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ELEVENTH YEAR. FRIDAY MORNING, SEPTEMBER 26, 1890. ONE CENT.

LINKS OF STEEL

Forged About Birchall by the Crown.

THE GREAT TRIAL NEARING ITS END

That Tell-Tale Letter—How Did the Writer Know That Benwell Was Dead?—The Two Men's Journey From the Falls to the Swamp Traced Mile by Mile—The Return Trip of One—Alice Smith's Story—John Crosby Says "That's the Man There"—Some Positive Identifications—Several Witnesses Badly Broken Down on Cross-Examination and One Faints in the Box.

WOODSTOCK, Sept. 25—This has probably been the most important day in the great Birchall murder trial since it opened last Monday morning. The crown put several of its strongest witnesses in the box and, as I intimated last night, the day was devoted to tracking the alleged murderer from Buffalo right to the western entrance of the swamp of death, across the fields between the Eastwood railway station and the fatal spot and back again to the Niagara Falls telegraph office, where the well-known "Bastell" message was sent to Pelly at the Stafford House. The evidence on these points, as adduced to-day, was very positive, and there does not seem to be the shadow of a doubt that Birchall was at the Eastwood station on Monday, Feb. 17, the day that Benwell was presumably murdered.

The crown officers are not weakening in their opinion of the prisoner's guilt by reason of the breaking down of a few old women in the witness box. They still rest their conviction of the prisoner's guilt upon his letter to Col. Benwell, and say that *Birchall must have known that Benwell was dead when he wrote that letter. Had Benwell been alive the very same post might have taken a letter from him to his father. If Birchall knew Benwell was dead, how did he know it if he didn't kill him?*

Mr. Osler left the court room this evening fully satisfied that the crown had up to date presented the strongest chain of evidence

The Rush to the Town Hall.

that could possibly be woven around Birchall. The crown has but eight more witnesses to call, and Mr. Osler intimated that two of them being merely formal they ought to close their case before recess to-morrow. The case will then be open for the defence.

Birchall to-day continued to wear that anxious look on his face which was first noticeable on Wednesday, and as the witnesses one by one entered and left the box he fastened his keen dark grey eyes on them like a cat. When Alice Smith swore positively that she spoke to Birchall at the Eastwood station on the afternoon of Feb. 17, the prisoner seemed for a moment to lose heart, but he quickly recovered himself and went on jotting down notes between sentences by the witness.

A Rebuke From the Bench.

The cross-examination of this girl, who is but 17 and is engaged to be married, evoked from Mr. Blackstock an exhibition of bad temper and harshness that called forth a stinging rebuke from His Lordship, who characterized the evident aspersions that the counsel seemed disposed to cast on the girl's character as extremely cruel. More than one of the female occupants of the court shed tears while Mr. Blackstock was firing his irrelevant queries at the girl whom the crown looked upon, next to the tell-tale letter of Birchall's to Colonel Benwell, as its trump card, especially in the matter of identifying Birchall at Eastwood on the fatal Monday.

His Lordship, too, was called upon to-day to severely criticize an outburst of so-called hilarity on the part of the audience which resulted from one of Mr. Blackstock's questions to a witness. The judge said in the sternest phrases possible that if the like occurred again he would have the entire audience excluded from the court room for good. There will probably be no more of it.

If the crown concludes its case to-morrow the line of defence will be looked forward to with great interest. I see no reason to doubt that it will be as I indicated yesterday, that the presence of Birchall at Eastwood on that Monday will not be denied—how could it be, in face of the overwhelming evidence of to-day!—but that he was murdered by some one who met him after an alleged separation from Birchall, and that his body was carried to the swamp by his slayers. Of course the crown does not pretend to say that anyone but his murderer was an eye-witness of the crime, and this the defence will no doubt urge to its utmost, and a strong appeal will be made to give the prisoner the proverbial "benefit of the doubt."

One chronological fact seems to be settled, and that is the date of Birchall's and Benwell's trip over the Grand Trunk to Eastwood, the identity of the former, at least, at the station and on the road leading therefrom, at one time in company with another man, and at another alone. This date seems to be firmly impressed in the minds of nearly all the witnesses as to this identification, and especially the female witnesses, by a ball that was given at Jerry Dake's Hotel in Princeton on Monday, Feb. 17. Several of the male witnesses fix the date by a certain cheese meeting. Oxford is famous for its cheese and its cheese meetings.

The Famous Ball at Dake's.

Here is an exact copy of the ball tickets that were issued and which was filed in court as an exhibit:

GRAND BALL AND SUPPER
DAKE'S HALL
PRINCETON
Friday Evg. 22nd Dec. 1887
Admit Lady and Gent, $1.00
Monday, Feby. 17th.

The ticket had apparently been used at a previous ball, for the date thereof had been scored out with a pen and the words "Monday, Feby. 17th," substituted. The original date was Friday evening, 23rd December, 1887.

Miss Lockhart, an intelligent-looking spinster, was another strong crown witness today. She identified Birchall and "another man" on the Grand Trunk accommodation going west on Feb. 17. She subsequently identified the body of Benwell in the Princeton cemetery as that of one of the men whom she had seen on the train.

Miss Elizabeth Lockhart.

These, then, are the strong points of the crown as developed to-day, and there is no doubt that the accused man felt his position somewhat keenly as the different witnesses told their incriminatory stories. So engrossed was the prisoner with the evidence of the witnesses who spoke about those shots which thy heard in the swamp that he could barely look over a telegram from a New York paper thanking him for some sketches he had sent.

The usual jam of people around the Court House was not wanting to-day. At the afternoon sitting the ladies out-numbered the male spectators three to one. Mrs. West-Jones occupied a seat at the morning session in the rear of the hall. She seemed deeply interested in the proceedings, but she did not return in the afternoon. She was alone. All the "millinery openings" took place here to-day and the ladies "took in" these first and then attended the trial.

Birchall's most trying hours seem to be after he is removed from the Court House. To-night it is reported from the jail that he is again very downhearted. Just before he left the dock to-night he reached over the rail and gathered in all the newspapers he could reach that were scattered around the reporters' tables.

SOME FATAL CORRESPONDENCE.

Birchall's Tell-Tale Letter to Col. Benwell—The Prisoner and the Mysterious Mellerish.

Shelton B. Faller, manager of the Imperial Bank, Woodstock, the first witness to-day, testified that the prisoner had an account in the bank two years ago under the name of "F. A. Somerset." Witness produced five checks signed by the prisoner and recognized the "Bastell" and "Stafford" telegrams, as well as eight other documents, as being in Birchall's handwriting.

To Mr. Blackstock witness said the bank account was opened on Dec. 10 or 11, 1888, which was, he believed, about the time of Birchall's arrival.

Mr. Osler, with the permission of the court, at this stage read the Mellerish and other important correspondence and it was introduced in evidence. Mr. Osler, in opening his address, read this same fatal letter which has been in the possession of the crown for five months, written by Birchall to Col. Benwell three days after his son is supposed to have been murdered.

Mr. Blackstock urged that as there was no evidence connecting Mellerish with Benwell, it was unfair to the prisoner to put these letters in as evidence.

The court allowed the correspondence, which is as follows, to be read as evidence:

Birchall to Mellerish.

Dec. 9, 1889.

DEAR MR. MELLERISH,—I have to-day seen Col. Benwell and his son and they think he may decide to go. He wants to go for three months and then pay at the end of that time. What do you think of it?

Kind regards, yours very truly,
J. R. BIRCHALL.

Dec. 19, 1889.

DEAR MR. MELLERISH,—Many thanks for your letter of yesterday's date. I was waiting for Benwell's decision.

Sincerely yours,
J. R. BIRCHALL.

Jan. 27, 1890.

DEAR MR. MELLERISH,—I have been away till to-day and just got your two post cards. I should have come to see you if I had been at home on the day mentioned.

Col. Benwell's son is coming on a three months' trial and then if he likes it he may stop, only this is quite undecided.

I do not go on the 29th. I have postponed. Of course if Mr. Benwell stops we shall do business.

Yours, etc.,
J. R. BIRCHALL.

The Tell-Tale Letter.

Alleged to have been written by Birchall to Col. Benwell three days after the murder of his son:

Please address Messrs. Birchall & Benwell,
P.O. Box 313,
Niagara Falls, Ontario, Canada.

My Dear Sir,—We arrived safely here after a very pleasant journey, the sea being rather rough than otherwise. We came up by sleeping car from New York and had a very pleasant trip indeed. Your son has inspected all my books and all my business arrangements and I introduced him to people who know me well. He suggested taking other advice, so I of course was perfectly willing, and he consulted a barrister in London, Ontario, concerning the business with satisfactory results; and he has decided to join me, as he has found all that he wished to be satisfactory. I think we shall make a very good business together. The books show a very good profit for last year. I think the best way is to place the money in our joint names in the bank to the credit of our reserve fund. We shall take the additional piece of land that I mentioned to you, as we shall now require it for produce. The best way to send money out is by banker's draft. Drafts for us should be drawn on the Bank of Montreal, New York. They have a branch in London and I think the London and Westminster also do business for them. Letters of this kind should be insured and registered. We are holding a large sale early in March and your son was somewhat anxious to share in the proceeds of the sale, which I am quite willing that he should do, and so we have signed our deed of partnership and shall, I am sure, never regret doing so. Your son is, I think, writing you by this post. Kindly excuse bad writing on my part, but I am rather in a hurry to catch the mail. My letters are generally written by typewriter, as they are so much more legible and clear of any doubt as to words. We are having paper printed properly and this will be ready in a few days.

I think you will be pleased that your son has found things satisfactory, and I quite agree that he did much the best thing in coming out to see the business first. I shall send you weekly particulars of all business done so that you can see for yourself how things go on. This will be satisfactory to you, I think.

Of course, with regard to the money, any bank in New York would do for a draft. We have opened a business account in our joint names at the American Bank here.

Your son will doubtless explain his views in his letter.

With kindest regards, believe me, dear sir, sincerely yours,

(Sgd.) R. Birchall

Lt.-Col. Benwell,
Iseuldene,
Cheltenham.

Other Letters to Col. Benwell.

BAMBRIDGE, MABERLY ROAD,
UPPER NORWOOD, S.E., Nov. 28, 1889.

DEAR SIR,—Mr. Mellerish has informed me that you are looking for a partnership in America for your son. As I am looking out for a partner to take the place of my brother, who has been with me for five years on my farm in Ontario, I thought this opening might suit your son. I am a university man (Oxford) and have had six years' experience in farm work, and own a nice farm in Ontario, and go in for horse-breeding and general farming.

I want a man with £500 capital to take my brother's share.

If you would like to talk matters over with me I should be glad to meet you at your club at any time that may be convenient to you.

Yours faithfully,
J. R. BIRCHALL.

Lt.-Col. F. W. Benwell,
4 Edinboro Terrace,
London.

BAMBRIDGE, MABERLY ROAD,
UPPER NORWOOD, S.E., Jan. 27, 1890.

MY DEAR SIR,—I am sending your son labels, etc., for the journey by this post. Considering the terrific weather in the Atlantic we thought it best to postpone a few days in order that we have better weather. I presume you would like to hear from me periodically as to how we are getting on, as no doubt it would be most satisfactory to you to hear about the business in this way.

If, of course, your son decis to stay, we will have a deed drawn up as soon as he decides.

I shall be holding a large sale about six weeks after we arrive, and of course I dare say he may like to have some share in this, as the profits will be considerable.

I have sent on a very fair horse, which I think will do us good service.

I suppose we shall not have the pleasure of seeing you again before we start. I have negotiated for the purchase of a small business in Buffalo which will be a good depot and will I think bring in good profit in addition to the others. With kind regards, believe me,

Sincerely yours,
J. R. BIRCHALL.

Lt.-Col. Benwell, Cheltenham.

They Met all Right at Liverpool.

R.M.S. Britannic, Queenstown,
Feb. 6, 1890.

MY DEAR SIR,—We met all right at Liverpool and have had a very quick passage so far. My definite address and one where letters will always find me is:

Post office,
Niagara Falls,
Ontario, Canada.

I think we shall have a very quick passage right through. I will cable you from New York when we arrive and write from Canada. I got your note on Tuesday morning. Your son got his ticket all right and is pleased with his berth.

With kind regards, yours truly,
J. R. BIRCHALL.

Lt.-Col. Benwell.

Some of Birchall's Telegrams.

NIAGARA FALLS, 7.44 p.m., Feb. 17.

To Pelly, Stafford House, Buffalo:

Must remain here to-night.
"BASTELLE."

NIAGARA FALLS, Feb. 25.

To Proprietor Stafford House, Buffalo:

Is there a telegram or letter for me? If so, please answer; reply paid.
BIRCHALL, Imperial Hotel.

NIAGARA FALLS, Feb. 26.

Proprietor Stafford House, Buffalo:

Please open my telegram and repeat message to me here; reply paid.
BIRCHALL, Imperial Hotel.

BUFFALO, Feb. 27, '90.

Birchall, Imperial Hotel, Niagara Falls:

Telegram and letter we sent on to you yesterday to shift heavy baggage to 5th Avenue Hotel, New York.
STAFFORD.

FOLLOWING UP THE TRAIL.

Birchall's Alleged Journey to the Swamp of Death by Foot and Rail.

William H. Roche, operator at Buffalo of the Postal Telegraph Company, the U.S. connection of the C.P.R. Telegraph Company, produced three telegrams received by him for transmission to Niagara Falls.

Conductor W. H. Poole testified that he ran Grand Trunk trains between Niagara Falls and Windsor. He explained that a man could leave Buffalo by either the Erie or New York Central in the morning and connect at the Falls with the express on the G.T.R. for Detroit. To reach Eastwood a passenger would require to board this express and journey to Hamilton, where he would have to alight and board No. 7 local leaving the Falls at 7.05, which has no connection with Buffalo but is passed by the Buffalo expresses at Hamilton. Witness had charge of No. 7 train on Feb. 17 and left Hamilton at 9.36, 6 minutes late, arriving at Eastwood at 11.12, the time card reading 11.14, consequently the train was a couple of minutes ahead of time. Had only two passengers that day for Eastwood, who boarded the train at Hamilton and were ticketed Niagara Falls to Eastwood. These passengers were not on witness' train from the bridge. Conductor Poole saw the two passengers on Eastwood platform after they alighted from the train. Witness described the two men and the clothing they wore and recognized the prisoner as bearing a very strong resemblance to one of the two.

To Mr. Blackstock witness stated that there was a dining-room in the depot at Niagara Falls, of easy access to passengers, that there is a dining car on the St. Louis express to Hamilton and a dining-room at the latter place.

Miss Lockhart's Startling Testimony.

Miss Elizabeth Lockhart, forewoman of Coldback's mantle department in Woodstock, testified that she boarded the accommodation train from Paris to Princeton on Feb. 17, and described the appearance of the two men whom she saw. One wore a short dark coat and an Astrachan cap similar to that produced.

"The prisoner in the dock is the man I saw in the train that day," said witness. He alighted at Eastwood with his companion, who wore a checked overcoat and cape and a faded brown hat, similar to that produced. Witness saw the body of this man when it was exhumed in Princeton cemetery. She swore positively to the identity of both prisoner and deceased. Miss Lockhart was cross-examined at some length by Mr. Blackstock.

Q. When did you first hear of this murder?—A. I heard it read out of a paper on the Thursday or Friday morning after the 17th.

Q. What did you do when you read about it?—A. I did not think anything about it.

Q. When next did you have anything to do with it?—A. In the following week I saw it in The Sentinel-Review. My attention was attracted by Mr. Virtue's evidence.

Q. You didn't know Birchall then?—A. No, it was through the description I gave of him that I found out who he was. I made the remark at home that these two men referred to had sat in front of me on the train.

Q. Without more than the newspaper description as given in Virtue's evidence, you said those were the two young men?—A. Yes.

Mr. Blackstock read the evidence of Mr. Virtue and asked witness what part of it attracted her attention.

A. It was only a few words in The Sentinel-Review that attracted my attention.

Q. But didn't you just swear that it was from Mr. Virtue's evidence you got the description.—A. Yes, as it appeared in The Sentinel-Review. It just gave a few words stating he noticed the two men going from the station up the road and described them, and that is how I recognized them.

Q. Could you describe Mr. Virtue as seen that day?—A. He had on a black fur coat and cap. I saw Detective Murray on March 17. I was told I would have to go to Princeton; want there the same afternoon and saw the body of Benwell in the coffin. I had seen no photographs of the dead man. The lips were closed. I don't know if the gold plate with teeth had been put in. I have not talked much over the matter with people, only a little among my friends. No person made any suggestion to me as to the evidence I should give.

Q. Do you know Miss Francis?—A. In town.

Q. Yes.—A. Yes, sir.

Q. Talk to her about this matter?—A. I don't remember.

Q. Will you swear you have not?—A. I don't remember speaking.

Q. Will you swear you have not?—A. Am I not on my oath?

Q. Yes; but all you are swearing is that you don't remember. Will you swear that you have not?—A. I don't remember and can't swear that I have not.

Q. Did you ever tell Miss Francis that the man you now recognize as Benwell was the light complexioned man?—A. I couldn't have told her so.

Q. And you have no recollection of having spoken to her about it?—A. Not the slightest.

Here a copy of The Weekly Sentinel-Review of Feb. 28 was produced and the witness asked to point to the statement which she had said it contained with reference to Mr. Virtue.

Witness admitted that she must have been mistaken as to the date.

Mr. Blackstock: Yes, it's very apparent that you have, for Mr. Virtue had not given his evidence at the time and not until March 7. Now, were you ever mistaken before—I should judge not?

Witness: "I may have been."

Q. May I ask the delicate question of how old you are?—A. Yes, sir.

Q. How old?—A. Is it necessary to answer?

Mr. Blackstock: "Oh, no, I won't press the question."

The learned counsel concluded the cross-examination with the sarcastic remark that he could not examine so infallible a witness.

Another Lady Who Saw Them on the Train.

Miss Elizabeth Choate, who resides near Ingersoll, was a passenger on Conductor Poole's train on the morning of Feb. 17, journeying from Brantford to Ingersoll, where the train arrived shortly after 12 o'clock. Miss Choate fixed the date by the circumstance that she had a 30-day ticket, which she thought expired on Saturday, 15th, and took the ticket to the agent and asked him about it and he said that it would be good until Monday, and being anxious to remain with her friends as long as possible she stayed until that day. Witness saw two men on the train. This was her description of them:

Both medium size; one man was dressed in an ordinary coat, and wore black astrachan cap similar to that produced. He sat next to the window on the south side of the train. The man sat with his back to me. His cap fell off once, and he turned round and this was the only glance I caught of his face.

Q. Looking at the prisoner, how far does he correspond with the man you saw?—A. His face looked thinner than than now, judging from the profile I saw.

Witness then described the clothing of the other man. He wore a stiff brown hat and cape-coat similar to hat and coat produced. Witness thought the man who was with prisoner wore glasses while reading a paper. She heard one of the men say: "They offered me five hundred dollars." His companion answered him, but she didn't catch the words. She also heard one of them say that "He might become accustomed to it," and the other (the prisoner) said they might be late reaching some place that night. These were snatches of the conversation between the two men which witness heard. The men alighted from the train before it reached Woodstock, but witness did not know at what point.

To Mr. Blackstock witness stated that she noticed the two men first at Paris. She was cross-examined at some length with a view to shake her evidence as to identity. Miss Choate, who is a new witness, stated that she was first summoned on Monday last, but did not know how the crown became aware of her evidence, but supposed it was through having mentioned the circumstance to some friends. She explained that when she was told of the character of Miss Lockhart's testimony by a friend, it reminded her of the two men she (witness) had observed on the train on Feb. 17. Witness said she had occasionally been mistaken for other people and had made similar mistakes herself, but she did not think she was mistaken in the identity of the prisoner. The first communication she had with the crown was on Monday last, when a government detective came and spoke to her about it. Miss Lockhart testified that the reason she swore that the man with the prisoner on the train wore eyeglasses was that she saw the shadow of the glasses as he held the paper before his face. The witness identified the hat found near Benwell's body in the swamp as similar to the one worn by the man who accompanied prisoner on the train.

Miller Haywood's Sight Tested.

Alfred Haywood of Eastwood, an old man, who said he was a miller at present, remembered Feb. 17. There was snow on the ground that day and it was sloppy, while the gravel road was muddy. Witness described to the jury that his mill was located on a private road which runs north and south across the Governor's-road, north of Eastwood station. Witness saw two men between 11 and 12 a.m. in the road in front of his mill. The men had previously walked direct from the station prompt on the arrival of the train and were going north. Witness was about 115 or 120 feet from the men. He identified one of the men, who was in advance of his companion, as a party who had formerly lived in Woodstock and was then known as Somerset, and who came to witness' house driving a four-horse team in the spring of 1889, and he spoke with the man. Mr. Haywood pointed out the prisoner as the same man. He could not describe the clothing worn by prisoner at the time except that he had on a short coat. The man who was with

Alfred Haywood.

Birchall wore a coat with a cape, similar to that produced. His head was turned from him and witness could not see his face. This man, who was behind, picked up a piece of snow and made a "mash" at a cat.

To Mr. Blackstock witness stated that he knew a man named Buck and had told a Sentinel-Review reporter of a conversation he had with Buck. The latter did not tell witness that he had met two men but that he had met one. Witness thought he had mentioned at his prior examination the fact of having identified prisoner as Somerset. He had spoken to prisoner on one occasion and had seen him several times in Woodstock and consequently was able to readily recognize him. After they passed him on the road witness entered the house and told his "woman" that two Old Country gentlemen had gone past to Mr. Patteson's, he supposed. Witness admitted that he "swore like a trooper" when some persons called to ask him what he knew about the case, and told them he would relate the story in court. He explained that he had become tired of being quizzed by people. He explained the discrepancy between his statement at the coroner's inquest that he was 300 feet away and his sworn statement of to-day that he was 115 feet distant by stating that he had measured the distance since, and before only made a rough guess.

This witness was examined as to visits of counsel for the defence and local residents to his place and was asked to describe the dress of the different parties with a view to shaking his testimony as to the recognition of the clothing worn by the two men who passed his place towards the Governor's-road on Feb. 17. He was unable to describe the clothing worn by any of the men mentioned by Mr. Blackstock, but was positive as to the incident of Feb. 17. Haywood said his eyesight was not extra good.

Q. Can you see a man standing in the gallery?

Witness looked in the direction indicated, where good-looking Thomas Midgley was standing on the second seat. Haywood said he could see a man there but not sufficiently clear to recognize him.

Mr. Blackstock: "Do you know Thomas Midgley?"

Witness: "Yes, very well."

Mr. Blackstock: "And yet, although you know Midgley well, you cannot recognize him standing in the gallery. You wish the jury to believe that you recognized Somerset nearly 200 feet away on Feb. 17 last. That will do."

Midgley was standing in the gallery about 75 feet away from the witness. This part of the room is some darker than the forward part, being in a kind of shadow, but anyone with fairly good sight could easily recognize an acquaintance in any of the four rows of seats.

The cape coat, a checked Mackintosh, which was found on Benwell's dead body, is playing an important part in the matter of identification of the men on the train and in the roads leading from the Eastwood Station to the swamp. Witness Haywood remarked that the reason he thought the men who passed his house were "young Englishmen on their way to Mr. Patteson's" was because of the cape coat and other portions of their clothing. Mr. Blackstock, it is understood, intends to trip this witness' evidence up. It is said that James Sutherland, M.P., Mr. Hellmuth and Mr. Blackstock went out to Hawood Mill a few days ago in a carriage. They wore cape coats, and when witness was asked to-day about the visit of the gentlemen he said he recollected it perfectly well, but he did not know who his visitors were, nor did he see any of them in court. He did not know whether they wore cape coats or not, although one of the principal reasons why he recollected one of the young Englishmen was because he wore a cape coat.

The court took recess for 50 minutes.

"TWO TICKETS FOR EASTWOOD."

Louis Drego, the Niagara Falls Agent, Says They Were Sold.

Louis Drego, Grand Trunk ticket agent at Niagara Falls, was put in the box after lunch to prove, if possible, the sale of two railway tickets from that point to Eastwood on the supposed day of the murder—Monday, Feb. 17. Mr. Drego produced the book of the office and a foil of stubs, which showed that between 3 o'clock on Saturday, Feb. 15, and 3 o'clock Monday, Feb. 17, two tickets were sold for Eastwood, but he could not swear to whom they were sold or whether by himself or his assistant, George Crumb. The booking day at the ticket office is from 3 p.m. to 8 p.m.

Mr. Osler here intimated that he would at once subpœna Mr. Crumb, and he will be here in the morning.

John Crosby, a young farmer of the 2d concession of Blandford, testified that he first heard of the murder on Friday night. On the previous Monday (Feb. 17), about 10 a.m., he started out from his farm, and when near Robinson's blacksmith shop, on the Governor's-road, or about 8¼ miles from home, he met two men. They were going east and he was driving west. One man had on a dark overcoat with a cape attached to it. The man wore eyeglasses and he was smoking. The other man was dark, with a black mustache and dark clothes. He thought it was between 11 and 12 in the morning when he saw the men.

Q. Can you recognize either of these men?—A. I think I could.

Q. Have you seen either of them since?—A. Yes, I saw one of them at Princeton Cemetery. It was the same person (Benwell) whose body was exhumed. The face of the dead man was that of the person who wore the cape and eyeglass.

Q. Have you seen the other man since?—A. Yes; I saw him in the Woodstock jail when I was taken there for the purpose of trying to identify him.

Q. Is the prisoner at the bar the man whom you saw on the road on that date and subsequently in the jail?—A. Yes.

Q. How were the roads on that day?—A. They were frozen in the morning and muddy in the afternoon.

The witness then almost fainted and he had to be given a chair. He turned deadly pale.

To Mr. Blackstock witness stated that he saw photographs of Benwell before he viewed the body, but could not identify the man from the picture, but recognized him in the coffin.

Q. You could not recognize Benwell when alive in his clothes, but identified him in his shroud in the coffin in Princeton cemetery? That's your evidence is it?—A. Yes.

Q. You never saw either of these men before?—A. No.

Q. Although you never spoke to the men and only saw them once you now swear to their identity?—A. Yes.

Q. Did you state that one of the men was fair complexioned before you saw the body or after?—A. Before.

Q. Which was the fair one?—A. The man with the overcoat was of the fairest complexion.

Q. Did you tell a Sentinel-Review reporter on March 6 that the fair man had a black felt hat?—A. I can't swear whether I did or not.

Q. Did you say you could not tell whether the other man had side whiskers?—A. Yes.

Q. Did you say that you could not be certain about prisoner having an overcoat on, but your impression was that he had?—A. I may have said so, but if I did I do not recollect it.

Q. Which of the two men were you most certain of?—A. I felt most certain as to the dead man, as I saw more of him than the prisoner as they passed.

Q. Was it correct that the man who you say was Benwell was carrying a parcel a foot square?—A. Yes.

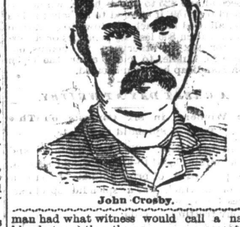
Mr. Blackstock questioned the witness at length as to his visit to the jail to identify Birchall.

Ruth Ferguson of lot 5, 1st concession East Oxford, was also called to identify the prisoner and dead man on their alleged tramp towards the swamp. She pointed out on the plan her house, which is near Eastwood.

Q. Did you see any person walking across your farm?—A. Yes, two men.

Q. What day was it?—A. It was early in the week of which Saturday, Feb. 21, was the end.

Witness described the clothing worn by the men as near as she could recollect. One



John Crosby.

man had what witness would call a navy blue hat and the other man an overcoat on. The men also walked through Mr. Perry's woods. They were going northeast towards the woods, and the hour was between 12 and 1.

He Fixed the Date by the Cheese Market.

Thomas Perry of lots 3 and 4, 1st concession Blandford, lived near the house of the previous witness. On Feb. 17, when going through his field, between 12 and 1 o'clock he saw a number of tracks in the field which were not there a short time before. The tracks of one of the men were a little larger than the other. They led across the field from the direction of the Governor's-road.

Mr. Blackstock: "How do you fix the date?"—Witness: "Well, I'll just tell you. There was a cheese meeting that afternoon and my son attended it."

Q. Might not those tracks have been made by some person going to that cheese-making?—A. No, the tracks were made by persons going northeast and the cheese meeting was held south of there.

Samuel Perry, a son of the last witness, didn't remember "anything in particular," but had noticed the tracks of two men who had crossed a field on his father's farm. The tracks were at the northern end of the lot and pointed in a northerly direction.

John Pellow also testified to having on Feb. 17 seen tracks of two men through the fields, and pointed out on the plan where the tracks were observable.

To Mr. Blackstock witness stated that the tracks were not there at 11 o'clock in the morning when he passed, but observed them on his return at 5 p.m. Witness recollected the date, because of the much-advertised "Dake House ball."

The last three witnesses admitted that occasionally persons made a short cut through these fields. John Pellow, jr., was then called and testified that there were no tracks at 8 a.m., but he observed them at 5½ in the afternoon when he returned across the field.

Archibald Emiston of lot 4, 2d concession, remembered Feb. 17 from the "cheese meeting circumstance" which has figured conjointly with the "Dake House ball" in fixing the date. Witness saw two men walking along the 2d concession line, about 100 yards from the eastern corner of his land. It was nearly 1 o'clock. The men were going east, walking on the south side of the road, one a little ahead of the other. Witness observed that the man behind wore a light-colored stiff felt hat and an overcoat similar to that produced, but he did not remember whether there was a cape attached to it. The men were walking at an ordinary pace.

To Mr. Blackstock witness said that he mentioned the fact of having seen the men at Princeton at the inquest. He only observed the men for a few minutes, as the woods hid them from view.

William Oldham of lot 24, concession 2, Blenheim, went to Eastwood via the town line and Governor's-road on Feb. 17. After dinner he hitched up his horse and rig and started on the return journey home.

Q. Did you see anybody?—A. Yes as I passed the corner where the townline crosses the second concession I saw two men going east on the south side of the road towards the swamp.

Q. Can you describe those men?—A. No, sir. One of the men had a long coat on, but the other had not.

HIS LAST EARTHLY WITNESS.

Miss Ellen Fallon, Who Observed the Men Enter the Swamp of Death.

There was a ripple of expectation throughout the crowded court room when the name of Miss Ellen Fallon was called. This lady is about 30 years of age and very slight. She was dressed in deep black with a black straw hat. Miss Fallon, the crown claims, is the last person, except his murderer, who saw Benwell alive. Miss Fallon lives with her mother in a small house 288 feet from the second concession and just about 300 yards west of the entrance to the swamp. Contrary to expectation she was kept in the box but a few moments, but it is likely she may be recalled. She testified that the house was only a short distance from the swamp, and the nearest to the swamp except a small hut occupied by Mr. Stroker. She remembered Feb. 17 from the Dake House ball at Princeton that night. She was seated at the window knitting when she saw two men passing east along the road. The first gentleman wore a cape overcoat and was a short distance ahead of the other man. They were walking on the right hand or south side of the road and in front of witness' house crossed over to the north. [The swamp where the body was found is on the north side of the concession.] Witness stated that it was after dinner, she thought about 1 o'clock.

Mr. Osler did not ask the witness to identify the prisoner in the box as one of the men who passed her house.

To Mr. Blackstock witness said the house was about 200 feet from the road and that the window at which she was sitting was in the east side. She would have to look in a southeasterly direction to see the spot where she observed the two men. The rail fence and some bushes obstructed the view a little. The entrance to the swamp where the body was found can be seen from Rabb's house, which is east of the swamp.

The Man Who Heard Shots in the Swamp.

George Fridenberg, a cheesemaker, who resides southwest of the swamp on the concession road, remembered Feb. 17. He was out hunting in the swamp on the afternoon of that day, entering the swamp on the north side of the concession at 12½ and remaining until late in the evening. His dog started a rabbit, and witness' attention was attracted between 1 and 2 o'clock by two reports in succession, not very far apart, which he took to be rifle shots. They were certainly not reports of a shotgun. The shots sounded 20 to 25 rods away in a southeasterly direction towards the road.

Witness told Mr. Blackstock that he worked at the Blandford factory until a month ago.

Mr. Blackstock: "What are you doing now?"

Witness: "Standing here."

Mr. Blackstock: "Don't be so sharp."

Witness explained that he meant no offence and thought that was a proper answer to the question. He testified that John Hickinson and George Macdonald were with him hunting.

Q. How many shots were fired by your party in the swamp that day?—A. I did not fire at all, but one of the boys with me fired twice and the other three times.

Witness stated that the place he was standing when he heard the shots was within 300 yards of where the body was found.

George Macdonald, blacksmith, corroborated the evidence of Fridenberg as to being in the swamp with him and John Hickinson on Feb. 17. He heard two shots between 1 and 2 o'clock which attracted his attention for the reason that he had never heard similar shots in the woods before. He made some remark about it at the time. Witness thought they were rifle shots. They were near the road in the swamp known as "the hunters' trail" and close to Mud Lake. He thought at the time that the shots were fired on the concession.

Mr. Blackstock: "You thought some person was hunting on the concession line?"

Witness: "Not hunting."

Witness denied that he had told Detective Bluett or anybody else there was 2½ to 3 minutes between the shots he heard. The second shot almost immediately followed the first. Witness said he was within 40 yards of the place where the body was found when he heard the shots.

To Mr. Cartwright witness said he had spoken right afterwards about the shot and his companion had said ten or twelve words in reply, which was not finished when the second shot was heard. He also stated that parties had visited him suggesting what he should say.

John Hickinson, the third of the hunting party who heard the shots, said they sounded like rifle or pistol shots. The party were then quite a distance south of the lake, and he thought at the time they were within 20 rods of where the shots were fired. Hickinson was the man who conversed with Macdonald, and repeated his story as to the number of words which passed between them after the first shot and before the second.

To Mr. Blackstock witness said he lived in Nevada, where he worked on a stock ranch near Austin. He arrived here ten days ago in response to a request by letter from County Attorney Ball and a telegram from Detective Murray, after receiving Mr. Ball's letter, dated Aug. 24, 1890, asking him to come and offering to pay his expenses to and fro and at the trial.

Mr. Blackstock: "And this didn't satisfy you?"

Witness: "No, there was nothing in it for me."

Mr. Blackstock: "No dividend for you, eh?"

The crowd gave way to a burst of hilarity, and Judge MacMahon said: "I'll instruct the sheriff to open the door and turn everyone out if that occurs again. This is not a place of amusement, and those who come here for that object had better stay away. Don't let it be repeated, or I shall allow no one to come into this court room again. A man is on trial here for his life, and I cannot understand how any one with any feelings can be guilty of such unseemly conduct. This is the last warning I shall give."

The examination of the witness was then proceeded with, and Hickinson produced a copy of a telegram he had sent in reply to the letter offering to come, if he was paid all expenses, and while absent the same rate of wages as he received on the stock ranch in Nevada.

BACK FROM THE SWAMP.

Birchall's Journey After the Alleged Killing of Benwell.

The return journey of the prisoner from the swamp was then taken up. Alexander Logan of Princeton, a fireman on the Grand Trunk, who was one of those instrumental in organizing the Dake ball, testified that he left Woodstock on the afternoon of Feb. 17, and drove to Princeton, 12 miles distant, arriving there shortly after 4 o'clock. Witness met a man on the roadway between Blandford and Blenheim who was going west. He wore a checked coat and his pants were turned up. He had on what witness took to be a Persian lamb cap. He had never seen the man before, but picked him out from among others in Woodstock jail since. There were about 20 prisoners there and witness picked out Birchall.

Mr. Osler: "Have you seen him since?"

Witness: "That is the man in the dock whom I saw on the road."

Asked to describe how some of the prisoners in jail were dressed, witness said he could not.

Mr. Blackstock: "And, although you cannot do this, you claim to be able to describe the clothing worn by the man you passed on the road."

Witness: "I do."

Witness was cross-examined as to the kind of clothing worn by prisoner. He was shown the mackintosh and undercoat found on the body of the dead man, but stated that although they were checked goods, as were also the coat and vest of prisoner, they were not the same.

Q. Why not?—A. That (pointing to the mackintosh) is an overcoat. The man I saw had no over coat on.

Charles Buck, farmer, 2d concession, Blandford, visited Woodstock on Feb. 17 and started for home at 1½ driving. When about five miles from Woodstock he met a man on the road going east. Witness continued: "The hour was between 1 and 2. The man spoke to me before I got to him. He had just turned the corner to go south. I did not hear what he said and stopped my horse. The man asked me if he was on the right road to Gobles, stating that he wished to go to Woodstock. I told him that if he wished to go to Woodstock he should go to Eastwood, which was close by, and take the train. He replied that he wished to go to Gobles station."

Q. Who was that man?—A. That's the man there sitting in the box.

Q. Have you any doubt of it? A. No, sir; not the least.

[As witness turned and faced prisoner the latter dropped his eyes and put his hand up to his forehead.]

Witness testified that he had identified prisoner after the inquest in jail, and stated that he fixed the date that he saw prisoner by the circumstance that he had paid his subscription to a local paper on Feb. 17.

A Lively Bout With Blackstock.

The cross-examination of this witness was the liveliest since the court opened. Witness said he had heard that two men named Baker and Caldwell had been mentioned in connection with the murder, but denied that he was particularly interested in Baker, who was his brother-in-law.

Q. Did you not say that Birchall had on a pair of moccasins when you met him?—A. I did not.

Q. How dare you trifle with me? You know you did.—A. I said I thought he wore a pair of rubbers.

Q. Of course you did.—A. Moccasins are not rubbers.

John Foster proved the date of the Dake ball as Feb. 17, and produced one of the tickets of admission.

John M. R