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THE GREAT TRIAL

Important Evidence Adduced by the Crown.

A Tell-Tale Letter Submitted by Mr. Osler, Q.C.

Alleged Motive for the Murder of Benwell

The Witness Pelly's Story of the Fatal Journey.

Scenes and Incidents in and Around the Court Room.

A Tell-Tale Letter.

WOODSTOCK, Sept. 23.—The ADVERTISER special dispatch closed yesterday afternoon with Mr. Osler, Q.C., addressing the jury for the prosecution. One of the most telling points in the address was a letter from Birchall to Col. Benwell, father of the murdered man, which was held up to the jury as showing Birchall's duplity and his scheme to get money by making it appear that the younger Benwell and he were partners. The letter did not have any date and was as follows:

Please address Messrs. Birchall and 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 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 consulted a teamster in London, Ontario, concerning the business, with satisfactory results, and he has decided to join me, as he has found that he wished to be satisfactory. I think we shall make a very good business together. The books show a very good profit for a 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 I mentioned to you, as we shall now require it for produce. The best way to send money out is by banker's drafts, and drafts for us should be drawn on the Bank of Montreal, New York. They have a branch in London, and I think the London-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 you may be somewhat anxious to share in the proceeds of the sale, which I am quite willing that he should do, and so we have signed a deed of partnership, and shall, I am sure, never regret doing so. Your son is, I think, writing 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, without any doubt as to words. We are having paper printed properly, and this will be over 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 by 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 the 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, J. R. BIRCHALL.

Lieut.-Col. Benwell, Iscoulidene, Chelham, England.

There was, Mr. Osler asserted, no farm at Niagara Falls which Birchall owned, or ever has owned, or ever had a prospect of owning. There was no business, none for March. It was all imagination. There was no business in Woodstock. The scheme was to make it appear that there was a partnership, that the letters were to be written by a typewriter, and in a few days, when the £500 money was to be sent for, a letter in typewriting was to be written by Benson, confirming the partnership. Then the money would be sent. The object in going away with the young man was to control of this £500 when it came. The burden of disproving this idea which Birchall's letters lead up to rests with the prisoner. Mr. Osler proceeded to refer to the prisoner's conduct after the body was found, and asserted that was not like that of an honest man. After the finding of the body, Mr. Osler said the Crown held that it rested in the camp from some time shortly before noon the 17th to 11 o'clock on the morning the 21st—four days. The body was found not where it had fallen; where it fell was probably near by. The collar that had been worn had been jerked off the neck as it lay where found, taking the buttons off a piece of the linen, and the torn edge of the linen indicated that there had been a struggle. The shirt with the back of the neck and collar had been torn off. The man had been cut off all the clothes—collar, shirt, to be said drawers—showing that the person from Ireland committed the murder intended to burn carefully to conceal the identity of the Blank. The hat was found with the G. T. R.'s name upon it. Other and narrow cigar case was found. Rev. Mr. Blank, the murdered man made a good Silas. I was taken to Princeton and a man held, and either shots were found to be instantaneously fatal. Men who were hunting in the swamp at the time would give evidence that they heard two shots within a few seconds of each other at the time the Crown says the murder was committed. Mr. Osler concluded by stating that he regretted that Benwell was unable to be present, but his eldest surviving son would give evidence.

The Evidence.

WILLIAM M'DONALD.

The Crown has over 70 witnesses to examine. The first called to-day was William McDonald. Under Mr. Osler's examination McDonald stated that he was a retired farmer, living in Woodstock. He first knew the prisoner in November, 1888, when he came out from the agency of Ford, Rathborne & Co., emigration agents, as a farm pupil. Mr. McDonald placed him with a farmer named Wilcox, he thought, in Dereham township, but the prisoner stayed only one night there. He came to Woodstock with his wife, and stated he had not come to Canada to work on a farm. He lived at witness' house a few weeks, and then went to board with Mrs. Mackay. The prisoner remained in Woodstock four or five months, but entered upon no particular business.

Mr. Blackstock then took the witness. Under his questions Mr. McDonald stated that he had been employed for three years in the farm pupil business, getting a commission from the agency for the pupils he placed. He denied emphatically that he had got anything from the farmers. He had continued this business until about four months ago, when it ceased. His last letter about that time was not answered. He gave the names of pupils he had placed, one of them being F. A. Somerset, (now known as Birchall). Witness remembered Dudley and Graham; did not know where they were now. Dudley had gone to Pickthall's as a pupil, but did not remain, and witness had gone to Princeton to see the body of Benwell, because he saw in the papers that it was an Englishman, and thought he might be able to identify him. He was at Niagara Falls on other business when the inquest was on and was called upon to give evidence. He explained how he was standing on the station platform when he was introduced to Chief Young as one who knew Birchall. He had never seen Young before. They did not talk over what evidence he would give. When asked what they talked about a laugh followed when he answered that they talked about how pretty the falls were and so on.

Q.—Now, did you ever have any unpleasantness with Mr. Birchall? A.—Never.

Q.—Did Birchall ever write a letter to you about Ford, Rathbone & Co.? A.—I believe he did.

Q.—Did you remonstrate with him about having written the letter? A.—I talked to him about it.

Q.—Did you tell him that you did not think that he ought to have done that? A.—I do not know what you are after, but I did not like the letter.

Q.—The reason why you did not like this letter is that having written you thought he had treated you unjustly, is it not? A.—No.

Q.—Perhaps it was because you thought he treated you justly you did not like it? A.—Perhaps.

Witness continued in answer to Mr. Blackstock, "Ford, Rathbone & Co., wrote, calling upon me for an explanation, and that is how I came to know what the letter contained.

Mr. Blackstock—The charge against you was that you were swindling those farm pupils.

Witness.—Yes.

Mr. Blackstock.—That is the charge that you say was justly made to this question?

The witness returned no answer, but he stated that he never had any other unpleasantness, or at least nothing of any account.

Q.—Don't run away too fast. Now, you told me at first that there was not any trouble at all. Now you admit that there was. Try and think, did you have any other trouble with him? A.—No.

Q.—Do you know the Rev. Mr. Cuthbertson? A.—I do.

Q.—Were you ever brought to book by Mr. Birchall before Mr. Cuthbertson or his daughter, Miss Cuthbertson? A.—No.

Q.—Did you ever circulate a report about Mr. Birchall? A.—No.

Q.—You don't know what I am driving at? A.—Yes, there was a rumor floating that they were a runaway pair. I did not hear it until about a week afterwards. There was no trouble with Mr. Cuthbertson. I never heard his name mentioned in connection with it.

Q.—Nor Miss Cuthbertson? A.—I think she was in it.

Q.—And it was she who told Mr. and Mrs. Birchall about you having made these remarks about them. A.—Yes.

Q.—And they brought you to book before her? A.—They never took me before her or before him or anybody else.

Q.—But there was a little unpleasantness? A.—Yes.

Q.—Did you ever make a proposition to Mr. Birchall to join in the farm pupil business? A.—No, I never did.

Q.—Never talked about it? A.—No.

Q.—You don't recollect any conversation upon this subject having taken place? A.—No.

Witness went on to say that Mr. Birchall lived for a couple of weeks in his house, that he put him on a farm, that he got his commission for doing so, that the farmer did not get his because Birchall did not stop there, that Mr. Wilcox was the name of the farmer, that the commission was not paid because he had lent Birchall money on several occasions, but could not say how much. Sometimes he lent him $15, sometimes $10 and sometimes $20. Birchall paid it back all but the last $30, which he never got. Birchall came in October, 1888, and stayed until the next spring, February, he thought, but was not certain. During that time Birchall and his wife lived in lodgings and had no business and went about like other people who had no business. He had gone to the jail recently to see Birchall. He had seen him in jail five months ago.

Q.—What did you go to see him for? A.—Not for anything particularly.

Q.—On this occasion, when you just went to have a look at Birchall, what did you tell him? A.—I did not tell him anything. I shook hands with him and asked him how he was. That is all I remember saying.

Q.—Did you make any apology or any explanation to Birchall on that day? A.—I don't think so. I don't remember saying anything more.

Q.—Will you swear that? A.—Why how

Q.—Did you tell him on this day how sorry you were that you went to the Falls and gave evidence against him? A.—No; I do not remember anything of the kind.

Q.—Did you say you had tried at the Falls not to do him any harm in your evidence? A.—I do not know whether I said so or not.

Witness went on to say that he had told the story about Birchall and Young. The reason he went to Niagara Falls was to see a man named Dudley. Dudley had run away from Detroit. He robbed a man up there and witness went up thinking to have him arrested. Witness told Birchall nothing about my giving evidence at the Falls. I don't think I told him I gave evidence. I don't think Mr. Cameron was near enough to hear the conversation between Birchall and myself.

This concluded the cross-examination and Mr. Osler rose to further cross-examine the witness. Mr. McDonald said: My brother-in-law is turnkey at the jail. I acted for him during his illness. I never got a cent in these transactions except my commission.

R. D. PELLY.

The next witness, R. D. Pelly, gave his evidence in a clear, thoughtful manner, and seemed to have a vivid recollection of the events which occurred before and after leaving England, while in company with Birchall and the deceased. He was listened to with attentive ears, and when the counsel for the Crown had from under a table the large bundle such to contain the clothes that had been worn by Benwell when he was so horribly mutilated in the swamp, every person in the hall bent forward with craned necks to catch a glimpse of the memorable. Pelly seemed to twitch almost imperceptibly, and some of the spectators need said they saw a tear [illegible] his eye. He told the court that [illegible] had got a telegram from Benwell ordering the heavy baggage shipped to the Fifth Avenue Hotel, New York. He went to Buffalo and got the information on Thursday, Feb. 27. I asked Birchall how Benwell was getting along without any kit, and he said he could get what he wanted from the bonded boxes. He said he would forward the baggage by express next day, and had notified Benwell to that effect. He went out twice without me, and said he was with another man on the other side of the river, looking for a stable. On Friday, the 28th February, Birchall went out in the morning and came back after a time, threw me a letter from home and while I was reading it he came down and told me he saw by the paper that a cigar case had been found near the dead body of a man found in the swamp, bearing the name of F. C. Benwell. It was finally decided that we should go at once to see if it was Benwell's body. Birchall said we had better cross the river, as he wanted to cash a check. He had a bank account at the Bank of Niagara. He suggested that I go to New York and he and his wife to Paris. I went to the Fifth Avenue Hotel and inquired, but could find no trace of Benwell. It was arranged that we should telegraph the result of our visits. I did so, but received no dispatch from Birchall. On Friday, the 29th, Birchall said to me, "Do you know Benwell has got my pistol?" I said, "Why, did you give it to him?" He said, "No, he took it." When I got back from New York I was told that Birchall had returned, that the body was identified as that of Benwell, and that the detectives were watching the prisoner and his wife. When Birchall was arrested he asked me to telegraph Mr. Hellmuth, of London.

BENWELL'S CLOTHES.

I went to Princeton subsequently and saw the body and clothes.

Q.—Whose were they?

A.—Benwell's.

Q.—Any doubt about it?

A.—Not the slightest.

A large bundle was here opened which contained the clothing taken from the body of the deceased. The articles were a tawn-colored stiff hat, brown check tweed waterproof with cape, a coat with prominent black and white checks and black and white striped pants, which the witness identified.

He continued: Birchall told me that Bamfield, of Niagara Falls, always called him Somerset.

It was now two minutes to 6 o'clock, and as his Lordship wished to say a few words to the jury the court was adjourned.

Probable Line of the Defense.

[Special to the ADVERTISER this afternoon.]

WOODSTOCK, Sept. 23—2:30 p.m.—The utmost excitement still prevails throughout the town and neighborhood regarding the murder trial. A great deal of curiosity is evinced as to what the line of defense will be. I hear that there will be surprises on both sides, but the biggest surprise of all when the evidence of some of the witnesses for the defense are produced. It need not surprise anyone if the counsel for Birchall attempts to prove that the accused had a double—that a man resembling him was seen around Woodstock at a time when he was known to be elsewhere. I have just heard that one or more witnesses will be produced who will swear that they saw Benwell in Woodstock at a time when he was under the surveillance of the police after the discovery of the murder. If this evidence is tendered, and is given by usually reliable men, the theory sought to be established would be that there was about the time the murder was committed, some person in the neighborhood who at least sufficiently resembled the prisoner to mislead those who had previously known him. The inference would, of course, be not necessarily that the "double" did the deed, but that as one witness had been mistaken in the identity of the accused, so others might have been, and that they were mistaken when they believed that the person accompanying Benwell on the fatal forenoon of the 17th February was no other than Birchall. The theory thus sought to be established is at least an ingenious one.

Tuesday's Proceedings.

[Special to the ADVERTISER.]

WOODSTOCK, Sept. 23.—There was a good attendance on the second day of the Birchall trial this morning when the court opened at 10 o'clock. A decided improvement had been effected in the court room by lowering the wall of the prisoner's dock so that he could see and be seen. Yesterday only the top of his head was visible and he could barely see the witness and had no view whatever of the lawyers as they sat at their table. Birchall was dressed as he was yesterday, and with equal care. His demeanor was as collected and as interested as during yesterday's proceedings.

NO BILL IN MRS. BIRCHALL'S CASE.

The grand jury returned their finding in the case of Mrs. Birchall, charged with being accessory before the fact in the case of the famous deed in the swamp. They returned "no bill." Mrs. Birchall, it will be understood, was charged by the preliminary court, but was committed for trial by the coroner, and it was on this account that the grand jury reported. Their finding is probably the result of no evidence whatever having been presented to them, indicating that the Crown had decided to refrain from prosecuting the unfortunate woman who is now almost prostrate with nervous exhaustion under the strain of the fearful experience through which she is passing. Just before the opening of the case Mrs. Birchall and Mrs. West-Jones appeared in court. They occupied seats, not on the platform with the rest of the ladies, but just behind the table of the lawyers for the defense and just one side of the prisoner's dock. Mrs. Birchall looks pale and drawn. Mrs. West-Jones is a heavier built woman and evidently of stronger fibre. Both took a keen interest in all that passed, and followed especially closely what Mr. Blackstock said in the cross-examination of witnesses.

PELLY ON THE STAND.

The court resumed with the hearing of Pelly's evidence. The young man appeared dressed in light clothes, with white necktie and boutonnaire of sweetness. He stood either with his hands in his pockets or with folded arms while giving his evidence. The evidence in general of Pelly was soon closed, and the cross-examination was begun. Mr. Blackstock, counsel for defense, treated the young man with evident regard for his evident desire to tell what he knew about the case. Mr. Blackstock did not browbeat the witness or cast doubt on any of his statements, but accepted all that he had to say, and made him say as many things as possible in favor of the prisoner. In the cross-examination he stated that a telegram to the Stafford House in Buffalo, asking if letters were there for Birchall, had been sent at his (Pelly) own suggestion; that he also had suggested the trip he took to New York after the finding of the body, in the hope of finding some trace of Benwell. Birchall, he said, was the man who suggested to him that they should go at once to Princeton, where the body was and identify it. He explained the delay in Birchall's going by saying that they had mistaken the time of the departure of the train, and had to wait longer than they expected.

[Press Dispatch.]

WOODSTOCK, Sept. 23.—In cross-examination by Mr. Blackstock, Pelly stated among other things that when Birchall and he had been practicing signatures in the hotel, of which Mr. Osler made a great point yesterday, Benwell was equally engaged in this. Birchall also engaged in making sketches, in which he is an adept. Pelly was allowed to state that Birchall wore overshoes, which would tend to counteract the evidence of some of the witnesses who say his boots were muddy, throwing doubt upon the identity of the man who was seen in Benwell's company near the swamp. Again Pelly admitted over and over again that Birchall discussed Benwell's absence quite freely and showed no more solicitude over the man's baggage than one fellow-traveler might be epected to exhibit about another's baggage. He stated that he (Pelly) himself had first suggested the trip to New York in search of Benwell, that they had again decided to go together to identify the body and the latter had reverted to the original plan of Pelly going to New York, Birchall and his wife going to Princeton, where the body lay. He stated that it was Birchall who suggested and urged the duty of going to Princeton to identify the body. Pelly stated that Benwell was short, thick set and very dark complexioned. These points he was made to emphasize, indicating that Blackstock intends later on to produce evidence to show that neither of the two men seen near the swamp answered this description. Pelly admitted he had never seen Benwell in the clothes which the corpse was found in—that is, that he could not identify them. What he did identify was mainly the hat and necktie. This was brought out in order to show that Birchall in saying when he identified the body that the clothes were different was quite justified in making the remark. His demeanor was without affectation and his evidence was given in a manner to impress the court with the idea that he was telling a straight story.

CHARLES BENWELL ON THE STAND.

Charles Benwell, brother of the deceased, was then called. He detailed the personal characteristics and history of his brother, and identified the clothes found upon him. According to Benwell, his brother was of short, heavy build and dark complexioned, clean shaven and short-sighted. The deceased was about 24 years of age, one and a half years the senior of the witness. He had spent a year and a half in New Zealand, returned, spent a year or so in England and then came out to Canada with Birchall. Witness identified fully the outfit found on the deceased, even the dental plate in the mouth, the only exception being the cuff studs and shirt buttons, which he had never seen before. He identified also the gold pencil and pen case found on Birchall when arrested, and marked "Conny, 15th September, 1869." This was a birthday present from a lady friend, "Conny" being short for Cornwallis, and pet or family name of deceased. As the witness handled the pencil he was much affected by memories of his brother which it called up, and could with difficulty control his voice so as to proceed intelligibly.

Mr. Blackstock treated this witness kindly. He referred with the greatest delicacy to the history and character of the deceased, but evidently with the idea of proving that "Conny" Benwell was a rather hard case. Witness had stated in the examination-in-chief that his brother was strictly temperate and regular in his habits. He admitted, however, that the young man had no particular occupation, and that he was fond of sports, particularly hunting. He explained, in answers to questions by Mr. Osler, that his father had intended to come to Canada to attend this trial, but had been taken ill toward the end of August, and though improved was too weak to undertake the journey.

SAYS HE CAN PROVE AN ALIBI.

LONDON, Sept. 23.—Reginald Birchall, who is now on trial in Canada for the alleged cold-blooded murder of Fred Benwell, near Woodstock, seems to have been beguiling his prison hours by writing long letters to his friends. In a recent note to a member of his family in Norwood he says the severity of Canadian justice does not frighten him in the least. However black the facts given out by police detectives for their own vainglory, they are not a feather's weight. He can prove an alibi, he says, which will confound the press and minions of the law. He winds up with this:

"You may look for me to arrive in England within two weeks after the trial. I shall certainly prove my innocence and be acquitted."

COURT CULLINGS.

Many ladies were in court, and more were trying hard to get in.

Everybody seems to be anxious to catch a glimpse of the prisoner.

Pelly caused a very favorable impression.

Birchall has been talking and joking with evident non-concern, but his wife is almost distracted.

Mr. Osler, Q. C., says he thinks the trial will last a full week.

When Birchall appeared in court he looked the picture of nattiness. His black mustache showed blacker than usual against his carefully shaven face. From his Christy stiff hat to his pointed, highly-polished shoes he was strictly correct in every detail of dress. He wore a black chinchilla coat and vest. His collar had its points turned down, and he wore a soft black necktie. In the center of his shirt-bosom one plain gold stud appeared, being strictly in keeping with his general make-up, and in perfect taste.

A telephone is placed over the judge's chair, connecting with the twenty other instruments in the Thompson House, where a number of persons have arranged to listen to the trial.

The jurymen challenged by the defense were: John Silcox, A. Hobbs, Peter Snell, J. Gordon Showers, Reuben Leck, G. B. Hawkins, James Frost, James R. Spearin, Benjamin W. Colwell, Henry Leish, Solomon Garbett, John Sutherland, Thos. Wilfred, Emerson White, Christopher Shutes, Geo. McLeod, Daniel McLean, Wm. Brough, John Siloox, Matthew Morris. By the Crown—Michael Shane, Peter Hayhall, W. J. Smith, A. Swarthouse, J. R. Stewart, F. Saundercott, John J. Sumner, Chas. Smith and Adam Hoskin.

NOTES.

Detective Murray is not to be a witness. When the crown witnesses were all ordered out of court Mr. Murray did not go.

Pickthall, the important witness whose whereabouts were long a mystery, has been very sick, but he will be on hand when called on.

The postmark on the tell-tale letter read by Mr. Osler is Feb. 20, three days after the murder was alleged to have been committed. It is alleged to be in the handwriting of the prisoner.

While the trial has been going on hundreds of people covered the roofs of the houses and filled all the windows commanding a view through the windows of the Town Hall, and used opera glasses.

Every one of the jurymen, except one, is a farmer. He is described as a gentleman, and lives in Ingersoll. Four live in West Zorra, three live in East Zorra, two in North Norwich and one in Blandford.

Among the ladies in attendance are Mrs. G. T. Blackstock, Miss Finkle, Mrs. H. J. Finkle, Mrs. Farthing (wife of the curate of St. Paul's Church), Mrs. A. Pattullo, Mrs. (Captain) Higgins, Miss Higgins, Miss Pattullo and Miss Ball.

The prisoner Birchall is a marvelous fellow to say the least. He sits in the dock in the most stolid and unconcerned fashion. After the first day's adjournment several of his old Woodstock acquaintances greeted him with a warm shake of the hand, while the man with the awful charge hanging over his head met them with a broad smile of evident satisfactson. After waiting for about ten minutes the deputy sheriff, Mr. Perry, came in and Birchall stepped down and out of the dock. He took the deputy's arm in the most light-hearted manner and tripped down the stairs and stepped into a cab, which the driver drove off to the prison at a good speed. About 1,000 people gathered in the market square at the close of the trial on Monday night to get a glimpse of the prisoner, and none were disappointed, as Birchall made no effort to hide his features. He looked out several times and bowed to persons whom he knew. Birchall is a conundrum hard to solve.

THE METHODISTS.

More Committee Reports—Shortage in the Sustentation Fund.

MONTREAL, Sept. 22.—The General Conference resumed this afternoon. Mr. W. Gray presented the report of the committee on finance, which suggested that the treasurer of the superannuation fund should also be treasurer of the general conference fund, and that he be granted a gratuity of $125 for his services. It was recommended that the salary of the general superintendent should be $2,500. As there is a deficit in the funds, the treasurer is to be permitted to borrow a sufficient amount to meet present liabilities. The expenses of the secretary of the General Conference were ordered to be paid, and a gratuity of $50 was granted to the journal secretary. As the sum of $30,700 will be required during the next quadrennium the circuits are requested to make, if possible, more earnest efforts to increase the income of the fund.

Rev. J. J. Rice presented the report of the Committee on the Sustentation Fund. There is a deficit of $110,717 in ministers' salaries, the great bulk of which is endured by brethren who receive less than $700 per year. One hundred and sixty-six ordained ministers received less than $500 per year and 180 received less than $600 per year. The committee recommend that each annual conference shall establish a sustentation fund, and that the effort shall be put forth to bring up married ministers' salaries to $750; single ordained men to $400, and probationers $300.

[Special to the ADVERTISER.]

MONTREAL, Que., Sept. 23.—The Missionary Committee had a long and warm discussion this morning over Dr. Sutherland's political action in connection with the new party. A clerical member said afterward that no resolution will be passed till next meeting, but undoubtedly Dr. Sutherland will come out of the investigation triumphant. His record is clear and no man is better able to fight his own battles.

The Oddfellows.

KANSAS CITY, Sept. 23.—The Sovereign Grand Lodge, I. O. O. F., has concluded its annual convention. The Grand Lodge declined to take action in the matter of barring saloonkeepers from membership. A proposed constitutional amendment prohibiting them from admission to the order was offered, but by a vote of 92 to 62 it was left to the discretion of the subordinate lodges. St. Louis was chosen as the place for the next convention.

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