

## GUILTY.

### BIRCHALL TO PAY THE PENALTY OF HIS CRIME.

Nov. 14th is the Day Fixed for the Execution.

WEDNESDAY, SEPT. 24. The disadvantage of having only one entrance to the court room is generally felt, for there is crowding, which the constables seem to be unable to prevent. Even his Lordship the judge had to almost fight his way into court to day, and reached his place on the bench not a little exasperated at the treatment to which he had been subjected. Such people as junior counsel and reporters squeeze their way in with difficulty.



POOR BENWELL.

It is noticeable, however, that whoever else may be crowded and incommoded, there is one man for whom the people always make way—the prisoner—such is the unconscience irony of a mob.

Fair progress was made to-day. The estimate of one lawyer in the case, considered good authority, is that the trial will not close this week. If the remainder of the Crown witnesses are all examined, and give as long testimony as those so far heard, this is by no means an unsafe estimate. The morning was taken up with the evidence of the medical men engaged in the post-mortem and those who saw the body as it was found. These facts in the main harmonize with the theory of the Crown, but the defence made a strong use of their right of cross-examination, and brought out some points upon which they evidently intend to challenge the opinion of the jury. The afternoon was taken up with a variety of matters—the state of the weather during the four days the body is alleged to have lain in the swamp; Birchall's visit to Princeton to identify the body; Birchall's opening a bank account in Niagara Falls, N. Y.; the prisoner's demeanor when arrested; Birchall's knowledge of the locality where the body was found; and other similar matters. During the day the prisoner kept his ears and eyes open.



THE SWAMP OF DEATH.

The evidence of the following witnesses was heard to-day:—

Dr. Oliver Taylor, a practising physician of Princeton, was the first witness.

Dr. Wilford, Woodstock, was the next witness to respond to the voice of the crier.

Dr. Chas R. Staples, of Princeton was the next witness called.

It was now 12:55, the court adjourned until 1:30.

Some minutes before the hour for resuming the trial had arrived hundreds of people from all sections of the county jammed the hallways and staircases leading to the court room, and when the jury and counsel returned it was impossible to admit them until the crowd had to some extent been cleared.

The usual crowd this afternoon had no doubt been augmented by an unusual attendance of townspeople owing to a rumor having been current this morning that Mrs. Birchall and her sister, Mrs. West-Jones, would again be in attendance in the afternoon. This did not, however, prove correct, and it was learned at the hotel where they are staying that Mrs. Birchall did not feel well enough to attend to-day.

John A. Orchard was the first witness to take the stand.

W. W. Woodruff, postmaster, Niagara Falls, was the next witness examined.

J. F. McCartney, manager of the C. P. R. telegraph office at Niagara Falls, was the next to enter the witness box.

Prof. Wolverton, who has charge of the observatory at the Woodstock College, was then called.

Mr. Grigg, the Princeton sexton, was called.

J. H. Hull, of Princeton, told of meeting Birchall when he (Birchall) drove over from Paris to identify the body of Benwell.

Capt. Peter H. Cox, of Paris, a retired farmer, examined by County Crown Attorney Bull, described a meeting he had with the prisoner in the American Hotel, at Paris, on the 1st of March.

Geo. H. Phemeister, telegraph operator and associated press representative at Niagara Falls, was the next witness examined by Mr. Osler.

George Hersee, formerly residing on lot 74, in the 3rd concession of Blenheim Township, was examined by the Deputy Attorney-General.

Joseph Pigrot, of lot 24, 3rd concession, Blenheim Township, was the next witness.

James Ellis, another man living in the vicinity of Pine Pond, knew "Lord Somerset."

Thomas H. Young, chief of the Ontario Police, stationed at Niagara Falls, narrated at length the movements of Birchall while under surveillance previous to his arrest.

Connor O'Day, a professor of penmanship at the British American Business College, Toronto, being called swore that he had been in the business for 25 years, and for eighteen years he had occasion to study the different peculiarities in handwriting.

The hall was so full this afternoon that it took several minutes to clear the room after the adjournment had been announced.

#### COURT ECHOES.

Birchall is provided with a large writing pad and frequently passes notes to Mr. Hellmuth.

Government Detective Murray will not be a witness for the Crown.

The four front seats in the centre hall are reserved for the grand jury.

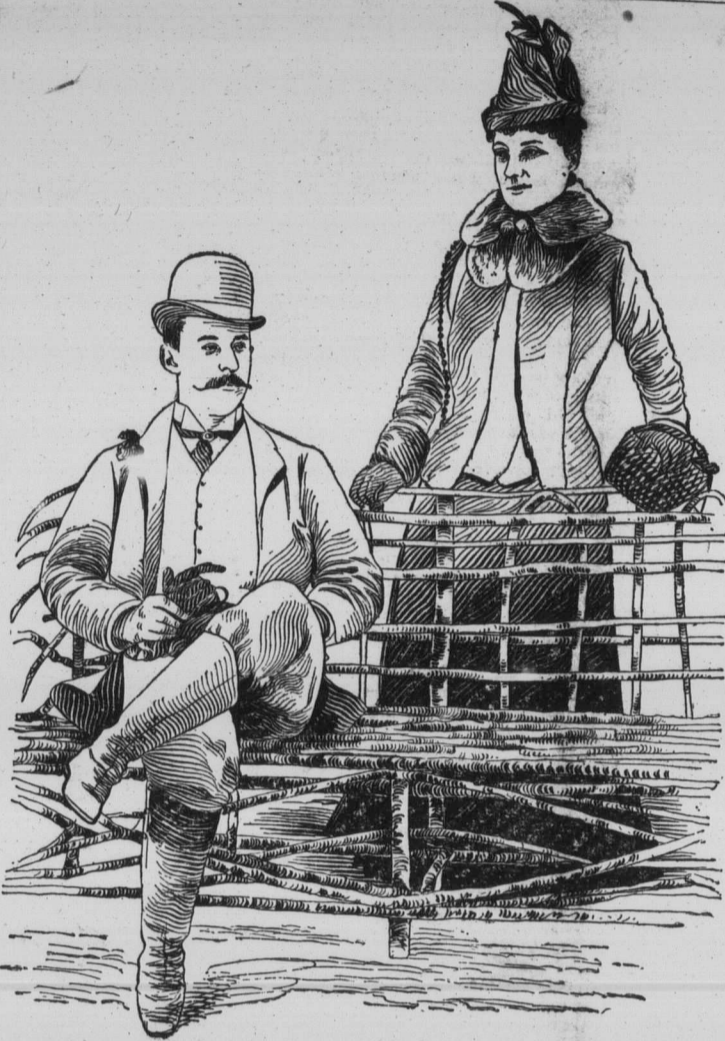
Rural Dean Wade, Birchall's spiritual adviser, is an interested spectator.

The ladies in the gallery, becoming envious of the artists at the reporters' tables, are sketching court scenes.

A local sporting character has wagered \$100 on Birchall's acquittal, and if the jury decides that he is a winner, he says he will have a brass band.

While it is unfair to comment on the case at this stage of the proceedings, it is observed by many that the evidence for the Crown is even stronger than anticipated.

During the hearing of Watson's evidence, Birchall, who was looking very closely at the witness, caught the latter's eye. They gazed at each other steadily for a moment as if trying to test each other's power. Birchall's eye dropped first.



Birchall

Benwell

until the murder trial is over. The Crown secured him a position in Osgoode Hall as a clerk at \$60 a month, but it was only a few days when Mr. Pelly discovered that he did not care for a clerkship. The Crown was under the necessity of keeping such a material witness until the trial and Pelly struck. The Attorney General's department was appealed to, and Pelly got an allowance of \$50 a month without work. When the trial is finished Pelly says he will return to England.

#### THURSDAY, SEPT. 25.

There was a repetition of the scene of the previous days in front of the town hall this morning. There was no decrease of interest. The crowd in waiting was as large and eager as ever. But the arrangements were better. No one but those entitled to admission were at first admitted. All were excluded from standing in the passage and on the stairways. A few minutes after His Lordship took his seat general admission was allowed till the seats were filled.

S. B. Fuller, manager of the Imperial bank, Woodstock, was called with reference to the handwriting on some letters, checks and telegrams produced.

Mr. Osler: I propose to read some correspondence between Birchall and Mellerish.

Mr. Blackstock: I object to the reading of any correspondence with Mellerish as being irrelevant to the question which the jury is trying. I submit there is nothing in the correspondence in any way connecting this transaction with the Mellerish correspondence.

Mr. Osler: The correspondence I wish to read contains statements made in the prisoner's handwriting which have reference to the transaction with Benwell, Mellerish being the agent bringing Col. Benwell and the prisoner together.

Bambridge, Maberly Road, Upper Norwood, S. E., December 19th, 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 to be a partner at the end of that time. What do you think? He asked me if I knew you well and I said yes.

J. R. BIRCHALL.

DEAR MR. MELLERISH—Many thanks for your letter of yesterday. I was looking for Col. Benwell's decision.

J. R. BIRCHALL.

January 27th 1890. DEAR MR. MELLERISH—I have been away to-day and just got you two post cards. I should have gone to see you if I had been at home. Col. Benwell's son is to go on a three months trial, and if he likes he will stop. But this is not decided. \* \* \* \* \* I do not go on the 29th; I have postponed. If Benwell stops we shall do business.

J. R. BIRCHALL.

Mr. Osler then proceeded to read letter to Col. Benwell. Mr. Blackstock renewed his objection and wished His Lordship to note that his objection related to the reading of

any portion of this correspondence.

Upper Norwood, Nov. 28th, 1889.

Dear Sir:

Mr. Mellerish has informed me that you are looking out 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 years on my farm in Ontario, I thought the opening might suit your son. I am a university man of Oxford and I have had six years experience in farm work. I own a nice farm in Ontario, I 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 shall be glad to meet you at your club at any time that may be convenient to you.

Yours faithfully,

J. R. BIRCHALL.

Lt.-Col. Benwell, London.



MISS ALICE SMITH, WHO SAW BIRCHALL AT EASTWOOD STATION.

Bambridge, Jan. 27th, '90.

MY DEAR SIR,—I am sending your son's labels for the journey by this post. Considering the terrific weather on the Atlantic, we thought it best to postpone a few days in order that we may have better weather. I presume you would like to hear from me periodically as to how we get along, as it would no doubt be satisfactory to you to hear about the business in that way. Of course if your son elects 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. We shall not have a chance to see you before you start. I have negotiated for the purchase of a small business in Buffalo which will be a good depot and bring in good profit as well as the others.

Yours truly,

J. R. BIRCHALL.

Lt. Col. Benwell, London. White Star Steamer, Britannic, Queensland, Feb. 6th, 1890.

MY DEAR SIR,—We met all right at Liverpool and have had a very quiet passage so far. My definite address and one where letters will always find me Niagara Falls P. O., Ontario, Canada. I think we shall have a very quiet passage, and will cable you from New York when we arrive, and will write you from Canada. I got your note on Tuesday morning. Your son got his baggage all right and is pleased with his berth. With kind regards, I am,

Yours Truly,

J. R. BIRCHALL.

Lt. Col. Benwell, London.

MY DEAR SIR: We arrived safely here after a very pleasant journey, the sea being rough rather 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, Ont., concerning the business with satisfactory results. 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 sent 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; 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. Your son was somewhat anxious to share in the profits of the sale, which I am quite willing he should do, and so we have signed our deed of partnership and I am sure he will 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 with no doubt as to the words. We are having papers printed properly and 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 the 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 money any bank of New York would do for the drafts. We have a business account in our joint names at the American Bank here. Your son will doubtless explain his views in his letter. With kind regards, believe me dear sir, sincerely yours,

J. R. BIRCHALL.

FRIDAY, SEPT. 26.

To-morrow all the evidence in the Birchall case will be in, and then there will be an adjournment until Monday, when addresses of counsel will begin. Mr. Osler carried out his promise of yesterday and closed his case before the court rose for recess to-day. The defence put a number of witnesses in the box, and then there was an adjournment until to-morrow, Mr. Blackstock stating that he had a witness whose evidence would probably take a longer time than the court would care to occupy this evening.

SATURDAY, SEPT. 27.

The case for the prisoner has closed. There is some minor testimony promised by Mr. Blackstock, but it will not occupy long, and Monday will be devoted to the address of counsel and his Lordship's charge to the jury.



Douglas R. Pelly

MONDAY, SEPT. 29. Birchall, it was learned, did not rest quite as well as usual, but when he arose at an early hour he said that he had a splendid night's sleep and was feeling exceeding well. His morning meal was taken as usual to his carpeted room and spread out

(CONTINUED ON PAGE 8)