

C H A P T E R N I N E

Trial of George Worrall

The unexpected availability of the Chief Justice, Francis Forbes, to try cases in the Supreme Criminal Court, Sydney, at the end of November, set in motion arrangements for a speedy disposal of the Campbell Town affair. As early as November 7th, Rev. Reddall had sent 'true' copies of the depositions of the hearings in Campbell Town to W. H. Moore who would conduct the case for the prosecution. The effort, however, was thwarted for the time being. An understandably irate -- and overworked -- Reddall wrote from Campbell Town on December 1st. complaining that subpoenas for his attendance at the Supreme Court at 10 a. m. the same day had not been handed to him until between 6 and 7 a. m., as a result of which it would be impossible for him to reach Sydney in time for the trial.

Likewise, the summonses for the witnesses were delayed, not having appeared until 3 o'clock the previous afternoon. Although Reddall had despatched the summonses to the various persons they were intended for, he doubted whether they would reach them in sufficient time for them to get to the court for the trial. Reddall 'thought expedient to decline going down,' and hoped to trace the cause of the 'shameful delay.'¹

These circumstances gave respite of another month to George Worrall, who would not enter St. James' Parochial School to hear the web of circumstantial evidence woven about his relations with Frederick Fisher, until February 2nd. of the coming year.

Since he had made his Declaration at Campbell Town on October 28th, George Worrall had uttered no further word for official notice concerning the death of Fisher.

The torrid summer blazed towards a suffocating climax as the eve of trial day dawned. The sandstone cliffs at the base of which Sydney Gaol crouched radiated their stored heat throughout the night, making sleep impossible ~~both~~^{for} both prisoners and their guards. So near the sea, and yet no blessing of a breeze! But at last, the

day that was more fearsome than any night announced itself. In a stupor of bewildering and incoherent thoughts ^{Worrall} noticed nothing of the preparations, the askant looks of those less beset than he was. The die had been cast for him. He could not retract the Declaration, but would have to rely upon the cunning of his counsel to make it ineffectual. So much had been left unsaid, he knew; but there was now no help for it. As the law stood he could make no statement verbally in his own behalf.

At last he found himself listening to the reading of the Information:²

BE IT REMEMBERED that William Henry Moore, Gentleman, Acting as His Majesty's Attorney General, February 2, 1827, informs the court at Sydney that George Worrall late of Campbell Town in the Colony of New South Wales labourer not having the fear of God before his eyes but being moved and seduced by the instigation of the Devil on the sixteenth day of June in the year of our Lord, 1826 with force and arms at Campbell Town aforesaid . . . in and upon Frederick Fisher in the peace of God and of our said Lord the King then and there being feloniously wilfully and of his malice aforethought did make an assault and that the said George Worrall with a certain stick of the value of two pence which the said George Worrall in his right hand . . . [inflicted] divers mortal wounds, contusions and fractures to wit --

1. One mortal wound on the forepart of the head, one inch long and one inch deep;
2. Mortal fracture of the forepart of the head;
3. Mortal contusion on the forepart of the head;
4. One mortal wound on back of head, one inch long and one inch deep;
5. Mortal contusion on back of head;
6. One mortal fracture on back of head;

of which he instantly died and by that means [George

Worrall⁷ did kill and murder against the Peace of our Sovereign Lord the King, His Crown and Dignity.

Plea -- Not Guilty.

(SA)

No witnesses were called by subpoena for the Defence.

Daniel Cooper gave oath that after his overseer, James Coddington had written saying Fisher had left the Colony and Worrall was aware of his doing so, he had been approached by Worrall who wished to obtain the title deeds to Fisher's farm, which Cooper had sold to Fisher, and offered the balance owing. Worrall had represented that he had a written authority to act for Fisher, and although witness asked to see it, it was never produced. Witness had repeatedly interrogated Worrall concerning Fisher's supposed departure and became suspicious by Worrall's evasions.

Cooper continued that he was satisfied Fisher was solvent and had considerable property -- more than sufficient to pay his debts, and that he had left all this behind. Upon inquiry, he found the conveyance of the farm property from himself to Fisher still lay in Solicitor Norton's hands.

James Coddington amplified the evidence he had given at Campbell Town by stating that when Worrall informed him ~~that~~ Fisher had left the country, he had mentioned that Fisher had gone 'with £300 in his pocket.' He had also said a chaise had come for Fisher during the night and he had gone privately. When witness called upon Worrall two days after the foregoing conversation, Worrall proposed selling him a horse and showed witness a receipt supposedly for purchase of horses by Worrall from Fisher, but as he doubted the handwriting was Fisher's, witness did not buy the animal.

Under cross-examination, Coddington stated he had seen Fisher write during the time he was collecting Quit Rents. Fisher wrote a better hand than that shown in the receipt exhibited in the court.

Thomas Hammond gave evidence that he frequently saw Frederick Fisher until May or June, 1826, when he disappeared. During July, Worrall offered to sell him some boards, claiming authority to do so from Fisher who had left the colony from fear of being prosecuted for forgery. On several occasions Worrall claimed to hold a power from Fisher but never showed it to witness.

Hammond repeated his evidence given at Campbell Town describing his journey to Sydney with Worrall during the previous August, when witness had told him Fisher's friends suspected he had been murdered. Worrall was affected by the observation and ceased to speak of it. Later, asked if he knew anything of Fisher, Worrall replied that all he knew was Fisher had left the colony. Worrall had not slept at the Emu Inn overnight, as arranged, but appeared the next morning and said he had been to Parramatta. He proposed to remain in Sydney to transact some business and Hammond might have the use of the horse and [Fisher's] gig to return to Campbell Town.

A few days later, at Campbell Town, Hammond continued, he had seen the receipt for the supposed purchase of Fisher's horses at a price of £134 and regarded it as a forgery. When Worrall said Fisher had given it to him, witness retorted that it must have been to trick him, since it was not in Fisher's handwriting. Witness had observed a servant of Worrall's wearing a waistcoat he believed had been Fisher's. Worrall himself had worn a pair of trousers belonging to Fisher; witness had noticed the fact because Fisher was a much smaller man than Worrall, whom they fitted tightly. The cut and style of the trousers were not those for a country farmer, which Worrall was. Witness had heard Fisher was in debt, his affairs involved, but never that he intended going to England.

Hammond was unable to say the endorsement on a promissory note from Thomas Talbot to Frederick Fisher was in the latter's handwriting or not.

Talbot and his wife, of Cobbetty, and Lewis Solomon, repeated their evidence at the earlier inquiry concerning Worrall's receiving

portion of the money due under a promissory note in favour of Fisher, who failed to call for it as arranged. Worrall, these witnesses stated, informed them Fisher had gone to England owing to his having committed a forgery. Talbot stated he had bought from Worrall in August, one of Fisher's mares and had paid £40 for it.

William Sykes³ told the court defendant had said Fisher had left the country. After his apprehension, Worrall asked witness to tell Talbot that if inquiries were made about a mare, he was to say he had hired it for three months. Until then, said witness, he had not known Worrall sold a mare to Talbot.

Edward Weston told the judge he knew the horses spoken of in evidence as having belonged to Fisher, who once lent them to Worrall to do some ploughing. Although he thought Fisher had given some of his clothing to the builders, Worrall had given some of Fisher's clothing to the bricklayers.

Robert Burke, Chief Constable at Campbell Town, gave evidence that he had known Frederick Fisher who was not financially embarrassed. Witness had found some of Fisher's papers, etc. in prisoner's possession, and some of the murdered man's horses had been re-branded G-W. After Worrall had been remanded from Sydney Police Office, Sept. 20th. 1826 he gave witness the receipt exhibited, the signature to which witness did not believe to be Fisher's.

Samuel Hopkins took oath he had lived in Worrall's house. Worrall and Fisher slept in the room adjoining that in which witness slept.⁴ He last saw Fisher on the evening of June 17 previous. Fisher came into the kitchen where witness and several other persons were and gave Laurence a Spanish dollar. Fisher went out. Several of the men also went out to get some rum, and were away about an hour. Prisoner was 'about' that evening but witness was unable to say when he returned. Fisher was in the habit of going out of an evening and 'looking about him'. When Laurence returned with the

other three men he said he wished Fisher would come in as he wanted another dollar from him. Fisher did not return and witness did not see Worrall until the next morning. Prisoner took possession of Fisher's property and witness quitted his service on June 27th. Fisher owned a gig, and it was at Worrall's the morning after Fisher's disappearance, to the best of witness's knowledge.⁶

Under cross-examination, Hopkins stated he did not see Worrall at all after sundown on June 17th. No inquiries were made by Worrall of witness or of any other person as to what had become of Fisher.

Nathaniel Cole's evidence supported the testimony of the previous witness with the addition that Worrall 'took a light' after the men returned from the public house. There was some surprise at Fisher's absence, but no enquiry was set on foot about it. There was some report about the tracks of a gig turning in at the gate. Some days later there was a report Fisher had left the colony.

George Luland,⁷ constable, of Campbell Town, told the court he was ordered by the Bench of Justices, Campbell Town, in October⁸ to search for the body of Frederick Fisher. *Deposition text:-*

. . . He went to a place where there were traces of blood on a rail at the corner of a paddock belonging to Fisher and adjoining land in possession of the prisoner, about 50 rods from prisoner's house. Searched for some time, when 2 natives came with another constable [Marginal note, 'Roche']. They searched the ground till they came to a creek when Gilbert (one of the natives) stopped and went into the water and took a Corn stalk which he passed over the surface of the water and put it to his nose and said 'He smelt the fat of a white man.' They led him [Luland] up the creek 'till they came to another creek and went up that for about 40 rods when a black man put a rod into ground and said 'there's something here.'

They saw the form of a grave where something had been put -- got a spade and dug the hole and found the body of a man. On getting the hand clear witness said 'that is the hand of Fredk. Fisher, I will swear to it' -- had means of knowing him well -- the body -- the clothes were Frederick's -- the under jaw was a little decayed. This was in Octr. last.

Witness went immed'y to inform Mr. Howe and left Roche in charge of the body. Got warrant to apprehend the party, as he supposed [to be the murderer]. Sent for the Coroner and next morning he came and the body was disinterred and examined. Witness in digging to come at the body was careful not to injure it and will swear he did not cut or injure any part. Witness knew the jacket to be Fisher's -- they [Coroner's Bench] sat -- and they found a verdict.

[Witness] exam'd the rail where there was blood, it was sprinkled with blood and there was a trace of fire underneath as if to extinguish the trace of blood.

Cross exd, [witness stated] that a reward was offered for discovery of body, £20. The head was broken in by Stokes [strokes].

(ML)

Patrick Hill, Surgeon of Establishment, gave evidence that he had examined the body of Frederick Fisher and found the head fractured in several places sufficient to have caused instant death. Witness had known Fisher, having come to the colony in the same ship with him. He could not swear to the deceased's features, 'he had none distinct' -- Being decomposed at the time. Nor had he any means of identifying him by his clothes. The body had been buried in a swampy creek thoroughly impregnated with alum, which had prevented its being more decomposed.⁹

The next witness was Thomas Leathwick Robinson¹⁰ who stated he saw the body when it was found. He was sure it was that of Frederick Fisher from the jacket and braces upon it and from the general figure. He had examined the bloodstained [fence] previously referred to and had seen traces of fire

SAMPLE PAGE, GURNER NOTES, showing Rev. Reddall's
testimony at Worrall's trial.

as if to extinguish the blood traces.

Jane Hopkins gave evidence that on June 17, previous, she saw Frederick Fisher about 9 p.m. He had given a trifle of money to some men to go and get something to drink. Worrall and Fisher had left the house about the same time that evening.

Rev. Thomas Reddall, J.P., testified he had examined the case against the prisoner at Campbell Town, where he was charged with murder. Witness tendered a statement made by Worrall as to what had become of Fisher, which was ^{as} represented by Worrall ~~that Fisher had~~ left the colony. The statement had been made before Fisher's body was found. After the body was found, the Chief Constable at Campbell Town informed witness that Worrall desired to make some sort of confession. When he was brought before witness, Worrall requested some benefit should be promised him; but witness, speaking as a clergyman, had told Worrall he could hold out no promise of such a nature, and cautioned the prisoner to tell the truth; but any statement he had to make must be voluntary, without promise or hope, and that if he were innocent he should disclose who were the guilty. Worrall then made a statement (tendered) in which he claimed he was not guilty, and accused four other men.

Counsel for Worrall, Mr. Rowe, contended the evidence given by Reddall was inadmissible. The Chief Justice took the opposite view, but decided to leave it to the jury to say whether or not the second statement made by Worrall was induced by the conversation with Rev. Reddall.

The prosecution had only one witness left -- Nathaniel Boon; but W.H. Moore considered he had presented a sufficiently strong circumstantial case without putting Boon in the box. The Defence then took the opportunity to call Boon as its own single witness.

Boon told the court he had known and had dealings with Fisher, and had had some intention of prosecuting him for signing witness's name to a false agreement. Fisher had denied having done so and insisted it was Boon's own signature. Witness would swear it was not his own signature, and suspected and believed Fisher signed it although witness did not see Fisher sign the name, but only suspected he did so.

He [Fisher] sued witness in Court of Requests and the Court made him sign his [Boon's] name and said it [the signature on the agreement] was not his [Boon's]. Witness threatened him to prosecute him. (ML)¹¹

Boon stated under cross examination that Worrall had informed him Fisher had 'run away on account of this business', witness having threatened to prosecute Fisher.¹² He had seen the body at the inquest; it was Fisher's body.¹³

Mr. Rowe finally advanced an objection to the form of Worrall's arraignment, which he found, as he should have known already, was inapplicable because the law had recently been changed and procedure in the case had been technically correct.

The judge in his summing observed that Worrall's behaviour had been irreconcilable with the natural course which he ought under the extraordinary circumstances to have pursued. Worrall's charges against the four men he thought should be abandoned, as there appeared to be nothing in the evidence to support them.

It was not until 6 p.m., long past the normal time for the court to rise, that the jury brought in its verdict of 'Guilty!'. Judge Forbes sentenced Worrall to be hanged on the following Monday -- three days later.

EXTRACT FROM THE SYDNEY GAZETTE, Tuesday, February 6th, 1827:

George Worrall, who was convicted on Friday last of the murder of Frederick Fisher, yesterday suffered the dreadful sentence of the law. Till five o'clock on the morning of his execution he persisted in asserting his innocence, when he was at length induced to acknowledge to a gentleman [Rev. William Cowper, Rector of St. Phillip's Church] who had sat up with him during the night, that he alone had perpetrated the murder, but positively affirmed that it was not his intention at the time to do so.

He stated that on the unhappy day when Fisher met his fate, they were going together with a bottle to get some rum, and in passing the paddock, discovered there was a horse there.¹⁴

Worrall said he jumped over the fence on one side, and Fisher on the other, leaving the bottle outside; that then he had seized part of the paling¹⁵ and made a blow which he intended for the horse, and that he did not know of the deed he had committed till his return from the pursuit, when he saw Fisher lying weltering in his blood.

He added, that on seeing this dreadful spectacle he became confused, and was afraid if he made any disclosure he should be accused of the crime. This induced him to hide the body among the reeds, but his anxiety increased till he had deposited the body where it was eventually found.

He also acknowledged that it was his full intention to hang the two men who were apprehended, in order to save himself, but now he acquitted them, or any other, of having any participation in the crime, and, we believe, he acknowledged the justice of the sentence to the Reverend Gentleman who assisted him in his devotions.

His behaviour on the scaffold was manly and becoming, and he seemed absorbed in the contemplation of an awful

eternity. The Reverend Gentleman at length took his leave -- the executioner adjusted the cap -- and in a few moments the drop fell -- and the world closed upon this murderer forever.¹⁶

Although Worrall had been sentenced to death and the judge had clearly expressed himself satisfied that the implication of the four workmen was baseless, the Acting Attorney General nevertheless concerned himself to write on the day following the condemnation of Worrall, to ask Rev. Thomas Reddall to obtain a deposition from anyone who would give an account of the manner in which Pickering, Smith, Vaughan and Laurence had spent their time during their absence from Worrall's house on the night of June 17th, 1826. He judged that all the talk about the affair must have called to someone's mind whether they were at The Harrow or not, and if they were, how long they remained. (SA)¹⁷

It is hard to fathom what Moore was trying to do by this action. However, Reddall replied on February 7th. enclosing an affidavit from Isaac Dow, resident of Airs district, to the effect that at the time Fisher was murdered, he, Dow had been in charge of The Harrow belonging to Charles Rennett. To the best of his recollection, two bricklayers

. . . employed by Fisher in erecting the building near the roadside and near to the Harrow, with George Worrall's clerk or cook and another man of Worrall's, came to the hotel and were served with $\frac{1}{2}$ pint of rum. They later had more and left about nine o'clock.

The bricklayers had a three and ninepenny piece holey dollar which they spent. One other man also had some money. They paid for what they had and left. (SA)¹⁸

If Mr. Prosecutor Moore had belatedly imagined the possibility of the men's story of their being at The Harrow on the night of Fisher's death was a fiction produced in collusion -- for it had

not previously been substantiated by any independent witness -- he could not have saved Worrall, who had been dead for days before Moore could know the outcome of his afterthought.

The Sydney Gazette pronounced a few philosophical lines upon the tragedy:

The trial for murder which appears in our columns today will be found very interesting. It will go to establish that impression which has very properly obtained in society from its earliest organisation, that "murder is sure to be found out".

That part of the evidence relative to the aboriginal natives forms no uninteresting feature in the case, inasmuch as it illustrates the wonderful instinct these uncivilized men have over their more cultivated fellows.⁺ To think that a black should be capable of skimming the surface of a basin of water, and pronounce such to be the "fat of a white man" and afterwards plunge a spear into the identical spot, is mysterious in the extreme, and proves to our mind, verily that there is a God in the earth -- a righteous and retributive Providence.

The murdered man, poor Fisher, with a view to ascertain whose fate the Government so liberally stepped forward, was an honest and industrious character. He it was that started the design of a paper manufactory some years ago and actually produced some very coarse specimens of that article.

We rejoice that social justice has overtaken his murderer.

All that officialdom could do by the prevailing standards had been done; its last word had been spoken. Frederick Fisher, buried

⁺ The editor's father had been a creole.

without even a marker, had received his simple and not inconsiderable testimonial from the most authoritative journal in the colony, with that tinge of personal admiration which elevated it above conventional politeness. It would have to endure long after remembrance of the resting place of his pitiable remains had been lost.

But Frederick Fisher's fame was yet to come because it was sown in the hearts of men by the intensity and persistence of his mind -- already spread abroad in awed whispers or thundered in disputation.

N O T E S

1. 'Mutch' document. (SA)
2. 'Mutch' document. Hitherto, research on the Fisher affair has been limited to the Gurner notes of the trial of George Worrall, themselves sparse. John Gurner, Chief Clerk of the Supreme Court, was not a first-class recorder, even allowing for the great difficulty in setting down in longhand the great volume of utterance at the trial. However, the fairly recent recovery of the Campbell Town depositions (copies) and a host of associated Supreme Court documents concerning the case, and going under the name of 'Mutch' documents, the Gurner notes are useful principally to obtain particulars missing from other documents.

The Gurner notes in the Mitchell Library, Sydney, cannot be the originals, but a careless copy made during 1837 or even later, since the copyist in entering the judge's name, as at the date of Worrall's trial (Feb. 2nd, 1827) describes him as 'Sir' Francis Forbes, that is, nearly ten years before Forbes was knighted. Some details not included in the Gurner notes, for present purposes, are taken from press reports of the trial.

3. Erroneously called 'Sedds' in the Gurner MS.
4. Elsewhere suggested that Fisher slept on the skillings (verandas); in yet another place, to have slept on the table in the kitchen. Other accounts say he shared Worrall's room for sleeping.
5. At the eighth hearing (Campbell Town), Hopkins asserted he was one of the men who went to The Harrow; he now speaks as though he remained at the house; but this may be an error on the part of the court clerk.
6. The allusions to tracks of a gig turning in at the gate overnight may have originated with Worrall as a 'red herring'. It should be remembered that Fisher had arrived from Windsor on

the day of his murder. He would surely have used the gig for his journey.

7. Mis-called 'Newland' in the Gurner notes, and elsewhere as 'Looland', 'Leeland' and even 'Leonard'.
8. The court notes do not record the date; Sydney Gazette report of the trial gives the wrong date -- October 20. The Australian omits the date. October 25th. is correct.
9. Possibly the origin of the popular supposition that Fisher's body really was buried in a creek in the full meaning of the term.
10. 'Thos. Robinson' in the Gurner notes; 'Thomas Lethbridge Robinson' in the Sydney Gazette report of the trial.
11. A good example of Gurner's note-taking.
12. The Australian on June 2nd, 1829, reported that Nathaniel Boon and John Warre were capitally indicted at Sydney for the murder of John Phillips on April 24th of that year. The dead man had left Sydney with four carters conveying goods to Campbell Town. About 3 a.m. after they had passed Long Cove bridge -- about five miles from Sydney -- Robertson, one of the carters, driving Phillips' dray, asked what had become of Phillips. Boon ran up -- Warre being drunk in accordance with the evidence -- and said he had seen Phillips lying on the bridge as he drove over. Boon showed his hands to be bloodstained, due, he said, from raising the man's head. Medical evidence showed Phillips had been crushed, possibly by a dray, against the bridgework. A constable deposed that when he arrived he found Boon going through the dead man's pockets, claiming some of their contents belonged to him. Several witnesses spoke to the good character of the accused, some adding that Boon in their belief, being a wealthy man 'could have no earthly object in committing murder to rob the deceased'. Both accused were acquitted.

13. Additional details of Boon's testimony come later.
14. Presumably in the cultivation paddock.
15. An English usage. The fences were of rugged post and rail construction -- there was not yet any drawn fence-wire. The openings were by sliprails ('drawrails'). At the spot where the murder occurred there would be nothing like the current conventional notion of a 'paling'. The Cheshire man was doubtless speaking of a 'sliprail'.
16. G.B.Barton's version of the Fisher story (1898) gives a different text of the confession, implying other sources the present writer cannot discover, or invention. But it needs to be remembered ~~that~~ Barton asserted that Worrall could read and write, when even the Gurner notes show such was not the case. Rev. William Cowper was known as a scholar, conscientious and precise. His account of Worrall's confession, although not verbatim, would be a faithful factual reflection of what the doomed man said.
17. 'Mutch' document.
18. 'Mutch' document. This should help to convince those who have been hitherto hard to persuade that it was not one of the workmen who slew Fisher. Had some of the earlier writers had access to ~~even~~ the files of the Sydney Gazette of the period, they would not have committed such foolishness.