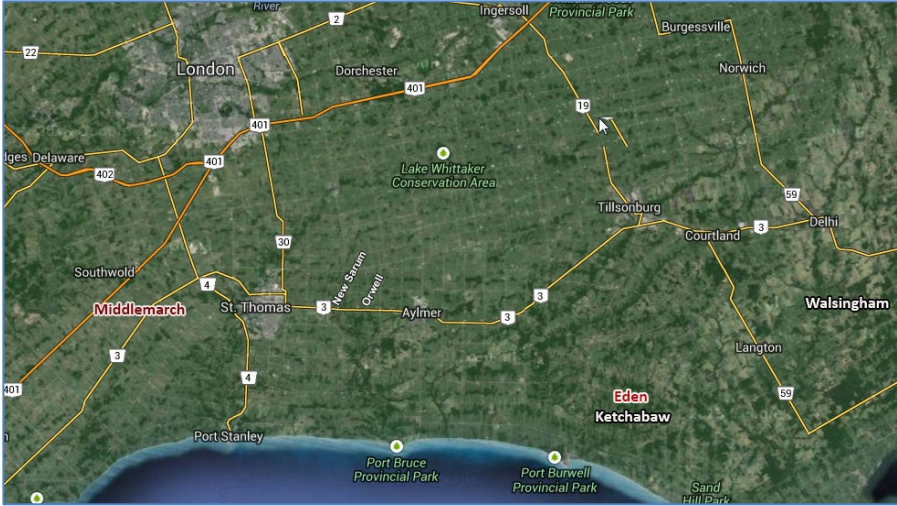


Figure 41- Distance: Middlemarch To Eden - 47.8 Km
 [Source: Google Maps]= 4.8 Hours (At 6 Mph)

The trip to Eden, according to testimony of Mary Lily Hendershott given at the inquest with testimonies of others added, was observed as:¹⁷²

- Rosa Hendershott testified Mary Lily and John A left home about 9 am.¹⁷³ Theresa Welter said 10 am;¹⁷⁴
- Rosa Hendershott testified that they arrived at Charles Welter’s house where they dropped her off - stayed about 15 or 20 minutes;
- Crown Witnesses Mr. & Mrs. Frost met John A at House of Industry (about 1 mile east of Charles Welter) just after 11 am. [Author’s note: This suggests he did not turn down the back lane to Wardell’s Woods after leaving Charles Welter to assist in the killing of Will Hendershott as Crown Attorney Donohue badgered Charles Welter about];¹⁷⁵
- Defense Witness W. C. Prouse had short conversation with John A in Penwarden House, St. Thomas at 10:45 am;
- Seen by Defense witness Albert E. Marlatt heading east at 11:15 am;

¹⁷² Inquest manuscript, p 57-59

¹⁷³ Inquest manuscript, p 46

¹⁷⁴ Magistrate Trial manuscript, p. 217

¹⁷⁵ Ibid.

- seen in New Sarum by Defense Witness Samuel Mitchell between 11:30 and 12 noon;
- seen in Orwell by Defense Witness George Bradley at 12:45 pm;
- John A pays marble dealer John Hutchinson in Aylmer \$150. Seen by Defense witness Thomas McCann in Aylmer at 1 pm;
- Seen by Defense witness Charles Howie three miles west of Eden at 4:30 pm;
- John Hendershott drove to William Ostrander's in Eden, with whom he was a good friend, arriving between 4 and 5 pm. John A, when meeting Ostrander says "*As I stop with you every time I come down, I shall go up there and stop to-night.*" However, since Mary Lily was not feeling well, Elizabeth Ostrander talked him into staying the night with them. Ostrander had business at the grocer in Tilsonburg and John A agreed to accompany him, arriving back about 10 am;
- At 5:35 pm a telegram was sent from the Great North Western Telegraph Co by Duncan Hendershott to his brother John A care of Ketchabaw. "*William Hendershott dead, come quickly*";
- Mary Lily testified that Ketchabaw brought news of accident to Elizabeth Ostrander during the evening but before the return of her father at 10 pm.¹⁷⁶ She didn't know whether it was her cousin Will or uncle William who was killed;

Great North Western Telegraph Co.

In 1880 the Great North Western Telegraph Company was established to connect Ontario and Manitoba but by 1881 it had been taken over by Western Union Co of the US and was used by Western Union to consolidate the Canadian industry, attaining leases on the lines of both the Montreal and Dominion telegraph companies. As a result, for a brief time Western Union controlled virtually all telegraphy in Canada.

¹⁷⁶ Telegraph sent at 5:35 pm from Great North Western Telegraph Company, Magistrate Trial manuscripts, p. 625. Note: A second telegram was sent at 8 pm by Duncan Hendershott to their (John A, Duncan, David) father informing him of the accident.

- When Ostrander and John A returned from Tilsonburg, Elizabeth Ostrander informed them of the death reported to her by Ketchabaw. They departed for Ketchabaw's and on the way John A offered three possible explanations if it was the nephew who'd been killed:
 1. he might have got struck with the tree, or something of that kind, and got killed... he had an idea that the tree might have struck the branches and rebounded back, and struck him from the butt of the tree,
 2. the tree might have struck another tree and broken that tree and come down and struck him,
 3. *he might have been running for this clothes; Will got a new watch this fall, and thinks a lot of it. He might have been running for his clothes and got struck with the tree, and got killed that way;*¹⁷⁷
- Ostrander and John A returned to Ostrander's home that night where they slept and then John A and Mary Lily left for home from there about 8 am the next morning.

When Detective Murray investigated he found that John A had called at Hutchinson's and paid \$150 to the account but he had made no prior appointment. Also, no taxes were due at all, having been paid by someone named Nairn of Aylmer a long time before. It was, therefore, a trip for little reason other than visiting relatives and perhaps to get the robe, but, the stated reasons were questionable.

¹⁷⁷ Ostrander's Testimony, Magistrate's Trial manuscript, pp. 739-40

“I thought it was kind of queer”

John and Mary Lily Hendershott returned from Eden the same way they had gone, arriving in St. Thomas on Saturday afternoon. They stopped at the Penwarden House¹⁷⁸ where they meet Alex McGugan who informed them that it was Will Hendershott who had been killed. They arrived there about 11 am and went up to the sitting room where Mary Lily wrote postcards to Ketchabaw and Ostrander in Eden informing them that it was Will Hendershott who had been killed.

Penwarden House

After the military regiments were moved to London in the early 1830, Colonel Cole opened Colonel Cole’s Hotel which was subsequently remodeled into the Penwarden House and run by George Penwarden in 1879. By 1894, the proprietor was James Bancroft.

The Penwarden House had a private sitting room on the second floor that was frequently used by people to meet. It is where John Hendershott and William Welter met on Saturday, December 15 as John A returned from Eden, Ontario after the killing.

By 1905 the hotel was rebuilt as a brick structure and called the Iroquois Hotel and then the Western Hotel.

William Welter then came to Penwarden House with David Hendershott. They saw John A’s horse and buggy in front of the Penwarden House. Welter spoke for about ten minutes with locals, curious about the death of Will Hendershott while David Hendershott remained quiet in the buggy, the conversation having been recently strained over a discussion of insurance money and the fair portion due to David, *for him to do right by John*.

Elizabeth Bancroft, the Penwarden House proprietor’s wife, had seen William Welter on Talbot St. and informed John A twice that, if he wished to see Welter about the accident, he had better go downstairs and flag him down. John Hendershott replied to her, "*... never mind, he guessed he would be up*" (suggesting that John A and William Welter

¹⁷⁸ Hotel in St. Thomas (on what is now Penwarden Street), used as a frequent meeting place

had a meeting at the Penwarden House prearranged¹⁷⁹). Mary Lily did not seem either surprised or overly anxious to see her boyfriend. Elizabeth thought both their behaviours peculiar for John A had just commented on how he wished to see Welter and Mary Lily had said she was "*seeing him [Welter].*"

When William Welter came into the sitting room it was occupied by John A and Mary Lily Hendershott, Elizabeth Bancroft, a Mr. Taylor and Edith Welter who was in and out of the room during the five to ten minutes they were all together. Edith Welter had tapped on the sitting room window to get the attention of her cousin William Welter and



Figure 42 - Sitting Room Circa 1895

invite him to come up. With this congregation it would be unlikely that anything incriminating would ensue, but the absence of any exchange is telling in itself for they had just returned following the receipt of the telegram informing them of the death of their relative and farmhand. Elizabeth Bancroft reported that no conversation had occurred at all "*for perhaps a minute or two.*" Finally John A asked William Welter "*[H]ow did this happen?*" Welter replied, "*[T]he tree had fallen across his head and killed him.*" Nothing more was said. *Mary Lily didn't speak to Welter at all [author's italics].* When asked by Crown Attorney Donohue what she thought of their conduct, Elizabeth Bancroft replied, "*I thought it was kind of queer.*" Everyone remained there for five to ten minutes without speaking, probably because of the presence of Elizabeth Bancroft, Edith Welter and perhaps Mary Lily. Mr. Taylor had left during the interval.

¹⁷⁹ Magistrate's Trial manuscripts, p. 780

TWO VERSIONS

There were multiple versions of the murder reported in the papers of the day. The following two are the most prominent.

DUAL MURDERERS

“His uncle held him by the wrist. And the blows he did repeat.”

By the end of the trial, the version of events in which William Welter alone conducted the axing on Will Hendershott prevailed. The Crown vigorously directed its energies to proving John A was "*an accessory before the fact.*" The testimony of young Mary Lily Hendershott as to her and her father's trip to Eden was not seriously challenged.¹⁸⁰ Theresa Welter saw them head east about 10 am. Edwin Wardell saw them in St. Thomas between 10 and 11 am. There was more than adequate time to have committed the crime before setting out. Was Mary Lily naive in her testimony, a perjurer, or, at worst, an accomplice?

On April 24, 1894 the correspondent of the *Globe and Empire*¹⁸¹ reported that Welter had confessed to committing the crime to one of his friends who, thereupon, divulged it to the Crown on condition that he not be required to appear as a witness. However, it was also reported that Welter himself had divulged the story to his attorney, Norman Macdonald, as well as the Reverend David Spencer, his "*spiritual advisor.*"

Welter's information suggested that William Hendershott was murdered in the most cold-blooded manner, in the morning, before John A left for Eden. Young Will Hendershott was on his hands and knees when the first blow was struck. He had knelt to drink of the pool in the woods, when he placed his lips to the water he received the blow from the axe on the right temple. He was not stunned, but rose and attempted to run. The men, having begun the bloody work,

¹⁸⁰ Murray verified their arrival and several meetings en route, but there remained an unexplained hour in the morning. However, it implied incriminating or challenging Mary Lily and no one seemed predisposed to do so.

¹⁸¹ As reported in the *Medicine Hat News*, April 24, 1894.

followed it up. They chased the victim, and finally one of the men grabbed him by the wrists, while the other struck at him again and again with the axe. One other fatal blow was delivered, namely, that on the back of the skull, but the remaining blows were weak and ineffectual, owing to the horror, probably which had seized the man who wielded the weapon. When this bloody deed was done the body was placed where the beech tree was expected by the men to fall after being cut.¹⁸²

However, according to the expert testimony of woodsman Henry Couse, the tree leaned and was rotten at the center. Consequently, it didn't fall as expected. Will Hendershott's body had to be moved into a more reasonable position, the killers decided upon the crotch of the tree above the knot. The head continued to bleed until a large pool of blood collected on the ground. The killers then washed their hands, cleaned the axe in the pool and then hid the murder instrument between the bark and the wood of the hollow log. It was not intended to be found. Hendershott then left for Eden, in order to receive the telegram conveying the news that his nephew had been killed by the falling of the tree.

Edwin C. Guillet, in his 1945 story of the trial, *Easy Money*, argued this was the truth.

Various considerations unite to make this necessary, apart altogether from his alleged confession implicating Hendershott in the actual killing. In the first place two men were needed to make sure of the murder and arrange the tree and the body afterwards; and in the second place it is hardly conceivable that Welter, though obviously not bright, would be dupe enough to agree to do all the dirty work alone in order that Hendershott, who was to be the prime gainer of in the business, should appear to escape all possible complicity in the deed.¹⁸³ In his deposition at the inquest Welter said he and Will stayed around the farm that morning, going to the woods between twelve and one in the afternoon. But farmers get up early, and nothing could be easier than a trip to the woods while "the chores" were sensibly being done, preparatory to Hendershott and his daughters leaving for the

¹⁸² Two pairs of bloody overalls were reported to be found at the inquest.

¹⁸³ However, this is explainable if Hendershott and Welter were "*intimate*"

day. There would be no need for Lily to know or suspect that anything irregular was going on before breakfast. All she would know would be that at 10:15 or 10:30 her father was ready to set out on the trip and that the other two were busy elsewhere. Then, in the afternoon, Welter could sneak back to the woods, and on to Charles Welter's to report the death at the prearranged time.¹⁸⁴

In the locality, however, where much might be known that could not be proved in the court of justice, the belief was, and still remains, that Welter and young Hendershott went to the woods shortly before, or just as John and his daughter set out on the trip: and that *the elder Hendershott joined them and aided in the murder*, his daughter holding the horses for him while he was gone. This would imply that she withheld the fact from the court, but not necessarily that she knew what her father was doing during his absence. In the weighing of such considerations as her father's life against the revelation of this knowledge, who is to judge the daughter? In any event, since John Hendershott and his daughter were still a mile or so west of St. Thomas between 11:30 and 12 noon, the question as to where they were all that time is not unreasonable, and unless otherwise explained, it is a highly suspicious interval.¹⁸⁵

Guillet's observance of the popularity of this version is reflected in a song composed by a local musical duet, Howard and Smith:

On the day they killed Will Hendershott
As near as I can learn they took him out
To Wardell's Woods, no fear did he design.
He went to a pool to take a drink
And he was bent low
Young Welter crept up with an axe
And dealt him a fatal blow.

But after he had gained the blow
He struggled to his feet
His uncle held him by the wrist
And the blows he did repeat.
And then they fell a tree on him
And a knot it struck his head
Young Welter told the neighbors

¹⁸⁴ Guillet is either not aware of or dismisses the testimony of Charles Harpin who sees Will Hendershott and William Welter in Middlemarch at 12:50 pm

¹⁸⁵ Edwin C Guillet, *Easy Money*, 1945, Chapter X - Reflections on the Case

That Will Hendershott was dead.¹⁸⁶

It was independently reported¹⁸⁷ that barrister Macdonald, acting upon the advice of a prominent St. Thomas official, would not undertake the defense of Hendershott and Welter until he was told the exact facts in connection with the affair. *Both prisoners had made a clean breast of it to him.* Shortly before his death in September, 1895, Macdonald reportedly communicated this confession to the chief medical officer for St. Thomas, William Campbell VanBuskirk.¹⁸⁸

This same confession had been made to turnkey Langan an hour before the prisoner's execution. The confession, however, cleared Hendershott claiming he (Welter) committed the killing alone. While Guillett's contention that it would take two men to subdue Will Hendershott is reasonable, it fails to acknowledge Norman Macdonald's assertion that Welter had the strength *of ten men* – "*a massive fellow*" according to Detective Murray. Furthermore, forensic evidence, uncovered when the bodies of Hendershott and Welter were exhumed in 2010, indicates that the kind of physical activity suggested by this scenario would not have been possible by Hendershott who, according to the forensic examination, suffered from *Sportsman's Hernia*.



Sportsman's Hernia

Osteitis pubis, or "sportsman's hernia", is a non-infective inflammation (Gamble et al. 1986; Karpos et al. 1995). It can be brought on by various activities, childbirth, poor footwear, differences in leg length, movement over hard or uneven

ground, or as a response to surgery. It is a frequent problem with athletes, caused by overdoing exercises, kicking, pivoting, and a variety of other

¹⁸⁶ The Middlemarch Murder, Garton Scrapbook, p. 235, verses 3 and 4 only

¹⁸⁷ two Toronto newspaper correspondents wired to their respective papers the purport of a confession by the prisoners to the effect that both Welter and the elder Hendershott assisted in the murder.

¹⁸⁸ Barrister MacDonald told about the Confession on His Deathbed, Hamilton Times, 1895

repetitive movements. Presumably similar sorts of movements in non-athletic activities would lead to the same condition.

ST. THOMAS DAILY TIMES VERSION

“the saw was manipulated by one man”

The St. Thomas Daily Times claimed¹⁸⁹ that Macdonald and Spencer "are not the only ones who are aware of the actual facts of the tragedy, *a witness, as silent as it is truthful, is to be found in the copula of the court house. It is the top of the stump of the fallen tree, showing the chopping and sawing thereon.*" Expert woodmen at the trial swore that the chopping was done by two men; or by "*one man who could chop both right-handed and left-handed.*" But the sawing also tells a story which proves, as far as such proof is possible, the facts as given below.

Newspapers in St Thomas

For many years both the Times and the Journal published weekly editions, both having wide rural circulations.

The Journal was the first to appear in daily form. On Sept. 3, 1881. The next year, on Dec. 2, 1882, Jonathan Wilkinson started the St. Thomas Times as a daily. A.E. Wallace and John W. Eedy bought the Times from Mr. Wilkinson in 1889.

L. H. Dingman purchased the Daily Times in 1902 and amalgamated both papers in 1916, after a fire destroyed the Times building, renaming it the St. Thomas Times-Journal.

The sawing of nearly all the stump is quite even, and to all appearances was done by two men with the usual cross-cut saw. But a little over an inch from where the tree broke off the sawing is very uneven and irregular, no two strokes of the saw apparently cutting the one surface, showing the saw was manipulated by one man. This fact is mentioned as being strong corroboration of the story of the crime which follows...

¹⁸⁹ Garton Scrapbook, p 256

As to the planning and plotting to enrich themselves by securing the insurance on someone it is unnecessary to say anything more than that the attempt to place an insurance on the life Patsy Fitzpatrick was the first step in that direction. After this William Henry Hendershott went to live with his uncle. The policy for \$5,000 insurance on his life in the Covenant Mutual was first taken out, and it was not till after this policy was issued that the two men decided that their nephew and cousin was to be the victim, the taking of whose life was to enrich them. The policy of \$6,000 in the New York Mutual Reserve Fund Association was then taken out, *the victim being led to believe that the first policy of \$5,000 had not been issued and would be cancelled.* The plans for the killing were fully discussed, and every detail arranged, even to the story Welter was to tell of the alleged accident, and, it was carried out according to the pre-arranged plan. It had been arranged that Hendershott should go to Eden to avert suspicion and that Welter should strike the fatal blow. Hendershott was not present when the crime was committed but at the time was in Aylmer or driving on his way to Eden. His daughter Mary Lillie's evidence as to their movements on that day was correct in every particular.....

They chopped and sawed until the tree was nearly ready to fall. A skid had not been got ready, and the two men stopped and went to cut the skid. The skid was chopped by Welter from the end of the old log at the branches of the fallen tree on which the deceased's vest and watch were afterwards found lying. Will Hendershott rolled the skid to the spot where it had been decided to place the body. Welter walked behind him carrying the axe and at the place where the skid was afterwards found under the tree Welter raised the axe and dealt the fatal blow on the back of his head. This was the blow that fractured the victims' skull, and that he fell forward dead there is no doubt. But the murderer lost his nerve, and dealt his prostrate victim a number of spasmodic and aimless blows on the head.

The theory of the Crown was that the dead man had been killed before the tree was felled, and that it was the intention to have the tree fall upon him and crush him, but it did not fall as it was expected it would, and thus the body had to be otherwise disposed of. It was then placed under the knot. They were right, but the reason that the tree did not fall upon him was not that it did not fall as expected, but

rather because of the indentations, hills and hollows of the ground, and the curves of the trunk, the tree, did not strike the dead body.

Welter, having slain his victim, placed him in line of the tree, and proceeded to complete the felling of it. He continued the sawing with the cross-cut saw alone, thus accounting for the jagged saw marks on that part of the trunk just before the tree fell. Then some other disposition had to be made of it. The body was pulled from under the tree, and the skid then shoved under the hallow. It will be remembered that in the evidence given at the inquest it was pointed out that the skid must have been pushed under the tree after it had fallen, as there was no mark on the skid of the trees having struck it. And who ever heard of a skid being placed under a tree after it had fallen? That of itself was enough to establish the fact that a murder had been committed. It was also stated in evidence that on removing the skid blood was found on the ground under it. This was where the body lay before the tree fell, and before the skid was pushed under it.

Welter then carried the body to the top of the tree and first tried to put it under the branches at the crotch, but finally placed the head under the trunk of the tree, at the knot, where it was afterwards found.

Then Welter proceeded to conceal the traces of his crime. It was the theory of the Crown, it will be remembered, that the victim had been struck the first blow at a point back of the stump from the spot where the body was found, where there was what was called a pool of blood, and that he had staggered in a sort of a circle around the stump of the tree to the crotch, the route being marked by what were called "pools of blood" in hallows at different distances. In this the Crown's theory was wrong. The deceased fell where he was first struck, and that was where the skid lay. What were called pools of blood and supposed to have fallen from the murdered man as he staggered around, were leaves taken from the spot where the murder was actually committed. There was nothing more natural under the circumstances than that one should clean the leaves out of the hallow place, carry the bloody leaves, put them in other spots and stamp them down, and then again scatter clean leaves over them, and this is exactly what Welter did, but he did not make as clean a job of it as he might. The excitement under

which he labored, as a result of the murder was intensified by the fact that he saw Mrs. Smuck passing through the not very dense woods, just as the tree fell, and he did not know who would come next. Then, while he was at work disposing of the body and removing traces of the murder, he heard Richard Sanders enter the woods, adjoining the Wardell Woods, and commence cutting trees. This added to Welter's haste and excitement, for he did not know the minute he would be discovered. After disposing of the leaves as stated, and placing the deceased's vest and watch on the log at the head of the tree where they were found, he washed the blood-stained axe in the water and then shoved it under the branches where it was found by Mssrs. Swisher and Campbell and started, as had been arranged between he and Hendershott, to notify Charles Welter. On the way there he took his bloody overalls off in his uncle's lane. Arriving at Charles Welter's he told the story of the accident as had been arranged beforehand.

This is as close to an accurate version of the killing as can be uncovered. It reflects a keen understanding of the evidence presented at the trial and is entirely consistent with all known evidence.

NOTES FROM THE TRIALS

There were several matters unanswered from the trial. Some of these became the grist of follow-up articles in newspapers. Many actions and motives will never be uncovered.

SO MUCH INSURANCE

It was the amount of that insurance that surprised them

Taking out life insurance in the 1890's was quite a common thing for farmers, who made the majority of their family income through their toil. Farmer Duncan Hendershott testified he had \$2,000 on his life. He was financially better off than his brother John A, who, in spite of his idle talk about the benefits of insurance, had no life insurance coverage on himself. He could, however, afford to provide the payments on his nephew Will Hendershott, payments Britton Osler contended, were to be realized on.

It was the amount of that insurance that surprised Uncle Duncan and Will's father, David Hendershott. Eleven thousand dollars was a vast amount at that time for someone whose income was a meager \$20 per month. What flight of fancy was in the mind of Will Hendershott to think he could ever continue making the payments on his wages? Will Hendershott had told his Uncle Duncan that he had taken out insurance and had got his Uncle Charles Welter to provide a recommendation to the insurance company. According to Duncan Hendershott's and Charles Welter's testimonies neither had any idea as to the amount.

Gilbert Roche, in his testimony, says he would go as high \$8,000 in insurance for a man in Will Hendershott's medical condition *without reservation*.¹⁹⁰ Anything above this amount would require far greater scrutiny. It was absolutely necessary that an amount this large be spread over more than a single company.

¹⁹⁰ Magistrate's Trial manuscripts, p. 996

There is some question as to the intended amount of insurance Will Hendershott was contemplating. Edith Welter testified that Will Hendershott intended to hold all \$11,000 and supposedly to continue to make the payments on that amount - surprise, surprise - with herself becoming the ultimate beneficiary. "*[H]e gave me to understand it was for me.*"¹⁹¹

The version reported in the St. Thomas Daily Times that Will Hendershott thought that the first policy was no longer in force after he arranged the second was likely accurate. He certainly could not afford to make the payments on both policies, even for a short period. John A likely neglected to inform him of this overlap when Will took out the second policy with Gilbert Roche. Roche stated he was unaware of the first policy. This meant Will Hendershott did not deliberately lie to Roche and the insurance company, which may well have jeopardized any payout and would have placed Gilbert Roche in poor standing with the Mutual Reserve Company. If this was true there was only a brief window in which to perform the murder so as to collect all \$11,000.

GREED RUNS IN THE FAMILY

"If you will do the fair thing by me, I will do the fair thing by you."¹⁹²

By local standards John A was no poorer than most local farmers in Elgin County at the time. He owed money, certainly, but he had assets (many of which may have come to him through his wife Sarah Elizabeth). Nonetheless, he had two employees¹⁹³ on the farm. He was obliged to pay both William Welter and Will Hendershott about \$20

¹⁹¹ Said by Will Hendershott to Edith Welter around first of December, 1894, Magistrate's Trial manuscript, p. 826

¹⁹² David Hendershott's testimony of his brother's words regarding the \$11,000 insurance money he was to come into, Magistrate's trial Manuscripts, p. 699. Note: this is the exact same phrase used by Welter two days earlier in driving David Hendershott to St. Thomas to the Penwarden House to meet John A.

¹⁹³ Though there is never any mention of how much he paid Welter. Unless, he worked for different motives, it would be at least what Will Hendershott made - \$20 per month

per month for their work. William Welter reported in his deposition to the inquest that John A had not paid either he or Will Hendershott for some time.

John A's brother, Duncan Archibald lived in Fingal and appears to have been somewhat better off than John A. Nonetheless, one of Duncan's first concerns was to get the tweed suit which he claimed had been sold to him by the deceased. The suit became a point of controversy between Duncan and the boy's father David Marshall.

Undeniably the poorest of the three brothers was David Marshall, who lived near their father, Jacob, in Walsingham, Norfolk County. David was irate that John A should gain from his nephew's death and claimed he rebuked vague offers of compensation from John A to remain quiet. David's actions, however, indicated he was less than noble. One of first things he did after arriving in Middlemarch was to go with William Welter to the bank to claim any money the victim may have had there. The bank reported Will had recently withdrawn some money. David scoured his son's trunk for the money or the bank book, which had mysteriously disappeared. He then took his son's trunk from his brother's home with the help of his brother Duncan Archibald, who upon learning that it would be evidence, returned it to its original location without David's knowledge. David was going to attempt to get the money back from the jeweler for a necklace his son had bought as a gift for his girlfriend Edith Welter. John A compensated David for the cost of the necklace,¹⁹⁴ and his daughter Mary Lily presented the necklace to Edith.

At first David Hendershott seemed sensitive to his brother and William Welter's plight, but as evidence mounted, he dramatically changed his views as to their guilt. John Ketchabaw took note of the switch in David Marshall's tone towards John A. He recalled being at John's home on the Monday after the death, when David said "*There was no one killed my boy. I have a stick in my valise which shows what killed him. It cut down into his head. William Welter would not harm my boy any more than I would.*" At the trial Ketchabaw testified on the

¹⁹⁴ It is interesting to note that John A had no available funds to pay his debts but managed to come up with the money to pay the jeweler for the necklace -- keeping in mind the missing money from the withdrawal from the bank by the victim days before his demise.

apparent switch in David's story:

John Ketchabaw: Why did you say one thing to me and another at the inquest?

David Hendershott: I was under oath then.

Ketchabaw: Then you either told a lie or swore a lie.

David Hendershott: Will was killed and I know it.

Ketchabaw: How can you say that when Mrs. Smuck says she was going through the bush, saw the two boys, heard them talking and laughing, went a little further and heard the tree crack and looked around and saw the two boys.

David Hendershott: I have changed her mind and she won't swear that now.

Ketchabaw: How can you change an oath?

David Hendershott: Well, she won't swear to that now.

Ketchabaw further reported that on the Saturday, after the funeral at his place, David Hendershott had said: *"If I can't get the insurance. John shall not have it to 'flam' out with. I'll send him down first."*

At the Preliminary Hearing Norman Macdonald, in cross-examining David Hendershott, summarized his motives succinctly:

Defense Lawyer Macdonald: That is to say then, to sum the whole thing up, you had your suspicions aroused on Saturday, when Welter mentioned the insurance policies, strengthened by the blood in the bush on Sunday morning, went to your brother John and said nothing about your suspicions, but wanted your share of the insurance policies?

David Hendershott: Well, I didn't know, and (interrupted)

Macdonald: Yes or no will answer the question. Do I sum it up properly?

David Hendershott: Yes sir, I believe that is about the size of it.

David Hendershott stood a good chance of getting the insurance money should his brother be hanged for murder. He didn't take long to make his claim to the insurance companies. These claims were contested by Norman Macdonald who fought to get the money for the two daughters and Edith Welter, whom the victim was courting. It may well have been that Macdonald's and Robinson's legal fees would come out of that money.

There is a good chance that David made some of his testimony up. While other relatives of Hendershott demonstrated reluctance to report on private conversations between themselves and John A, David testified on several conversations about the killing and about the insurance with both his brother John A and to William Welter. The prisoners, Welter and John A, might have told defense lawyers Macdonald or Robinson that they were lies but, since neither would risk testifying themselves, there was no way to refute what David had said. At the Preliminary Hearing, Macdonald queried him again and again as to the details of the evidence he presented, but while he made several mistakes they could all be attributable to poor recollection. His testimony that John A and William Welter had both said that *"if I did what was right with him, if he [John A] got the money all straight he calculated to fix me up"* was damning. It is entirely possible that a defense lawyer of the stature of B. B. Osler¹⁹⁵ might have challenged the credibility of David Hendershott who stood next in line as the beneficiary of \$11,000 in insurance. As it was, Norman Macdonald at the Preliminary Hearing provided a warning to David Hendershott, *"... I warn you that your brother-in-law Henry House was in the box last night and swore that you said nothing."*¹⁹⁶

¹⁹⁵ Indeed, this suggestion was voiced by Edith Welter to William Welter in her testimony

¹⁹⁶ To which David Hendershott replied "Well I will not be positive whether it was my wife or Henry House", Magistrate's trial manuscripts, p. 697

"I am not going to allow the name of Welter to be tarnished with any such offence as this"¹⁹⁷

Charles Welter lived three-quarters of a mile from John A and about a mile and a quarter from Wardell's Woods, the scene of the killing. Although not the nearest home readily available to report the incident, William Welter's explanation that he knew Charles had a horse and buggy that could be used in an emergency was plausible and it would be instinctive to choose a close relative in a pressure situation.

Charles had originally planned to accompany John and Mary Lily Hendershott to Eden to visit the Ostranders and the Ketchabaws. But, they had company who had arrived the previous Tuesday and were not expected to leave until the following day, Saturday. Charles Welter informed John A the Friday morning that he could not accompany them but might join them later, after the Griffins had moved down the road a mile to visit Isaac Welter.¹⁹⁸ They had a subsequent exchange when John A dropped his daughter Rosa at the Welter's to stay the weekend while he and Mary Lily went to Eden. John A explicitly requested for *Charlie* to come to Eden the next day if the Griffins left and Charles agreed that he would. The arrangements under which they would meet up were highly confused. They would meet up on the road to Eden, but, Crown Attorney Donohue mused "*[W]ouldn't it have been foolish for them to come from Eden to here to meet you, if you were not going down?*"¹⁹⁹

It is somewhat curious that Charles bailed out on accompanying John A to Eden on account of having company and then, instead of visiting with them, proceeded to spend the Friday at the courthouse in St. Thomas, well removed from the scene of the crime and with a host of witnesses. Charles was told about the accident by his wife Theresa who had been driven to town by Miss Mann, their neighbor, between 4 and 5 pm. As expected, he sent a telegram to John A in Eden

¹⁹⁷ Purported to have not said when asked by Donohue, Magistrate's Trial manuscript, p. 110

¹⁹⁸ Magistrate's Trial manuscript, pp. 136-144

¹⁹⁹ Magistrate's trial manuscript, p 141

informing him of the *accident*. Then, on cue, he consulted Coroner Gustin who gave his permission to move the body from the woods. No inquest was necessary.²⁰⁰ It all seemed to be a rather predictable script. Either Charles was acting his part, or his actions were but the most logical and conventional things for him to do under the circumstances.

This was not the only involvement that Charles had in the affair. He had also provided Will Hendershott with a character reference to the insurance company, indicating his awareness of the first insurance policy, but, he claimed at the inquest that he knew neither the amount nor the beneficiary of the policy.

After John A and William Welter came under suspicion for murder, Norman Macdonald informed Charles Welter that he was suspected of being an accessory after the fact; in possession of incriminating evidence against the suspects. Crown Attorney Donohue found it incredulous that Charles Welter would not have known more about the incident.

Crown Attorney Donohue: And being a great friend of his [Welter], seeing him twice in the prison on one day, you tell his worship here, that you never spoke to him again after the conversation that you had on the Friday night --- the night of the accident?

Charles Welter: To my knowledge, I never did....

Later, during Donohue's questioning:

Donohue: You knew then [after the talk around town] that the circumstances had changed from the Friday night that you were talking to him. Why didn't you ask him something with reference to an explanation of all these circumstances?

Charles Welter: Well, I didn't, that is all I can tell you.

Finally, Charles Welter echoed Norman Macdonald's implied concern: "*they were looking for a third man in this affair, and that Will, coming*

²⁰⁰ William Welter claimed that Charles had said Gustin had told him "to move the body to John Hendershott's home", but, Charles Welter said William was mistaken.

to my place, and me going to the telegraph, and all these things, that they would try and connect my name with it.”²⁰¹

As a witness, Charles Welter appeared hostile and confused. He denied that William Welter had ever divulged anything of the killing to him in spite of his admission to close kinfolk. He was repeatedly forced to contradict testimony he had said was earlier given *in error*.

Charles retained Norman Macdonald as his lawyer after William Welter and John A were charged, in case he might be suspected of being involved in some way. While he had a solid alibi, having been seen at the St. Thomas courthouse that day, it was better to be prepared. While Charles may not have known of the plan itself, it seems equally unlikely that he didn't develop suspicions of his nephew or John A at least as soon as David Hendershott did. Perhaps Charles just didn't want to believe that William or John A were capable of such an atrocity. More likely, he didn't want to add to the mounting pile of circumstantial evidence building up against William and John A.

THEY PROTEST TOO MUCH - THE SWEET MARY LILY

“the testimony provided by Mary Lily was true in every particular”

There is remarkable unanimity in the archival material as to the beauty, sweetness and innocence of Mary Lily Hendershott, the daughter of John A and reported sweetheart of William Welter. She is a strong material witness providing an alibi as to her father's whereabouts at the time of killing. On numerous occasions officials made special mention that the information, as reported by Mary Lily Hendershott was accurate. She had become somewhat of a darling through her continued devotion to the two men, but, she, more than anyone else, would lose if they were found guilty. Two loans of \$1,000 each during the period between the murder and the hangings with their Middlemarch property as collateral indicate that Mary Lily paid heavily for the defense of her father and supposed lover.

²⁰¹ Magistrates Trial manuscripts, p. 203

Mary Lily's conduct in the sitting room of the Penwarden House, upon her and her father's return from Eden, is unusual to say the least. She was reportedly *seeing* Welter, but, after being away for the day, she didn't speak to him at all at the Penwarden House. She didn't ask him anything about the accident. Elizabeth Bancroft found this strange and she commented on it to the cook at the Penwarden House according to her testimony at the Preliminary Hearing.

Any reverend worth his collar should be able to get confessions from condemned men. It is a sublime victory to be able to salvage their souls through confession. Reverend David Spencer visited the two men frequently in the period between their sentencing and their hanging, attempting always to have them "*relieve their souls*". He strongly suspected that one or the other of them was on the verge of confession on numerous occasions but they always drew back. At the end, he said they did confess but requested that he "*give the purport -- not the detail -- of their confession to their relatives and to the public.*"²⁰²

That *detail* may well have incriminated Mary Lily, of perjury most assuredly, but she may also have been duped unwittingly into involvement in the dastardly dealings. Both men made a point of stating that the testimony provided by Mary Lily *was true in every particular ...*

*"not merely was it Mr. Spencer's desire, in thus expressing himself, to brush away any suspicion, however slight, that may have existed in any minds respecting Miss Hendershott's knowledge of the incidents of the fatal day, but he left the inference to be drawn that John Hendershott was not present when the tragedy was enacted."*²⁰³

Her widely stated relationship with Welter is also suspicious. She was eighteen; certainly old enough to be now "*seeing*" William Welter but not romantically for long. Welter was six years older and had been staying at John A's for about a year and a half. Welter slept with her

²⁰² Garton Scrapbook, p.240

²⁰³ Garton Scrapbook, p.240

father. They were *intimate* according to Welter. Further, Mary Lily showed no feelings for him at the Penwarden House following the killing. He had just experienced a rather traumatic incident; one might have expected her to console her boyfriend.²⁰⁴

One can speculate that it would have been good public relations by the defense team to play up a relationship between the two of them; it garnered untold sympathy for the accused to balance the reports surrounding the gruesome killing. Mary Lily played the part masterfully: the beautiful young girl smitten by her crestfallen lover. Even if guilty, the public could still understand and sympathize with a man working to make a better life for himself and his betrothed. Not only did she captivate the press, but Barrister Norman Macdonald and Reverend David Spencer, both swore she had no part in the crime, and Macdonald tried to obtain money on her behalf from the insurance companies following the trial. She held her composure masterfully in interceding before Charles Tupper to have the sentences commuted to life in prison. "*[W]ith quivering lips and eyes full of tears she argued some of the points of the case with keen appreciation of their importance.*"²⁰⁵

A DIFFERENT RELATIONSHIP

Were they Intimate ?

In reporting on the murder and trial the press played up the presumed relationship between Mary Lily Hendershott and William Welter. Mary Lily, in her testimony at the Preliminary Hearing, said she and Welter had been "*seeing each other*" for three years, but she also mentioned that Welter and her father slept together²⁰⁶ (neighbour

²⁰⁴ On the other side of the ledger is Welter's apparent request to have a locket with Mary Lily's picture buried with him. When the body was exhumed in 2010 a metal object, which may have been the remains of the locket was discovered close to the exhumed body of Welter.

²⁰⁵ Garton Scrapbook, p.253

²⁰⁶ Quoted at the magistrate's trial. At the trial she altered the testimony to say that "*they slept in the same room sometimes*" – St. Thomas Daily Times, March 113, 1895

Theresa Welter similarly noted this in her testimony), and Welter, in his deposition, stated that they were "*intimate*".

It is entirely possible that these terms had different meanings in 1895 than they do today, but, men sleeping together was far from common conduct. From testimony, it was apparent that the room in the Hendershott residence, occupied only periodically by nephew Will Hendershott, was available for Welter, but was not used, so that the sleeping arrangement was by choice rather than necessity. John A had said in his deposition that it was Welter's decision to sleep with him.

Edwin Guillet observed that Welter was "*not bright*."²⁰⁷ Nonetheless, without some unspoken arrangement, either financial or emotional, William Welter stood to gain little for committing such a risky and diabolical crime. In the parlance of the Crown legal counsel, some motive needed to be established. An emotional bond between Welter and Hendershott, either as *intimates* or as in-laws through betrothal to Mary Lily, helps explain his motivation for the crime.

POSSIBLE ACCOMPLICES - AFTER THE FACT

"it is not at all in the same condition now"

Crown Attorney Donohue had insinuated at the Preliminary Hearing: "*[T]his tree has been tampered with since the killing of the body, ... it is not at all in the same condition now, when the medical witnesses of my learned friend [Macdonald] went out there to see it yesterday [January 4, 1895]: it is not in the same position now as it was at the time when the other medical men went out [at the inquest].*"²⁰⁸ Later, Detective Murray observed that the murder scene had been altered, but too late to affect his conclusions. He had made his notes before the makeover by the friends of Welter. Little could be done to combat efforts to destroy evidence. All too soon, the floodgates had opened and the scene was contaminated by hundreds

²⁰⁷ Edwin Guillet, *Easy Money*, Chapter X – Reflections on the Case

²⁰⁸ Magistrate's Trial manuscript, pp 397-98

of locals looking to contribute to the investigation by finding and reporting new evidence.

For example, on the night of Monday, December 17, 1894 inquest jurors Begg, Nicholl and Pearce took it upon themselves to sprinkle some of the blood from the carcass of a dead horse located around the site of the killing, apparently to add credence to John A's assertion that the blood discovered was that of a horse instead of Will Hendershott's (hence, he had been killed in a different location and dragged to where he was found). Edwin Pearce, at the trial, confessed that he stupidly attempted to compare the blood found at the scene with horse's blood, rationalizing his contamination of the murder site.

Another suspicious character was Insurance Agent John Cook who appeared to be implicated in John A's insurance ventures. He represented Covenant Mutual and, on behalf of John A, tried on several occasions to get doctors to approve a medical examination of Patrick Fitzpatrick. As Donohue stated "*he [John A] was drumming them up with Cook.*"²⁰⁹

²⁰⁹ Magistrate's Trial manuscripts, p. 959

Fate often hinges on seemingly inconsequential moments

The murder scheme percolated in the mind of John A over several years. Murders for the insurance money were reported upon frequently, with fervor and lucid sensationalism. The Ardlamont case had demonstrated that a careful man could escape prosecution if the evidence was only circumstantial.

William Welter and John A had been looking for a patsy for about a year. They (literally) found him in 'Patsy' Fitzpatrick. Patsy (Patrick Dillen) testified that both men had plied him with drink while enticing him to take out a policy on his life with John A as the beneficiary. Only his poor health saved him from an early demise. Will Hendershott was a better target, physically fit, poor, alone, impressionable, estranged and out of touch with his father.

While periodically visiting Uncle John A, Will Hendershott worked nearby in Fingal, Ontario threshing hay in the Fall of 1894 at the farm of John McLachlin. When the threshing season was over McLachlin no longer needed Will, so, he returned to Uncle John's instead of making the more arduous journey home to Norfolk to a father with whom he had quarreled. There was also his new love, Edith Welter who worked in St. Thomas at the Penwarden House. He had just bought her a necklace and had got a new *wedding* suit that he could wear to get married in. Edith testified that they were engaged.²¹⁰

While living with the McLaghlin's Will Hendershott would spend two to three nights each week with his uncle, Duncan Hendershott who also lived in Fingal. Duncan, John A's younger brother by eight years, reported having insurance on himself so this might have contributed to its' appeal to Will. While Uncle John A had no life insurance on himself, but did have *several policies*²¹¹ with Mr. Roche, including fire insurance, and he preached frequently about the

²¹⁰ Magistrate's trial manuscripts, p. 812

²¹¹ Magistrate's trial manuscripts, evidence presented by Gilbert Roche, agent for Mutual Reserve Fund

importance of insurance. John A offered to help Will out by loaning him the first payment. Given Will's financial situation this, and whatever advice was provided by John A, induced him to assume the hefty financial burden of one and then a second insurance premium.

Gilbert Roche suggested that Will Hendershott believed that his, the second life insurance policy, was the only policy in force. Roche contended that the continuing coverage of the first was known to only John A, agent Cook and William Welter. This was credible since the first policy was explicitly denied in completing the application for the second policy.

John A needed to strike quickly while both policies could be collected upon. It would be best if he was far removed from any *accident*, so he devised a plan to visit his sister Malinda in Eden, far enough away that there would be no suspicion of any participation by him in the accident. He needed witnesses to validate the alibi. Charles Welter²¹² and his daughter Mary would accompany him. On its own, a daughter's testimony might be suspect. His brother-in-law, John Ketchabaw, had sewn a robe for him, by itself hardly enough justification for a trip of that length, but other reasons could be found: attending to loans and mortgages on property in Aylmer, payments on his dead wife's headstone. So there would be John A, Charles Welter and Mary Lily, travelling together in his buggy, forty-three kilometers to Eden. They would stay the weekend; he would attend to his business and return on Sunday.

As for the actual killing, John A had told stories about Will's awkwardness. The story of the accident could build upon that clumsiness. Something as simple as having him trip while one of the trees was falling. The story could be embellished, depending on how events transpired. When queried by William Ostrander as to how Will Hendershott might have been killed, John A advanced three theories for the accident. The possibilities suggested prior knowledge of the incident: what Defense Lawyer Norman Macdonald contended were *obvious conclusions* but what the Prosecution saw as complicity. The third scenario, the one advanced by William Welter, was particularly

²¹² Mary Lily reported in her testimony that the trip had been arranged with Charles Welter on the previous Tuesday, December 11, 1894, Magistrate's trial manuscript, p. 38

thought by Detective Murray and Crown Attorney B. B. Osler as too improbable to be constructed without earlier discussion:

1. the tree might strike the branches and rebound back, and strike him from the butt of the tree,
2. the tree might have struck another tree and broken that tree and that tree come and struck him,
3. Will Hendershott might have been running for his clothes - Will got a new watch this fall, and he thinks a lot of it -- *he might have been running for his clothes and got struck with the tree, and got killed that way.*²¹³

The St. Thomas Daily Times Version of the killing was probably fairly accurate. Once the deed was finished, the body was to be placed where the tree would land when it fell. William Welter would then report the *accident* to Charles Welter, have him inform Coroner Gustin and send a telegraph to John A reporting the accident and requesting he come home. William Welter would then try to get the body from the woods to another location as soon as possible to preempt any forensic investigation of the scene, isolate the body from further inspection and get it buried as swiftly as possible.

John A would return home with Charles Welter and Mary Lily. He would meet Welter at the Penwarden House upon his return, probably about 11 am. He would have the body buried and clean up any loose ends. The insurance company would then pay out on the claim. John A would buy off the disgruntled father and LIVE HAPPILY EVER AFTER.

Unfortunately, it didn't work out that way. There were just too many things to be controlled.

To begin with, it was highly unlikely that the tree would come down exactly as expected. While it might be made to look as if this occurred, this too would be problematic. There were just too many variables: avoiding the appearance of struggle, the fall of the tree in relation to the body, the spilling and distribution of telltale blood,

²¹³ These three explanations were presented by John Hendershott according to Ostrander's Testimony, Magistrate's Trial manuscript, pp. 745-746

lacerations on the body, and disposal of the murder weapon. Any review of the crime scene needed to be cursory and swift.

While being away when the killing took place and for the subsequent clean up afforded John A a convenient alibi, it left William Welter by himself to improvise. He wasn't very good at it. He left blood splattered near where he had performed the axing and a trail of droplets back to the fallen tree. He sloppily smeared the victim's blood onto the tree in a manner that clearly demonstrated it was subterfuge. He hid the murder axe in a place where it would eventually be discovered. Later, he made suspicious overtures, suggesting a cut of the insurance money would be shared with the victim's father. Greedily, he exchanged his old key-winder watch with the swanky *stem-winder* watch of Will Hendershott. Though not discovered, Welter also probably absconded with any funds or other possessions that he liked from the trunk of his victim, including tell-tale evidence such as a bank book.²¹⁴ Welter stupidly played into Detective Murray's hands by lamely recreating where Will Hendershott had been found, doing so before being charged by Murray. He demonstrated, before a host of medical witnesses, that Hendershott was below the knot in the tree, thereby connecting his fate with a most improbable scenario: that the knot, immediately above the head, miraculously did not crush Will Hendershott's skull spilling considerable blood when the tree fell. Finally, his whimpering statement that Edwin Wardell was the actual killer was ill-timed, ill-advised and effectively removed any chance he and John A might have had to escape the gallows. Any public sympathy effectively evaporated after making such a preposterous claim, one he eventually retracted. In truth, William Welter was becoming panicky, if not completely losing his sanity between the verdict on March 15th and the execution on June 18th.

Welter was not alone in making gaffes. John A's major weakness was his vanity. He bragged too much. He certainly should not have itemized the possible scenarios for the demise of Will Hendershott to William Ostrander, particularly one as non-obvious as chasing his watch. Carrying and then displaying the insurance policies to Ostrander was foolish in the extreme, spurred by the vain desire to gain

²¹⁴ David Hendershott discovered that his son had apparently made a recent withdrawal from the bank. The money was unaccounted.

Ostrander's admiration of his new worth. Further, John A openly pontificated on many occasions on the importance of life insurance and how it could be abused for personal gain. Still, these could be attributable to mere idle talk. More importantly, perhaps were the enemies he had made in business dealings, adversaries who would go out of their way to get retribution. Edwin Wardell challenged his right to cut wood. His immediate neighbour and William Welter's father, Isaac Welter had no use for him whatsoever and objected strongly to William Welter living with John A. Henry Couse deduced that the knot in the tree would have smashed Will Hendershott's head "*to atoms*" had his head been under the tree when it fell.

These shortcomings may not have been uncovered or fatal without the intervention of respected adjudicators Wilson Murray, The Great Detective, Britton Osler, the most eminent lawyer in the province and William Ralph Meredith, Chief Justice making a return to the justice system after many years in the political arena. They were powerful adjudicators against small town lawyers, Norman Macdonald and John A Robinson. Yet, these forces would never have been unleashed had Welter and Hendershott got through the inquest without woodsman and jurist, Henry Couse noting "*the tree is too thick and axe is too dull.*"²¹⁵ Thereafter, the floodgates opened, Detective Murray was summoned, evidence was amassed and murder charges were laid. Fate often hinges on seemingly inconsequential moments.

CHANGING SENTIMENTS

"Oh, if I could speak to her just once more."

Few newspapers at the end of the nineteenth century showed restraint in publishing comments calculated to be prejudicial to a fair trial for accused persons. Whatever laws there were dealing with *contempt of court* were more honored in their breach than in their observance. This was clearly evident in the coverage of the Hendershott/Welter murder arrest, inquest, trial and execution.²¹⁶

²¹⁵ Magistrates Trial manuscript, p. 257

²¹⁶ Edwin C. Guilett, *Easy Money*, 1945, Chapter II

The press conjured up recent memories about the nearby murder only four short years before in Woodstock of Fredrick Benwell. Benwell's well-dressed body was found on February 23, 1890 by hunters in a swamp that would later become known as Benwell Swamp by the locals. The tags from his clothing had been removed and his watch was found close to the body.

Comparison with this gruesome affair became common as the full extent of the murder and the involvement of Welter and Hendershott in the crime began to unfold through the inquest and trial. "[T]he butchery of the unfortunate Benwell, who was enticed from England and murdered near Woodstock, was not a whit more cold-blooded than the killing of William Henry Hendershott in the woods on Friday, two weeks ago."²¹⁷ Wilson Murray had also been instrumental in solving the Benwell murder and it is included in Murray's book, *Memoirs of a Great Detective*.²¹⁸

Benwell Case

Reginald Birchall (*aka Lord Frederick A. Somerset*) had become heavily indebted and sold his English inheritance at a discount to purchase a farm in Woodstock, Ontario. He moved there with his new wife, arriving in 1888. He was soon in debt again and returned to England where he devised a scheme to defraud some wealthy people. This led him back to Canada with accomplice Benwell. Birchall supposedly, murdered Fredrick Benwell to silence him. Birchall professed his innocence to the end and even wrote a long account of the affair while in prison. This memoir was published in the attempt to create an income for his wife after his death.

Birchall had told authorities that Benwell had returned to England. His story didn't add up. Once arrested, the trial of Birchall took place at Woodstock, Ontario's Town Hall (as the court house at that time was under construction). It was a worldwide media event. Birchall was sentenced on September 30th and hanged on November 14th, 1890. Like Hendershott and Welter, he too was buried in the courtyard of the jail following his hanging.

²¹⁷ Rochester Democrat, December 29, 1894, vol 62, number 363

²¹⁸ *Memoirs of a Great Detective*, Chapter LI, Reginald Birchall: Occupation, Murderer

The press coverage of the Hendershott-Welter trial was sensational, particularly by the American correspondents who, more than their Canadian counterparts, emphasized the greed and cruelty of the criminals while contrasting it with the sweetness of the young Mary Lily. The following citations seem straight out of a Hollywood crime thriller.

When the prisoners were pacing in the day cell overlooking the court house lawn, a young woman, sweet-faced but heart-broken, walked quickly from the sidewalk over the grassy plot to the stone wall. Reaching the foot of the jail yard enclosure she was within 20 feet of father and lover.

Both men noticed her at once, and peered between the heavy bars. In a low tone they said, "Hello!" putting as much cheerfulness into their voices as their will could muster.

The girl replied, and for a few moments words too sacred to be repeated passed between them. All three wept.

The interview was not for long. Governor Moore gently led the unhappy girl away.

And then she had surely bade a last farewell.

To the spectators, the scene was overwhelmingly sad.²¹⁹

Here is another version of the same scene.

"She [Mary Lily] hastened to the jail, hoping to see her father and Welter again, but could not gain admission. She passed around the courthouse to the lawn in front of Mr. Moore's residents, and where she could see the barred window of the wards in which the prisoners were kept.

She waved her handkerchief and they, catching sight of

²¹⁹ London Free Press, cited in Garton Scrapbook, p 241

the fluttering hat of white and then recognizing the girl who was beckoning to them, answered the signal. As soon as she noticed their response she became almost frantic. She sobbed and wept and called her father until she grew faint, and some friends who accompanied her gently compelled her to leave the place.

Both prisoners were deeply affected.

Hendershott said little, but Welter repeated over and over again the wish:

Oh, if I could speak to her just once more”²²⁰

As the evidence unfolded, Welter was presented as the poor fool, in love with young Mary Lily and duped by her conniving father to secure his financial advantage.²²¹ Any monetary gain on his part would be directed to securing a future for William Welter and his future wife. On the other hand, John A was a schemer and the architect of the murder plans, even if he had no direct part in committing the crimes. He was the darker and more sinister of the two.

This perception prevailed until Welter issued his *confession*. In it he implicated Edwin Wardell, whose name was withheld by the authorities and the press because he was seen as *above reproach*. Wardell had presented incriminating evidence at the trial on the positioning of the dead body of Will Hendershott when he oversaw it immediately after the murder on December 14th. Moreover, the two families, Isaac Welter and Edwin Wardell had, according to one reporter, been involved in a bitter feud for years.²²² After the confession, which was made in *the darkness of despair*, Welter was thereafter depicted as a sniveling weakling, facing his final demise ignominiously, deserving of everything that he got.

²²⁰ Cited in Garton Scrapbook, p. 251

²²¹ The romantic tryst between Mary Lily and William Welter may be virtually a fabrication by the press; it most certainly is exaggerated. In her testimony at the Preliminary Trial, Mary Lily only said “they were *seeing* each other”. John A didn’t know if they were engaged. Mary Lily didn’t speak at all to William Welter immediately after the killing. In the stories she seems far more interested in the fate of her father than in William Welter.

²²² Toronto World, The Last Details, in Garton Sxrapbook, p. 251

*Whatever sympathy the public might have heretofore entertained for William Welter, one of the murderers of W. H. Hendershott in Wardell's Woods on Dec 14 last, has been forfeited by the lying statement he made on the eve of his execution, the gist of which was published in this morning's World. It was generally thought that he was the dupe of the elder prisoner, John Hendershott, uncle of the young man who was so ruthlessly slaughtered for greed, and to whose daughter he was engaged to be married. Notification that Welter's sentence had been commuted would have been received with satisfaction until that statement was made. Now the universal opinion is that his death is deserved, and that he is equally guilty with his companion.*²²³

Yet, there was a decided split in sentiment towards John A. [H]e was seen as "*a sleek, shrewd fellow, rather inclined to take advantage in bargain.*" It was noted in the press that there were those who would wish him harm. "*John Hendershott had enemies; some of those who testified against them at the trial admitted that they had grudges against him, and it was evident that they were doing him as much harm as they could.*" His brother, David Marshall Hendershott turned against him upon discovery of the insurance policies. And, John A's neighbour Isaac Welter, William Welter's father, had no use for him whatsoever, perhaps suspecting him of foul play in the death of his cousin, Elizabeth Hendershott (nee. Welter), John A's deceased wife. Isaac did his best to prevent his son's association with John A. Edwin Wardell was owed money by John A and was offended when Hendershott cut wood in his lot against his direct instructions.

Yet, John A also had many relatives who proved disinclined to provide damaging evidence at the trials: *blood is often thicker than water.* Reluctant witnesses included his neighbour and his wife's brother, Charles Welter and brother-in-law through his sister Malinda, John Ketchabaw. Cousins Anna French and Emily McConnell needed to be visited several times and effectively tricked by Detective Murray before providing their damaging evidence on John A's appetite for insurance fraud.

²²³ Ibid.

"Fear neither the criticism of man nor the tears of women. Do your duty"²²⁴

John A and William Welter both provided depositions at the inquest but neither testified in their own defense at the trial.²²⁵ To do so would have been *incriminating*, a bulwark of the Canadian legal system embedded in English Common Law. Nonetheless, failure to testify in your own defense will often be seen by the jury as an admission of guilt.

In their closing argument, Macdonald and Robinson appealed to emotion; they asked the jury for mercy:

*"This is the last word that can be said for these prisoners, and not for them only but for the aged parents of the younger prisoner on that old farm [Isaac Welter] and for those gentle children of the other prisoner [Mary Lily and Rosa Hendershott]. Consider the awful consequences of the horrible mistake if mistake you do make, and how that phantom will haunt you if it should be made. It is for you to act with mercy as you expect mercy yours."*²²⁶

This must have irritated Meredith for it was far from the *justice-serving presentations* that he preferred.

But, the keen interest John Hendershott had in his nephew's death screamed against him with crushing force. Two insurance policies totaling \$11,000 on the life of a young, healthy farm laborer who received but \$20 a month was inexplicable except on the grounds of a conspiracy for financial gain. That he had to borrow the money to pay the initial premiums added weight to the presumption against John A. Further, John A's remarks on hearing of the tragedy of his

²²⁴ Address to Jury by B B Osler, Cited in Edwin C. Guillet, *Easy Money*, 1945, Chapter VIII - The Addresses to the Jury

²²⁵ Whether depositions, taken before arrests, would be admissible as evidence became the subject of subsequent legal arguments and the Hendershott-Welter case is often referenced in these discussions. Justice Meredith took the position that they were not admissible because they had not been recited their *rights* before providing the depositions.

²²⁶ St. Thomas Daily Times, March 15, 1895

nephew's accident; that Will Hendershott had gotten in the way of the falling tree in trying to secure his vest and watch, proved fatal because William Welter had already given out this same story. The circumstances argued a conspiracy hatched with hellish purpose and deadly guile.

Osler's organization and presentation of the facts and the deductions and inferences to be drawn from them seemed to make conviction certain for both men. In rebuttal to Macdonald's sentimentality, Osler told the jury that mercy was not theirs to consider. "*You are not here for mercy... Mercy rests with the Executive.*" Macdonald's emotional appeal could not counter the strong and methodical legal arguments and summary presented by Osler.

But Meredith had yet to speak, and there is no doubt from comments made afterward that he purposely emphasized his doubt and uncertainties, in order to balance the brilliant oratory of Osler. This being his first trial since returning from politics, Meredith wanted no appeals, no slips in allowing questionable testimony. He spoke for an hour and a quarter giving a structured summary of the main issues. He noted that the discovery of the missing axe was not accounted for except by a vague insinuation that David Hendershott placed it there. The blood found was definitely not of horses, but it could not be proven to be human. The accused men themselves, as well as their sympathizers, brightened up noticeably as he concluded his summation. The tide of sentiment seemed to shift. "*Certain conviction had been in everyone's mind when Mr. Osler finished his address, but now a disagreement seemed just as certain.*"²²⁷

The jury retired at 5:20 pm, and the mood was more encouraging. There might be disagreement on Welter's guilt and perhaps even an acquittal for Hendershott. The prisoners chatted gaily. Only Mary Lily sat silent, sensing a more ominous outcome. Shortly thereafter, there was a stir in the court and it was thought that the jury had agreed on a verdict, but they had merely sent in a request for the head of Will Hendershott. Meredith refused and they resumed their deliberations without it.

²²⁷ Cited in Edwin C Guillet, *Easy Money*, 1945, Chapter VIII - The Addresses to the Jury



Figure 43 - Meredith Passing Sentence - If Only the Walls Could Talk Elgin County Courthouse, Elgin Historical Society

At 10:06 pm the jurors filed into the court and announced their verdict - Guilty for both prisoners. The press reported "*A cry of anguish by Mary Lily pierced the courtroom, as she almost fainted into in the arms of her aunt.*"²²⁸ It was subsequently reported that some jury members had noted that neither Welter nor Hendershott had spoken in their own defense. As a consequence, they had no great difficulty reaching the verdict. The Chief Justice, who seemed to have gone out of his way to weaken the Crown case by ruling out of order any evidence in the slightest respect doubtful, and by an address emphasizing the doubts rather than the certainties, now stated unequivocally that he agreed with the final decision. Neither man had anything to say when given the opportunity and Meredith immediately sentenced them to death on June 18, 1895.

*"You", he said as he addressed the older prisoner, Hendershott, "are very much worse than the man you persuaded to help you, for it appears certain that you planned the murder in the hope of enriching yourself. You are consequently responsible not only for taking your nephew's life, but also for Welter's and for the sacrifice of your own."*²²⁹

"May the Lord have mercy on your soul."

²²⁸ Ibid.

²²⁹ Meredith, cited in Edwin C. Guillet, *Easy Money*, 1945, Chapter IX - Conviction and Execution

CHAPTER 4 - TRYING TO ESCAPE THE GALLOWS

Welter and Hendershott were incarcerated in the St. Thomas jail from the day they were arrested on Friday, December 26, 1894 till their hanging on June 18, 1895. Before the trial on March 7, 1895 they undoubtedly entertained the prospect of release. Little press is devoted to this period, though Dick Dinner, the night watchman over the prisoners had "*...read fearful tales, and been glad indeed that the corridor where he has sat or paced to and from these last three months has been well lighted.*"²³⁰

The men were obviously weakening: Hendershott slept poorly, reportedly passing the night walking up and down his cell. He was much affected when informed that the murderer Chateile²³¹ had been hanged in Stratford. Both he and Welter purportedly read the Bible a good part of each day though clergy made *little impression upon them* with the noted exception of evangelists Crossley and Hunter who spent some time with them.

After sentencing, both men still believed they might escape the gallows, hoping that their sentences would be commuted to life imprisonment. Every effort was expended by Norman Macdonald, first through a request to Chief Justice Meredith to grant a new trial by disallowing the evidence of Emily McConnell, Anna French and George De Lacy, but Meredith refused. Macdonald then made an application to the Attorney General for leave to appeal for a new trial, but this too was refused.

WELTER'S CONFESSION

“driven to the last extreme in the sight of the gallows”

Welter shocked everyone when he made a preposterous statement citing *a respected third party* as the real murderer of Will

²³⁰ The Doomed Men Spend Their Last Day Together, Garton Scrapbook, p. 241

²³¹ for the sadistic butchery of Jessie Keith.

Hendershott.²³² The claim could not be publically repeated without giving the name of the accused away. Welter said he wandered upon the murder scene in progress, and when detected was threatened with his life if he told, or implicated the true killer in any way. Welter denied that he or Hendershott were in any way connected with the crime.

The statement was first made to Judge Hughes and then repeated to Crown Attorney Donohue and Reverend David Spencer. The circumstances surrounding "the confession" and the blatant motivation behind it rendered it completely unbelievable, but Reverend Spencer, to whom Welter gave the confession, felt honor-bound to act upon it.

The story was received with startling surprise, not to say incredulity, when the name of the third-party implicated proved to be one of West Elgin's most prominent farmers, Edwin Wardell. Wardell had in no way been involved except as a witness to the removal of the dead body of Will Hendershott.²³³ Wardell was so highly respected and so far above suspicion that the authorities refused to release his name. A feud had apparently existed for years with Welter's father, Isaac Welter, and it had been aggravated by the testimony Wardell had made at the trial.²³⁴ *A mixture of rage and despair took complete possession of Welter's mind as he felt the scaffold under his feet and the noose around his neck, and while in that condition he did the most foolish thing he could have done under the circumstances.*

Macdonald knew about the confession. William Welter had spoken of it before, but Macdonald had wisely withheld it. In his opinion, it represented "*the act of a man driven to the last extreme in the sight of the gallows.*" Yet William Welter persisted and the statement was drawn up by Reverend Spencer and signed by Welter.

²³² Noted by Guillett in *Easy Money* (1945) as Edwin Wardell who leased the Woods to John A Hendershott and who noted in inspecting the killing scene that "*there was room for a coroner here*"

²³³ Not exactly true since Wardell had assisted in moving the body from the Woods to John A Hendershott's

²³⁴ Wardell reputedly said "*there was need of a coroner*" upon seeing the murder scene. He also commented that John Hendershott was not, according to the lease, to cut trees in his woods. Lastly, he noted that if the body had been where they had discovered it (and not been moved there after the felling of the tree) it would have demolished Will Hendersott's head.

Spencer then showed it to Macdonald and asked him what should be done with it.

"*Burn it,*" was Macdonald's advice, but Spencer refused to do this. As the custodian of the paper, Spencer had promised not to keep charge of it. Macdonald begged him not to allow anyone to know the contents, but Spencer thought the Department of Justice should be notified, so that an investigation might be made. Macdonald opined that nothing of the kind should happen. "*In the first place,*" he said "*... it is not true. In the second, it will do no good. In the third, it will do a great deal of harm. Burn it.*"

But it was not burned. An identical version was made known to the public. Macdonald was deeply piqued. No wonder: there remained doubt that the fatal wound was caused by the tree and doubt could be cause to have the sentence commuted. In the letter, Welter claimed that Wardell had murdered Hendershott with an axe (how the old man could have accomplished this remains a mystery only Welter might imagine). Macdonald had contested that there had been a murder, but here Welter was acknowledging that a murder had taken place. People, as a rule, would little consider Welter's mental condition when he made the statement. Doubt as to the guilt of the condemned would diminish. Any chance of having the sentence commuted to life imprisonment had been given a serious setback.

Right or wrong the accusation was considered inane; an idiotic attempt to relieve frustration. Instead of causing the public to believe his innocence it merely reinforced belief in his guilt. "*It seem[ed] incomprehensible that a man who was so near paying the penalty for his crime should add to his guilt by making a statement so manifestly improbable.*" Those who charitably considered Welter a dupe of Hendershott came to now class him as a cowardly wretch. *The longer the death sentence dragged on the more senseless Welter was becoming.*

Faced with this reaction Welter retracted the statement. The following article was posted by Reverend Spencer as part of the retraction.

"Well, gentlemen, I think it is my duty to say to you that the confession made by William Welter respecting the prominent West Elgin farmer is not true in any particular

whatever, and what it was made in my opinion in a paroxysm of grief and disappointment, brought on by long confinement resulting in temporary insanity, and with the hope that at the last moment the neck of one; if not both, might be saved. The particulars of that statement have not been made public. The items that did appear are but few, and on that point is not necessary for me to say more. Welter has assured me that the story was utterly false."

LILY LOOSES HER APPEAL

"With quivering lips and eyes full of tears, Mary Lily Hendershott argued the points with keen appreciation of their importance"

As a last resort to save the lives of William David Welter and John Aaron Hendershott, an application was made to the Minister of Justice to commute the sentences to life imprisonment. Reverend Spencer journeyed to Ottawa to intercede with the Minister of Justice on behalf of the sentenced killers. He had an interview with Dr. Charles Hibbard Tupper who promised to bring the matter before the Governor in Council. Further support was provided by Secretary Lowes, of the local YMCA, who, supported by a number of prominent citizens, wrote the Minister of Justice "*a most forcible letter*" asking that the sentence be changed to imprisonment.

Finally, Welter's father and mother travelled to Ottawa with Mary Lily Hendershott to make a final try to save their son and Mary Lily her father. As the press told it "*With quivering lips and eyes full of tears, Mary Lily Hendershott argued the points with keen appreciation of their importance.*"²³⁵ Almost certainly, the *keen appreciation* was the product of many hours work with Norman Macdonald, and doubtless, few more painful interviews ever took place in the Department of Justice. It was all to no avail, however, for on June 15 the Cabinet of MacKenzie Bowell decided not to interfere with the sentence. It was

²³⁵ Garton Scrapbook, p.253

reported that Hendershott's statement the day of the crime where he used the same language as Welter, was considered the most damaging of all the evidence and was conclusive proof of conspiracy to murder and of the guilt of both men.

In the end, the Cabinet decided not to interfere with the verdict of their newly appointed Chief Justice. The general opinion was, especially upon review of the damning accusation made by Welter, that the verdict was just, and the action of the authorities proper.

CHAPTER 5 – DEAD END

In 1868,²³⁶ one year after confederation, the Canadian Parliament stated that the location of an execution had to be within the confines of a prison, instead of a public hanging as in the past. As a result, by the 1870s, jails had begun to build gallows five feet from the ground with a pit underneath instead of the previous high scaffold, built level with the prison wall.

The first hangings were "*hoists*", as seen in most American westerns. A rope would be thrown over a beam and the convicted person would then be hoisted into the air by others pulling on the rope. The slip knot would then tightly close around the neck until strangulation. This eventually was perfected by *suspending* the victim where "a drop" caused by jerking something from underneath the offender assisted with the execution. The goal of a good hangman was to extract instant death as often as possible.

By 1873, the length of a drop had been extended to seven-feet so as to dislocate the neck. The majority of offenders hanged by Canadian civilian authorities were executed by this *long drop* method which was perfected in the United Kingdom by William Marwood. This method ensured that the prisoner's neck was broken instantly at the end of the drop. When asked if their necks were broken by the first jerk on the fall of the weight or by the rebound of the body, hangman John Radclive once replied, "*I never went through the experience.*" The hanging of Reginald Birchall in Woodstock, Ont. in November 1890 was the last time the *drop* was used.²³⁷

Early in his career, John Radclive persuaded sheriffs in Ontario and Quebec to let him use an alternative method in which the condemned person was jerked into the air. A gallows of this type was used for the execution of Robert Neil at Toronto's Don Jail on February 29, 1888:

²³⁶ [Wikipedia, Capital punishment in Canada -->](#)

http://en.wikipedia.org/wiki/Capital_punishment_in_Canada

²³⁷ Radclive had first been exposed to executions as a Royal Navy seaman helping with shipboard hangings of pirates in the South China Sea, and it is possible he was trying to approximate something similar to hanging a man on a ship's yardarm. After Birchall's hanging, Radclive used the traditional long drop method, as did his successors.

The old plan of a "drop" was discarded for a more merciful machine, by which the prisoner is jerked up from a platform on the ground level by a weight of 280 lbs, which is suspended by an independent rope pending the execution ... At the words 'Forgive us our trespasses', the executioner drove his chisel against the light rope that held the ponderous iron at the other end of the noose, and in an instant the heavy weight fell with a thud, and the pinioned body was jerked into the air and hung dangling between the rough posts of the scaffold.²³⁸

JOHN ROBERT RADCLIVE - THE EXECUTIONER

Canada's first professional hangman

John Radclive was Canada's first professional hangman, serving from 1892 until December 27, 1899. He was placed on the federal payroll as a hangman by a Dominion order-in-council in 1892, on the recommendation of the Justice Minister, Sir John Thompson.

Radclive spent his early life in the British Navy, where he hung pirates in the South China Sea. He later apprenticed under the English executioner William Marwood, who had invented the table of height and weight that was used to determine the length of rope for a hanging. In 1890, he immigrated to Toronto, Canada but found there just wasn't enough money in hanging as an occupation. He was forced to work as a steward at Toronto's fashionable Sunnyside Boating Club, but soon found, that this salary alone was inadequate to support his growing family. So, he decided to engage in a bit of moonlighting. Advertising



Figure 44 - John Radclive

²³⁸ The Globe, February 29, 1888, p. 8

his services as a hangman to local sheriffs, he quickly found work.²³⁹ At the time of his death, the Toronto Telegram said he had performed 150 executions, 69 of which were as Dominion executioner.²⁴⁰

Radclive continued to market his services by writing to various sheriffs throughout Ontario and Eastern Canada. He was known to Sheriff Brown in Elgin County. He had no competition in the east, but in western Canada, another hangman worked the territory from Regina to Victoria (though Radclive got the occasional job in his territory).

Radclive was described as stout, about 5' 9", and weighing in the neighborhood of 200 pounds. He had a ruddy complexion being as "dark as a Southerner", with "small, piercing black eyes which stared at you in a most uncomfortable manner." He had a heavy dark mustache and a pronounced accent, was neatly dressed and smoked a pipe and cigars. He had a decided English accent, was generally approachable, and talked freely on many topics but explained that "*there are matters which I am bound by my duty to my office to retain private.*"

Radclive regarded the job of hangman as being an important official position in the administration of the law. "*The jury finds the prisoner guilty, the judge pronounces the sentence and he carries out the directions of the court.*" He referred to himself as a "professional." As such, he harbored no personal feeling towards any of his victims. He saw the purpose of the death penalty as removing criminals from society and not inflicting torture on them. Consequently, he made it a study to dispatch the victims in the most efficient and painless manner. He made exacting use of Marwood's weights and scales to determine the length

One of the most bizarre executions performed by Radclive involved an elderly man at the jail in St. Scholastique, Quebec. While being taken to the gallows, the condemned man suddenly died of a heart attack. Astonishingly, the Quebec sheriff said that the actual hanging still needed to be carried out according to the execution order. Despite his protests, Radclive was forced to hang a dead man; the corpse was tied to a chair to keep him in position on the gallows.

²³⁹ When not serving as a hangman, Radclive worked as a steward under the alias Thomas Rately at the Sunnyside Boating Club, a rowing club in Parkdale, Toronto.

²⁴⁰ Patrick Cain, "The agony of the executioner", *Toronto Star*, May 20, 2007

of "drop" required to instantly "jerk" (i.e., break), the person's neck thus ensuring a quick and painless death.

He was employed by the government and received a regular salary, but it was seldom the sole remuneration. The law allowed the Sheriff \$20 for each execution, but the hangman usually received considerably more. Sherriff Brown would have provided Radclive a stipend in addition to his government salary, and, it was informal practice amongst hangmen to *"sell various artifacts from the hanging."* Indeed, one of the original stipulations in Radclive's contract with the federal government included a clause that might seem odd today, but was apparently the norm for many hangmen of that time around the world — he was entitled to the clothes off the backs of the men he executed. *"The fact was he used to make as much money selling the clothes of the person he hanged as he did for the hangings."*²⁴¹ Radclive reportedly had a friend *"who makes a collection of such gruesome relics."*²⁴²

Other artifacts of the hanging were also fair game for the hangman. In Vancouver, the Star reported that Radclive proposed to cut off the "queue" (pigtail) of a condemned Chinese man, and divide it up as souvenirs of the occasion. More often, however, he would sell lengths of rope as souvenirs. The problem with this, however, was that the rope used in the hangings themselves was most often provided by the local constabulary. Undaunted, Radclive would buy extra rope and hawk pieces of it as having been used in the execution (he was once caught by the local sheriff in a British Columbia hardware store doing this). Following the execution of Welter and Hendershott, the St. Thomas Daily Times reported of Radclive's departure, *"Radclive left for his home in Parkdale tonight, taking with him his apparatus and a few souvenirs from Welter and Hendershott."*²⁴³

²⁴¹ Canada First Hangman, John Radclive, Lost Toronto website at <https://losttoronto2.wordpress.com/category/john-radclive/>

²⁴² Winnipeg Realtors, Bruce Cherney, Mass Murder in Stuartburn — hangman Radcliffe arrives in Winnipeg to execute Guszczak and Czuby,

²⁴³ Their Last Night on Earth, St. Thomas Times Journal, June 18, 1895, Garton Scrapbook, p 259

Radclive always dressed neatly. He was instantly ready for conversation, but usually quite reticent to discuss a current case, not because of a disinclination to talk about his business, but rather



Figure 45 - Stanislas Lacroix on the gallows in Hull, Quebec. Radclive, after the drunken night in Hull wherein a mob nearly killed him, is on the far right.

because he felt that public curiosity in such matters was unsavory. *"From the moment a man is sentenced to death he becomes dead to the public, and the public have no further concern with him."*²⁴⁴ He would make his presence known in the communities he visited by patronizing the hotels and other public places, where he would invariably muster a crowd of curiosity seekers. The day after his arrival in St. Thomas to dispense of Hendershott and Welter he was noticed imbibing at the Fraser Hotel in Port Stanley. These drinking sessions would often follow a well known script and deteriorate into brawls. Prior to a hanging in Hull, Quebec in 1902, Radclive uttered some ill-advised, anti-French-Canadian words to a mob after drinking with some friends in his hotel room. *"I've come to hang a Frenchman, and hoped it would not be the last."*²⁴⁵ This time he was badly manhandled by a mob, and had to be taken into police protective custody and ushered across the river to Ottawa. The Ottawa police then sent him

²⁴⁴ Canada First Hangman, John Radclive, Lost Toronto website at <https://losttoronto2.wordpress.com/category/john-radclive/>

²⁴⁵ ExecutedToday.com, 1908: John Boyd, by John Radclive, at <http://www.executedtoday.com/2012/01/08/1908-john-boyd-john-radclive/>

back by cab to the Hull constabulary who placed him, for protection, into the cell adjoining Lacroix who he was to hang in the morning.

In 1895 when asked by a local reporter covering the Hendershott/Welter hanging if he was bothered by his job, he had this to say:

"No, I'm not 'looking backward'.. I am always looking forward. Many people consider my business dishonorable, but I do not look on it as such. Well, you don't notice that I have grown thin or pale over it do you? No, I never give it a moments' concern. Why should I?" ²⁴⁶

But, by 1911, he was suffering from traumatic stress, alone and penniless, afflicted with cirrhosis of the liver from his long years of drinking, his wife having long since left him and taken the two youngest children back to England. While his two oldest children remained in Toronto, they too, wanted no part of him. Shortly before his death on February 26, 1911, he told an interviewer, *"My family deserted me and changed their names, but I kept right on with the job, because I argued with myself that if I was doing wrong then the government of the country was wrong. I held that I was the minister of justice at a hanging and that if I was a murderer, then he was also a murderer."* ²⁴⁷ As one journalist put it, *"It would have taken a remarkably self-possessed person to have managed, or at least ignored, all these contradictory forces for several decades."* ²⁴⁸ The following passage sums up his final agonies...

"And so I pacified my conscience in that way for many years, but of late it is killing me. I suffered agony of mind that was terrible, and began to feel as if iron bars tightened around me. The remorse which comes over me is terrible and my nerves give out until I have not slept for days at a time. I used to say to condemned persons as I beckoned with my hand, "Come with me." Now at night when I lie down, I stare up with a roar as victim after victim comes up before me. I can see them on the trap, waiting a second before they face their Maker. They

²⁴⁶ Garton Scrapbook, p. 255

²⁴⁷ The Reluctant Hangman, Providentia, December 27, 2009 at <http://drvitelli.typepad.com/providentia/2009/12/27/>

²⁴⁸ Toronto Star, The agony of the executioner, Patrick Cain, Sun May 20 2007

*haunt me and taunt me until I am nearly crazy with unearthly fear. I am two hundred times a murderer, but I won't kill another man.*²⁴⁹

THE HANGING

"goodbye, all – have mercy and compassion"

As their last day approached, Hendershott and Welter were pretty well exhausted mentally and emotionally. Welter, described by Detective Murray, as "a massive fellow, over six feet tall, deep-chested, broad shouldered, powerful,"²⁵⁰ was worn down both in body and mind, and was considered close to insanity.

On the night before the hanging Constable Sidney Chote patrolled the jails. He was replaced in the morning by Constables Fairbrother, Huffman and Campbell who, with the support of special Constables Elliot, Frank Goulding, William Metcalfe and Edward Travers kept the outside crowd in order.

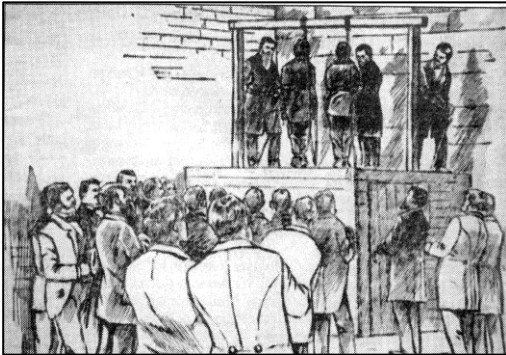


Figure 46- Depiction of Hanging

At 6:50 am Spencer came in, accompanied by two fellow clergymen. At 7:30 the jail doors were opened and some forty designated witnesses²⁵¹ entered the men's exercise yard. By this time the condemned men had reached a state of frenzy and their cries could be heard from a distance.

²⁴⁹ Ibid

²⁵⁰ *Memoirs of a Great Detective: Incidents in the Lie of John Wilson Murray*, p 369-73. The account of his part in this case is more accurate than many of the others.

²⁵¹ Sheriff Brown has decided to confine the number of spectators to the smallest possible limit, and only officials and members of the press, whose duty requires their attendance, will be admitted to the execution.

At 8:05 the two men ascended the ten steps of the scaffold, where Radclive awaited them. "Goodbye, doctor", wailed Welter to Dr. Edmonds, a veterinary of his acquaintance. Then, as the black cap was being adjusted, he said to the executioner "too tight, please," and bade farewell to Reverend Spencer. As the drop fell at 8:13 am Welter was heard to say "goodbye, all – have mercy and compassion!" while Hendershott mumbled "have mercy, O Lord, have mercy!" Both died instantly as the Lord's Prayer was being recited, and Radclive expressed satisfaction at the success of the double hanging (Sherriff Brown, pleased with the manner in which Radclive had performed the hanging, presented him with a gratuity of \$100). At 8:20 am doctors Smith, VanBuskirk, Lawrence, Kains and Chamberlain were admitted to the enclosure to view the bodies and certify their deaths. The bodies were then handed over to Coroner Luton who would administer an inquest.

Meanwhile, in a small corner of the courtyard, surrounding the courthouse and gallows, sat the diminutive, aged mother of John A, absorbed in prayer. Charity Hendershott (nee Horning, 1824-1909), in her seventieth year, mother to the elder murderer fainted upon hearing the drop from the scaffold, her son now lost to her so ignominiously.²⁵²

The usual formal inquest was held, and a black flag was flown over the jail. Reverend Spencer held a press conference to publicize that Welter had made a confession on his deathbed but had sworn him to silence. Spencer was honour bound not to divulge any details. All earlier stories implicating Edwin Wardell or Charles Welter (at the time suggested as part of a murder conspiracy) were false, said Spencer. As well, he stated that Mary Lily Hendershott had spoken the truth in her testimony.

"She told all she knew," he repeated, "and she should not be the object of criticism. Welter was desperately fond of Mary and she of him. The two executed men died friends, as they had been in life. I believe they confessed to God at the end, they made their confessions to me

²⁵² St. Thomas Times, June 17, 1895

sincerely and honestly, but I shall give to nobody the particulars."²⁵³

The relatives made application to the Attorney-General for the bodies but it was refused as was the law at the time in these situations. It was reported in many papers that the bodies were buried under the scaffolding at 2 pm²⁵⁴ on June 18, 1895, but they were uncovered in 2010 buried together in a single box in a corner of what would have been the jail yard at the time.²⁵⁵ The remnants of a locket found beside the exhumed body suggested that William Welter's dying request was honoured; to be buried with a picture of Mary Lily.²⁵⁶

CONFESSIONS

"Thoughts of many innocent men hanged obtrude themselves"

From the time of the verdict until their execution, officials and local citizens alike waited impatiently for one or the other of Welter or Hendershott to make a confession. William Welter had embarrassed himself with his preposterous assertion charging Edwin Wardell with the murder. To many, concerned that he might be innocent, this was a balm; an assurance that the jury had indeed made the right decision.

An hour before the execution, while in the corridor of the jail, Turnkey Langan prodded Welter into confessing. *"Bill, take my advice, and make a clean breast of the whole affair, before it is too late. If you know anything at all about it, you ought to put the public feeling at rest."*²⁵⁷ According to Langan, Welter thereupon confessed that he did

²⁵³ The two unfortunate Hendershott daughters are said to have left the country. Lillie is said to have turned out badly, but this statement is probably merely a reflection of local belief that she knew more than she told in court. In any event no girl ever had a better excuse or more provocation.

²⁵⁴ St. Thomas Times, June 17, 1895

²⁵⁵ It was stated that they were buried under the gallows but their bodies were discovered in 2010 in a remote corner of the jailyard.

²⁵⁶ St. Thomas Times, cited in Garton Scrapbook, p 252.

²⁵⁷ St. Thomas Daily Times, June 20, 1895

the deed alone, and that the tree did not fall on Will Hendershott, but that he was laid there afterward: "*John Hendershott was not present -- I carried out the execution entirely alone.*" Addressing the issue of Mary Lily's involvement Welter stated "*Her story was true and she knew nothing of the tragedy.*"²⁵⁸ Langan reported that had Reverend Spencer not arrived William Welter would have, at that time, told him the entire story of the killing.

*"Mr. Langan believes that he would have at that moment made a clean breast of the affair, and had he, Mr. Langan says he would have given it to the public. He also believes Welter was telling the truth."*²⁵⁹

But Spencer entered the corridor and interrupted the *recital*. Before the execution he spent an hour with the prisoners, and it was during this time that he claimed that they confessed to him the true account of the murder, but which he could not, by reason of his office, divulge.²⁶⁰ It was generally conceded that any confession made was in accordance with generally accepted opinion at the time. While Welter committed the deed, he followed the instructions of his senior conspirator. Both were to be mutually rewarded when John A secured the \$11,000 from the two insurance companies.

A confession pacifies the public's conscience for closure. Success, that is justice, needs validation. This was commented on in a newspaper article in the Toronto Globe.

Stories that one had confessed the crime of which both have been legally convicted were freely circulated during the past few days; but such stories often originate in the uneasiness of the public conscience as such an irreparable legal tragedy draws near - Thoughts of many innocent men hanged obtrude themselves on everyone. The most positive of minds feel traces of uncertainty, and long for confirmation from the only lips that can speak with actual knowledge. Thus, a longing "they will confess" readily changes, to a longing "they have confessed". *In actuality, neither Hendershott nor Welter seems to have confessed, or at least if*

²⁵⁸ Ibid.

²⁵⁹ Ibid

²⁶⁰ Their Last Night on Earth, in Garton Scrapbook, p 259

they did, it was solely to their spiritual advisor, Reverend Spencer. When questioned after their hanging, he would say only that the two had *express[ed] themselves prepared to meet their maker.*²⁶¹

The pressure on *spiritual advisers* to extract a confession was considerable. Those seeking the confession, prison officials and ministers particularly, went to such lengths to obtain it that many possibly spurious confessions were publicly announced, pacifying and reassuring Canadians that the person hanged had, indeed, been guilty, reaffirming the justice of capital punishment. The stream of what might be called "*doubtful confessions*," and of those alleged to have been provided secretly and announced only after the hanging, likely fooled few save those who wished to believe that none but the guilty would hang.

Like Macdonald, Reverend Spencer paid a price for his involvement. He left his position as Minister of Centre Street Baptist Church in St. Thomas, shortly after the execution to take another position with the Baptist organization in Brantford.²⁶²

THE INSURANCE PAYOUTS

David Hendershott, father of the victim, might logically inherit any insurance payouts. He hired Norman Macdonald to represent him (though he had little money to pay Macdonald should he not collect). It was popularly believed that the insurance companies would have to pay on the policies.²⁶³ There would be a fight in the law courts, but the opinion prevailed that the companies would lose. Macdonald represented David Hendershott on the understanding that \$2,000 would go to each of Mary Lily, Rosa Hendershott and Edith Welter, the girlfriend of the victim. Testimony at the trial showed evidence to the effect that Will Hendershott had intended making Miss Welter the

²⁶¹ Ken Leyton-Brown, *The Practice Of Execution In Canada*

²⁶² Brantford Expositor Souvenir Edition, p. 61 at

<http://brantford.library.on.ca/files/pdfs/localhistory/semicent1927.pdf>

²⁶³ St. Thomas Times, 1895

beneficiary after she became his wife. While awaiting the execution of John Aaron Hendershott, Mr. A McCrimmon was granted an order to examine John A in the insurance case of David Hendershott vs. Covenant Mutual Company but, the sheriff refused to allow the interview.

The New York Mutual Reserve Association was in a far better position than Covenant Mutual, to contest the claims. In completing their application form, Will Hendershott (or whoever completed the application form) falsified question #9 -- "*has the applicant now any insurance on his life.*" He had falsely claimed he had no other insurance.

There is no evidence that the claims were ever paid out. Norman Macdonald died in September, probably before any court date could be arranged. There is no evidence that David, Mary Lily or Rosa Hendershott or Edith Welter ever received any of the money.

CHAPTER 6 - EPILOGUE

RE-INTERMENT

*"It's definitely the end of an era"*²⁶⁴

In 1868, Parliament stated that the location of the execution was to be within the confines of the prison, as opposed to the public hangings in the past. As a result, by the 1870s, the jails had begun to build the gallows five feet from the ground with a pit underneath instead of the previous high scaffold, built level with the prison wall. This stipulation explains why no answer was received from the Attorney-General to the request of Isaac Welter and Lily Hendershott for the bodies of William Welter and John A for private internment near their family's graves on West Avenue in St. Thomas.

When the jail was closed and eventually pulled down, the grave was lost, but during an archeological dig on the Elgin County Courthouse property in the former parking lot area on July 6, 2010, a single grave was unearthed, containing two skeletons. The grave was located in the area of the former prison exercise yard, within walls of the jail which were torn down in 1985. An investigation was conducted, and the remains were determined to be those of John Aaron Hendershott and William David Welter.



Figure 47 - Headstones of Welter & Hendershott in West Ave Cemetery, St. Thomas

²⁶⁴ Don Cousens, Reported in London Free Press, Sept 29, 2010 by Eric Bunnell, QMI Agency

Forensic examinations were performed on both bodies. Welter was found to be normal but John Hendershott was assessed as having suffered from "Sportsman's Hernia,"²⁶⁵ a disease that would have caused Hendershott considerable pain and made it extremely problematic for him to have wielded an axe with any degree of dexterity. This implies that Hendershott might not have been capable of murdering Will Hendershott by himself and probably would have been of little use in assisting Welter in the killing.

The Provincial Registrar of Cemeteries gave notice of the intention to declare the site an unapproved cemetery and, according to a notice, "*invite[d] representatives of the persons whose remains may still be interred in the former cemetery to contact the registrar within two weeks after July 28, 2010.*" When no family member came forward to claim the bodies, the Ontario Registrar of Cemeteries contacted retired Baptist Minister Clarence Roberts and First United Church Minister Roger Landell to represent the two men's interests. Hendershott was believed to have been a Baptist and Welter, a Methodist. Consequently, Roberts presided over Hendershott's reburial and Landell, over Welter's. It was a simple ceremony with no specific reference to long-ago crimes for which the murderers on the scaffold prayed for forgiveness. "*It was very nicely done,*" said Don Cosens, whose eulogy included a childhood recollection by Dr. James Curtis of schoolmate Welter.

*After both men failed their high school entrance exams, Curtis retook his and passed but Welter left school. Cosens quotes Curtis, who eventually became St. Thomas medical officer of health: "I often wonder what would have been the outcome of Welter's life had he gone and taken the entrance exam again."*²⁶⁶

Cosens, who admits to a lifelong fascination with the crime, believed Welter also was the impressionable victim of Hendershott. "*I feel very sorry for Welter. He was used very badly.*"²⁶⁷

²⁶⁵ Forensics performed by Timmins Martelle Heritage Consultants Inc, London, Ontario

²⁶⁶ [St. Thomas Times Journal - Remains of infamous murderers](#)

²⁶⁷ Ibid

MARY LILY AND ROSA HENDERSHOTT

No information has been uncovered as to whether Norman Macdonald was able to secure any of the \$11,000 insurance money for Mary Lily and her sister Rosa. The death of Macdonald in September of 1895 very probably means that a change of

Saskatchewan Migration

Indigenous policies and external events stimulated a flood of immigration into western Canada after 1896. In Saskatchewan alone, the preferred destination at the turn of the century, the population increased 1124.77% between 1891 and 1911. By homestead and purchase, the land was quickly settled. For the year ending 30 June 1906, two-thirds of all Canadian homestead entries were in this province.

lawyers would have been required in mid-case. What information exists as to the marriages and migrations of the two girls in the next few years suggests that they didn't enjoy any of degree of affluence which the insurance money might have provided.

While Mary Lily inherited the house in Middlemarch it had become heavily mortgaged by this time. Two loans of \$1000 each were issued in January and March of 1895 by the Midland Loan and Savings Company through John Mulligan, President of the company.²⁶⁸ A civic trial in 1895 (Hendershott vs. Mulligan) passed the property to Midland Loan and Savings. As a consequence, Mary Lily had to work as a housekeeper until her marriage to John Hatherley in 1901.²⁶⁹ Mary Lily and John Hatherley were married at the home of her uncle Charles Welter in Middlemarch. The couple remained in Elgin County until about 1920 whence they moved and lived in Saskatoon, Saskatchewan until Hatherley's death in 1928. They had one daughter, Mare, in 1917 while in Saskatchewan, but there is no record of the daughter's life.²⁷⁰ Mary Lily then returned to St. Thomas and after a few years moved to London. She died there in 1948 in a car accident. She was 72 years old. She was buried beside her husband in St. Thomas West Avenue Cemetery.

²⁶⁸ Elgin County Archives, Land registry files for Yarmouth Township, lot # 33

²⁶⁹ John Hatherley is registered as the grantor of loans on the lot Yarmouth Township lot #33 on several occasions.

²⁷⁰ 1921 Canadian census records her as four years old. There is no record in subsequent censuses of either Mare or Mary Lily

Rosa Maud Hendershott lived with the her sister Mary Lily and John Hatherley after the wedding until her marriage to William Welter's younger brother, Albert Roy Welter on August 21, 1906, whereupon she moved into the neighbouring farm, of Albert Roy's father, Isaac Welter. They had one child, a girl Iola Blanche Welter (1908-Unknown). Albert Roy Welter gave his occupation as "deliveryman" on the birth record of Iola Blanche. Albert Roy inherited and farmed the land of his father Isaac Welter. Albert and Rosa moved to the Canadian West about 1910, residing in Saskatoon and Calgary, and then to Montreal in the early 1920s where Albert was employed with the Guard Company until retirement in 1946. He then returned to Middlemarch where he died at the family residence, Talbot Road, Middlemarch, after a long illness on November 14, 1947. His funeral was held November 17, 1947 with interment in St. Thomas Cemetery, Yarmouth Township, Elgin Co., Ontario. Rosa died on November 3, 1958.



Figure 48 - Headstones for Mary Lily & Rosa Maud Hendershott In West Avenue Cemetery, St. Thomas

THE DEATH OF NORMAN MACDONALD

Defense Lawyer Norman Macdonald, though outgunned by the combination of Detective Wilson Murray and Crown Attorney Britton Bath Osler, did perhaps as well as could be expected by a small town lawyer. He was tireless in the defense of the two accused killers from late December till March 15. After the verdict he prepared the arguments to be presented to the Federal Cabinet for the commutation of the sentences of the convicted murderers. He then

represented John A's two daughters and Edith Welter in an attempt to obtain some of the insurance money on their behalf.

It all proved too much for Macdonald. He died suspiciously on September 12, 1895 of *insomnia* (more likely a heart condition). There were no further reports on the outcome of the civil proceedings for the insurance money, but subsequent family stories of the Hendershott girls never reported the receipt of any money and, as previously stated, Mary Lily married John Hatherley who had previously provided loans on the farm of John A Hendershott and Elizabeth Welter.

IMPACT OF HANGING AS A FORM OF EXECUTION

After Confederation, a revision of the statutes reduced the number of offences to three general offences that were punishable by death: murder, rape, and treason.

Michael Vincent was publically hung in Hamilton in 1829. *"He was hanged in a badly botched manner."*²⁷¹ Shortly thereafter, many western nations, including Canada, began moving executions behind jail walls, ostensibly for humanitarian reasons. The laws regarding hanging had undergone review and had been better defined compared with the old-time public executions of Newgate and Tyburn.²⁷² *"... [I]n that hangings of the present time are conducted with comparative privacy which characterized the execution of Welter and Hendershott this morning in the courtyard of Elgin County Jail."*²⁷³ For those believing that proper deterrence required public shock, the new breed of aspiring journalists provided sufficient sensationalism without the mess associated with botched hangings.

The prevailing attitude in 1894 was aptly summed up by a reporter for the Toronto Telegram.

²⁷¹ Hagerman, Christopher Alexander, [Dictionary of Canadian Biography](#).

²⁷² The journey from Newgate prison to the gallows at Tyburn in England were famous public hangings. Between 1571 and 1783 about 1100 men and almost 100 women were hanged at Tyburn in the eighteenth century.

²⁷³ Ibid.

*The prompt punishment of convicted murderers is one of the most satisfactory features of the administration of criminal justice in Canada, and the result is shown in our comparative freedom from homicide. There can be no doubt fear of the gallows is a wholesome check upon the wild and vicious. The best proof of that is that when "humanitarian" sentiments prevail and capital punishment is abolished, murderers increase to a marked degree, and the same results follow the juggling with the law courts which constantly goes on in the States.*²⁷⁴

Prior to John Boyd's 1908 execution in Toronto's Don Jail, hangings had occurred in a jail yard, technically behind prison walls, but easily observed by curiosity-seekers willing to obtain higher ground. Boyd's execution introduced a new privacy measure: it was the first of 26 hangings to occur in an interior chamber completely away from public eyes, the same place where Canada eventually held its last hanging in 1962.

Capital punishment was formally ended in Canada with the passage of Bill C-84 in 1976.

²⁷⁴ Toronto Telegram, in Garton Scrapbook, p. 250

APPENDICES

DEPOSITIONS

A deposition is the out-of-court oral testimony of a witness that is recorded in writing for later use in court or for discovery purposes. It is commonly used in litigation Canada and is almost always conducted outside of court by lawyers without the presence of a judge to supervise the examination.

Not yet charged with a crime, both William David Welter and John Aaron Hendershott were considered witnesses to the death of Will Hendershott and both provided depositions at the initial inquest. Shortly thereafter they were charged by OPP Detective Wilson Murray with the murder of William Henry Hendershott. Had they been charged before the inquest took place they would not have been considered witnesses and no depositions would have been taken. These statements were, after lengthy discussion, ruled out of order at the trial by Justice Meredith, on the grounds that they had not been warned that what they said might be used in any subsequent trial.

Nonetheless, the depositions provide important information on both the events leading up to and following the killing of Will Hendershott and on the character of both Welter and Hendershott.

DEPOSITION OF WILLIAM DAVID WELTER

I am a farmer and reside with Mr. John Hendershott, an uncle of the deceased. I make Mr. Hendershott's my home. I've been there but one of a half [years]. During the summer I was threshing for myself. My age is 24 past. For the last few weeks I have been working for John Hendershott plowing and



cutting wood.

Last Friday, 14 December in the forenoon I was working around Mr. Hendershott's place and after dinner between 12 and 1 o'clock I went to Mr. Edward [sic Edwin] Wardell's Woods. It is rented by Mr. Hendershott about one mile from Mr. Hendershotts. I went there to cut wood. The deceased W. H. Hendershott went with me. He was living also at John Hendershott's and had been there about two weeks; previously he had been living with John McLachlin, Fingal.

The deceased and myself started together for the bush. We took nothing with us, the tools were down there, one crosscut saw and one axe. We got to the woods about one o'clock or so, going straight there from Mr. Hendershott's at Middlemarch. After arriving at the woods we first cut down a small beech tree and cut it up into firewood. The next thing we did, went over to the tree newly cut down, the one viewed by the jury today. I pointed it out to them. We then went to work to chop this tree down, chopping on the southwest side. The deceased did the first chopping, I did the remainder of the chopping, then we commenced sawing on the opposite side, the north east side, we had our coat and vest off before we commenced work. The little beech tree is about 10 rods²⁷⁵ from this one. The deceased laid his clothes on a log before coming to the beech tree and I took mine with me until we commenced work. We commenced sawing, as I before stated, and cut the tree through; having calculated which way it was going to fall and the tree fell in the direction we intended. When the tree commenced the fall the deceased discovered his vest and coat on the log where he had left them and in the direction the tree was falling. When he, the deceased, saw the tree falling, he started to run and said "oh my watch" which was in his vest pocket on the log. I called him to come back, he kept on running until he got near his clothes, when he stubbed his toe and fell, the tree falling on him. While he was down he made no effort to get up, until the tree was on

²⁷⁵ A rod is a unit of length, equal to 11 cubits, 5.0292 metres or 16.5 feet. A rod is the same length as a perch and a pole. The lengths of the perch (one rod) and chain (four rods) were standardized in 1607 by Edmund Gunter. The length is equal to the standardized length of the ox goad used by medieval English ploughmen; fields were measured in acres which were one chain (four rods) by one furlong (in the United Kingdom, ten chains).

him, he had no time, he was only on the ground an instant before the tree fell.

When I got reconciled in about 10 or 15 minutes, I went to the deceased and put my hand under him to see if his heart beat, and when I found it didn't, then I started right after help. I did not see him move while I was there. The reason I did not go at once was that I was spellbound and couldn't move. I did not further examine him, more than to see if his heart beat, I did not speak at all to him before I went to him, I saw him move his legs and heard him groan, he was bleeding at the time, he was lying on his face with his head under the tree and his feet and trunk at an acute angle with the trunk of the tree, the feet being about four or five feet from the tree. The legs were separated about one foot. I don't know how the arms were lying; there was quite a lot of blood under the tree around his head. His face was on the ground and the back of the head two or three inches from the under part of the tree. There were no limbs on the side of the tree where the deceased was found. I don't think there was any shrubbery or small trees on the spot where the deceased fell. There was some on the other side of the tree.

I think it took me about five minutes to examine for his heart. Then I started off to Charlie Welters on Talbot Street about a mile from the spot where the deceased was lying. Mr. Welter was in St. Thomas and his wife and Miss Mann went after him. I then got George Craig, Mr. Welter's hired man, and went to Middlemarch and got Henry House and Robert Stevenson to go to the woods to the deceased and I went to Fingal to notify his uncle Duncan Hendershott.

I returned and did the chores at the barn. I did not go to the woods with the others. I then went to Charlie Welters, I think it was then between five and six. Charles Welter came home while I was there and said he got permission to remove the body and take it to where he was making his home. In the meantime, Mrs. Charles Welter went to Middlemarch to John Hendershott's to unlock his house, I had the key. She didn't know but what I was there, when I found she had gone, I drove back to John Hendershott's house and unlocked the house then went to Mr. Thomas Futchers to get him to go and help to lay the deceased out. I then returned to Middlemarch and waited at

John Hendershott's house until they brought the body up, then his uncle Duncan and myself went to St. Thomas for the undertaker and got William Kerr, and then I and my uncle returned to John Hendershott's after telegraphing to the deceased's father and mother.

John Hendershott's two daughters, myself and the deceased composed the inmates²⁷⁶ of John Hendershott's house [i.e. they resided there]. John Hendershott, about 10:30 o'clock on the morning of the 14th December --the day the deceased was killed, started for Eden in Bayham. He went after a robe at his brother-in-law's. John Hendershott's daughter, Mary Lily went with him. Rosa, the other daughter, went to see her grandmother and to stay with her while they were gone. She left with them about 10:30 am. I knew two or three days before that John Hendershott was going to Eden to see about this robe and he told me that he needed to visit Aylmer on Friday and that he would do it before going to Eden. I think this was told at the table and that the deceased heard him. Mr. Hendershott said he would go back Sunday or Monday and the eldest daughter would return with him. Rosa would return at the same time. The deceased and I were to run the house until they returned.

Mr. Hendershott, before leaving for Eden, told us to cut wood Friday afternoon and on Saturday, if we wanted to we could go to St. Thomas. The deceased and his uncle John Hendershott had cut wood this same week on Monday previous to the accident.²⁷⁷ Our instructions were to cut any dead trees we thought proper. Edwin Wardell owns the woods and I understand Mr. Hendershott has a new lease. I saw the lease and Mr. Hendershott's wife, while she was alive, read me the lease.

The deceased led me to a standing tree, dead in the top, and after our arrival in the woods we chopped it down, I then conducted the deceased over to the tree that killed him. This tree was about 10 rods northeast of the first one. The tree that killed the deceased was

²⁷⁶ *Inmates* is interesting terminology used by Welter and may reflect the description of the inhabitants of the House of Industry located about one mile east of Hendershott's home.

²⁷⁷ The forensic examination on the remains of John Hendershott in 2010 found that he had a severe case of *Sportman's Hernia* which would have prevented him from doing any significant axing. If true, the job in the woods prior to the day of the killing was primarily to show his nephew where the trees to be felled on the fateful Friday were located.

decayed in the trunk. The deceased and I, before we felled this tree that killed him, went north about 3 rods from where this tree stood and then returned to the tree which we afterwards cut down. The deceased knew that his coat and vest were in the direction in which the tree would fall. The tree fell sooner than we expected: it fell suddenly and the deceased did not mention the coat and vest until the tree began to fall. I did not see the tree strike him during the 10 or 15 minutes while I stood at the trunk of the tree, I was leaning on the stump of the tree when I found the deceased, his face was in a pool of blood. I think the right cheek was turned up a little. I saw blood on his hair. I was leaning on the stump when I heard him groan and saw him jerk his legs and remain leaning there 10 minutes or more. I didn't know while I stood by the stump whether the deceased was fastened down by the tree or not.

I have never heard of till now that anybody suspected me. The nearest house to this place -- I think it would be about 60 rods away to Peter Smuck's -- the reason I did not go there was because he had no horse and on account of his wife being a relative of the deceased. I could have gone there in about five minutes. It took me about 15 minutes to go to Welters, the first person I saw was old Mrs. Welter [Mary Ann Welter, nee Graves, 1830-1901]. She was in the kitchen. Mrs. Griffin and Rosa Hendershott and Mr. Charles Welter's wife were there. I asked them where Charles was. His wife said he was in town. "What is the matter?" I said a tree had fallen on William Hendershott's head in the woods and had killed him. Rosa Hendershott never said a word, she was twelve years old, her other sister is a young lady.

George Stanton was the first person I spoke to when I went to Middlemarch, the first thing I said to Henry House was that the tree had fallen on William Hendershott and I first said that I have some news to tell him. Mr. Stanton arranged that he and Stevenson should go to the woods and watch the body.

I drove the deceased's uncle part of the way to the woods and then returned to Middlemarch to do my chores. When I first went to Charles Welter's I arranged with Craig to take the body to Welter's, but, according to the instructions brought back from the Coroner, the body was taken to John Hendershott's.

I told Charles Welter to telegraph to John Hendershott at Eden and to the deceased's father that Will had been killed by a falling tree in the woods and to come at once.²⁷⁸

He and his daughter returned the next day. I met him at Penwarden House. I went in the Penwarden House in the room upstairs and he said "Will Welter, how did it happen?" I said a tree fell on him. I told of the particulars²⁷⁹ and he said it was too bad.

I make John Hendershott's my home: been there about a year and a half. *I am on intimate terms with John Hendershott. We sleep together*, [Italics are authors] the deceased had been at John Hendershott's house about two weeks. Neither the deceased nor I got any pay from John Hendershott. I proposed sleeping with John Hendershott.

John Hendershott has a house in Aylmer worth \$1,000 and his property here at Middlemarch worth about \$1,500 with some outstanding notes. I don't think he is worth more than three or four thousand dollars.

The deceased was about 24, working for his living and I look upon him as a poor boy. I am told he, the deceased, had \$11,000 life insurance. John Hendershott spoke to me about the insurance on the life of the deceased on Sunday morning at breakfast table. His two daughters and myself were present at the breakfast table. John Hendershott's girls asked him if it was true that the deceased was insured for \$11,000. He said yes it was. He said the boy had been coming to me all Spring to know whether it would be a good thing for him to get his life insured. Hendershott said it would be a good thing. He said that the boy told him he had a chance to take out a policy with Mr. Cook [agent for Covenant Mutual]. The boy explained what it would cost him and what he would get back after a certain number of years and he advised the boy it was a good thing, and the boy said I am going to ask a favor of you then -- When I haven't the money to keep the policies up that you pay them for me and Hendershott promised

²⁷⁸ Charles Welter telegraphed to John A only with the words "Will dead, come home".

²⁷⁹ This is not substantiated by the testimony of Mrs. Bancroft, wife of the proprietor of the Penwarden House, who said no further words were spoken.

the boy he would do so and that the boy would make them over to his name and he said it was made over in his name accordingly, this was about the \$5,000 policy.

He said the boy then came to them in St. Thomas. I've a chance in another company and I will go in that and let the other drop. He explained that to Hendershott and he said it was a good thing to do it. John Hendershott told me all this. I asked him no further questions and his girls did not ask any further questions, nothing more was said. That is in the only talk we had about the insurance on Saturday night.

I heard him, Hendershott, telling it to Craig about the insurance, who said '*you had fallen into a fortune*'. He said he had, I told the girls on Saturday that their father had fallen heir to a lot of money that the deceased's insurance had all been made over to John.

John Cook was the first person who ever spoke to me about the insurance or me to anyone else. After Cook told me the first person I spoke to about it was his uncle. Cook told me it was \$5,000. His own father [David Marshall Hendershott] did not speak to me about the insurance. The first person that I spoke to was Mary Lily Hendershott and I said it was all made over in her father's name; this on Saturday last about between three and four o'clock. Her father was then home and he had, up to that time, not spoken to me about the insurance. Hugh McAlpine told me that the deceased was insured for \$6,000 with Gilbert Roche.

On Saturday morning John Hendershott told me that he had paid all the premiums on the deceased's policy except \$30 and that he owed the deceased \$25 and that amount was turned over last night to David Marshall Hendershott, the deceased's father. William David and John Hendershott were together at John's house. I did not speak to any of them in reference to the cause of the death. After the tree fell the axe was left lying north of the stump of the tree. The watch of the deceased was not injured by the tree falling. Deceased bled considerably; the blood seemed to be coming from all over his head. Yesterday I saw the blood to the north and east of the stump on the leaves but do not know how it got there.

Mr. Sanders' place is a half mile closer to the scene of the accident than Charles Welter's. My reason for not going there was that I would rather call on my relations than strangers. Richard Curtis is also closer and for the same reason, I did not go to him.

On going to Fingal I met Mr. Hayden. I did not say anything to him about the accident. The deceased's father did not know anything about his son's insurance until Saturday. He was surprised. The deceased's son's father told me on Sunday morning that John should give \$5,000 of the insurance and keep the \$6,000 -- this was told me at John's barn. I told John that his brother thought he should get part of the insurance and he said that he would see that the father would get what was right.

I did not examine the part of the tree that fell on the deceased. He was lying down when it struck him, I don't know that the deceased went in a straight line from the stump to where his coat and vest were. He went east of a straight line somewhat. The deceased was running fast when he fell. I don't think the tree struck him before he fell. I did not notice how he fell. No part of the deceased, only his head, was under the tree.

Charles Welter is my first cousin. He told me that the deceased asked him to write a letter of recommendation to the insurance company and he said he did write a letter for that purpose, since the death of the deceased. I got his mother to sign papers with lawyer Maxwell to prove the age of the deceased.

John Hendershott seems somewhat exercised over this matter. He is downhearted and crying.

The axe belongs to the deceased.

I saw the deceased's policy on Sunday. John Hendershott had in his pocket and he took it out to find the age of the deceased. I saw both policies at the same time. John had them both in his pocket, at least he had one in his pocket he took the other out of the drawer in his bedroom. I never saw the policies before.

I have told all I know about this matter, and I am satisfied he was killed by the tree falling.

John Hendershott got to St. Thomas from Eden about noon on Saturday.

It was about two o'clock when the tree was felled and the coroner was notified by Charles Welter.

I recognize the trousers as those the deceased wore when he was killed.

When we went to the woods Mr. Hendershott ordered us to cut any trees that were decayed, and this was decayed.

Signed William David Welter

DEPOSITION OF JOHN AARON HENDERSHOTT

The policies of insurance of William H Hendershott and lease of Mr. Wardell's woods are at my home. My age is 44, December 6 of this year. My family consists of two daughters and William Welter, the last witness. He has been at my place about a year and a half. He makes my place his home. He is related to me distantly.



He is not married to my daughter. He is a single man. I don't think he has any property outside a half interest in a threshing machine.

I have my home and blacksmith shop in Middlemarch and house and lot in Aylmer. I have about \$600 or \$700 in notes standing out. I make a living farming. I have Mr. Wardell's farm leased. The deceased was my brother's son, aged about 24. He has been making his home off and on with me since he came to the neighborhood for the last two years. He had no property that I know of and never had any to my knowledge and depended on his day's wages for his living. Since he

came to my house last he has been sleeping upstairs in a room which he always occupies when there, sleeping alone. *Welter has been sleeping with me. (Italics are authors)*

Last Friday I was at Aylmer and went from there to Ostrander's at Eden and from there to my sisters'. Before leaving home I left William Welter and my nephew in charge of my house. I took my eldest daughter and left my other one at Charles Welter's. I intended to remain two or three days. Charles Welter and his wife intended to have gone with me.²⁸⁰ I had made up my mind to go to Eden last week about the fore part of the week. I had to go to Aylmer on Friday, I had business there [payment for headstone for his deceased wife].

My orders to the boys before I left were to cut some wood at the house and to go to the woods to cut up the trees that I had pointed out to my nephew. They were to continue cutting the timber until all was cut which I had told them about. I expected it would take them two or three days to do that, if not longer. I expected that they would keep on cutting the wood on the next day, Saturday, just the same. I told them nothing to the contrary, but to keep on with the wood until I came back and do the chores. I did not give them permission to go anywhere [Welter said he had given them permission to go to St. Thomas on the Saturday]. I left home Friday morning about 10 o'clock.

The lease produced is the one I got from Mr. Wardell. My wife drew it up. The lease produced is now marked "A".

I was at Eden with Mr. Ostrander when I heard of the death of my nephew between nine and ten at night. It was by a telegraph dispatched -- the one now produced marked "B". It read "William Hendershott is dead, come home quickly". There are two William Hendershott's, one my brother and one my nephew. I did not know which it was until I got to St. Thomas. Mr. McGugan first told me at St. Thomas. When I got to the Penwarden House they told me there also. It was 12 o'clock noon on Saturday that I was told by James Bancroft. He volunteered the information. He said it was young William Hendershott.

²⁸⁰ Which would have made quit a crowded wagon for a long trip -- John A, his daughters Mary Lily and Rosa and Charles and Theresa Welter.

I left Mr. Cook outside watching my horse until I came out. I saw Mr. McGugan at the east end market. I was in the Penwarden House 15 or 20 minutes. I told Mr. Cook that I would find out and let him know when I come. After coming out I did not say anything to Cook.

After getting the telegram I went to my sisters and got there about between nine or ten. My sister, Mrs. Ketchabaw, wanted to know whether it was [my] brother Will and to pacify her I told her I thought it wasn't him. Possibly it might be someone else and after reading the telegram I told her I could not make out which was dead. I remained with my sister about half an hour and went back to Eden to Ostrander's and said that as soon as I got home I would send a postal which it was.

I returned home to Aylmer but made no inquiry there. I did not know who was dead until I got to St. Thomas when Mr. Bancroft told me. David Hendershott and William Welter were talking to Mr. Cook when I went out of the Penwarden House. I did not speak to them for ten minutes after, when I sent by Welter some postcards to the post.

When I was writing the postcards upstairs in the Penwarden House, William Welter, the last witness, came upstairs. I saw my brother and Welter drive up. I finished writing the postcards after Welter came upstairs. Bancroft told me about ten minutes before about the accident. I did not ask William Welter, the last witness, the particulars of my nephew's death when he came up to the room upstairs in the Penwarden House. My daughter asked him and he told her that he was chopping a tree and he ran to get his watch and chain just as the tree fell and he said the tree struck him and knocked him down and struck him on the back of the head. He said the tree knocked him down and that he stubbed his toe²⁸¹.

I have said nothing to insurance agents about the policy since. The first policy, \$5,000 now produced marked "C", dated seventh of September last. The deceased paid \$25, or at least I paid the whole premium. I knew that the deceased was going to take out this policy as

²⁸¹ Mrs. Bancroft, the proprietor's wife, did not substantiate this conversation. In her testimony she claimed it was extremely strange that Welter, John A Hendershott and Lily Hendershott never spoke to each other except the initial exchange between Welter and Hendershott.

he asked me then if I would let him have the money to keep the dues up and I told him I would help to keep up the dues if he couldn't. The policy was taken out in my favor. He told Mr. Cook that he had some differences with his parents and would not leave them a cent. I had no insurance on my life when I told my nephew it was a good thing and I have none now. I expect to get this insurance. I paid Mr. Cook two bimonthly premiums accounting for \$23.40 -- policy number 94878 (marked "D").

The next policy was taken out in the Mutual Reserve Fund Life Association for \$6,000, payable in case of death to me. I knew that he was going to take out this policy before he took it out a few days. I paid the premium on this policy to Mr. Roche amounting to \$48. He paid me five dollars back a week ago last Thursday and said he would pay me more when he got back to work again.

When the policies were taken out they were handed over to me. My family did not know that I had these policies until last Sunday morning and Welter did not know it till then. The girls, or one of them, at breakfast asked me if the deceased had his life insured. I said yes, and it was in my favor. William Welter, who was at the breakfast table, told me that he never before knew of these policies. My nephew told me to keep it still about these policies. I told David my brother on Sunday about the insurance policies. I never said anything to anyone about the policies until Sunday morning following the death of the deceased. David on Sunday asked me if I was going to do what was right with him about the insurance, I did not show Welter the policy or policies on Sunday. I did not have either of these policies in my pocket on Sunday and I am telling the truth or trying to. I had these policies in my drawer in my room. I did not have either of these policies out at breakfast table on Sunday morning so far as I know. This is the first time that Welter saw these policies when he brought them to the hall tonight. I gave him the key and told him to go and fetch them.

I don't know that my daughter is engaged to Welter.

I have not been to the woods since the accident. The axe belongs to me. I bought it from my nephew. The first time that I heard [that] there was blood in different places in the woods was today. I don't

know where the axe is. Welter told me that after the deceased was knocked down by the tree he ran to him as soon as he could get there. He said he ran right up to him as soon as he could. He said he ran right up to the deceased as quick as the tree fell. He said he laid under the tree and there was a knot in the tree that struck him on the head.

Mrs. Duncan Hendershott washed an undershirt and an outside shirt which belongs to the deceased, I think it was on Saturday. There was blood on the shirt. The deceased mother went in the morning to town to tell his age.

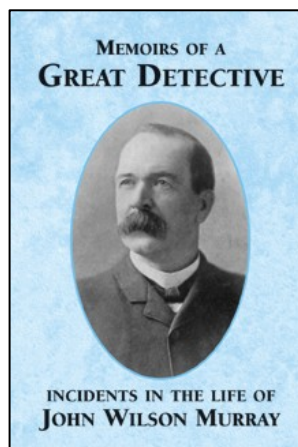
I know George Craig and he was speaking about the policies and I told him that the deceased was insured. I think it was Sunday night.

When I was last in the woods I left two axes there; left them on a stump. I haven't been back to the woods since the accident.

Signed John A Hendershott

THE MIDDLEMARCH MYSTERY

A Clump of timber near Middlemarch, three miles from St. Thomas, in the county of Elgin, became known throughout all Canada in 1895. For years it had stood on the county maps as Wardell's Woods. It was good for squirrels and firewood and that was about all. But in the closing days of 1894 came a tragedy that caused people to travel for miles simply to tramp through this fragment of a forest and gape at the scene of blood. The crime has passed into the records as the Middlemarch Mystery, although its' mystery has long since was solved.



William Henry Hendershott, a name which its' owner always wrote or pronounced in full, as if he were proud of it's' extent and its euphony, was a young man, unmarried, well known among his neighbours, and a skilled hand about a farm. He boarded with his uncle, John Hendershott, a farmer. A fellow-boarder was young William David Welter, who was engaged to Mary Hendershott [not likely correct], the pretty daughter of John Hendershott. On the morning of Friday, December 14th, 1894, John Hendershott and his daughter Mary drove away to Eden, forty miles from home, leaving his nephew and Welter on the farm. About three o'clock that afternoon Welter went to the house of his cousin, Charles Welter, who lived near the Hendershott's, and told his cousin that a tree had fallen on William Henry Hendershott, while they were chopping in Wardell's Woods and had killed him. The uncle was notified by telegraph at Eden, and the next day he drove home, and after a postmortem, the body of William Henry Hendershott was buried on Monday, December 17th. Welter told at the inquest how the tree had fallen and crushed his companion to death. I was telegraphed for the next day and I arrived on Tuesday night.

I got Drs. Gustin, Lawrence, Fulton, McCarty [sic McLarty], and Wilson, and drove to Fingal Cemetery and exhumed the body of William Henry Hendershott and looked at the wounds. The only marks were on the head. There was not a scratch on the remainder of the

body. Clearly, if a tree fell on him it must have fallen on the head alone. Moreover, there were various wounds on the head. Instead of a complete crushing it showed numerous contusions, so that the tree would have to bounce up and down on the head to make them. They looked to me as if they had been made by many heavy blows instead of by the single smash of a falling tree. I had the head taken off and requested the doctors to preserve it.

We then drove to the scene of the tragedy in Wardell's Woods. I had a constable [Fairbrother] bring Welter to the place. Welter came striding through the woods, *a massive fellow, over six feet tall, deep chest, broad shouldered, powerful. We were waiting for him by the fallen tree.*

"Welter," said I, *"show me the exact spot where William Henry Hendershott stood, and where you stood, and show me precisely where you were when the tree fell."*

Welter walked over by the stump of the tree.

"I stood here," he said. *"Hendershott had left his vest with his watch in it over there on the ground, and when he saw the tree falling that way he ran to get the vest out of the way, and the tree killed him."*

Welter walked out along the fallen tree to a spot about forty feet from the stump.

"Here it was, and here he was killed," said Welter.

At this point on the tree trunk was a large knot, the shape of a coconut and bigger than a half-bushel basket. When the tree fell this knot had been buried in the springy soil. The buoyancy of the limbs had raised it up, leaving a hole in the ground beneath the knot.

"I found Hendershott lying dead in the ground beneath this knot," said Welter.

"Get down on the ground and place yourself exactly as he was lying when you found him," said I.

Welter demurred, but finally sprawled flat, face down, his head in the hole beneath the knot.

"Stay there now," I said.

I called the doctors to take careful notice. I had Welter, lying on the ground, explain it all again. Then I bade Welter step back.

"Would there not be a smashed head and a great deal of blood," I asked the doctors.

"There certainly would," they said.

The doctors examined the soil, a rich loam. There was no blood. One by one the doctors made sure of this. I then took samples of the earth. Blood was on the knot. But it had been smeared on and had not splattered at all. The doctors examined it and said it had been rubbed on the knot.

On the top of the tree as it lay, I found a large quantity of blood.

"How do you account for that?" I asked Welter.

"I don't know," he said.

I began to circle the tree in ever widening circles, and one hundred and ninety feet from the stump I came upon a little pool of water. Around it were spots of blood and a zigzag trail of blood drips led to a place fifty feet from the stump, and there I found a lot of blood.

Hendershott had been killed there, then put under the top of the tree, and then removed to where the knot was. The murderer had washed his hands, and perchance his weapon, in the little pool. Thus I accounted for the various crimson stains. I believed the weapon used was the axe that chopped the tree. I searched the woods thrice and could not find it, but at last it was revealed. It had been shoved in between the bark and the log of an old tree trunk. It never would have been discovered if one of the searchers had not stumbled on the log and smashed the bark off so that the axe fell out. It had been partially washed, but there were tell-tale traces on it. John Hendershott had

given me previously an old axe, saying it was the one used to chop the tree. It was not.

When I again came to the woods I found a lot more blood splattered about in confusing quantities. I investigated and found an old dead horse in a field nearby. During the night some of Welter's friends had drawn blood from this carcass and sprinkled it around in Wardell's Woods. They were too late. I already had taken my samples of the stained soil.

I learned that Welter and John Hendershott had negotiated \$11,000 insurance on the life of the dead man. Several months before, they had taken out two policies, one for \$6,000 in a Galesburg (Illinois) Company, and one for \$5,000 in the Mutual Reserve of New York. Both policies were in the name of John Hendershott as the beneficiary.

I knew many of the people in that part of Canada, as it was my old headquarters when I was at St. Thomas with the railroad. Among my acquaintances was a worthless fellow named Patrick Fitzpatrick, who was known as Paddy the Diver. He was the St. Thomas town drunkard. Paddy the Diver told me Welter and John Hendershott had spoken to him about insuring his life. I investigated among the insurance companies and found the two men had tried to insure Paddy the Diver, but the applications had been refused. Then they had taken Paddy the Diver to Aylmer before another doctor, and had changed his name slightly, and he passed the examination and the application was approved, but when it reached the insurance company's head office the trick was discovered, owing to the failure to make a greater change in the name, and the policy was cancelled. So they then affected the \$11,000 insurance on Hendershott's nephew. This was done several months before the murder.

These circumstances left no doubt in my mind that John Hendershott, the uncle, was a party to the crime. I went to Eden, where John Hendershott had driven, with his pretty daughter, on the morning of the murder, and where he had stayed all night. I saw those who were with him when he heard of his nephew's death.

"It's just like that fool to leave his watch some place, and in going to get it he might get hurt," said John Hendershott when the telegram came stating his nephew was dead.

This settled it. Welter had told us of the watch and had stated on the day of the murder the same version of how young Hendershott met his death. But how did John Hendershott, forty miles away, happen to give the same version as Welter, although John Hendershott knew nothing of how it had occurred? They had fixed up the story beforehand. John Hendershott, in Eden, also showed the insurance policies to friends. He had taken the policies with him when he drove away to Eden. Why? When he heard his nephew was dead he produced the policies from his coat pocket.

"Will got killed, but I am not so badly off," he told his friends.

I re-opened the inquest. I arrested Welter and John Hendershott on December 21st, 1894. They were tried before Chief Justice Meredith. B. B. Osler prosecuted, ably assisted by D. J. Donahue; and Norman Macdonald and John A. Robinson defended. Mr. Macdonald made a good fight on behalf of his clients. It was a long-drawn-out trial. We swore eighty-five or more witnesses for the Crown. On Friday, March 15th, 1895, both Welter and John Hendershott were convicted. They were hanged on June 18th at St. Thomas.

Welter was a heavy man on the gallows.

CHRONOLOGY OF EVENTS

Date	Event
May 1870	William Welter was born to Isaac Welter and Samantha Welter (nee Dingman)
November 26, 1870	William Henry Hendershott was born to David Marshall Hendershott and Sarah Hendershott (nee House)
February 23, 1875	Marriage between Sarah Elizabeth Welter (age 23) and John Aaron Hendershott (age 24).
February 17, 1876	Mary Lily Hendershott was born to John Aaron Hendershott and Sarah Elizabeth Hendershott (nee Welter)
September 5, 1882	Rosa Maud Hendershott was born to John Aaron Hendershott and Sarah Elizabeth Hendershott (nee Welter)
June 7, 1886	Probate of Will of father John Welter left property to Sarah Elizabeth Hendershott, John A's wife along with her brother Charles Welter and her sister Mary Jane Stanton (nee Welter)
July, 1892	Criminal Code of Canada enacted which governs the procedures that took place following killing.
June 1893	Hendershott attempted to take out insurance policy on Patrick Fitzpatrick - Paddy the Diver, who had signs of dying soon, but was refused by insurance companies. Then they took Paddy the Diver to Aylmer before another doctor, and had changed his name slightly, and he passed the examination and the application was approved, but when it reached the insurance company's head office the trick was discovered, owing to the failure to make a greater change in the name, and the policy was cancelled.
April 4, 1894	Sarah Elizabeth Welter changed her will leaving her estate to her two daughters with husband as executor. Her estate consisted of half ownership (with her husband John A) in the houses they live in at Middlemarch and Aylmer.

Date	Event
April 11, 1894	Sarah Elizabeth Hendershott (nee. Welter) died of cancer after an extended illness. Many locals find the death sudden and suspicious. One newspaper report stated John A Hendershott collected \$2,000 in insurance upon her death.
July 31, 1894	Insurance agent John Cook, on behalf of John Hendershott, attempted to get Dr. Marlatt in Aylmer to approve medical examination of Patrick Fitzpatrick,
About Oct. 1894	Will Hendershott took out first insurance policy on himself for \$5,000 in a Galesburg (Illinois) Company with John Hendershott as the beneficiary. He used his uncle Charles Welter as a recommendation.
About Nov. 1894	Will Hendershott took out second insurance policies on himself for \$6,000 in the Mutual Reserve of New York with intention of letting first policy lapse. Second policy was in the name of John Hendershott as the beneficiary.
Monday, December 10, 1894	William Welter and Will Hendershott cut stubs in Welter's Woods.
Tuesday, December 11, 1894	John Aaron Hendershott and Charles Welter arranged trip to Eden to visit Ostrander and Ketchabaw.
Friday, December 14, 1894 morning	<p>Mary Lily testified that she journeyed to Eden with her father and that she had left Will Hendershott and William Welter together when they left [Inquest: about. Dec 21, 1894]</p> <p>Rosa Hendershott testified "I went with my father and sister [Mary Lily] as far as my uncle Charles Welter on Friday morning, December 14, to stay while they were in Eden. My father drove east when he started." [Inquest: about Dec 21, 1894]</p> <p>9:00 am: Charles Welter and George Craig got swill from John Hendershott's. William Welter helped Charles carry the swill out from the barn. Charles talked with John</p>

Date	Event
	<p>Hendershott, informing him of his company and that he couldn't accompany him to Eden. Charles could not remember seeing Will Hendershott</p> <p>10:00 am: Teresa Welter saw John Aaron Hendershott going east. Charles and Theresa were to go to Eden with John A but cancelled on account of Millie Griffin 's visit. Charles talks to John Aaron Hendershott but cannot confirm he headed directly to St. Thomas instead of taking side road that goes one and half miles to Wardell's Woods.</p> <p>After 10:30 am: Charles Welter goes to St. Thomas Courthouse with William Partridge.</p> <p>Between 11:00 am - 12:00 am: Edwin Wardell saw John A and Mary Lily in St. Thomas - near the Wilcox House.</p> <p>11:30 am: Edwin Frost saw John A and Mary Lily heading for St. Thomas on Talbot Road.</p>
<p>Friday, December 14, 1894 afternoon</p>	<p>1:10 pm: Charles Harpin saw Will Hendershott and William Welter together at the corner at Middlemarch and asked Hendershott what time it was. They turned on the side road to go south.</p> <p>3:00 pm: John A visited Charles O Learn in Aylmer to get the tax bill on his house in Aylmer which Learn attended to for Hendershott.</p> <p>Rose Hendershott testified "William Welter came into my uncle's in the afternoon. Theresa Welter, George Craig and myself were there. <i>I saw no blood on his face or clothes.</i> [Then I] went with him to our place, and did not see him wash himself at either place. "</p> <p>3:30 pm: Theresa Welter (wife of Charles) testified that William Welter came to her home. Her mother-in-law (Millie Griffin), her two children, Rose Hendershot and George Craig were in attendance. William Welter went for help to remove Will Hendershott's body from the woods and to get someone to go for the Coroner. Teresa Welter</p>

Date	Event
	<p>went next door to Miss Mann and the two of them set off for St. Thomas to inform her husband of the incident.</p> <p>3:56pm: Edwin Wardell, Bob Stevenson, Henry House²⁸², Richard Sanders arrived at Wardell Woods to inspect body of Will Hendershott. Bob Stevenson went home.</p> <p>Between 4:00 and 5:00 pm: Charles Welter sends telegram to John A Hendershott informing him that "<i>William Hendershott is dead, come quickly.</i>" He tells Coroner Gustin of the incident who says that no inquest would be required. Gustin provides permission to move the body from the woods (but not to take it to John Hendershott's as testified by Welter).</p>
<p>Friday, December 14, 1894 evening</p>	<p>Between 6 and 7pm: Edwin Wardell, Bob Stevenson, Henry House, Richard Sanders moved body of Will Hendershott from Wardell Woods to Wardell's farm and from there to John Hendershott's in Charles Welter's democrat.</p> <p>9:30 pm - Undertaker W.J. Kerr arrived to inspect body of William Hendershott.</p>
<p>Saturday, December 15, 1894</p>	<p>10-11 am: David Hendershott (father of victim) and his wife arrived from Walsingham after having driven all night.</p> <p>David Hendershott said that William David Welter informs him of his son being insured for \$11,000 while driving to St. Thomas.</p> <p>Undertaker William James Kerr prepares body for burial. Kerr swears at inquest that bloodied overalls "<i>was not on young Hendershott's body when he was handed over to him on Friday evening last.</i>"</p> <p>John A returned home from Eden after having been</p>

²⁸² Uncle to the victim through mother Rachael Hendershott (1820-1855), cousin to John A Hendershott.

Date	Event
	<p>telegraphed of the accident and met William Welter at Penwarden House on way home.</p> <p>Victim's trunk was moved from John A's home to Henry House's home by David and Duncan Hendershott.</p>
<p>Sunday, December 16, 1894, morning</p>	<p>David Hendershott and his wife visited Wardell's Woods and examined the knots on the tree said to have struck their son. They found no blood on it, nor any on the ground underneath. The wife [Sarah Hendershott] called his attention to the blood on the leaves nearer the stump of the tree than where the body of his son laid and he found blood marks dribbled all the way to the stump. David told his brother John A of this and John A explained that it might have been brought there by a dog fighting or carrying a piece of dead horse which lay in the adjoining wood. David disputed this opinion, never having seen blood caused by dogs fighting dribbled as this was.</p>
<p>Sunday, December 16, 1894</p>	<p>Constable Fairbrother, John Begg, Samuel Crocker and John Lyle took measurements of where blood was found relative to the body, gathered portions of the stick and leaves at these points, County Attorney Donohue, who visited the accident scene ordered an inquest.</p>
<p>Monday, December 17, 1894</p>	<p>Afternoon: Grange Hall, Middlemarch - Inquest into accident opened by Dr. E. W. Gustin. Gustin took jury to Wardell's Woods to view site.</p> <p>Dr F. O. Lawrence performed post-mortem examination on body of Will Hendershot.</p> <p>John A gave evidence of his trip to Eden.</p>

Date	Event
Monday, December 17, 1894, evening	Sanders, Begg and Nichol moved drops of dead horse's blood to scene of Will Hendershott's death providing apparent explanation for blood found, but John Wilson Murray had already inspected site.
Tuesday, December 18, 1894, morning	10 am: William Henry Hendershott buried at Fingal Cemetery.
Tuesday, December 18, 1894, afternoon	<p>Coroner Gustin impaneled a jury and staged an inquest in Middlemarch.</p> <p>At Inquest: John A reported going to the woods to see the blood marks.</p> <p>John A told his brother David that if he got the insurance all right "<i>he would do all right with him.</i>" When David put it to John A that he did not think that John A had any right to so much insurance on his son's life, John A told him "<i>he had for it was in his name.</i>" The inquest is halted pending what Sherriff Brown referred to as "further investigation."</p> <p>Telegraph was sent by Sherriff Brown²⁸³ to Toronto requesting assistance of OPP - detective John Wilson Murray. He was dispatched to St. Thomas. Sherriff Brown met him at the railway station and they go to a bar where they discussed the matter and concluded there was a good chance that Will Hendershott was murdered.</p>
Tuesday, December 18, 1894, night	Murray met with Drs. Gustin, Lawrence, Fulton, McLarty, and Wilson, and drove to Fingal, exhumed the body of William Henry Hendershott and inspected the wounds, taking samples of the soil. He requested the head be taken off and inspected.
Wednesday, December 19, 1894	<p>Murray inspected scene of accident and took samples of soil. He concluded that an axe was used to commit murder by Welter on Hendershott.</p> <p>Trunk is returned to John A's home from Henry House by Duncan Hendershott</p>

²⁸³ Identified in the Milwaukee Sentinel, July 22, 1951

Date	Event
Wednesday, December 19, 1894, early morning	Murray discovered friends of Welter visited the scene, drew blood from the carcass of a dead horse and sprinkled it around in Wardell's Woods. However, they were too late as Murray had already had taken samples of the stained soil the previous day.
Wednesday, December 19, 1894	<p>Murray had Constable Fairbrother bring Welter to Wardell's Woods where he interrogated him on elements of the "accident." He had the doctors concur that, given the accident as explained by Welter, there would have been far more blood at the scene. Inspecting areas further from the reported scene Murray discovered the suspected blood and marked the spot where the incident likely occurred.</p> <p>Paddy Fitzpatrick met with Murrays' and told him of Welter and Hendershott attempt to talk him into insurance.</p>
Thursday, December 20, 1894	Murray visited telegraph office and confirmed message of Welter to Eden: " <i>William Hendershott dead, come home.</i> " Murray borrowed rig and drove to Eden to confirm that John Hendershott had been there.
Friday, December 21, 1894	<p>Murray returned to St. Thomas from visiting Ketchabaw in Eden.</p> <p>Canadian Federal election. Prime Minister Sir John Thompson for the Liberal Conservative Party is replaced by Sir MacKenzie Bowell for the Conservative Party.</p>
Friday, December 21, 1894	Murray arrested Welter and Hendershott for murder of William Henry Hendershott.
Saturday, December 22, 1894	David Hendershott, victim's father, testified at inquest that two pairs of bloodied overalls were found at John A's, one pair in the trunk of Will Hendershott, which his father swore at the adjourned inquest were not in the trunk the previous Saturday, and the undertaker, W. J. Kerr, swore were not on Will Hendershott's corpse when he was handed over to him on Friday evening last to prepare for

Date	Event
	burial.
Sunday, December 23, 1894	Sylvester Swisher, in company of Richard Curtis, found axe in the woods between the bark in the log of an old oak, one hundred and 71-1/2 feet from the stump of the tree supposed to have killed the man. At the trial afterwards, Professor Ellis testified that there were two stains of blood on the handle and although he could not tell positively, from the size of the corpuscles he did not think it was horses' blood, as had been suggested by John A.
Friday, December 28, 1894	Charles Welter retained Norman Macdonald as his Council since he suspected he might be implicated in the murder accusation ²⁸⁴
Friday, January 4, 1895	1:00 pm: Preliminary Hearing commenced in St. Thomas Courtroom
Monday, January 7, 1895	On request of Norman Macdonald, Dr T. W. Duncombe, in the presence of doctors Mason, Kains and Gustin examined the detached head of Will Hendershott to provide opinion on the cause of the lacerations.
Saturday, January 12, 1895	3:45 pm: Preliminary Hearing completed in St. Thomas Courtroom, 1,000 pages of testimony were taken by Court Stenographer Butcher.
Thursday, March 7, 1895	Trial in St. Thomas Courthouse began.
Thursday, March 14, 1895	At 4:00 pm Defense rested. Rebuttal by Crown took one hour.
Friday, March 15, 1895	Court resumed at 1:30 pm. Jury gave found both Hendershott and Welter guilty. Justice Meredith sentenced them to be hanged on June 18, 1895.
Saturday, June 8, 1895	Edith Alvira Boughner (Welter's sister) and Mary Lily Hendershott saw Sir Charles Tupper and his deputy Mr. A Power who provided them with a hearing and after going

²⁸⁴ Toronto Daily Mail, Dec 28, 1894.

Date	Event
	<p>over the whole case, promised them that if there was the slightest doubt of the guilt of Hendershott and/or Welter one or both of their sentences would most certainly be commuted. The matter was to be considered by the Privy Council.</p> <p>Deputy Attorney General A Power sent a telegram dated Ottawa 3:45 pm to Spencer stating that the case would not likely be considered until Saturday, June 8th.</p>
<p>Saturday, June 8, 1895 afternoon</p>	<p>Bogus telegram was received stating that the Cabinet had decided not to interfere with the sentences of Welter and Hendershott, after considering the case from 10:30 am to 4 pm.</p>
<p>Saturday, June 17, 1895</p>	<p>Prisoners still protested their entire innocence.</p> <p>Radclive arrived in St. Thomas and stayed at Grand Central Hotel.</p>
<p>Sunday, June 16, 1895</p>	<p>Radclive spent Sunday in Port Stanley stopping at Hotel Fraser.</p>
<p>Monday, 17 June 1895</p>	<p>Lord Aberdeen telegraphed his approval of the Order in Council to let the law take its course in the execution of Hendershott and Welter.</p> <p>William Welter issued false "confession" blaming Edwin Wardell for the crime which was summarily dismissed by everyone but which served to expose him as a whimpering, weak foolish man.</p>
<p>Tuesday morning, 18 June, 1895</p>	<p>Norman Macdonald was informed that Ottawa would not commute sentences to life imprisonment. He notified prisoners and then drove to home of Welter's sister, Edith Alvira Broughner where she, Lily Hendershott, Samantha Welter (mother of the prisoner) and Mrs. La Monte of Buffalo were assembled. When informed of the Ottawa decision the strain was too much for Edith Alvira and she fell at once into a "swoon" from which she was not revived until a physician had been summoned by Norman Macdonald.</p>

Date	Event
	8:14 am: Welter and Hendershott are hung by hangman John Radclive. They are buried below the gallows.
Monday, Sept 9, 1895	Norman Macdonald, barrister, St. Thomas, died of "insomnia". Though he had been ailing for some time, his death was wholly unexpected ²⁸⁵ .
July 6, 2010	Remains of two men hanged for murder in 1895 were discovered on the grounds of the Elgin County Court House.

²⁸⁵ [Essex Free Press Archives --> http://www.rootsweb.ancestry.com/~canon/archives/news-essexfreepress-deaths-1895.txt](http://www.rootsweb.ancestry.com/~canon/archives/news-essexfreepress-deaths-1895.txt)

CAST

CRIME

Involvement	Name	Birth-Death
Victim	William Henry "Will" Hendershott	1870-1894
Victim's Father	David Marshall Hendershott	1847-1925
Victim's Mother	Sarah Hendershott - nee House	1843-1926
Murderer	William David Welter	1870-1895
Wm Welter's Father	Isaac Welter - neighbour to murderer Hendershott	1831-1910
Wm Welter's Sister	Edith Boughner - nee Welter	1864-1959
Murderer/Accomplice	John Aaron Hendershott - uncle to victim	1850-1895
Murderer/Accomplice Spouse	Sarah Elizabeth Hendershott - nee Welter	1852-1894
Murderer/Accomplice Daughter	Mary Lily Hatherley - nee Hendershott - daughter of John Aaron Hendershott, purported girlfriend of William Welter	1876-1948
Murderer/Accomplice Daughter	Rosa Maud "Rosie" Welter - nee Hendershott - married Albert Roy Welter, brother of murderer William Welter	1882-1958

INVESTIGATION

Involvement	Name	Birth-Death
Detective	John Wilson Murray - OPP	1840-1906
St. Thomas Police Chief - received an anonymous letter from Ingersoll about John A's views on insurance murders	James Angell Fewings	1824-1907
Elgin County Sherriff	Dugald Brown ²⁸⁶	1801 - 1905
Elgin County Detective	William Thomas Fairbrother	1836-1935
St. Thomas Constable	James McQueen	
Insurance Investigator for Covenant Mutual	A McCrimmon	
Undertaker	William J Kerr	
Asst Undertaker	James Hannon	
Inspected head of William Hendershott on December 19	Frank O Lawrence	
	John Henry Wilson ²⁸⁷	
	Eliphalet Wilbur Gustin - mayor of St. Thomas -1883	

²⁸⁶ Sherriff Brown was dismissed from the office of sheriff in 1899 for election fraud for altering ballots as a returning officer in the Electoral District of East Elgin, see Journal of the Legislative Assembly of the Province of Ontario, Vol. 34, p. 64

²⁸⁷ Graduated from New York Medical College in 1857 and received his MD from Victoria College in Cobourg. He set up a practice in St. Thomas in 1860 and soon became known for his quick and correct diagnosis of disease in its complicated forms. In 1871 Dr. Wilson was elected to represent East Elgin in the Legislative Assembly where he served as a Liberal member until 1879, and again from 1882 to 1891. He was made a senator in the Laurier government in 1904. Source of inclusion is Memoirs of a Great Detective, Middlemarch Mystery

Involvement	Name	Birth-Death
1894	James Fulton	
	Colin McLarty - mayor of St. Thomas - 1877-78	

INQUEST JURY LIST


Name	Involvement
Eliphalet Wilbur Gustin ²⁸⁸	Coroner heading Inquest proceedings
Charles Begg	Jurist
James Begg	Jurist
Albert Nicoll	Jurist
Edwin Nicoll	Jurist
Earnest E Luton	Jurist
George Lawton	Jurist
George Potticary	Jurist
Thomas Futcher	Jurist
Frank Hobson	Jurist
James N Futcher	Jurist
William T Futcher	Jurist
John Curtis	Jurist
Andrew A Miller	Jurist
John Wahismark	Jurist
Charles F Heidt	Jurist
William Styles	Jurist

²⁸⁸ Gustin had been mayor of St. Thomas for one term in 1883.

TRIALS - WITNESS LIST

Name & Profession	Involvement	Source ²⁸⁹
Bancroft, Elizabeth - wife of Penwarden House proprietor	Witness - testified to seeing John Hendershott, Mary Lily Hendershott and Welter come into Penwarden House on Saturday and the conversations, or lack thereof that took place.	Mag 775-799
Bancroft, James L -proprietor of Penwarden House	Witness - testified to briefly talking to John A about the accident as he came into Penwarden House on Saturday morning before going up to the sitting room to meet with William Welter. Testified he did NOT tell John A that the dead person was Will Hendershott -- John A had specified in his deposition that Bancroft had told him.	Mag 800-812
Bell, James A Elgin County Engineer	Developed map of Middlemarch area for use by Osler in trial.	
Begg, John - neighbour	Witness - testified as to the state of the crime scene and body prior to its removal from woods.	Mag 463-471
Bradley, George Orwell resident	Testified at trial to seeing John Hendershott in New Sarum about 12:45pm.	
Brock, William Doctor in West Lorne	Testified at trial " <i>that wounds were caused by an axe.</i> "	
Butcher, Nelson R - Court stenographer	Court stenographer for Inquest and Magistrate's Trial.	

²⁸⁹ Mag means Preliminary Trial manuscript


Name & Profession	Involvement	Source ²⁸⁹
 Cameron, John Hillyard - Attorney	Assistant Crown Attorney to B. B. Osler	
Campbell, Mathew - woodsman	Defense witness at trial who visited Wardell Woods and testified to how the tree had fallen.	Garton Scrapbook
Campbell, Neil - local farmer in Union	Witness - testified to finding the axe on Sunday, Dec 23rd and pointing it out to Sylvester Swisher who was with him looking for it on the advice of Henry Couse.	Mag 541-b, 541-e
Cascaden, John H Doctor, Dutton	Testified at trial that <i>"it is not seemly that the wounds should have been caused by the branches of the tree collectively."</i>	
Connelly, Robert - woodsman	Testified at trial that tree was probably cut by two men.	Garton Scrapbook, p. 245
Couse, Henry - expert chopper	Witness - proposed looking for axe to people assembled at site on Sunday (Dec 23rd) - one of them - Swisher finds axe under log. Couse testifies that <i>"it was put there with care."</i> Couse verifies axe is one identified by Fortner as belonging to Hendershott. Couse compared the found axe with the marks of wood cut and placed on the skid	Mag 510-541

Name & Profession	Involvement	Source ²⁸⁹
	and deduced the wood was cut with that axe and that this axe was the one that cut the tree down.	
Craig, Edwin C Orwell mail carrier	Testified at trial to seeing John A at 12:25 driving east with his daughter. ²⁹⁰	
Craig, George - hired hand to Charles Welter	Witness - provided evidence on Welter's whereabouts and state of murder scene following crime and his role in removing body.	Mag 233-290
Crocker, Samual - neighbour	Witness - testified as to the state of the crime scene and body prior to its removal from woods.	Mag 462-l
Curtis, Richard - neighbour	Witness - testified as to the state of the crime scene and body prior to its removal from woods.	Mag 435-462
De Lacy, George	Witness - testified that John A told him he had a young fellow at his place trying to break in a colt for whom he had insurance on that he would collect.	Criminal Trial
Donohue, Dennis J - Crown Attorney for Elgin County	Crown Attorney for Elgin County.	1856- Unknown
Duncombe, E. B. - St. Thomas doctor and brother of T W	Examined Will Hendershott for insurance company -- stated wounds caused by a blunt instrument because the forces causing the wounds were in different directions.	Criminal Trial
Duncombe, T. W.	Witness - examined head of Will	Mag 861-874,


²⁹⁰ St. Thomas Daily Times, March 13, 1895

Name & Profession	Involvement	Source²⁸⁹
<p>- St. Thomas doctor and brother of E B</p>	<p>Hendershott for defense - unwilling to state head would necessarily be crushed by knot in tree fell on Will Hendershott's head; it would depend on softness of the ground under the head.</p> <p>Also provided evidence on attempt by John A, William Welter and Cook to have medical approval for insurance policy for \$2500 taken out on Fitzpatrick with John A as beneficiary. Testified to approving medical examination of Will Hendershott for insurance with Covenant Mutual and that John A was present for the examination.</p>	<p>902-911, 945-948, 954-959</p>
<div data-bbox="150 960 267 1100" data-label="Image"> </div> <p>Ellis,</p> <p>William Hodgson - professor at School of Practical Science, Toronto</p>	<p>Testified at trial that the blood on the axe handle and leaves seemed to be human blood -- was definitely not that of a horse, but beyond that he could not swear.</p>	<p>Criminal Trial</p>
<p>Ermatinger, Charles Oakes - Judge</p>	<p>Junior Judge for Elgin County - assists Meredith.</p>	<p>Criminal Trial</p>
<p>Fairbrother, William Thomas St. Thomas Constable</p>	<p>Testified at trial as to materials put into exhibit as discovered at scene on Sunday, Dec 16th.</p>	<p>Criminal Trial</p>
<p>Fitzpatrick, Patrick Dillen - St. Thomas town drunk</p>	<p>Witness - Testified to attempts by William Welter, agent Cooke</p>	<p>Mag 917-948</p>

Name & Profession	Involvement	Source ²⁸⁹
	<p>and John A to take out life insurance policy on him including failed medical examinations due to his being a drunk.</p> <p>Testified at trial but testimony objected to. Then objection heard in private by Meredith and objection upheld. Testimony not to be heard by jury.</p>	
<p>Fortner, Jerriah - axe maker</p>	<p>Witness - testified that the bloodied axe located at murder scene belonged to John A for Fortner had made the handle.</p>	<p>Mag 507-509</p>
<p>French, Anna - sister of Emily McConnell and cousin to John Hendershott</p>	<p>Witness at Trial - testified to John A saying how easy it would be to make money through insurance scams, even to arranging an accident.</p>	<p>Criminal Trial</p>
<p>Frost, Edwin - St. Thomas Teamster</p>	<p>Witness - testified to meeting John A between Middlemarch and St. Thomas (near House of Industry - Elgin Manor) heading towards St. Thomas at about 11:30 am on Friday, December 14; the day of the killing.</p>	<p>Mag 822-834</p>
<p>Fulton, James Doctor, St. Thomas</p>	<p>Testified at trial - <i>"I do not consider it possible that the wounds were caused by the tree."</i></p>	<p>Criminal Trial</p>
<p>Going, Henry - doctor</p>	<p>Testified that he thought the wounds were not caused by an axe.</p>	<p>Criminal Trial</p>
<p>Gregory, Calvin A</p>	<p>Witness - testified to the pool of</p>	<p>Mag 617-619</p>

Name & Profession	Involvement	Source ²⁸⁹
	water being reddish in colour though not stating positively it was bloody.	
 <p>Gustin, Eliphalet Wilbur Elgin County Coroner (incl. dispositions of Hendershott & Welter from inquest)</p>	<p>Witness - Coroner - provided evidence on first finding out of accident and on decision to call Inquest and referral of Inquest to Magistrate's Trial.</p> <p>Testified to seeing the site the morning of the Inquest and to the cause of death being from a blunt instrument such as an axe and not from the fall of the tree. Gustin also testified as to the blood near the spot and his fear the victim travelled, injured, from spot to spot.</p> <p>Testified at trial to having seen axe applied to the wounds on the head and concluded it could have caused wounds.</p>	<p>Mag 471-499, 860,874-902</p>
<p>Hannon, James Assistant Undertake to Kerr</p>	<p>Testified at trial to attending to body of Will Hendershott at Uncle John's and that there was <i>no blood below the upper part of the chest</i>. He sewed up the wound.</p>	
<p>Harpin, Charles - worked for Henry Couse</p>	<p>Testified at trial to seeing Will Hendershott and William Welter on corner of Middlemarch at 12:50 pm turning on the road to go south (apparently to Wardell's Woods) - " <i>I know it was Friday because I only go</i></p>	<p>Garton Scrapbook, p245</p>

Name & Profession	Involvement	Source ²⁸⁹
	<i>there once a week and it is on Friday."</i>	
<p>Healy, Dawson W - Eden resident in Mr. Leech's store in Eden (across street from Ostranders)</p>	<p>Witness - Reported John Hendershott saying "<i>I tree might have fallen on him, he didn't know any other way</i>" (he might have been killed) on way home Saturday morning.</p> <p>at Trial provided support for Ostrander's evidence.</p>	Mag 762-767
<p>Hendershott, Archibald Duncan - brother of John A</p>	<p>Witness - provided evidence as to state of crime scene, Welter's version of accident, knowledge of insurance on Will Hendershott with brother as beneficiary and on watch found in vest of Will Hendershott.</p>	1858-1944 Mag 562-613
<p>Hendershott, David Marshall - father of victim, brother of John A</p>	<p>Witness - testified as to Welter's story of the accident and the insurance policies, the disposition and contents of his son's trunk, discussion with his brother John A after meeting him at Penwarden House. He, his wife and House found blood in Wardell's Woods the Sunday, John A had shown him what he claimed was the second axe.</p>	1847-1925 Mag 643-711
<p>Hendershott, Ellen Margaret - wife of Archibald Duncan, sister-in-law to John A</p>	<p>Witness - testified to washing clothing (two shirts and a pair of braces) of victim after being removed by Undertaker Kerr on Friday night and to the amount and location of any blood stains; stayed at John A's taking care of</p>	1862-1927 Mag 557-561

Name & Profession	Involvement	Source ²⁸⁹
	daughters after his incarceration.	
Hendershott, Mary Lily - 18 yr old daughter of John A	Witness - provided evidence on John A's trip to Eden and return while murder is being committed.	1876-1948 Mag 59-109
Hendershott, Rosie - 12 yr old daughter of John A	Witness - provided evidence on John A's and William Welter's whereabouts on morning of murder.	1882-1958 Mag 1-58
Hooker, James	Witness - provide testimony that he couldn't tell the position of the body under the tree.	Mag 613-614
Hopkins, John St. Thomas Constable	Testified at trial that he took second axe found in Woods to Constable Fairbrother.	Criminal Trial
House, Henry - cousin to John A	Witness - testified as to the state of the crime scene and body prior to its removal from woods.	1845-1920 Mag 420-435
Howie, Charles Eden resident	Testified at trial to seeing John Hendershott 3 miles west of Eden at 4:30 pm on December 14, 1894.	Criminal Trial
 Hughes, David John - Judge	Senior Judge. County of Elgin - assists Meredith.	Criminal Trial
Hutchinson, John W Marble dealer, Aylmer	Testified at trial that John Hendershott stopped in Aylmer at paid \$150 on the headstone for his wife.	Criminal Trial

Name & Profession	Involvement	Source ²⁸⁹
Jackson, William. T - St. Thomas, jeweler	Witness - testified to selling watch in possession of William Welter to Will Hendershott on Sept 22, 1894	Mag 712-717, 986, 1015
Joiner, Charles - neighbour	Witness - testified as to the state of the crime scene and body prior to its removal from woods.	Mag 462-b
Kains, Robert Doctor, St. Thomas	Testified at trial that <i>"the wounds on the head collectively could not have been produced by the branches"</i>	Criminal Trial
Kerr, William James - Undertaker	Witness - Elgin County Undertaker - provided testimony on attending to body of victim in preparation for funeral. Testified at trial to preparing the body at John Hendershott's in the woodshed.	Mag 500-506 Criminal Trial
Ketchabaw, John - brother-in-law to John A & husband of Melinda Hendershott	Witness - testified to receiving the telegram addressed to John A notifying them of Will Hendershott's death, of the confusion as to which Will it pertained to and of going to friend Ostrander in Eden to inform John A and Mary Lily of the accident	1851 - 1938 Mag 720-729
Ketchabaw, Malinda A - sister of John A	Witness - testified as to discussion with John A as to which "Will" (her brother or nephew) the telegram referred to. John A says it was nephew Will: <i>"a tree probably fell on him."</i> She is nervous and there is	1863-1941 Mag 730-739

Name & Profession	Involvement	Source ²⁸⁹
	controversy as to whether she had heard John A mention that Will Hendershott <i>went for his watch</i> (which John A should not have known).	
Lawrence, Frank O - St. Thomas Doctor	Witness - Performed post-mortem examination on Will Hendershott and testified that lacerations on the head were, taken together, caused by an instrument and not the falling of a tree. Also testified to being present at site the day after the killing and observing that the knot in the tree would have smashed Will Hendershott's head and caused a lot of bleeding if it had fallen where the body was found.	Mag 834-860
Langon, Edwin - Asst Turnkey at Jail	Witness - Told story of William Welter's explanation for having Will Hendershott's watch - got it from a hawkker at the Penwarden House. Told newspapermen that William Welter had confessed to him of murdering Will Hendershott ²⁹¹ the day before his execution.	Mag 717-720
Learn, Charles O - tax office, Aylmer	Testified at trial that John A visited him in Aylmer at 3:00 pm to get his tax bill on his Aylmer	Criminal Trial ²⁹²


²⁹¹ St. Thomas Daily Times, June 18, 1895


²⁹² Garton Scrapbook, p.245

Name & Profession	Involvement	Source ²⁸⁹
	property and collect the rent due.	
Long, John C - Elgin County Engineer	Testified at trial, produced a model of the tree for the jury and demonstrated how it fell and that Wardell's Woods could be seen from both Smuck and Sander houses.	Criminal Trial ²⁹³
Lyle, John - neighbour	Witness - testified as to the state of the crime scene and body prior to its removal from woods.	Mag 462-a, 462-i
Macdonald, Norman - defense lawyer for Welter	Defense Lawyer representing William Welter.	1861-1895
Marlatt, Albert E St. Thomas resident	Testified at trial to seeing John Hendershott driving east near 11 am, Dec 14th	Criminal Trial
Marlatt, Charles William	Witness - Testified to sending examination report to insurance company indicating Fitzpatrick was " <i>intemperate</i> " and a " <i>poor risk</i> ."	Mag 948-950
Mason, H - doctor	Testified at trial that it improbable that all the wounds could have been caused by an axe and that it was more probable that, taken collectively, they were caused by the branches of the tree.	Criminal Trial
McAlpine, Hugh - St. Thomas resident	Defense witness testifying at trial as to character of David Hendershott - victim's father.	Criminal Trial ²⁹⁴

²⁹³ Ibid.


²⁹⁴ Garton Scrapbook, p 239

Name & Profession	Involvement	Source²⁸⁹
McCann, Thomas Aylmer resident	Testified to seeing John Hendershott travelling east drive up to the stable in Aylmer at 1 pm.	Criminal Trial
McConnell, Emily - sister of Anna French and cousin to John Hendershott	Witness at Trial - testified to John Hendershott saying how easy it would be to make money through insurance scams even to arranging an accident.	Criminal Trial
McGugan, Alex - St. Thomas - acquaintance of John Hendershott	Witness - testified to telling John A and Mary Lily Hendershott that it was nephew Will Hendershott who was killed upon their return to St. Thomas on Saturday, December 15. at Trial only - provided support for Ostrander's evidence.	Mag 758-761 Criminal Trial
McIntyre, A. M. - woodsman	Provided evidence for the defense on the falling of the tree and that the tree was cut by two men and fell where intended but off-centre by four or five inches.	Criminal Trial
McLachlin, John - employed Wm Hendershott from April to December 1894	Witness - testified Will Hendershott, the victim, left his employ with \$67.25.	Mag 615-616
 Meredith, William Ralph - Chief Justice	Judge at trial - March 7 to 14, 1895.	Criminal Trial
Mitchell, Samuel New Sarum resident	Testified at trial to seeing John Hendershott driving east from	Criminal Trial

Name & Profession	Involvement	Source ²⁸⁹
	New Sarum between 11:30 and 12:00 noon on December 14, 1894.	
Moore, Nelson W - jailer	Witness - testified to giving the watch in the possession of Welter when he was put in jail to David Hendershott who provided a receipt.	Mag 712
Murray, John Wilson OPP Detective	Testified to receiving the second axe from Fairbrother and giving in to Ellis.	Criminal Trial
Nancreed, Henry - Professor, University of Michigan	Testified at trial that it was improbable that all the wounds could have been caused by an axe, and that it was more probable that, taken collectively, they were caused by the branches of the tree.	Criminal Trial
 Osler, Britton Bath - Crown Attorney	Q.C. Crown at trial - March 7 to 14, 1895.	Criminal Trial
Ostrander, Elizabeth - wife of W J Ostrander & resident of Eden	Witness - testified as to husband Ketchabaw's delivering the telegram and discussions with Hendershott. She asked them to remain the night because Mary Lily Hendershott was ill.	Mag 767-773
Ostrander, William J - blacksmith living in Eden, old friend of John Hendershott	Witness - testified to visit by John A and Mary Lily Hendershott on day of killing, to receipt of the telegram informing them of Will	Mag 740-756



Name & Profession	Involvement	Source ²⁸⁹
	Hendershott's death, of John A's reaction to the announcement and to producing and commenting on the insurance policies.	
Partridge, William Henry ²⁹⁵ - wife was cousin of Charles Welter	Witness - Testified at Preliminary Hearing and Criminal Trial to going to town with Charles Welter, moving body to Hendershott's home and when he heard of insurance. Was visiting from Norfolk County, had several conversations with William Welter and repeated story Welter told him of killing.	Mag 620-640 Criminal Trial
Pearce, Edwin - neighbour	Witness - Testified at Preliminary Hearing and Criminal Trial that William Welter told story of accident and he went to woods with James Hooker to view dead Hendershott. Testified to state of crime scene.	Mag 296-335 Criminal Trial
Prouse, W C St. Thomas blacksmith	Testified at trial to seeing Hendershott heading east at Penwarden House at 10:45 am, Friday, December 14, 1894.	Criminal Trial
Roche, Gilbert - Agent for Mutual Reserve of New York	Witness - testified that Drs. Kains and McLarty were medical examiners for Will Hendershott with regard to the insurance application with the Mutual Reserve Association of New York.	Mag 950-986 989-

²⁹⁵ Partridge and John Hendershott were estranged and had not talked to each other in four years. Partridge and Hendershott never address each other through the entire incident.

Name & Profession	Involvement	Source ²⁸⁹
 <p>Robinson, John A - defense lawyer to John Aaron Hendershott</p>	<p>Defense Lawyer representing Hendershott at the trials.</p>	<p>Preliminary Hearing Criminal Trial</p>
<p>Ross, James - woodsman</p>	<p>Provided testimony for the defense at the trial that the tree fell where it was intended to.</p>	<p>Criminal Trial</p>
<p>Rowley, George - Mgr Great North Western Telegraph Co.</p>	<p>Witness - gave content and time telegram was sent.</p>	<p>Mag 640-,642</p>
<p>Sanders, Richard - immediate neighbour</p>	<p>Witness - testified as to the state of the crime scene and body prior to its removal from woods.</p>	<p>Mag 335-371</p>
<p>Sinclair, Colin Doctor, Aylmer</p>	<p>Testified at trial <i>"that the production of the wounds collectively is more consistent with the axe theory than with the tree theory."</i></p>	<p>Criminal Trial</p>
<p>Smith, W. E. - Surgeon for Michigan Central railroad with a vast experience in railroad accidents</p>	<p>Witness - testified to seeing body of Will Hendershott at cemetery and head at F.O. Lawrence's office, to visiting site on Dec 19th with Doctors and detective Murray at which Welter demonstrated the position he claimed the body was in.</p> <p>Testified at the trial as to an exact fit between the wound at the back of the head and the back of the axe.</p>	<p>Mag 911-916</p>



Name & Profession	Involvement	Source ²⁸⁹
Smuck, Jeanie - nearest neighbour to where killing took place	Originally testified at the inquest that she heard the tree crack and saw and heard Will Hendershott and William Welter <i>talking and laughing</i> . She claimed she saw the tree falling. David Hendershott convinced her to no longer swear she heard nor saw this take place. ²⁹⁶	Inquest
Stanton, George - hotel keeper and husband of sister-in-law of John Hendershott	Witness - testified to Welter informing him of accident in woods and contacting Henry House and Bob Stephens to go down to Wardell's Woods.	Mag 757-758
Stevenson, Robert - neighbour	Witness - testified as to the state of the crime scene and body prior to its removal from woods.	Mag 400-420
Stubbs, John - Middlemarch resident	Witness - saw John A at his gate at 9:30 am on day of killing and at Charles Welter's about 10 minute later.	Mag 290-295
Swisher, Sylvester - visiting local farmer in Union	Witness - testified to picking the axe pointed out by Neil Campbell on Sunday, December 23rd.	Mag 551-555
Thorne, Horatio	Witness - testified to pool of water in the vicinity being blood coloured.	Mag 555-556
Wardell, Edwin - neighbour, leased Wardell Woods to John A	Witness - testified to the suspicious state of the crime scene and that Hendershott was not entitled according to their lease arrangement to cut wood.	Mag 371-399

²⁹⁶ Garton Scrapbook, p 239

Name & Profession	Involvement	Source ²⁸⁹
 <p>Waugh, William T - doctor practicing at Western Ontario, London</p>	<p>Testified at trial that a tree falling is a more reasonable explanation for wounds than an axe.</p>	<p>Criminal Trial</p>
<p>Welter, Charles Peter - neighbour and brother-in-law to John A, uncle to Wm Welter</p>	<p>Witness - provided evidence on discovery of body and ensuing actions and on knowledge of insurance policy of Wm Hendershott - had provided recommendation for Will Hendershott to insurance companies.</p>	<p>Mag 110-204</p>
<p>Welter, Edith - girl friend of victim</p>	<p>Witness - testified as to Will Hendershott's intent to make her the beneficiary of his insurances and to William Welter's discussion of accident.</p>	<p>Mag 812-822</p>
<p>Welter, Theresa - wife of Charles</p>	<p>Witness - provided evidence on Welter's whereabouts morning of murder and her part in informing her husband of the "accident."</p>	<p>Mag 204-233</p>
<p>White, William Joshua - Elgin County Magistrate</p>	<p>Police Magistrate for St. Thomas, Oversaw Preliminary trial.</p>	<p>Preliminary Hearing</p>
 <p>Wishart, John - doctor and professor of medicine at University</p>	<p>Testified at trial that it was improbable that all the wounds could have been caused by an axe and that it was more probable that, taken collectively, they were caused by the branches of the tree.</p>	<p>Criminal Trial</p>

Name & Profession	Involvement	Source ²⁸⁹
of Western Ontario		

OTTAWA INTERVENTION

Name	Involvement	Birth-Death
 <p>Tupper, Charles- Federal Minister of Justice</p>	<p>Granted interview to Mary Lily Hendershott and passed request to federal cabinet.</p>	<p>1855-1927</p>
<p>A Powers</p>	<p>Deputy Attorney General for Canada.</p>	
 <p>Hamilton-Gordon, John Campbell - Governor General of Canada</p>	<p>Telegraphed his approval of the Order in Council to let the law take its course in the execution of Hendershott and Welter.</p>	<p>1847-1934</p>

EXECUTION

Involvement	Name	Birth-Death
Hangman	John Robert Radclive (aka Radcliffe)	1856-1911
Spiritual Advisors	Reverend David Spencer (Baptist Minister of Centre Street Baptist Church), ²⁹⁷ McIntyre, Hannon	
Jail Surgeon	William Campbell VanBuskirk ²⁹⁸	
Jailer	Nelson W Moore	
Night Watchmen	Richard Dinner, Edward Langan	
Scaffold Builder	Mr. Sagan	

²⁹⁷ Rev. Spencer leaves practice shortly after execution and moved Brantford to accept a position with the Baptist church there.

²⁹⁸ also Mayor of St. Thomas in 1881-82

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