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BIRCHALL'S TRIAL.

Important Evidence Adduced for the Crown.

Why Pelly Did Not Like the Prisoner.

Narrative of the Men Who Found the Body.

Testimony of the Doctors who Examined Benwell's Body.

Dr. Taylor Charged by Defense with Having Withheld Testimony.

Exciting Cross-Examination of Undertaker Schwarz.

TUESDAY AFTERNOON'S PROCEEDINGS.

(Continued.)

[Special to ADVERTISER.]

A great deal has been made of Birchall's having a bank account on the American side. Pelly admitted that the prisoner had never concealed from him the existence of his bank account, and he admitted also the fact that an agent of a rival bank boarded in the same house at Niagara Falls might be a reason why Birchall preferred to have his account in a bank on the other side of the river. He admitted that he could not identify the principal items of the clothing in which the body was found; he was certain, however, of the hat and necktie. This is important, in view of the fact that much has been said to Birchall's discredit, because when he went to Princeton to identify the remains he stated that he had never seen Benwell in the clothes he then had on. Some amusement was created by Pelly's statement that Benwell had not much luggage and his subsequent explanation. It appeared there were two black trunks, a gun case, three canvas bags, a hat box, a bundle of sticks and umbrella, and he thought, perhaps, a few other things. This statement made with the peculiar drawl of a young English society man was decidedly funny, considering, as Mr. Blackstock stated, that it would have been thought a pretty large outfit for a Canadian. Mr. Blackstock remarked, dryly, it was a fair outfit.

Pelly was allowed to stand down shortly after 11 o'clock.

Charles Benwell, brother of deceased, who followed Pelly in the witness box, bears some resemblance to his brother, according to pictures of deceased published in the newspapers. He is swarthy, short in stature, rather heavily built and has a dark mustache. His brother was clean shaven. Like his brother he wears eye glasses. He gave his evidence quietly, but at times during identification of the articles found on his brother's dead body tears welled up in his eyes and it was with difficulty he could control his voice.

The remainder of the time was taken up with the evidence of surveyors, as to the plans that had been made of the locality. These points are hardly comprehensible now, but will be brought out in understandable shape later on in the case.

PELLY'S CROSS-EXAMINATION.

Mr. Blackstock, in cross-examining Pelly, asked: You met Mr. Birchall through an agency, I understand? A.—No; I met him directly through a man named Mellerish.

Q.—Did Mellerish put you in communication with Birchall? A.—No; he put Birchall in communication with me, and he came to write me of that means. We had various interviews, which resulted in the party of four—Mr. and Mrs. Birchall, myself and Benwell coming on the same ship.

Q.—You said something yesterday about some remarks made by Mrs. Birchall which placed Benwell in a rather unfavorable light? A.—Yes.

You were not affected by that, were you? A.—Yes.

After a brief scrutiny of the depositions and a whispered conversation with Mr. Hellmuth, Mr. Blackstock remarked that the evidence showed Mr. Pelly to have stated the Birchalls said they did not think Benwell should live with them, as they did not intend to have such a man with them, and to have added: "I said I did not mind that much—it did not affect me." "Is that correct?" asked Mr. Blackstock. "Perfectly correct," Mr. Pelly replied.

Q.—On your own account, Mr. Pelly, you took a dislike to Benwell? A.—Yes, I did.

Q.—And did you rather avoid him?—A.—Well, perhaps I did avoid him.

Pelly described the story of the party in New York. They got to the Metropolitan Hotel on the Friday and employed the evening by going to the theater. It was pretty late when they returned—between 12 and 1 o'clock. On the morrow evening—that was Saturday—they started for Buffalo.

Q.—The Sunday was the day you saw Benwell and Birchall together writing? A.—Yes; in the evening.

Q.—Did it strike you as a significant circumstance that they should be doing this? A.—It struck me as being very silly.

Q.—But you did not think there was any suspicion attached to it? A.—No.

Q.—At any rate, if there were suspicion it would be as much against Benwell as against Birchall? A.—I do not know about that.

Q.—Each was practicing the signature of the other? A.—Yes.

Q.—Mr. Birchall was drawing pictures? A.—Yes.

EXPERT EVIDENCE.

After the testimony of Mr. Charles Benwell and his cross-examination had been concluded Wm. M. Davis, civil engineer and Provincial land surveyor, was called. His examination occupied nearly two hours' time, relating to the measurements and the process by which they were accomplished.

Mr. Osler—Q.—What is the distance from Eastwood to the swamp? A.—It is 4.61 miles.

Q.—Is there any swamp along the second concession? A.—Yes; there are between two and three lots of swamps. It is a dense swamp, principally cedars, with some tamarack, and at this season of the year it is very wet.

Q.—Where is Spruce Lake? A.—It is in the interior of the swamp and can only be reached with difficulty unless you strike a trail running into it.

Q.—Did you find the trail? A.—Yes, I got a man named Ellis to point out the trail to me.

Here the witness stated that different parties had pointed out points in and around the swamp which he had lettered on the map. These different points all have a bearing on the tragedy and were taken in in the survey. Hayward's mills, the house where Miss Fallon lives, and Ferguson's house, all at no great distance from the swamp, were marked. He had received the information concerning these different points from John Pellow, the Perrys and Mr. Crosby, all of whom live in the vicinity of the swamp.

Q.—Starting at the station platform at Eastwood and going by the line indicated by this map to the swamp, and returning to Eastwood, how far would one have to travel? A.—It would be a distance of 9.44 miles.

Q.—You made a test of the time it would take to cover the distance on July 15 last, in company with Capt. Ross, did you not? A.—I did.

Q.—Now, tell us, please, from and to what point you walked, about how fast, the time you started, the time it took to reach the swamp and everything in connection with your journey. A.—We started from the station platform at East wood and followed the chainage on the map to the point marked "G" (which is the spot where the body of the murdered man was found). It was a very warm day, and we walked at our ordinary working pace. It took us an hour and 25 minutes to reach point "G." We timed our stoppages, which were ten minutes in the swamp and five and twelve minutes respectively on the return trip. When we left the Eastwood station platform it was 2:40 p.m., and we arrived at the point "G" at 4:05. Leaving there at 4:15, and after having stopped seventeen minutes on the road, we reached Eastwood station at 5:55, making our absence three hours and fifteen minutes, during which time we were delayed 37 minutes, making our actual walking time two hours and 48 minutes. This was a gait of 3.37 miles per hour, which is a fair pace.

While this witness was being examined Birchall eyed him keenly, and when Mr. Blackstock rose for the cross-examination Mrs. Birchall, who was sitting only a few feet to the left of her husband, seemed rather uneasy. The feeling, however, gradually disappeared as the counsel for the defense extracted with great difficulty admissions from the witness which occasionally seemed to put a more favorable phase upon the prisoner's case.

Witness on cross-examination admitted that he got his instructions as to make the plan from the Crown counsel, in company with Detective Murray.

Q.—How far is it from the nearest house fronting on the 2nd concession to the center of the bush? A.—It would be about three-eighths of a mile.

Q.—You don't know of any nearer house than that? A.—No.

Q.—Is there not a considerable wood along the line and is the swamp not much separated from habitation? A.—Yes.

Q.—Is the spot not a desolate and lonely one? A.—Well, yet, it is.

Q.—The roads were in good condition when you went over them from Eastwood Station and return? A.—Yes, they were pretty good.

Q.—Now, were not the instructions given you in regard to running this line to the lake and to the spot where the body was found in furtherance of some theory in connection with the tragedy? A.—(After some hesitation)—Yes; I suppose it was.

Q.—Is it not almost impossible, or at any rate very difficult, to get into the lake independent of the trail you have spoken of?

The witness, upon being urged by Mr. Blackstock, said it was.

Q.—Would it not be impossible for a man to carry a heavy weight through this place?

Witness answered that it would be impossible for a person to carry a body his own weight through this swamp.

Q.—And it would have been very difficult for you to find the trail alone? A.—Yes.

Q.—Has not the place where the body was found been very much changed since last February, caused by the inroads made by the thousands of people who have visited the place, and has not the underbrush been trampled down considerably? A.—I think so.

Witness described Pine Pond as well settled, and a place known to Woodstock people, who frequently go out there on picnic parties.

Capt. John Ross, who made the measurement of the distance between the swamp and railway station with Mr. Davis, described the road they measured, and pointed out on a plan the route leading to and from the swamp—the way the prisoner and Benwell were believed to have taken after leaving the Governor's road to the swamp and the way back again from the swamp to the road and thence to the station. Down almost to the minutest detail his evidence was corroborative of testimony of the last witness, with whom he compared watches as the measurements were made.

In reply to the cross-examination of Mr. Blackstock, witness said that in following up the tracks he took the lead from Mr. Davis. They found the swamp impassable and could not get into it. A good portion of this road through the march was right away from human habitation.

Mr. Blackstock—Can you give me any idea of the distance between the commencement of this swamp and the point where the body was found?

Witness—It is a very considerable distance, but I cannot with any degree of exactitude tell you how far.

Patrick McGuire, who resides at Blenheim close to this swamp, knew this swamp pretty well. He was living there in February last. On the 17th of that month he was out on this swamp between 10 and 11 o'clock. He had no doubt about the date at all, because it was on the same day as Blake's ball. He knew the spot where the body was found and saw a big crowd after it was discovered. Witness continued: I was between twelve and fourteen feet of the spot on the 17th, and I saw nothing of it at that time. I cannot say positively where I would have been able to see the body had it been there. I went there looking for tamarack bark. I was peeling the bark off a tamarack tree immediately behind where the body was found—perhaps about twelve or fourteen feet distant.

Q.—You had a good view of the spot? A.—Yes.

Q.—So that you must have seen it had you been there? A.—Yes.

Q.—Do you remember any roads or paths leading up to that? A.—No; not over a quarter of an acre of the swamp was burned, the fire took place in October, 1889.

Q.—How did you go into the swamp on this occasion? A.—I went just in my working clothes.

Q.—Was it frozen or was it soft at the time? A.—It was soft.

Q.—Had there been much traffic there up to this time? A.—No.

Mr. Blackstock cross-examined the witness at some length as to the time and the way he went down to the swamp on this particular day, as to the effect of the burning and the clearing and the state of the grounds. He asked: Q.—What had you on your feet that day? A.—I had a pair of coarse boots. I had no overshoes or anything else.

Q.—After hearing the excitement you went down? A.—Yes. I was first asked to be a witness about a month or six weeks ago.

Q.—Were you asked about this matter before that time by any body representing the Crown? A.—No.

Q.—Did you ever see Detective Murray about it? A.—Never, until he gave me my subpœna.

Q.—How did he come to hear about your knowing anything about this? A.—I cannot say.

Q.—Where did you come out of the swamp on this date? A.—About the same place as I went in.

Q.—So that there was one track in and one track out? A.—Yes.

Q.—And these would be plainly observable? A.—Yes.

Mr. Blackstock here asked the witness a number of questions about the way he went down to the swamp—whether he went angle ways or straight, and as to the distance he went behind the spot where the body was subsequently found.

Q.—You could not swear whether the body was there or whether it was not? A.—No.

THE MAN WHO FOUND THE BODY.

Joseph Elveridge, who lives at lot 15, in the second concession, was called to describe the finding of the body. He was on the Horsey farm on the 21st of February last. He went there to cut wood. He remembered the day of the week—it was Saturday. He found the body of the deceased in this swamp. He was a young man, clean shaven, dark complexioned, with brownish hair. He was lying on his back. The right foot was elevated on the top of a stump. The other was resting upon the ground. The left arm was raised slightly, but I do not remember the position of the right. There were trees there—tamarack and cedar trees. He had an overcoat and check suit. Witness was shown the garments that had been found on the body and he pronounced them very like the ones that clothed the young man when he found him dead in the swamp.

The witness stated in cross-examination that this was the first time he had ever entered the swamp by the second line. There was no road or path. We were about an hour and a half in the swamp before we found the body. My brother saw it first and called my attention to it. We did not go up close to the body or touch it. We went to within about six feet of it and went at once to report. We reported it to Magistrate Crosby.

Mr. Blackstock—The clothing was open, you say? A.—Yes.

Q.—The shirtfront was exposed? A.—Yes.

Q.—What was its appearance? Did it retain its stiffness? A.—Yes.

Q.—It had the appearance of a recently-laundried shirtfront? It had no appearance of having been wet and the stiffening being taken out? A.—No.

Q.—How many took hold of the body to carry it out? A.—About four or five. We carried it out to the road and put it in the undertaker's sleigh.

Q.—Now, of course, it would be impossible for one person to carry about in that swamp a body of his own weight? A.—I think it would.

Q.—You saw nothing of these articles at that time that were afterwards found? A.—No.

Q.—When you got the cigar case how did it appear? Was it wet and weather-beaten more than it is now? A.—I don't know.

Q.—There was no appearance about the place of the body having been dragged through the swamp? A.—No.

Q.—If taken in by anybody it must have been carried? A.—Yes.

Mr. Ball again questioned the witness, asking him to show to what extent the shirt front was exposed. Witness drew a line with his hands on either side of his chest, indicating that the whole shirt front as to its width, and nearly, if not quite, the whole as to length was exposed. He testified also that the trousers were open, but he did not notice the boots and socks. The left foot was frozen to the icy ground.

Geo. Elveridge, brother of the last witness, was then called. He corroborated his brother's evidence in the main. Witness proceeded to tell of the removal of the body next day. He identified the cigar case as the one he himself had found about eight feet from where the body had lain. He also did not see any tracks about the place when the body was first found. There was the stub of a cigar in the holder.

The witness was turned over to Mr. Blackstock for cross-examination.

Q.—If you were in the road opposite this point where you found the body, looking eastward you could see Robb's house quite well? A.—I think you could. The distance was, he believed, 300 yards all right enough.

Q.—How did you expose the cigar case to view? A.—Pulled the axe across it, and that carried the snow away.

Witness explained that he was not dragging his axe, but that in working with a sapling in some way, which did not seem very clear, the axe had dragged on the ground and had removed the snow from above the cigar case.

Q.—As your brother says there were no tracks to be seen there on Friday? A.—No.

Q.—You saw nothing in the appearance of the body to indicate that it had been dragged there? A.—No.

Q.—It looked as if it had been placed there? A.—Yes.

A MAGISTRATE'S EVIDENCE.

William Crosby, the magistrate who was called upon by the Elveridge brothers when they found the body, explained with greater particularity the position of the body and condition of the clothes as he saw them. He identified, and with certainty, the overcoat worn by deceased. The way in which he examined it would indicate that he knew it by the hole in the back of the collar made by one of the bullets that crashed into Benwell's skull. Mr. Blackstock cross-examined. I am told you said that the body must have been placed there. A.—That was my impression; I don't know anything about it.

Constable Watson, of Princeton, who had been called on to go to the swamp, said when the body was found the clothing was wide open in front, not a single button being fastened. The hat lay to the east, necktie a little south and the collar about on a line with the hat. He identified the hat. The pockets of the trousers were turned inside out, and with the other pockets were empty. He said two pieces had been cut out of the front part of the socks, apparently while the body was lying on the ground, as the trousers were turned up about four inches, and higher in front than behind. He identified each article of clothing.

Q.—Did you notice on the swamp any sign of violence? A.—Examined the body and before moving it saw a wound in the back of the head. The head was resting on a crust of ice; under the crust on the ground he discovered blood. In preparing the body for the undertaker he made a fire to thaw it out. The waterproof coat was filled with snow and ice and the arm was frozen stiff in the form of a triangle. He finally got the coat off some time early in the morning. He found that a piece had been cut from the lapel of the drawers. The drawers were produced and he recognized them at once. When the boots were shown witness, he looked inside of each stating when he first examined them that there was a mark by which he could identify them. He apparently found the mark, as he at once declared them the same shoes. On the night of Feb. 28 he said Birchall came up to Princeton to identify the body.

Q.—What did the prisoner say to you when you first met him? A.—He said that Benwell had left him at the Falls and gone west to London for the purpose of buying a farm with the intention of stopping off at Woodstock and Paris. On the same night that Birchall came there his wife was with him. While I was examining the body the prisoner said if it was him examining Benwell he would say so.

Q.—What did Birchall say when he saw the body? A.—He put his arm in mine, leaned over and said it was him, taking out his pocket-handkerchief and wiped his eyes. Between 2 and 3 in the afternoon witness went with Birchall to the station telegraph office and sent some press dispatches to the Woodstock and other papers. When I had finished I passed the blanks over to him, but he shook his head, saying, "I am too nervous." I told him that I would write the message for him if he would dictate it; but he said he would wait until he got back to the Falls and cable from there. Prisoner and I went over to Paris, and on the way he told me that he wanted me to take charge of the case, that he was willing to spend considerable money in hunting up the culprit. Just then Mr. Murray entered. I introduced him to Birchall as Detective Murray. Mr. Murray was going on upstairs and turning around called back to Birchall, "Come right on up. I want to have a talk with you."

Q.—What did the prisoner say? A.—He said "No; I refuse to speak with you except in this man's (meaning witness) presence."

CROSS-EXAMINATION OF THE CONSTABLE.

This concluded the Crown's examination of the witness and Mr. Blackstock rose for the cross-examination. Witness told how he thawed out the body; saw no trace of its being dragged through the bush. He could not positively say whether the linen was frozen or starched. He saw two bullet wounds in the back of the head, but did not particularly examine the clothing that night. Saw the prisoner at Princeton, but could not remember telling Birchall asked him for a description of the clothing or not.

Q.—Now, just jog your memory a little and tell us if Birchall did not ask you for a description of the clothing, and after you had told him he said, "I'm afraid it's Benwell?" A—I don't remember.

Q.—You arranged with Birchall to exhume the body, and he returned from Paris the next day and at once identified it? A.—Yes.

Q.—Now, when Birchall, standing with you at the edge of the grave, gazed upon the dead face of his comrade, slipped his arm into yours and sobbed as he said, "It is him," did you for an instant dream that the emotion was feigned? A.—No, I did not.

Q.—You thought his sorrow was genuine? A.—I did.

THE UNDERTAKER.

James H. Swartz, undertaker, Princeton, stated, in answer to Mr. Osler, that when he saw the body in the swamp it was lying on the branches of two saplings. The pants were unbuttoned and turned up at the bottom of the boots. The lapels of the coat were thrown back, and the shirt was unbuttoned and some of the buttons were stripped off. The clothes were cut where the marking was likely to be. The right arm sleeve were filled with frozen slush. There was snow and slush on all his garments, even on the inside of the lapels of the coat, and both snow and ice were removed in handfulls.

Q.—How long had the body been buried before it was exhumed? A.—It was buried on the Thursday and Mr. Birchall came on the Friday.

Q.—Then the body was embalmed by you? A.—Yes.

Q.—Were you present when it was exhumed from time to time? A.—Yes.

Q.—How natural was the face? A.—Oh, it was just as recognizable, as far as I could see, as it was at first. Birchall came to identify it; he asked me a question about whether the body was buried here; I asked him if he had lost a friend of the same name as was written on the cigar case. I asked him what kind of a man he was.

Q.—Was any name mentioned? A.—No; not beyond the name on the cigar case, that I remember. He described to me what his friend was like, and I told him that I had the man he described. We had a whole lot of talk, and I asked him if this young fellow was in the habit of going to houses of ill-fame. He kind of hesitated a minute and said: "If I must say so, he was." He added, "It has cost me a considerable amount of time and money to get him out of scrapes in these places." I said to him, it appears to me that both Mr. Benwell and himself are independent and that he need not be put to any expense if Mr. Benwell were independent.

Q.—But you have not told me what was said before the conversation reached this point; how you became aware that he was independent? A.—He said that he hoped it was not his friend, for he was a dear good friend to him. That he was out in search of a farm, and that if he had found a farm such as would suit them he would, after looking at it and satisfying himself that it was really good, take it even if the house upon it did not satisfy him exactly. He would build a new house upon it if he had the land.

Q.—Was anything said about their relative positions as to their finances? A.—He said they were both independent.

Q.—You say that the prisoner told you that the deceased had gone to hunt for a farm, and that if he found one that suited them he did not mind going to the expense of building a house upon it? A.—Yes.

Q.—And then you asked him how this story tallied with what he said about the money he had to pay to get Benwell out of scrapes? A.—Yes.

Q.—Did he tell you whether the deceased wrote to him after he left to look for the farm? A.—I asked him where Mr. Benwell left him. He said he left him at Niagara Falls, and I asked him next where he went to and he said London.

Q.—Did he say London, Ontario? A.—He didn't say London, Ontario, but of course he meant there. I asked him if he had heard from him since he went away, and he replied that he had a letter from him. I said, "a letter from him would be just what we want," and I asked him if he could show it to me. He felt in his pocket as if he were uncertain whether it was there or not and said, "I guess my wife has got it." I asked him what he said in this letter, whether he mentioned any man's name that he might be going to see between here and London, because I was pretty well acquainted with the farmers of this district, and might get some idea that way. He said he would not say that Benwell had mentioned any name in the letter. In fact he (Birchall) had forgotten what was in the letter, said in fact there was nothing in the letter but the two checks for his baggage, and he wanted some little things taken out of the baggage trunks and sent up the country to him. Then I said to him, "How is it you were able to get them without the keys," and he replied,

"OH, HE SENT ME THE KEYS, TOO."

P.—Did anything more pass between them? A.—That is about all.

Q.—Where was his wife at that time? A.—He told me that she was at the Strodes Hotel. I advised him to go down to the hotel and get the letter from his wife. At first he said his wife had it, and then he said it was not there at all, it was down at Niagara.

Q.—Did you ask him where the letter was written from? A.—Yes, and he said he did not know.

Q.—What time did he leave Princeton that night? A.—Perhaps he left my place about 10:30 p.m.

THE PRISONER KEENLY INTERESTED.

The prisoner listened to the testimony of this witness as it was elicited by Mr. Osler with a more intense degree of interest than he evinced at any former period of the case. No shadow of a smile played on his features and he motioned once or twice to his legal adviser. Mr. Blackstock catechized the witness severely. Witness could not say that he had told the whole of this story before; he would not say that he had told is to Detective Murray; could not say when he told the story to Murray.

Mr. Blackstock—The witness Watson lives in Princeton and you knew that he had charge of the case? Did you tell him then? A.—I told him, I suppose immediately after it happened. I told him the night Birchall was at my place.

Q.—So, then, the question is one that this story had been told to the constable on Friday, the 28th, or Saturday, 29th. A.—Yes.

Q.—I suppose you are aware that you were a witness once in this case. A.—Yes; nothing very much.

Mr. Blackstock—That is quite true. You were a small witness then, something like so large as you are to-day, and the inquest you attended was adjourned. A.—Yes.

Q.—And it closed without this story of what took place between you and Birchall? A.—Yes.

Q.—And although this inquest was going on for two weeks you were never brought forward? A.—No.

UNDERTAKER SWARTZ SEVERELY CROSS-EXAMINED.

Mr. Blackstock—On that occasion you swore this, did you not: "I feel quite certain I have seen the deceased at Drumbo on the municipal nomination day. I saw the same man in the Royal Hotel singing 'Indian war songs'" (Laughter.) A.—Yes.

Q.—"And when I saw the man lying in the bush I thought I recognized the same clothing." Do you remember saying that? A.—Yes.

Q.—"The party I saw at Drumbo had a ring on his finger similar to the one the deceased had." Did you say that? A.—Yes.

Q.—Your imagination was very vigorous then? A.—Not more so than lots of others.

Mr. Blackstock—I grant you that is true. That is one of the things I agree with you about. There are several of you all sailing in the same boat. It makes you feel rather foolish now, does it not? A.—Not a bit.

Q.—Now, did you not also on that occasion say that from the condition of the body when first you saw it it looked as though it had been placed there? A.—Yes.

Q.—Did you say that you noticed tracks leading from the east to the body and also from the body to the westward? A.—Yes.

Q.—And that was true? A.—Yes; some of it, however.

Mr. Blackstock—Oh, just answer my question! A.—I say part of it was true.

Q.—"The tracks were wide, as if they had been made my moccasins or worn-out overshoes," is that correct? A.—I believe so.

Q.—Now will you tell me this: What in the name of heaven could make you ask if this man was in the habit of going to houses of ill-fame? There had been no talk about that. A.—There was talk. The reason I asked was some of them thought he resembled a man called The Peddler, a faki r, and this man was in the habit of playing euchre and going to places where he should not be.

Mr. Blackstock—That is all I have to ask you.

John Gregg, the sexton of Princeton cemetery, was next examined by Mr. Osler. He testified to the burial and exhumation of the body. The exhumations took place on the 1st March, on 7th March, on 8th March and March 18th. It was exhumed the fourth time for Miss Lockhart. He also got it ready for Mr. Crosby. It looked quite as well as when it was put down.

Mr. Hellmuth cross-examined this witness and commenced by asking him how long the prisoner remained when he visited the grave.

Witness replied that he did not think he remained more than five minutes.

Q.—Did he display any emotion? Did you see any tears? A.—No, I cannot say that I did.

Q.—Did you see him taking the constable's arm and walking out? A.—Yes.

Q.—Do you think he was overcome? A.—I think he was nervous.

Q.—When did you first say anything about his being nervous? A.—I have never said anything about it until to-day.

Mr. Hellmuth—You had no reason to suppose that he should be nervous, and you are the only one that thought he was nervous.

At the close of this witness' cross-examination the court rose.

Wednesday's Proceedings.

DR. TAYLOR'S TESTIMONY.

WOODSTOCK, Ont., Sept. 24.—On this, the third day of the great Birchall trial, the prisoner walked airly up the court room and took his seat in the dock at 9:45. He looked as much at ease and carefully dressed as yesterday, and chatted with some of the lawyers while the crowd were getting into their places. Dr. Taylor who was called in to see Benwell's body the day it was found first occupied the witness box. He testified that from the condition in which he found the body and clothing that probably they had lain in the swamp less than seven days, perhaps four. He showed upon the head of a juryman the positions of the pistol shot and powder marks on the corpse. The bullet shot in the collar of Benwell's overcoat if turned up would correspond with the line of singeing which commenced a short distance above the wound. The condition of the heart indicated that its action was very suddenly stopped. Either of the pistol wounds were sufficient to cause death. There was nothing beyond these to cause death. The body was in a perfectly healthy condition.

Mr. Blackstock then took the witness in hand. He accused him of lack of fairness in having tried to withhold hitherto evidence for the Crown. He elicited that correspondence of the line of bullet holes in Benwell's coat and head depended entirely upon their being in one relative position, which might or might not have existed. The freezing of the body might cause discoloration, but could not be attributed to that; upon thawing the complexion became more natural. Under the posterior section of the scalp the tissues were somewhat reddened and congested; the skin appeared to have been broken through or divided; there was no appearance in the hat of the break or cut which is now seen through; he examined it on finding; he found it merely crushed. The tissues at the point of the wound were scarcely more reddened than at any other. Mr. Blackstock confused the witness by finding inconsistency between his post-mortem report and his statements of to-day. On the post-mortem examination, the body being before him, he had only said it had probably lain less than a week in the swamp, and to-day he said that it had been there four days and that there was no decomposition. As far as that is evidence at all it is in favor of the short-time conclusion. Witness was pressed to admit that the lower portion of the ear had the appearance of having been gnawed away. At first sight witness believed the discolorations on different parts of the body might be due to decomposition, but on examination determined that they might be ante or post mortem marks of violence. The body showed unusual robustness on the deceased's part, as of one who in a struggle with one his own size might be expected to hold his own. At Princeton, on the 21st February, the inquest had commenced, and on the 7th or 8th of March it was continued. Witness' attention had been drawn on this first occasion to the state of the weather about the period of the body's discovery. From the state of the stomach it was apparent that the deceased had not eaten for some time; split peas were found within.

On Mr. Blackstock taking his seat, Mr. Osler rose and objected to the imputation that the witness had been instructed to withhold evidence from the Crown, but words between the counsel were silenced by the judge.

In reply to Mr. Osler, witness said the wound on the scalp was very slight. Attention had been drawn to this at the post-mortem.

DR. WELFORD, OF WOODSTOCK,

testified next, speaking plainly and fully. He saw the body of Benwell first at Undertaker Shwartz's. There was some frozen sleet in the clothes; the right arm was elevated, the upper part at right angle to the lower. He assisted the other doctors to undress the body and make the fire for thawing it ready for next morning's post-mortem. The coat up to the elbow was got off with such great difficulty, on account of the frozen matter within the sleeve, that fear was entertained of breaking the arm during this long process. There were indentations on the back of the neck and leg as if from lying on a hard substance. These must have been produced after death and before rigor mortis set in. The indentations therefore must have been caused by substances whereon the body had lain immediately after death. The discolorations might result, he assured Mr. Osler, from the failing of the body. The discolorations were received immediately before or soon after death. Witness showed upon a skull the positions of the two bullets when entering and when found in Benwell's brain, and thought that immediate death would result from either. From the rent caused by the shirt collar having been jerked back the doctor believed this had been done while the body lay upon its back.

DR. STAPLES.

This witness was followed by the third medical man, Dr. Staples, who corroborated the statements of his predecessors on the condition of Benwell's dead body.

At the afternoon session, the witnesses was old Mr. John Richard, of Niagara Falls, who testified as did the assessor of Stafford, Mr. Thomas, that neither the name Birchall nor Somerset was known in their district as a landowner. He was followed by J. H. Baldwin, with whom prisoner and wife had engaged board on Feb. 15 at the Falls.

[Press Dispatch.]

WOODSTOCK, Ont., Sept. 24.—Dr. Taylor, the doctor who was called in to see Benwell's body when found, testified that the clothing was frozen to the ground. In view of the attempt which the defense is expected to make to prove that the body did not lie in the swamp during the storm of Feb. 11, the day when Benwell was killed, Dr. Taylor was minutely examined as to the condition of the body, which he said showed nothing to cause death but the pistol wounds in the head. There it was utterly impossible for the deceased to produce himself. Mr. Blackstock elicted from witness that since the event he had been reading up medical conditions with reference to corpses; that witness's statement of the body were much fuller than any he had given before. Mr. Blackstock said the people of Princeton seem to have universally fixed the date of the alleged murder by the ball at Dake's house, and expressed the opinion that the doctor was not at this ball. The doctor with a smile admitted that he was not. But the fact of being called to examine the body fixed his memory of the weather of a few days before.

There were three important points in the cross-examination in favor of the prisoner. One was that while rigor-mortis sets in in a few hours after death being complete, in about four hours, it passed away again six or eight hours later. Another was that the shirt was clean and stiff, a good deal more limp when the body was thawed out than before, but still looking as if not long since laundried. It did not indicate having lain out in the rain storm all night. The other was the doctor's very decided opinion that was formed at the time he saw the body, not that it had fallen in the position in which it was as then, frozen stiff, but that it had been thrown or placed in that position. Mr. Blackstock brought out also that there was a mark on the left leg of the underdrawers, near the calf, as if the leg had struck against the charred stump, and a slight discoloration of skin about the corresponding locality. This does not seem to have been noted by the doctors at the time of the inquest. A great deal has been made of the fact that the leg of the pants was pulled up and the socks down as if the murder had thus displaced them to cut the initials on the soles of the socks, but the charred mark on the drawers would be compatible with the theory of defense that the body was carried to the spot, where it was found.

Evidence as to the post-mortem still continued when the court rose for recess.

NOTES

One lady reporter is present. She represents a paper in the States.

It will be proved that Benwell was not only murdered but robbed of $100 which he had in his pockets when he left Niagara Falls on the eventful Feb. 17.

The hearing of the evidence is taking longer than was at first expected. It is not at all likely that the trial will conclude on Saturday.

Mrs. West-Jones, sister of Mrs. Birchall, who was in court to-day, is a well proportioned typical Englishwoman of the provincial type. She wore a closely-fitting blue serge suit and a black, well-covered bonnet. Her brown hair is closely cropped behind and her cheeks are rosy and red, presumably their natural fresh color.

Large numbers of ladies are in attendance at the court.

It is said that another feature of the defense will be the production of a daily journal kept by Birchall from the time he left England up to the day of his arrest.

Birchall spent a good deal of his time making pencil sketches of the witnesses and lawyers. He is a good draughtsman.

It is a coincidence that one of the assumed names signed by Birchall in his correspondence was "Bushell," and one of the jurors bears the same unusual patronymic.

Mr. Georgie O'Neill, the young "bookie" who makes Woodstock his headquarters, is, so he alleges, a firm believer in Birchall's innocence. He wants to open a book on the result, and says if the accused is acquitted he will hire a brass band and tender Birchall an ovation.

Michael Roeli, night clerk at the Stafford House, Buffalo, when the Birchall party was there, died at Suspension Bridge yesterday. He had not been employed at the Stafford House since spring. He would have testified to calling the Birchall party the morning of the day they were there. J. H. King, the clerk who registered the Birchall party at the Stafford House, has been summoned.

THE METHODISTS.

Strong Resolutions Against the Liquor License System—A Political Action Policy Considered.

[Special to the ADVERTISER.]

MONTREAL, Sept. 24.—The delegates are getting restive and anxious to get home. Secretary Heustis hopes Conference can finish Friday night. In the Temperance Committee this morning, Rev. Mr. Brethour moved a series of resolutions denouncing license and any support direct or indirect to any candidate of a political party not favoring prohibition. This was debated for nearly two hours. The resolution against every form of license passed unanimously.

Rev. Mr. Brethour was willing to amend the political action policy to the extent of recommending that all Governments not having prohibition as a plank in their platform should be opposed. This was not accepted, and after spirited speeches the committee agreed to recommend the indorsement of the Dominion Alliance political policy of nominating independent candidates, and to recommend the support of such candidates.

Very strong condemnation of the Northwest permit system was passed. The committee recommends making the signing of a liquor license application a breach of church discipline.

Mr. Job Scales, of Toronto, writes: A short time ago I was suffering from Kidney Complaint and Dyspepsia, sour stomach and lame back; in fact, I was completely prostrated and suffering intense pain. While in this state a friend recommended me to try a bottle of Northrop & Lyman's Vegetable Discovery. I used one bottle, and the permanent manner in which it has cured and made a new man of me is such that I cannot withhold from the proprietors this expression of my gratitude.".

New Perfum

Blue Lilies, Rose of Sharon, Viole of Sicily, etc., etc., etc.

We invite particular attention to an import order of Perfumes received to-day—the most imperishable odors in the world. Matchless in quality and freshness; delicate, fragrant and lasting; in ½ ounce, 1 ounce, 2 ounce, 4 ounce and 8 ounce bottles.

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LONDON AND ENVIRONS.

—Conductor Delancy, of Windsor, is visiting the Fair.

—The Salvation Army is holding vigorous special meetings during Fair week.

—Mrs. Elmer Jones and sister from Detroit are visiting Mrs. Thomas Murphy, Sydenham street.

—Assistant City Engineer A. O. Graydon is around again after a severe attack of congestion of the lungs. He has not entirely recovered yet.

—Mr. C. R. Sayer, secretary of the Y. M. C. A., addressed a social gathering of the members of the association in St. Thomas last evening.

—Mrs. (Rev.) Wm. Hayhurst secured first prize at the Western Fair in a section of the fancy needlework department. The design is a beautiful piece of work.

—Superintendent Larmour hit upon a splendid idea in placing experienced brakemen in uniform on the G. T. R. platform during the Fair, to direct passengers and call out the different trains.

—The fire brigade were given a run between 10 and 11 o'clock this morning to Wortman & Ward's foundry, but found nothing wrong. The iron was being run off in the moulding shop, and someone noticing the fire issuing from the flue, pulled the nearest alarm box.

—The appeal made by F. C. Jarvis, of Delaware, against the decision of Police Magistrate Noble, of Strathroy, by which the former was convicted of selling liquor to Indians, was to have been heard before Judge Elliot this morning, but was adjourned until Tuesday to procure witnesses. This is the case in which Burwell was sent to penitentiary two years for perjury.

—The annual sports of "D" Company, I. S. C., take place on Saturday next, Sept. 27, commencing at 1 p.m. Considerable interest is attached to the coming sports, as a splendid tug-of-war will take place between picked teams from both "D" Company, I. S. C., and the staff of the asylum. The sports will take place at the Barracks and a cordial invitation is extended to all.

Manitoba Wheat Badly Injured.

Mr. James E. Steen, editor of the Winnipeg Commercial, says that the rains and frosts, especially the former, did a great deal of damage to the Northwest wheat crop, and he does not think more than 10 per cent. will grade as No. 1 hard.

Number Six Ward Growing.

The assessment of No. 6 Ward has been completed. It places the population at 3,469 persons; jurors at 233; value of real estate, $1,202,330; value of personal estate, $14,200; income, $13,900; total value of real, personal and income, $1,230,430; statute labor, $90; dogs, 177. In the spring assessment, when South London was No. 2 Ward of Westminster township, the total value of real, personal and income was $982,120. But No. 2 Ward was much larger than the area comprised in No. 6 Ward, to the amount of $130,000. This leaves the total assessment of the spring for what is now known as No. 6 Ward at $852,120, or a gain in the present assessment of $378,310.

FOOTBALL.

The Secretary of the football team of "D" Company, I. S. C., will be glad to receive challenges from city and local teams for the season of 1890-91. Address, H. T. MILLIE, Royal Infantry Barracks, London.

A man's best help is himself, his own heart, his resolute purpose—it cannot be done by proxy. A man's mind may be aroused by another, but he must mold his own character. What if a man fails in one thing? Let him try again—he must quarry his own nature. Let him try hard, and try again, for he does not know what he can do till he tries.

Riding School Notice.—Riding lessons will be resumed on Monday, Sept. 15. For time and terms apply to Fulcher's livery. J. FULCHER, riding master. ywt

A Great Chance.—To parties in search of bargains be it known. Bankrupt stock sale. Having purchased the stock of the London Wall Paper and Picture Frame Company at 55 cents on the dollar, we are offering great bargains in wall-paper, window shades, picture frames and artists' materials. Call early and secure a bargain. E. N. HUNT, 190 Dundas street. ywt

Sewing machines repaired and guaranteed to work as good as new by Wm. Smith, practical repairer, 286 Dundas street, next to Fulcher's livery. ywt

Children Cry for Pitcher's Castoria.

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