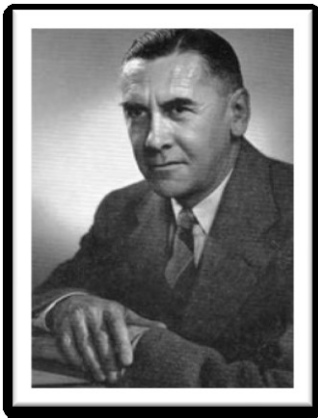


1945

EASY MONEY



A Study of the Evidence
The Queen versus John
Hendershott and William
David Welter for the Murder
of Wm. Henry Hendershott
1894-1895

By EDWIN C GUILLET

M.A.1/1/1945

Famous Canadian Trials

Volume 23

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 best-laid schemes of mice and men
Gany aft a-gley'

--- Robert Burn

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EASY MONEY

PREFACE

Among murderers motivated by life insurance, of which there have been several notable examples in Canada, the case of Hendershott and Welter stands out. In some respects a difficult charge to bring home to the murderers – and particularly to Hendershott – they were yet convicted and executed as a direct result of the combined efforts of provincial detective J. W. Murray and crown prosecutor Britton B. Osler. Merely the presence of Osler in a case made it notable, and his work in this one led to his permanent retaining by the crown for any and all murderers where they desired to make use of his talents – or to prevent their employment by the defense. As the Abbe Delorme and the Hyams twins, though unquestionably guilty, were acquitted from reasons which bore no relation to a consideration of their guilt or innocence, this case is perhaps the most famous of its kind in which a conviction which registered.

I – THE TRAGEDY AND ITS BACKGROUND

In the Township of Southwold, in the southern part of the County of Elgin, Ontario, there where in 1895 a number of families by the name of Welter and Hendershott – in fact the connections of the two families were spread all through the district, and the two families themselves were closely related. For nearly half a century there had been Hendershott and Welter's near the village of Middlemarch, three miles West of St. Thomas. Earlier called Smokes Corners, it consisted of little more than a hotel, church, and blacksmith shop, with farms clustered around.

John Hendershott, age 43, had leased a farm from Edwin Wardell near Middlemarch, but some years earlier, until he lost the license, he had kept a tavern at New Sarum, nine miles to the east. He had also a blacksmith shop, but well John was aggressive and nervy, he did not succeed in entering the ranks of the prosperous. Perhaps it was because he was no worker, preferring to gad about the county in his buggy. In any event he had very pronounced ideas of his own on that and other subjects.

On the next farm was his brother-in-law Isaac Welter, whose son William David had recently come over to live with John after a quarrel with his parents over his attention to Lillie, one of Hendershott's daughters. David Hendershott, a brother, farmed at Walsingham Center – that is when he did anything; and there was another brother, William, some distance off at Frome.

Curiously enough, David Hendershott's son William Henry also had trouble with his parents, in his case over some property, and about December 1, 1895, John persuaded him to come over and work on his farm. Earlier in the autumn Will had taken out a large amount of life insurance, and John Hendershott was made the beneficiary: though as Will was engaged to Edith Welter, he expected to transfer it to her when they were married. Will was to receive \$12 a month and board for his work as farm laborer.

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 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.

On Friday, December 14, the Hendershott household was up early, for various activities were planned for the day. John Hendershott and young Welter slept together and the older man told Welter to go out to Wardell's Woods with young Hendershott and chop that day, while he and his daughter Lillie would go off in the buggy to Aylmer and Eden, some 30 miles, to attend to certain business. On the way they would leave Rosie Hendershott, age 12, at Charles Welter's. About 10:00am or 10:30am they set off, though it is not entirely certain where the young men were at the time – nor, indeed, just where John and his daughter went in the buggy. But they arrived at New Sarum about 12:45pm, having stopped a few minutes at St. Thomas on the way. None of the neighbors saw the two choppers going to the woods, but there is no doubt that they went there, and a passerby said she heard a tree fall about 1:30 pm.

In any event a tragic death occurred there at some time during the day, for about 3 pm young Welter came to Charles Welter's, a mile or so from the

woods, with the startling news that his companion had been killed by a falling tree.

'Just as the beach was falling', said Dave Welter in a slightly excited voice, 'Will shouted "oh, my watch!", and ran toward the tree. I called to him to look out, but he tripped and the tree fell on top of him.'

Half an hour or so later, when Dave had recovered his composure somewhat, some hired men and neighbors went to the woods to get the body, while Charles Welter sent a telegram to John Hendershott in Eden. No one questioned Welter's story that day, but farmers are curious about the details of such accidents and later asked him a number of questions. Sure enough, there was poor Will, his head under a huge knot of a 7,000 pound beach; and there was the log where, said Welter, he had placed his waistcoat with his watch.

'He ran right in the path of the tree', repeated Dave Welter.

'If he tripped as he ran toward the tree, how come his feet are pointing towards the trunk', asked sharp young fellow.

'Well, the tree really knocked him down, I guess he didn't trip', replied Will Welter.

'And that there hole where his head was, it don't seem as if his head was drove into the ground. And there was some blood on the trunk.'

But they all agreed that Dave must have felt pretty tough and probably missed some of the details of the accident. It was dark when they picked up poor Will and carried him out. When the mournful procession got back to Charles Welter's, Martha Griffin, who happened to be there that afternoon, saw some blood on Dave's face and pointed it out to him. He made no comment but quickly washed it off.

II – CONVICTED BY THE PRESS

The press of half a century ago, or at least the greater part of it, had no scruples about the publication of comments calculated to be prejudicial to a fair trial for accused persons. Whatever laws there was in relation to contempt of court were certainly more honored in the breach than the observance.

Perhaps the Toronto World had more reason than the others to be interested in the Hendershott – Welter case, for Walter Wilkinson, prominent reporter, hailed from Elgin County, his father being editor of the St. Thomas Times. In any event the pros and cons were canvassed in great detail, and with special emphasis on the pros. On Tuesday the 18th, four days after young Hendershott's death, the World carried a lengthy account of it under the caption "Murder or Accident", with the subtitle "thought to have been killed for his insurance".

Emphasis is placed upon the investigations of County Constable Fairbrother, who had apparently made public the "startling discoveries" he had made in Wardell's Woods on Sunday. He noted that the fallen tree lay in an east-west direction, with the stump pointing east. Running north and south was the log at which the dead man's vest was said to have been. If he was, as stated by Welter, hit 10 or 15 feet from this log it was at a point that would be practically clear of branches as the tree fell. But still more significant was the blood found by the Constable. Three pools of – 60 feet northeast, hundred and 4 feet south, and 196 feet southeast of where the body had land, and, as noted still more blood on hundred and 70 feet off, as well as on a log and some sticks.

The inquest was in progress at the time, and the discrepancies between the statements of the two suspected men were emphasized in the press. Then there was the insurance, with Hendershott's weak attempts to explain away. The more he talked, the more involved he seemed to become in a bad business, and his contradictions and denials were more incriminating than admissions would have been.

Then, said the press, there was the disappearance of the second axe, which the Constable said he saw on his Sunday excursions but which suddenly vanished; and the postmortem examination by Dr. Lawrence, with his definite conclusion that a falling tree did not cause such varied and severe

head injuries. "But murder never outs in this County of Elgin" says the world, assuming that this case would be another example of the rule.

Two days later the World found the case "no longer a mystery", detective Murray said that "William Hendershott was foully murdered". It was pointed out, however, that many people in the locality were interesting themselves and making a mystery out of a sure thing.

As the days passed and the inquest continued, new developments seem to clinch the case against the two suspects, and on the 21st they were suddenly arrested by Murray, who heard that Hendershott was planning to flee the country. The day before he had produced an axe, blunt and rusty, which he said was the missing axe; but it was obvious that it wouldn't chop kindling, much less fell beech trees.

On the 23rd the real missing ax was found under a log well covered with leaves and bark, and some human hairs like the dead man's were discovered on the roots of a nearby tree. At the same time some men were detected sprinkling more blood near the blood earlier discovered. They said they did it out of curiosity, but the general inference was obvious and unmistakable. According to the press it was all over with Hendershott and Welter but the formality of the trial. Thereafter the proceedings were commonly described under the caption 'the Elgin butchery', or some other equally conclusive of the men's guilt.

III - THE INQUEST

On Monday, three days after will Hendershott's death, the inquest opened under Coroner Gustin. Welter was on the stand for 3-1/2 hours, and John Hendershott was also cross-examined. Their stories differed in a number of important particulars. Hendershott said the two young men were to cut wood both Friday and Saturday, but Welter said that they were to have a holiday to go to St. Thomas on Saturday. Hendershott said there were two axes and the saw at the woods. Welter said they had only one axe. Then there were the insurance policies:

'John showed them to me on Sunday morning' said Dave.

'I never have showed them to him or anyone else', said John. But his own daughters corroborated Dave that they were shown.

Welter added some colorful details in his earlier account of the accident – in fact there were said to be six or seven versions altogether. He said he was paralyzed for 10 or 15 minutes after will was hit.

'I was dazed and I leaned against a tree. I heard him groan and saw his leg twitch. Then after a while I recovered and went over to him. I put my hand over his heart and found he was dead, the shock that I felt kept me from bringing the news to the neighbors at once'.

'You are lying to me, sir. Was it not a feeling of guilt that kept you away?' Shouted the Crown Attorney.

Hendershott showed plenty of nerve at the inquest – in fact many felt he overdid it a bit. He admitted he had paid the first installment of the premium, \$23 on the \$6000 policy taken out in September, as he claimed he owed Will \$23 at the time. Then late November a \$5000 policy was taken out and he paid \$48 on it and agreed to pay \$18 more within 60 days – but Will had died three months later.

'What did Welter tell you privately in the bedroom where you slept together? What did he say about your nephew's death', repeated the Crown Attorney.

'He said a tree had fallen and killed him', replied Hendershott.

'Tell the truth, sir. Did not he tell you he had struck the deceased with an axe?'

Those who first saw the body were of the opinion that it could not have been in the position which it was found without marks on the other parts of the body as well as the head; and that the head itself would have been crushed in the ground, while there was an inch or more of space between it and the tree as it lay when found. They were also impressed by the way in which the body lay, with one hand under the head and the feet towards the stump. This, they considered, was not the way a man would fall if he was tripped while running towards tree. Richard Sanders, Robert Stevens, Henry House, and Edwin Wardell were the men who made these observations,

though Wardell was the only one who had an immediate suspicion that all was not as represented by Welter. He said that when he saw blood along the tree and at a distance from the body he felt the case was one for the coroner, and advised David Hendershott to insist on an investigation. He gave the conversation at the woods as follows:

Wardell (upon seeing blood): "*there is room for coroner here*".

George Craig (with an oath): "*do you suspect foul play?*"

Wardell: "*oh, perhaps his only from Welter's fingers after he had handled the blood*"

Craig, a laborer of Charles Welter's, was much like his employer - either essentially stupid or in some way *in the know* on business and making every effort to cover up for Dave Welter.

There was also evidence as to the feelings – simulated feelings – of the two men. Welter wept a good deal that afternoon after he reported the death, and John Hendershott, when he returned from his trip the next evening, remarked how fond he was of his nephew and wept copiously by way of proof.

David Hendershott created quite a sensation at the inquest by publicly accusing his brother of the murder. He also 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."

Charles Welter was on the stand for over three hours and proved a most unsatisfactory witness. Apparently considering himself a suspect, he had engaged counsel the day after Hendershott's death. He said he had done the telegraphing and had paid many calls on his solicitor, but otherwise his memory was weak. He couldn't recall most of the crucial points, and his report of conversations the day of the tragedy varied greatly from Lily Hendershott's. He said he had not asked Dave for details when he reported the accident, and his hired man, George Craig, said the same. Craig made a

very bad impression, but it was set down to stupidity rather than non cooperation.

Sylvester Swisher testified that he found the missing axe on Sunday the 23rd, and two others said they were present at the time. They were of the opinion that the log on which young Hendershott stated to have placed his waistcoat was put in its position after the tree fell. Juriah Fortner recognized the axe as one he had made for John Hendershott.

Dr. E. E. Duncombe, St. Thomas, testified the John Hendershott had called upon him four times in connection with the insurance he wanted to take out on Patsy Fitzpatrick, but that he refused to pass them because he was such a worthless character.

Dr. Frank Lawrence, who had performed the postmortem, said there were nine wounds on the head and face of the dead man. He thought an axe had caused them, not a falling tree, for there were gashes on the cheeks, the nose was out, and the eyes blackened, and there were no branches or shrubs to cause such injuries. W. J. Kerr, Undertaker, said he sewed up eight wounds in preparing the body for burial.

The inquest was adjourned from time to time. The body was once more ordered exhumed, this time for examination by real-world surgeons, who were experienced in such injuries. They testified that an axe appeared to be the instrument that caused the wounds.

Before the inquest was resumed again, Dave Welter went out to the woods with provincial detective Murray and enacted his version of the tragedy. On 20 December too, John Hendershott handed Murray an axe which he said he found at his house, but it had obviously not been used in the woods. The next day, as the inquest was in progress, Murray handcuffed both men and brought them to the session, "the clanking chains raising the assembled rustics to a high state of excitement".

On advice of counsel the two men now refused to talk at all, but Hendershott 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.

Finally, at midnight on December 28, the 16 jurors were unanimous in finding that Will Hendershott had been willfully murdered by David Welter,

and the John Hendershott was an accessory before the fact. The two accused were then remanded into custody until January 4.

IV - THE PRELIMINARY HEARING

The preliminary hearing opened before magistrate White, with whom were associated three judges of the peace – Mssrs. Donald Turner, Dugold Ferguson and Frank Hunt. Counsel for the accused objected to Hunts' presence on the ground that he had been very active in the original investigation, but he remained. In general, it was but an elaboration of the proceedings of the inquest, but some new evidence was adduced. The exact position of the body when it was first seen was developed by those who carried out the body. The body lay on its face, with one hand under the head and the other curved around to the top of the head, with the head closed; and it was evident to everyone that no person could have fallen that way, but that he would have landed in the opposite direction and with outstretched arms.

The signed statements of the two accused at the inquest were read into the evidence. Then there was detailed testimony on the watch. It came with the dead man's clothes to Duncan Hendershott¹, who shortly sent it over to David, his brother. There it was seen that it was not the dead man's: and when Will Hendershott's watch was found in Welter's pocket it was apparent that he had exchanged watches after his companion was dead. David Hendershott said that Welter had earlier tried to trade watches with his son.

Mr. and Mrs. Ketchabaw, Bayhem Township, where John Hendershott received a telegram, described his comments that he believed it referred to his nephew and that a tree probably fell on him: while W. J. Ostrander swore he told the same with the addition that his nephew had a new watch he was very fond about and might have run to get it.

Edith Welter testified that she had a conversation with her cousin Dave two days after will's death, and that in the course of it he mentioned the

¹ Incidentally he described a disgraceful dispute between himself and his brother David as to who should have the dead man's clothes, trunk, etc., and pay the funeral expenses.

possibility of his being sent to jail in connection with the tragedy. Asked why, he said the police had a way of making things look bad, that horses' blood might get scattered around and make people suspect that Will had been killed. She said she told him she would like to see him hanged if he did it, but advised him to get Mr. Osler to defend him if he was eventually accused.

No one ever had a better reputation in his lifetime than Mr. Osler. The evidence of Edith Welter as to recommending him is plausible enough, for he had obtained an acquittal in the Maria Hartley poisoning case a few years earlier at Brantford.

John Stubbs testified that he called at John Hendershott's between 9 and 10 the morning of the tragedy and saw Welter and the two daughters but not John or his nephew: but John, he said, was a Charles Welter's when he arrived there shortly afterwards.

Patsy Fitzpatrick, sobered up for the occasion, said he did not owe John Hendershott anything, but that both he and Welter had frequently treated him to drinks. In June both of them spoke to him at the Penwarden House, St. Thomas, and Hendershott wanted him to get insured for \$2000. The date of the application was June 7, and it was payable to *John Hendershott, my fosterfather and best friend*, who agreed to pay the premium. But Dr. Duncombe refused to pass him. Next he went to Port Stanley for the same purpose but was too drunk to be examined. The third attempt was in Aylmer, the amount \$2500. Hendershott told him to say he was a farm laborer who live near Middlemarch. At first Dr. C. W. Marlatt found his pulse not just right, but after a drink with Hendershott at the Brown House he was examined again and his pulse found to be more satisfactory: the date of this examination was August 6 and Dr. Marlatt said that in approving the application he did not know Patsy's habits. Every effort was made by counsel for the two men to keep Patsy's evidence out as irrelevant, but without success. It proved very impressive on the court, and tears came to Welter's eyes as he was connected with this obvious and highly incriminating scheme of Hendershott's.

Then there was the insurance testimony of Gilbert Roche, who said he had been talking over the subject with Hendershott. When he sold him the second policy, \$6000 on his nephew's life, it was definitely stated that no

other policy had been taken out; but to Hendershott had nearly 3 months earlier purchased a \$5000 policy, paying almost all of both premiums.

The testimony of the Hendershott daughters seems straightforward enough. They said that Welter and Will Hendershott were at the house when they set out on the trip to Charles Welter's, three quarters of a mile east. At Welter's, where Rosa was left, John Hendershott did not get out of the buggy, said Lily. Then they proceeded along the Talbot Road to St. Thomas. Edwin Frost said he met them about 11:30 a mile or so West of St. Thomas while Wardell saw them in the city about noon².

Lily said they were at the Penwarden House, St. Thomas, for a few minutes, then to new Sarum and onto Aylmer, where they had dinner about 1 PM. After an hour or so her father joined her again and they traveled on to Eden, which they reached *before lamplight*. She heard of the arrival of the telegram that evening, while her father was at Tilsonburg with Ostrander. At 8 AM next day they started back home, stopped at Aylmer and then at St. Thomas, at the Penwarden House. There, she said, a man told them it was the nephew who had been killed, and she wrote postcards to inform Ostrander and Ketchabaw. Just then Will Welter came in and told her the details, though Mrs. Bancroft, the landlady, and Edith Welter, who worked there, contradict Lily in this respect, stating he had a conversation with her. As for John Hendershott, Mrs. Bancroft and Edith were positive that he seemed to expect Welter to arrive, for when the landlady told him Welter was in the hotel he merely said, "never mind. He will be up".

There was evidence from the daughters as to the insurance policies, which were produced by Hendershott at the breakfast table Sunday morning, when Edith Welter also was present. Rosa said her dad took one policy from his pocket and the other from the bureau drawer, but her father had claimed both came from the bureau. Lily said Dave Welter had told her about the insurance on the day after the tragedy. When her mother's death in the previous spring was mentioned in court Lily burst into tears.³

Duncan Hendershott and his wife Ella proved hostile witnesses, admitting that they sought to aid the accused. The former was consequently severely cross-examined, and had to admit that he had refused the Crown the

² If this evidence was correct, there would appear to be a very suspicious hour - 10:30 to 11:30 that could not be employed in driving a mile.

³ In the locality the inhabitants are inclined to think there was something suspicious about her death and to blame Hendershott but it may be only a consequence of later events.

information he had given to defense lawyers in the woods and elsewhere. He said he was surprised at the large insurance held by his brother on the life of his dead nephew, but not shocked.

The defense called no witnesses at the hearing, and at the end of the proceedings, which had lasted 7 days, magistrate white committed the 2 prisoners for trial. This was at 3:45 PM on Saturday, January 12.

V - THE TRIAL OPENS

On March 7 the trial opened in St. Thomas. Chief Justice Meredith presiding, and B. B. Osler was in charge of the prosecution, assisted by J Hillyard Cameron and Crown attorney Donohue. Mssrs. McDonald and Robinson represented the prisoners. two local judges, Hughes and Ermatinger, set beside the Chief Justice as the hearing commenced. 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 had tears; while one young woman, apparently Welter's fiancé, clung compassionately to him just before the case opened.

An entire afternoon was needed to obtain a jury. Nineteen preemptory challenges remain on behalf of Welter, eighteen by Hendershott counsel, and there were eighteen additional challenges for cause. Altogether the crown challenge three and set aside thirty-eight prospective jurors. The jurors selected were the following: Silas Brown, Dunwich; Duncan Patterson, Aldborough; Fred A. Johnson, Yarmouth; John D. Patterson, Aldborough; Benjamin Marlatt, Yarmouth; George Simpson, South Dorchester; Duncan Gilbert, Dunwich; Neil Love, Dunwish; Duncan A Somerville, Aldborough; and Samuel E Clark, Dunwich.

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. Wardell's Woods – the scene of young Hendershott's death – the house near it, and the surrounding villages formed the strategic points on the map. With the precision for which he was famous, Mr. Osler developed 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.

Then about 3 PM William Welter came to the home of his relative, Charles Welter, a mile from the woods, and reported the death his companion, though there were several closer farms where he could obtain help or brought the news: "*there may be nothing in this*", said Mr. Osler, "*but then again there may be*".

He then pointed out that the location and condition of the body when neighbors went back to the woods to get the body. They found lying on the ground at an acute angle to a newly cut beech tree, weighing some 7000 pounds. The feet were towards the stump, the head under a large knot like a coconut. It appeared that the knot left a deep mark in the ground as the tree rebounded after falling; but there was no evidence that the head had been forced down into the indentation, so it appeared that the body had been placed there afterwards.

Mr. Osler then took on Welter's story of the tragedy pointing out the inconsistencies and absurdities:

"At one time he is said to have tripped, had another he was knocked down by the falling tree. What man would be fool enough to run into the path of a falling tree merely to get his watch? But even if he did he could not fall the way he was found, with his feet towards trunk. You can't run one way and fall another."

Then there was the story told by the blood, which was everywhere but where the body was found. It was on the crotch of the tree, it was in four places 20 to 87 feet off. The crown believed, consequently, that Hendershott was killed elsewhere, first placed under the crotch, and then where it was found, which was finally considered by his murderers as a better place.

The missing axe was then referred to by Mr. Osler. Two were undoubtedly in use when the young men were chopping, but one disappeared mysteriously. Then a neighbor found it wedged between the bark and mold of a log. This was undoubtedly the axe used to fell the tree, for a nick in the blade would be traced to the cuts made in the tree: and there were bloodstains on the handle, it was apparently the one used to kill

Hendershott. A splash of blood on Welter's face that afternoon was missed when he washed himself and the axe in the pool.

Then there was the watch episode. Why had Welter taken Hendershott's watch? His story concerning a trade, following his denial that it was the dead man's watch at all, shows that no reliance can be placed upon his explanations. The wounds on Hendershott's head, continued the Crown, were made by an instrument like an axe, partly blunt and partly sharp, and Welter's story in this respect also will be proved false.

Mr. Osler then turned to Hendershott's part in the death of his nephew. Although the Crown could not prove that he was present at the killing, there was yet an hour or more on accounted for in his movements that morning. But it was he who planned the murder and procured the murderer, the schemer who conspired with Welter to in young Hendershott's life as that they might share the heavy life insurance of which he was the beneficiary.

'The first premium on these policies', he continued, "was \$9 more than a year's earnings as a farmhand for his uncle, so how could he ever hope to pay it is 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 a realized upon. In fact witnesses will testify that they heard him say that there was easy money to be made in insurance, 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 them on the day his nephew was killed".

The telegram to Eden, and Hendershott subsequent remarks, were next detailed by Mr. Osler. While there was nothing in the telegram to indicate whether "William" mentioned was his nephew or his brother, John Hendershott yet knew it was his nephew and said so at once: and he was even able to suggest how the death that occurred, indicating that he and Welter had planned what to say in that connection. For all these reasons the Crown contended that the murder resulted from a conspiracy between Hendershott and Welter to murder Will Hendershott for his insurance.

VI - THE CROWN CASE

The witnesses assembled by detective Murray, well over 100 in number, were marshaled in effective sequence in the masterly style of Mr. Osler. First came those who had gone to Wardell's Woods the afternoon of the tragedy and had seen the body before it was removed. They were George Craig, Edwin Wardell, Richard Saunders, Robert Stevens, Henry house, and Richard Curtis, and their description coincided in all the more important details. John Lyle and Daniel Crocker subsequently measured the distance between the pools and splashes of blood. And charted the course over which the deceased appeared to have run or been carried.

Neil Campbell testified that he discovered the hidden axe and Henry Couse corroborated his evidence. Welter paled visibly as Martha Griffin told how she had noticed the blood on his face that afternoon and called it to his attention. There were numerous witnesses to describe the various conflicting stories that Welter told. And several more as to the exchange of watches that he appeared to have affected after Hendershott's death, and the explanation he had made at various times. W. R. Jackson, St. Thomas jeweler, identified the watch as having been purchased from him by the deceased.

Mrs. Smuck testified that she passed near the woods about 1:10 pm, saw some men, and heard a tree fall. If this was true she was close at hand just before the tragedy, but there was some suggestion that she had told other stories, which, however, she denied.

Professor 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 be human blood, he said, and was definitely not that of a horse, but beyond that he could not swear. The stains on the handle were near the head, he said.

The statements given by the two accused at the inquest were finally, after lengthy discussion, ruled out by the judge, on the grounds that they had not been warned that what they said might be used in any subsequent trial.

The evidence as to the telegram –*William Hendershott is dead. Come home quickly* – and the John Hendershott's comments thereafter, formed the opening of the Crown's case against him. The details were the same as at

the preliminary hearing, but Dawson Healy and Alec McGugan were added witnesses to the same effect. W. J. Ostrander's testimony was fullest on this and another crucial point – the carrying of the insurance policies. Hendershott told him, he said, that if it was his nephew that was killed he must be killed by a falling tree, and he gave examples of trees falling against others and suddenly rebounding: or he might have run after his clothes, for he had a new watch that he highly prized. As for the insurance policies which dropped out of his pocket, Hendershott told him next morning that as he was keeping up the premiums he was consequently the beneficiary. *"But perhaps you better not say anything about it", said he, "if he is the one killed it might look funny"*.

Other conversations of Hendershott's, in this case before his nephew's death, related to life insurance in general and formed one of the highlights of the trial. It was given by two cousins of his, Mrs. Emily McConnell and Mrs. Anna French, her sister. Both women preferred to affirm rather than take an oath on the Bible, a proceeding which caused some comment at the time but was quite regular. The substance was as follows when he talked with Mrs. French, wife of a policeman of Ingersoll, on 20th of May:

"Well, Emily, you've got things pretty slick about you here."

"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."

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

"Why so? A hundred other men might live twenty-five years."

"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."

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

"You can always get rid of one."

"What, John? You wouldn't do that."

*"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 business and work it right."*

The next day Hendershott drove onto Mrs. French's. Insurance was still in 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.*"

George Delacey, printer at the St. Thomas times, told a conversation he had with Hendershott some months later. It suggested that there existed an earlier plan to arrange to have the nephew killed by a fall from a fractious colt. "*He sort of clumsy, you know, and may kill himself any time. If so I'll get the insurance*". Delacey's testimony, however, lacked the conviction of that of the two women, and many thought there was nothing in it.

Mrs. Duncan Hendershott, sister-in-law John's, testified that the deceased shirt and undershirt needed to washings to get the blood out of them, while his brother David told about a pair of bloody trousers and John's house that were not the deceased's. David said John told him that the blood found was that of horses, and he repeated his statement the John offered "to do the right thing" by him in the matter of the insurance – if there was no fuss made. Under cross-examination he said he knew the insurance money would come to him if John was convicted, and that he had already garnished the money through the Crown Attorney. David Hendershott, like John, had a poor reputation in the district, and his evidence and general conduct were considered shady rather than impressive. The insurance agent, Roche, and others repeated their evidence as to the insurance placed on young Hendershott and his uncle's prominent part in it.

The Crown case closed with an impressive array of medical evidence as to the nine main wounds on the deceased had, and some ten others sores and swollen spots. These doctors were twelve in number and comprised almost a roll call of the immediate locality – Mssrs. Lawrence, Gustin, McLarty, Smith, Karns, Fulton, Day, Duncombe, Carscaddin, Brock, Sinclair and Kingston. They were in substantial agreement that some blunt instrument with a sharp edge, and not a tree or its branches, cause Hendershott's

death; that wounds on the temple and the back crown were probably the fatal ones; and that the deceased man might have staggered as much as two or three hundred yards before collapse.

VII - THE DEFENSE CASE

As the defense case got underway, John a. Robinson, counsel for Hendershott, move for his discharge on the ground of lack of credible testimony, but the judge denied the motion with the comment that the jury would have to make decision on the evidence.

Norman McDonald then 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, he said, and could not retain counsel like Mr. Osler, nor spend money proportionate to that expended by the crown to convict them. With this keynote – obviously the most effective in the circumstances – Mr. McDonald went on to state that the charges against Hendershott were absurd and no reliance should be placed on the gossip that had found its way into the court proceedings. As for Welter,

"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."

Lily Hendershott then testified that her father, when he received a telegram had given no indication that he knew his nephew had been killed, nor had there been, as far as she knew, any arrangement that Welter was to meet her father at the Penwarden House in St. Thomas on the next day.

Then there was testimony as to the tree, its measurements, and such material evidence as might tend to bear out the defense contention as to Hendershott's death. Witnesses swore that a dog with blood on its nose from eating the dead horse had been seen in Wardell's Woods after the tragedy.

Then there were experts who told how trees fall, though most of the jurors had felled plenty of them and did not need the information: but the effort was made to substantiate some of the defense contentions through rotary motion and other alleged vagaries of falling trees. Subsequently, in rebuttal, the Crown brought Edwin Wardell and Richard Saunders to state that the branch which Welter told him had killed Hendershott was from 4 to 10 feet from the body.

Mrs. Charles Welter told of the arrival of her nephew and his asking that the coroner be notified and a telegram sent to John Hendershott. She said she saw the blood on his face her clothes. Curiously enough, she could recall no details of what Dave had told her about the tragedy, though at the inquest she had been very voluble (the tree fell across his head and crushed it into the ground, etc.).

Several witnesses were brought by the defense to discredit David Hendershott. They alleged that he had told them that he was sure his son had been killed by a tree and that Welter had nothing to do with it.

"But later", one of them testified, "he was sure his son was murdered and seemed very concerned about the insurance. 'If I can't get it', he said, 'John won't either, I'll send him to the penitentiary.' This was the way he talked after he learned about the life insurance."

Recalled by the crown in rebuttal, David Hendershott denied all such statements.

Six doctors were called by the defense. They were Mssrs. VanBurskirk, Mason and Going, two professors from the London Medical College -- Wishart and Waugh -- and Professor Nancread of Ann Arbor University. In general they supported the thesis that the falling tree had caused the fatal injuries, and not an axe, though under cross-examination most of them were constrained to admit that an ax might have done so. Mr. VanBuskirk created a momentary sensation by stating that he was the more sure a tree had caused the death when he found a splitter of wood embedded in Hendershott's head; but the crown quickly brought Dr. Lawrence in rebuttal, to state that he had been showing the substance and that it certainly was not wood. This concluded the evidence.

VIII - THE ADDRESSES TO THE JURY

Final day of the trial provided a succession of dramatic incidents. When the session open, fifteen relatives of the accused, most of them female and all of them weeping time to time, formed a solid phalanx next of the prisoners box. Lily Hendershott, lovely to look at, was present and inspired deep sympathy in every heart, for she stood to lose both father and lover if the verdict was guilty. Edith Welter, too, was a pitiful black gown figure, for her fiancé had been Will Hendershott.

Mr. McDonald, who spoke for both men, made a highly emotional appeal. Relatives sobbed aloud, the rest of the audience tried their eyes, and even the jurors were affected as for 2 hours and 18 minutes he presented his client's case, Hendershott, particularly, must've been surprised at the saintly picture of himself that was drawn before his eyes. The best possible interpretation was given of 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. 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".

As for Welter, it was not remarkable that his story of the tragic day varied, for he was in a daze from the shock. As for the axe that was subsequently found in the woods, it was altogether probable that David Hendershott had placed it there to serve purposes of his own.

"Doctors have been brought by the crown to say that an axe killed Will Hendershott", concluded Mr. McDonald, "but we have brought doctors and professors of greater weight who believe Welter when he says the tree killed him. I beg of you

not to take two more men's lives because gossiping women and unfriendly neighbors are anxious to see them convicted."

In opening his address for the Crown, Mr. Osler stressed the jury's duty to find a verdict on facts and a nothing else. But in the worst crimes, he said, it is always circumstantial evidence the convicts the criminal, for these crimes are well-planned. When men form a conspiracy to enrich themselves by taking a life insurance on a friend, and then killing him, they plan deeply and have excuses and readiness. The Crown did not contend that Hendershott was in the woods at the time of his nephews death, continued Mr. Osler, though the evidence of certain witnesses suggested that he was. Perhaps the jury might have no doubt of Welter's guilt, and yet find the evidence against Hendershott inconclusive, but the Crown believed that he plotted the murder and secured Welter to help carry it out. Mrs. Smuck said that she passed the woods about 1:10 PM that day and saw the men and heard the tree fell; but as they felt to trees, it is uncertain which it was that she heard. Two hours later Welter came to his uncle's with his story, *what had he been doing meanwhile* asked Crown counsel.

"*I will tell you*", he continued, answering his own question with devastating power. "*He was committing the murder, placing the head according to the plan, removing what traces of the crime he could, and making his way to the most distant house to report. Presumably he went to Charles Welter's because he might more readily be believed there. Yet assistance could have been obtained at Saunders, nearby.*"

Mr. Osler than discuss the material evidence on the scene and compared it with the contentions of the defense:

We have the statement of Welter, and of John Hendershott who is said to have been twenty miles away, that this young man ran into the path of a falling tree and was killed. But there is no probability that any man would run after his watch at the expense of his life. Would any of you do so? The defense suggested that the tree fell with a rotary motion, but this is contrary to human experience. Almost all of you have cut down trees. Have you ever seen one tree fall that way? But they had to have some much remarkable theory, for the branch speaks for itself. There are no signs, no evidence that it hit anything.

Then there is the blood, which couldn't be other than human. It tells its own tale. Pool by pool, drop by drop, is it not the blood of the dead men rising up as witness? Whence comes the bloody fingermarks on the sapling and on the crotch? All are the same, all fresh. Yet there is no blood where the defense suggests it had to be to suit their contention.

And why did Welter say there was only one axe? Later the other was found, but it was innocent unless it was the murder weapon. It was Hendershott's axe and it is an awful witness against a murderer. A pool tinged with red was discovered. There was the place where the axe was rinsed: there the murderer got his hands washed and such stains as appeared to him out of the way.

What about the watch? Where did Welter get it? He took it from the dead man⁴ and then told the false story, but his counsel says that this was just a joke – the joke of a man in prison, charged with murder: but this watch was but a small part of the gain. The rest was in the share of the insurance money to his fellow conspirator, John Hendershott. The two men agreed and told the same story about running after the watch, though they claimed to be many miles apart when the tragedy occurred.

On the one side we have seven contradictory stories told by Welter as to young Hendershott's death. On the other we have twelve doctors who say an axe caused the wounds, and six others, on the defense side, who said that it might have. I would like to have brought in that head and fitted in the axe. But the defense strenuously objected – and they were very prudent in so doing. We were willing to stand by the result. For what was the nature of the blows? There were blows coming from below upward, blows coming downward, blows from opposite directions, striking in the same spot. There was a force applied in two directions,

⁴ Mr Osler also stated that young Hendershott was supposed to have saved up \$100, but that none of it was ever found.

with an interval between them. Is that the force of falling beach, or is it the force of the falling axe? The blows were squarely on the left, squarely on the right, squarely downward, squarely forward. Against this you have the branch with every twig innocent of blood, and the branch ten feet from the body.

The Crown then proceeded with the case against Hendershott, it was pointed out that he had accompanied the deceased when he was medically examined for the life insurance and paid almost all of the first premium – the only one paid, for the policies had been enforced only a few weeks. When his cousins, Mrs. McConnell and Mrs. French, testified, they were unwilling witnesses, and the more weight was therefore to be attached to the evidence as to John Hendershott's insurance schemes. Then there was DeLacey's testimony along the same line.

"Hendershott", continued Mr. Osler with noticeable affect, "could not pay his rent, or the cost of his wife funeral, or for a monument over her grave, or for any life insurance on himself, but he could borrow at 8% to take out insurance on his nephew. Why? I will tell you. It was insurance to be realized upon – easy money, as he called. But there was only one way to realize upon it, for in the normal course of events his nephew would outlive him 20 years.

And you will notice that he took these policies with him on the trip to Eden, with no explanation as to the reason. They dropped out of his pocket and a witness saw them. This is one of those little incidents of great import which enable the community to trace crime home, even though the most cunning man be the culprit. I tell you to fear neither the criticism of man nor the tears of women. Do your duty."

The pitiless force of this marshaling of the facts and the logical deductions and inferences from them seemed to render conviction certain for both

men. But the Chief Justice had yet to speak, and there is no doubt – from certain comments that were made afterward – that he purposely emphasized his doubt and uncertainties, in order to balance the brilliant prosecution by Osler.

Chief Justice Meredith spoke for one hour and 15 minutes and gave a lucid summary of the chief points at issue. He noted that the discovery of the missing ax was not accounted for by the defense except by the insinuation that David Hendershott placed it there. The blood found was definitely not of horses, but it could not be proved to be human.

“The blood in the pool”, he continued, “was not necessarily certain and definite when identified 9 days after the event; and it is to be noticed that the numerous doctors contradict one another. Welter’s contradictory stories of the events of that tragic day are not worth much weight one way or the other. Nor is it safe to convict Hendershott merely on the possibility that he was in the woods with his nephew was killed.

The stories about John Hendershott and the insurance scheme would show, if true, that he had a bad heart, but if he had the intention, would he be likely to speak of it? Delacey’s evidence on the same point was questionable. You, the jurors, must decide if he really said these things. It is certainly singular [sic., significant?] that he took the insurance policies with them that day, but it is not necessarily an indication of guilt.”

The judge said that he believed Lily Hendershott’s testimony was true, and that she should not have been subject to attack in that respect. He didn’t deal with the Crown’s request that the dead man’s head be admitted as evidence and the objection by the defense. *“This”, he said in conclusion “should not be taken as in any way a reflection upon the prisoners.”*

The accused men themselves, as well as their sympathizers, brightened up noticeably as the Chief Justice concluded his summation. Certain conviction had been in everyone’s mind when Mr. Osler finished his address, but now a disagreement seemed just as certain.

IX - CONVICTION AND EXECUTION

The jury retired at 5:20 pm, and the general impression was that they would disagree on Welter's guilt and acquit Hendershott. The two prisoners were apparently of the same sanguine opinion, for they chatted away gaily; only Lily Hendershott seemed to sense another conclusion. Shortly afterwards 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. The Chief Justice, however, refused it and they continued the consideration of the evidence without it.

At exactly 10:06 PM the jurors filed in the court and announce their verdict of guilty for both prisoners. A cry of pain for Mary Hendershott startled the court, and the poor girl was almost unconscious in the arms of an aunt. It was subsequently reported that the failure of the prisoners to testify in their own defense had been noted and given due weight, and altogether they had found 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 all the 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. Both men having nothing to say when given the opportunity, the judge immediately sends them to death on June 18.

"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 plan 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."

This, said the press, was the first conviction for murder in Elgin County, though there had been plenty of sudden deaths that seem to be murders⁵. In any event it would be, if they were hanged, the first executions in the County. But much was to happen before they were executed.

⁵ As a result of his success in this case Mr. Osler was permanently retained by the Crown to act in any murder cases where his services could be employed.

In the first place it was reported in the press that Welter had already talked, but the person to whom he gave a confession stipulated that he must not be called into court. The details of it are highly plausible, and the time given, as well as John Hendershott's presence during the crisis, would appear to fit into the necessities of the case.

The statement was that the murder was committed by both men early in the morning, about 9 am, before Hendershott left on his trip to Eden. Will was first hit with the axe as he knelt down to drink from the pool of water. The first blow, it is said, was on his right temple, possibly with the idea of avoiding knocking him into the pool and soaking his clothes – a condition which would require explanation. In any event he was stunned and was able to rise and run through the woods. Both of his attackers followed, and Hendershott caught him and held him by the wrists while Welter showered blow after blow upon his head. This fitted well into a previously unexplainable circumstance – bloodstains on the dead man's wrists, which it now appeared came from the bloody handle of his uncle.

When he was dead they turned their attention to the tree, which had yet to be cut down. They placed the body and what they judged would be the path of the falling branch, but they were out in their calculations so the body had to be moved. There was, consequently, the largest pool of blood where the body had landed, and another near the crotch of the tree, where they first decided to place it. Changing their minds in this respect, the two men moved the body, which had by then stopped bleeding, to a position under the knot where it was found.

Then the ax was hidden in the hollow log where it was eventually found, the men washed, and Hendershott left Welter with instructions to report the death later in the day and send him a telegram: and it was arranged that he should come to St. Thomas and meet Hendershott the following day at the Penwarden House.

If Welter made this statement, nothing of a public nature came out until much nearer the end of his life. On May 28 Mr McDonald made application to Deputy Attorney General Cartwright for a new trial. It was claimed that the evidence against Hendershott was insufficient to convict, and that the testimony of his two female cousins as to his remarks on insurance should have been declared inadmissible. Consideration was given but the application refused, and the prisoners counsel made plans to move on to Ottawa.

Meanwhile the two men were obviously weakening: Hendershott slept but little, passing the night walking up and down his cell -- he was much affected when informed that the murderer Chateile⁶ had been hanged in Stratford. Both he and Welter read the Bible a good part of each day. Each week bouquets of flowers arrived from the secretary of the YMCA though it is not recorded that he sent any to be placed on young Hendershott's grave. The only impression made upon the convicted men by clergy was when the evangelists Crossley and Hunter spent some time with them.

On May 31 Mr. McDonald had an interview with Sir Charles Tupper, Minister of Justice. On June 7 Lily Mary [sic Mary Lily] Hendershott and Mrs. Boughner, daughter and sister, respectively, of the elder prisoner, made affecting appeals in person on the convicted man's behalf, and Sir Charles said he would give the case careful consideration.

On June 15 the cabinet Sir John A McDonald [sic, Prime Minister was MacKenzie Bowell] decided upon no interference with the sentence. It was reported that Hendershott's statement the day of the crime, which he used same language as Welter, is a most important of all the evidence and was conclusive proof of conspiracy to murder and of the guilt of both men.

Becoming desperate as the fateful day approached, Welter made a statement to the Crown Attorney and Rev. D Spencer on 17 June, he said that Walter Wardell, owner of the woods in which the tragedy occurred, had actually been the murderer. He himself had been present, having come up afterwards, but Hendershott was not. A threat to kill him if he told kept him from divulging the information, he said.

This sensational revelation was at once forwarded to Ottawa, and the Gov. Gen., Lord Aberdeen, delayed his signature to the cabinet's decision: but it was recognized at once as false, like a drowning man clutching at a straw, for Wardell was highly respected with a good reputation. The only result was that Welter, long considered the dupe of Hendershott, went down still further in the public estimation⁷.

As their last day approached, the two men were pretty well exhausted mentally and emotionally. Welter, described by detective Murray, as "a massive fellow, over six feet tall, deep-chested, broad shouldered,

⁶ for the sadistic butchery of Jessie Keith.

⁷ Apart from the hope of escape, Welter's charge against Wardell was no doubt to get back at him for his strong evidence against himself.

powerful"⁸, was worn down both in body and mind, and was considered close to insanity.

But they awoke in good spirits and chatted until their spiritual advisor arrived, Welter smoking a cigar the while. Prayers and religious exercises then made their plight more evident and both sobbed piteously. At 6:35 Gov. Moore sent in a tempting breakfast that he had prepared in his own kitchen. It consisted of eggs on toast, strawberries and cream, and coffee, and though neither man had much of an appetite, both drank the coffee eagerly.

At 6:50 Mr. Spencer, their spiritual advisor, came in again, accompanied by two other clergyman. At 7:30 the jail doors were opened and some 40 who had been designated as essential witnesses were permitted to enter the men's exercise yard, by this time the condemned men had reached almost a state of frenzy and their cries could be heard even at this distance.

At 8:05 the mournful procession to the gallows commenced, both men moaning frightfully. The cries of Hendershott, said the press, particularly made the spectators shudder, they ascended the 10 steps of the scaffold, where Radcliffe, the official executioner, 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 Mr. Spencer.

Hendershott glanced momentarily in Welter's direction to see the black cap adjusted, but he did not care to watch long in fact his turn followed immediately, and both were ready to be launched into eternity. As the drop fell at 8:13 am Welter was heard to say "*goodbye, all – have mercy and compassion!*", And Hendershott to mumble "*have mercy, O Lord, have mercy!*". Both died instantly as the Lord's prayer was being recited, and Radcliffe expressed satisfaction at the success of the double hanging.

The usual formal inquest was held, and a black flag run-up over the jail, a request for the bodies having been refused. Lily Mary Hendershott had lost her father and her lover at one stroke, and such little property as the orphan girl would have inherited went towards the expenses of the defense. It was, according to the Toronto World, the first double executions

⁸ 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.

since the hanging of Lount and Matthews, rebellion leaders, in Toronto in 1838.

Mr. Spencer, who was very businesslike for clergyman, provided the finishing touches by immediately holding a press conference in the most approved modern style. Perhaps he felt impelled by the effect of Welter's earlier statements to say that the men had made an 11th hour confession of their guilt, but he refused to divulge any details. All earlier stories implicating Edwin Wardell or Charles Welter (at the time suggested as in the conspiracy) were false, said Mr. Spencer, who also stated that Lily Mary Hendershott had spoken the truth when she testified.

*"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 sincerely and honestly, but I shall give to nobody the particulars"*⁹.

X - REFLECTIONS ON THE CASE

The connoisseur of murders will immediately conclude that the effort made by the Hendershott – Welter conspiracy was among the sloppiest jobs which criminal history records: for while it was carefully planned, the care was wasted by too much unnecessary and highly incriminating talk both before and after the crime, and by clumsy and inexpert execution of the details. It resulted, consequently, that what might have been a plausible case of accidental death was a most obvious and most brutal murder.

Only one part of the conspiracy was well-planned, and that was the trip to Aylmer and Eden by which arch-villain Hendershott sought to create an airtight alibi for himself. But the very emphasis with which Welter, both by his statements and his timing of the killing, placed upon the early afternoon, would indicate that Will Hendershott was murdered about 9 in the morning – as stated in Welter's reputed confession – or an hour or so later, with John

⁹ 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.

Hendershott interrupting his buggy trip long enough to aid Welter in the killing.

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 arranged 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 agreed 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. In his disposition 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 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.

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 as 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.

At the inquest Hendershott gave two reasons for his trip to Aylmer and Eden. He said he had an appointment with Hutchison, an Aylmer marble dealer, and that he had to pay taxes on some property in Eden. When detective Murray investigated he found that Hendershott called at Hutchinson's but had made no appointment to do so; while no taxes were

due at all, having been paid by one named Nairn of Aylmer a long time before. It was, therefore, a trip without a reason except his plan to be far off when the murder was reported.

While it is in no sense necessary that Charles Welter had any knowledge of the conspiracy, it is yet remarkable that he should have immediately considered himself a suspect and engaged counsel. There was the fact, too, that both he himself and his hired man, Craig, recalled so little of Dave Welter's first remarks and were in general such uncooperative and hostile witnesses. Dave Welter's statement on one occasion that his uncle was implicated is borne out more by Charles Welter's conduct than any other circumstance. That men were caught sprinkling horse blood in the neighborhood of the killing indicates that there were other callous people besides the two chief scoundrels¹⁰.

In addition to the inconsistencies and contradictions in the story told by Welter and Hendershott, each made numerous other errors that tended to give the game away. The most notable of Welter's was his exchange of watches, a remarkably foolish move which suggested a minor motive for killing his companion. Then there was his bravado in driving pallbearers at the funeral, and Hendershott's in inviting everyone to dinner – old dodges, like Bill Newell's singing Abide With Me at the funeral of the wife he had just murdered that suggest guilt¹¹, not innocence.

Hendershott's reputation in the community was very much against him. He did not lose his tavern license without good reason, and he was everywhere known as a *nervy* fellow who could be depended upon to get what he wanted – if too much work was not entailed in the getting.

It would appear from all accounts that his absorbing interest in life insurance began when, a year or so earlier, he read of the insurance swindles perpetrated by Dr. Meyer, convicted and serving a life Sing Sing for a clever poison murder. John Hendershott turned the matter over in his mind and concluded that here was a racket that would afford plenty of **easy money** and relieve him from pressing debt. The more he thought of it the better it seemed. Patsy Fitzpatrick was first elected as the victim but the doctors did not cooperate, the company smelled a rat, and the game was

¹⁰ In conversation afterwards both Welter and Hendershott made that suggestion in relation to the blood, and their friends were merely trying to make it more plausible.

¹¹ Guillet's book, *This Man hanged Himself*

off. It would appear that Dave Welter was a fellow conspirator in this plan too, but it failed before it was well underway.

When Will Hendershott was next chosen for slaughter, his uncle played rather subtly on Welter's feelings, for it is said that he turned him against Will Hendershott by warning him that Will too was interested romantically in his cousin Mary¹². There was, too, his frequent suggestion that Will was clumsy and careless, apparently to render his eventual death more plausible, whether it occurred in falling from a fractious horse or getting in the way of a falling tree. One plan or another was scheduled to mature shortly, and he figured that a little preparation would make for a smooth a job and fewer questions asked.

The insurance episode with Patsy Fitzpatrick was a strong point against Hendershott, but the judge kept it out of the main trial on the ground of irrelevance¹³. There is no doubt, however, that the jurors had heard of it or had it brought to their attention by those of their number who had. That he should have been so over anxious to give the details ahead of Welter's report is easily the most damaging evidence of guilty conspiracy, while his earlier conversation with Mrs. McConnell and Mrs. French, if accepted as true, showed that he had a long-range plan¹⁴.

John Hendershott was a diabolical scoundrel who passed in the community as a man of shady habits. His reputation made it easy for people to believe that nothing was too bad for him to do, and his gabbing tongue filled in the gaps. Lake Bill Newell half a century later, he inadvertently, but nonetheless certainly, adjusted the noose around his own neck and at the same time carried along a comparatively simple country bumpkin to the grave with him.

¹² I presume Guillet is referring to Mary Lily Hendershott, John Hendershott's daughter and Dave Welter's sweetheart

¹³ It would appear, however, that the evidence might well have been admitted on the ground that it indicated a persistent source of action and so bore close relation to the case, as was done in 1892 in London, England when the habitual murdered, by Dr. Neill Cream, was tried and convicted. See Guillet volume 15.

¹⁴ While the convicted men were still unchanged, the press reported that David Hendershott was entering a civil action to get the insurance on his son, and the same was being done in behalf of John's daughters. The companies were refusing payment on the ground that to do so would be putting a premium on murder.