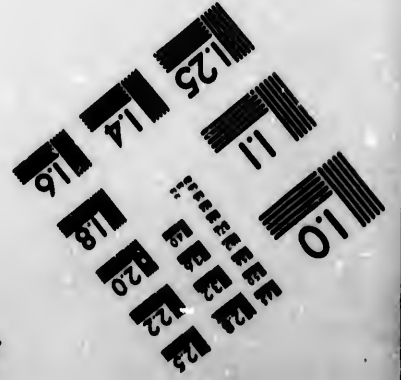
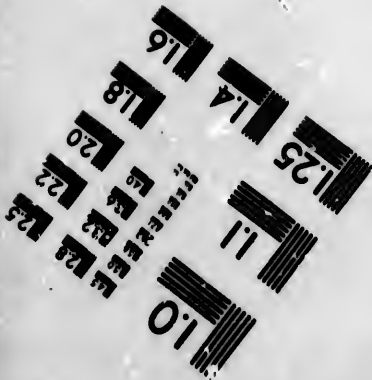
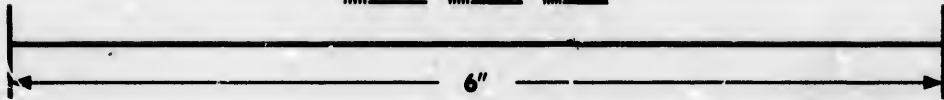
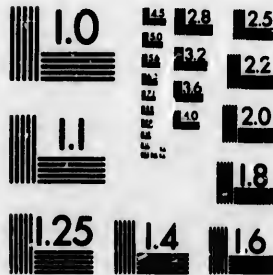


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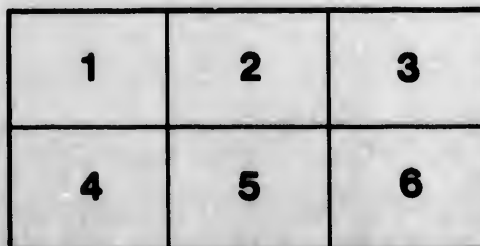
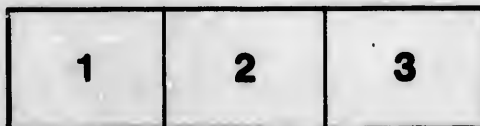
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# TOWNSEND:

## HIS CAREER AND TRIAL AT CAYUGA.

Compiled from Reports of the *GLOBE*, *SPECTATOR*, and *BANNER*.

WILLIAM TOWNSEND was born at Black Rock, near Buffalo. His father was a carpenter and joiner by trade, and while he lived in the exercise of his craft at Port Dalhousie, as well as after he had moved up to a wild farm at Canfield (near Cayuga), he always bore a most respectable character. The son only became notorious after the death of his father. He is said never to have drunk spirituous liquors of any kind, to have been quiet and taciturn, and as he grew to be a man, even morose. He made a living by doing business up and down the Welland Canal, sometimes on rafts, sometimes in towing schooners. He was perfectly well known to all the men concerned in the working of the canal. Occasionally he would be away from home for a week or so at a time, when, possibly, he committed crimes of various descriptions, as Blowes, one of the gang concerned in shooting Mr. Nelles, stated that he confessed to him that he had killed six men before he shot Nelles. However, this was the first deed of blood with which he was thought to have been connected. He shot Nelles on the Talbot road, a few miles west from Cayuga, on the 18th October, 1854, and immediately took to flight, as did also the party with whom he was at that time confederated. He proceeded in haste to Buffalo, whither he was traced and where the constables in pursuit arrived on the 19th. These constables were placed at the various outlets to the city, some at each railway station, and some at the wharves. The following is Chief Constable Campbell's own statement:

"On the morning after the murder, the news was brought into Cayuga about eight o'clock, and I, as high constable, prepared to follow the murderers without delay. I found plenty of men ready and willing to assist me in the pursuit. I selected five, and we proceeded to the Cayuga Station, where we found they had started for Buffalo by the four o'clock A. M. train. Here Robt. Flanders joined our company, and we went by the next train to Buffalo. Our train was behind time and laid over at Ridgeway half an hour. When we got to Fort Erie we saw the Buffalo and Niagara Falls train pass down on the American side, which it has since been found contained the objects of our chase.

"We arrived in Buffalo about four o'clock P.M., and at once got the Police on the alert; and telegraphs were put in operation east and west for the apprehension of the murderers. The Canadian constables were singled off with the Buffalo police, and every outlet from the city was closely watched. We soon got traces of the gang having been at the U. S. Hotel at three o'clock, and of course concluded they must still be in the city; and during that night places from the first Hotel to the lowest grocery were searched. There were races three miles east of Buffalo at the time, and two of the constables were sent out there, but returned again in less than two hours."

Townsend then went to the Falls, and thence to St. Catharines, where he and Lettice stayed for a time, while King and Blowes went on to Hamilton. The



Sunday following, information was given that Townsend and Lettice had driven from St. Catharines to Pelham, in a buggy. Here it was that seven or eight men surrounded him in a ten acre piece of bush, when he made off at one side between two men, armed with guns, he having a pistol in each hand, and threatening to shoot if they attacked him—an incident quite melodramatic, if it were not real. The police from Cayuga and Canfield immediately started for Pelham, and on the Sunday night stayed at Wellandport, a few miles west of that place. The next day they learned that he had left *sans ceremonie*, and had taken ship from St. Catharines to Oswego. In this adventure he seems to have acted shrewdly, whereas he generally succeeded in eluding the grasp of the law by straightforward daring. Constable Flanders was appointed to follow him up, while the others returned. Mr. Flanders learned from the lock-tender, who knew Townsend perfectly, that he had shipped for Oswego on board the *Westchester*, a sailing craft. In St. Catharines, moreover, he had traded away the watch, stolen from Nelles, for a fur coat and gauntlets, to a Mr. McSloy (who was killed at the Desjardin's accident at Hamilton). Mr. Flanders telegraphed to the Chief of Police at Oswego, and rejoiced in spirit, thinking Townsend was this time certainly in a trap. Inquiring of seafaring men, he learned that the winds had been from the East, and that by hard riding he might catch the steamboat at Niagara, and thus arrive at Oswego before the *Westchester*, and thus make a sure matter if possible more sure. This was done, but in the morning, when the *Westchester* came to Oswego, no Townsend was on board.—Mr. Flanders remained and saw every cask and bale unloaded, much to the annoyance of the captain. In the evening, however, when the captain, after doing his business, was eating his oysters quietly, he remembered a man who got on board his vessel at the locks, and whose features and clothes corresponded to Townsend's, but who had, at Port Dalhousie, jumped on board another vessel bound to Kingston. Thence he may have jumped on shore, as he had accomplished the end of putting his pursuers on a false scent. By the evidence of his brother-in-law, at the trial, it appears that instead of proceeding to Kingston or elsewhere, he made good a retreat, during the night, and was secreted in his brother-in-law's house some six or eight weeks, during which time he was visited by at least one member of his family—his youngest sister Frances. It has been frequently asserted that he was seen at this house disguised in woman's clothes, and now this is rendered very probable.

Not long afterwards constable Yeoward, of Brantford, and constable Flanders, of Canfield, with the assistance of the Hamilton Police, caught Blowes at a house of ill fame in Hamilton kept by a woman known as "Limping Jenny;" King was taken near the same city, and Bryson about 70 miles north of Toronto. The two former were hanged at Cayuga; the latter was sentenced to death, and had his sentence commuted to imprisonment for life in the Penitentiary.

Previously to this, however, Mr. Gainer, who lives near Port Robinson, was robbed by Townsend. Mr. Gainer followed up the robber and caught him at widow Jordan's, of that place. He got a constable named Ritchie, and shewed Townsend to him. Ritchie, wishing perhaps to have all the reward offered for the capture, arrested Townsend at the door. Townsend

threatened several times to shoot him, unless he let go his hold, and in another moment or two actually carried out his threat, drawing a pistol from his coat and shooting Ritchie in the forehead, killing him instantly. Townsend then went up the Canal, and traces of him were found up to the close of the year. However, it is possible that the depredations committed at London, Markham, Woodstock, &c., may not have all been the work of one man, and that man Townsend.

Nothing certain has been heard of Townsend from that time to the present, except on one occasion. In August, 1855, the sheriff and deputy sheriff of Rock Island (Illinois), sent word to Mr. Flanders that they had discovered a man answering to the description of Townsend. They came to Cayuga to find a man who could swear to his identity, and for this reason they had not caused the arrest of the suspected man; the laws of the States, it seems, being such that, unless a man's identity is *sworn* to, he can be released on a habeas corpus, which would give an opportunity of escape. Mr. Flanders learned that the suspected man was an actor in the "side shows" of Stone and Van Amburg's, and immediately started for the West. He went to Keokuk, driving for hundreds of miles in a post chaise, and being considerably "ahead" of the sheriffs. From Keokuk Mr. Flanders went to Alexandria, per steamer, and found by the descriptions given that the man was *actually* Townsend. But the sheriff of Rock Island mentioned the matter, in *confidence*, to the proprietor of the show; the proprietor had informed the ring-master, likewise in *confidence*. Thus the whole troop became acquainted with these suspicions, and one of them told the man, in *confidence* too, that if he were Townsend, charged with murder in Canada, he had better "clear." He did clear, accordingly, and before constable Flanders arrived in the place. Mr. Flanders went in search of him to the Upper Mississippi, but in vain. Subsequently, a policeman from New York, thinking he had found a clue to Townsend's whereabouts, came to get an accurate description of him. It was supposed he had gone to California by the overland route, and thither the New Yorker followed him.

The prisoner, who calls himself McHenry, asserts that he was born at or near Glasgow, Scotland, and thence to the time he went to Nicaragua with Walker, is a hiatus which he does not appear willing to supply. He was arrested in Cleveland, by Mr. Iles, formerly of Canada, and the United States Commissioner having decided that the identity of the man arrested was sufficiently established, he was delivered over to the Canadian Authorities. He has now been in gaol at Cayuga nearly six months.

The Warden of the Provincial Penitentiary, Mr. Macdonald, went to Cayuga, taking with him Bryson, one of Townsend's confederates in the murder of Mr. Nelles, and Brown, another jail bird, to identify the prisoner.

On the second day of the trial, the prisoner's beard was shaved off by order of the Crown prosecutor. He at first said it should only be done by force, but eventually submitted his chin to the razor with a good grace. The felon Brown, who is by trade a barber, performing the operation. Brown has positively stated that the man is Townsend. It was believed that this shaving might make a difference in the opinion of some who at first affirmed the prisoner was not the man. Bryson was introduced into the prisoner's cell

on Wednesday morning, when he immediately said, in answer to a question from the prisoner, that he was Townsend, whereupon the prisoner broke out in a violent passion, and indulged in terrible oaths, demanding that Bryson should be removed. In the adjoining cell was the convict Brown, who overheard him, and at once said it was Townsend's voice. Bryson, in return, proceeded to accuse the prisoner of being the cause of his (Bryson's) being where he was.

The prisoner is a man of about 5 feet 7 inches, in height. His complexion is difficult to describe—his cheeks are pale and thin; his face is elongated, but not care-worn. He has a very large eye of a peculiar light blue. His hair is dark brown. His forehead is large, heavy, and rather high than the reverse. His eyebrows are of a lighter tint than his hair, well arched, and do not meet. His nose is large, thick at the tip, and rather bent from the bridge downward. His mouth is not in any way singular. He has a scar above his left eyebrow, about half an inch long, and inclining towards the temple. Also one on his under lip, the same size as the other. His chin is long and prominent. His cheek bones are rather high. From the left cheek bone, downwards, a large broad scar extends, nearly three inches long. He appears to be about 30 years of age. The artist has done him justice.

## THE TRIAL.

THURSDAY, September 24, 1857.

Several of the Jurors were challenged by the counsel for the defence Messrs. Freeman and Start, of Hamilton. Some were objected to on account of expressions they had let fall; out of court; others because it was not thought right that too many of the jury should be from one locality. The prisoner was perfectly self-possessed throughout, looking at the jurors quite carelessly. The Crown did not challenge a single juror.

### THE JURY.

James Lindsay, Nanticoke.  
William Hare, Rainham.  
Alexander Lamond, Seneca.  
Harlo H. Johnson, Dunnville.  
William Ross, Seneca.  
William Dukesberry, Oneida.

Samuel Hodges, Canboro'.  
James Gillespie, Oneida.  
Peter Drake, Dunnville.  
Thomas Woodside, Dunnville.  
William Hopkins, Cayuga.  
L. H. Michenor, Molton.

The indictment was then read to the Jury. It charged that Wm. Townsend, of malice aforethought, shot John Hamilton Nelles, of Cayuga township, on the 18th October, 1854, with a pistol, making three wounds, of which the said John Hamilton Nelles died a few hours afterwards. It is the same indictment under which King and Blowes were convicted.

### THE SOLICITOR GENERAL'S ADDRESS.

The Solicitor General then opened the case to the Jury, in a lucid speech, setting forth the circumstances under which the prisoner was connected with some others in the murder of Mr. Nelles, on the 18th of October, 1854. He was desirous that the Jury should dismiss from their minds all idle gossip and tales which might have come to their ears, and confine themselves to the facts and evidence which it would be his duty to lay before them, together with the evidence that would be laid before them for the defence; and having

carefully weighed the whole, to bring in a verdict in accordance with their oath, and the solemn duty which they had to discharge to their country. He then described the manner in which four of the parties, who were proved to have been connected with this murder, had been disposed of. Blowes and King were executed—Bryson was admitted Queen's evidence, and was sent to the Penitentiary—and a fourth, Lettice, was shot by a constable on Squaw Island, having attempted to escape. Five men were known to have been engaged in the murder of Mr. Nelles, and having disposed of four of these murderers, he now came to the fifth, and from the facts he should be able to lay before them, he was firmly of opinion that the prisoner at the bar was the fifth party; and, said he, having laid these facts before you, it will be for you to say if the prisoner at the bar is guilty or not. I have never been here before, but the circumstances of the robbery and murder are before me from the papers, and also the numerous other robberies which about that time took place in this neighbourhood and the adjoining counties. Farmers have been met on the road and robbed, houses have been broken into, and with most or all of these robberies there is little doubt that the prisoner, William Townsend, was connected. The murder for which he is now indicted took place on the 18th October, 1854, when he, with four others—Blowes, King, Bryson, and a fifth, who was shot by the constable, are proved to have been in the neighbourhood, and went to the house of Mr. Nelles, forced their way in, and the prisoner, William Townsend, having got the better of him, entered the house, fired a pistol, and shot him, inflicting a wound of which he shortly afterwards died. Before coming here I had learned what kind of a defence it was intended to be—that the prisoner is not the man. His defence is in the hands of able counsel, and if it can be shown that he is not the man, I would rejoice that he should by your verdict be set at liberty. At the same time I must remark that it is nothing unusual for such kind of defence to be set up, and for men placed in such a position to try to prove that they were some one else than the party charged, and that they were in some other place at the time of the occurrence, and also, by taking a feigned name. The prisoner at the bar was arrested in the United States, and after a long and very careful consideration before the United States Commissioner, was delivered over to Canadian authorities under the Ashburton Treaty, the Commissioners upon the evidence considering that it was their duty to hand over the prisoner to justice. It will be shown by the evidence that the prisoner is only seen in Canada for a few days after the murder, and then all trace of him is lost for some time. Nor has he attempted to supply the *hiatus*. When he left, he was much younger, and is very much changed since he was last seen here, so that parties knowing him previously may have considerable difficulty in recognising him now. In proof of the difficulty, I will state a case coming under my own observation. A man was charged with a rape upon a young girl 13 years of age. She was a very intelligent child, but from the time the offence took place to that of the trial the party was so much changed in appearance, by having allowed his whiskers to grow, the child, when giving her evidence, stated that he was not the man; but, fortunately for the ends of justice, there were parties who, hearing the agonized cries of the child and coming up at the time, were able to identify him, and

he suffered the penalty of his crime. I adduce this case before you to show that it is possible, in the lapse of even a very short time, to so change in one's appearance, that there would be great difficulty in being recognized. I shall show to you a chain of circumstances to prove that the prisoner Townsend was with those others of the gang at the residence of Mr. Nelles on the day of the murder; that Townsend, having knocked at the door, obtained audience with Mr. Nelles, who, suspecting them, closed the door; that he removed the bar from the door, and let three of his companions in; that he then deliberately shot Mr. John Hamilton Nelles with a pistol; after which he took the watch from the dying man, and subsequently robbed the house. Nothing more is heard of him until Bryson, Blowes and King are arrested, and then, on the evidence of the former, the facts were made known, and a train was set for the accomplishment of the ends of justice. When Mr. Nelles lay dying, it will be proved that the prisoner made use of this expression, "You scoundrel, you slammed the door in my face, and I will teach you better." I shall be able, gentlemen, to prove to you that the prisoner, William Townsend, is the man that made use of that expression.— One other circumstance I wish to allude to, which has come under my observation since I arrived here, and which is of a very painful nature. I allude to numerous bets which have been made by parties holding a high position in this county, upon the issue of this trial, and, I am sorry to observe, some of those bets made by officers of the Government. I can only express my surprise, indignation and disgust, that parties could be found so lost to all decency, as to stake their money in connection with a transaction that will probably cost the prisoner his life. In reference to the change of name in such case, I have to state, since coming to these assizes I have had placed in my hand a document proving that three quite young boys, who had been charged with a larceny, had given fictitious names before the Magistrates, which is fully proved by their conviction at the Assizes upon another similar offence in their own names, and upon their own plea of guilty. This may tend to show you how very unsafe it is to trust to a change of name, or the name which a prisoner may choose to give himself.

The present inquiry is a most important one, so much so that the Government have thought fit to request me to attend to conduct the case, although I am not in the habit of going the circuit. Having shown to you how the other four members of the gang are disposed of, I have to direct attention to the facts as connected with the fifth member of the gang—the prisoner at the bar. I shall have to prove to you that the prisoner was travelling on the Columbia Railroad, and was observed by the conductor, when collecting the tickets at Cleveland, to be asleep, or to be feigning sleep, and observing a revolver in the prisoner's pocket, he did not then disturb him, but, obtaining assistance, called upon him for his fare, when he said that he had no money, but offered his revolver in pledge. The Conductor proceeded with him to a tavern, kept by a Mr. Iles, formerly resident in Canada, who advanced the money upon condition that the prisoner should redeem it. Iles was acquainted with the prisoner as Townsend, and, having heard of the murder, took measures to have the prisoner arrested, which, as I have stated, resulted in his being given up to justice, which I trust will be measured out to him—

Another difference you will observe in the prisoner since he first appeared in the box on Tuesday; his whiskers have been shaved off, reducing his face to that state in which he was accustomed to be seen by the parties who will have to speak to his identity, and that on shaving off the whiskers a large scar on the prisoner's cheek has been discovered, which goes to establish his identity. In addition to this, the prisoner bears other scars—one of them on his foot—which are additional proofs to his identity. I shall further prove that at the time of his committing the murder he was disguised with a portion of a buffalo robe, to imitate whiskers and moustaches. I shall further prove to you that he said he never was in Canada; and I shall also lay before you most incontrovertible evidence that he has long been a resident of Canada, and of this or adjoining counties. He was identified in Cleveland and Toronto, and by many most respectable parties since his arrival here.— In Toronto he asked of a witness, who at once identified him, if Townsend had ever told him of him and his cousin stealing a boat. The witness replied that he did tell him of it, and that they had sold it in Cayuga. No, said the prisoner, it was sold in Dunnville. The prisoner, as I have stated, says he never was in Canada, and yet when informed that Blowes and King had been executed for the murder of Mr. Nelles, he expressed the greatest horror, not only in his speech, but in his countenance. I must also direct your attention to a very important fact, that up to the first day of the Court, the prisoner could have entered his plea that he was not Townsend, and setting forth who he was, but that, in opposition to the earnest advice and offers of counsel and assistance, he had refused to do, and had pleaded to the indictment—the name of Wm. Townsend. Had he taken the first and natural course, then he could have proceeded to show who and what he was. His defence will be, I presume, that he is not the person charged in the indictment; but what man of common sense would remain in gaol for six months without showing who or what he is, and what have been his antecedents; and, gentlemen, I must say that there is a total absence of any evidence, excepting that the prisoner is the veritable William Townsend, the leader of the gang of robbers and murderers, who so long infested and spread horror in this and the adjoining counties. I would further remark, that the witnesses for the Crown are so numerous, that it would be almost impossible, at least, tedious, in me to take up your time and the time of the Court in laying that evidence, or even a brief sketch of it before you, and am in part constrained to defer doing so, as some of the witnesses have only arrived to-day, and I have not been able to go more fully into their evidence as connected with the prisoner. One circumstance I must not omit, that among these witnesses I have the gaoler of the County of Oxford, who will prove that a person had been arrested by him for a crime committed there, and when he came to court to-day he said at once the prisoner was the man he had so arrested, so that although the prisoner has stated that he never was in this country, I shall be able to prove to you that he has been long a resident, mixed up with crime, and can be clearly identified. I shall not further occupy your time with the nature of the evidence, but shall proceed at once to call that evidence before you.

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## THE TESTIMONY FOR THE CROWN.

LUCY HUMPHREYS sworn, said : I live in Caledonia, I knew the late Mr. Nelles, who was my brother-in-law. I recollect the night of the 18th October, 1854; I was in the house that night, and had gone to bed. I left John H. Nelles up. Mrs. N. had gone to bed. He was sitting at the gate. I heard a rap at the door, no one spoke. I don't know who came in, but I know some one did. I heard no scuffle, nor noise, until I heard a pistol fired. This I heard immediately after I heard the door open. I then got out of bed, went to the door and saw three men, whom I did not know. Three were in the house, and one was outside. Mr. Nelles was then laying on the floor, he did not speak and I did not then perceive he was wounded. I took an infant child in my arms from Mrs. N.'s hand and walked the floor. I saw him walk the room after he was shot and fall near the back door. I saw a white hat on one of the men inside, who appeared larger than the rest. I heard one man say—"you are the scoundrel who shut the door in my face." The man then went where a brother of Mr. N. was. I did not perceive the room was full of smoke. The men stepped across the body of Mr. Nelles, and went to the bed side. One man had black whiskers and moustaches; he appeared the principal man. I could not say whether the whiskers, &c., were natural or put on. I should not recognize the man. They said they wanted money, and said "tell me where the money is." I said I knew nothing about it. Mrs. Nelles pointed where the money was. They went into the room where the money was. A gold watch was taken, she produced at the last trial. The men also opened a trunk. Young Mr. Nelles went for Dr. Welcher, who lived a short distance off. Mr. Nelles complained of his back, and only lived until about 12. I can't say which of the men said "you scoundrel, &c." I understood that the man who said this was the one who shot Nelles.

AUGUSTUS NELLES deposed.—I am a brother of Mr. Nelles, and was sleeping at his house when the men came, whom I had never seen before. I could not positively recognize any of them. I did not hear the discharge of the pistol. My mother's calling woke me. I saw my brother lying near the back door. I noticed he was fast sinking; he died that night. I did not notice any man, much taller than the other. One appeared of a middling size, who had black moustachios. All had black hats save one who had a white one. The man with the black moustachios said "you scoundrel, you slammed the door at me." They asked me where the money was. My brother lived about three hours after.

DR. WELCHER said he had found Nelles lying on the floor, with three wounds in the left side. He could not speak, but with difficulty he said he did not know any of the men who had broken in. He died from the wounds then received.

WM. BRYSON, (the convict) was then sworn, and said :—I come from the Penitentiary.

The SOLICITOR GENERAL.—Who is that man?

BRYSON.—Wm. Townsend. (Sensation.)

BRYSON continued. I became acquainted with Townsend in May or June, 1854; I was then living at T. Lawlor's, Hughson street, Hamilton; the prisoner was then following the profession of pickpocket and highwayman. I was introduced to Townsend by a young man named Montgomery. I was connected with a gang of six who left Hamilton, consisting of Weever, Lettice, King, Blowes and Townsend. Weever went away the day before Mr. Nelles was shot. I saw the prisoner before he was shaved. It has made a difference. I have not the slightest doubt that I am speaking to the man who charged and discharged the pistol which shot Nelles. I recollect on the day of the murder that I tried to get away from the gang at Graham's hotel. I understood that the party were going to rob Nelles. The prisoner, the leader of the party, planned the robbery at Hamilton. The prisoner had two bowie-knives, besides the pistol. The prisoner supplied all the money we wanted.—Townsend followed me when I tried to leave the gang. Lettice then came after. I don't know what my object was in going away. I was not afraid. We then went towards Nelles' house. We met three persons, Townsend stopped the first team and robbed the farmer, cutting the reins. He did likewise with two other wheat teams. He pocketed the money he got himself. We then robbed another man, whose name, I think, is Husband. Then we went to Mr. Nelles's, by which time it was dark.—

After we left Graham's the prisoner put on a false moustache and whisker, made of Buffalo hair. He put them on before robbing Mr. Nelles. We had our collars turned up then. The prisoner was the leader of the party. He went to the door, Mr. Nelles came to open it. Townsend wore a white French cap. After the door had been opened, Townsend went in. Then the door was shut. I heard a scuffle between the parties. Townsend then said three times "open the door or you're a dead man." I had one of the dirks, Blowes had the other. We went to rob, not murder. After we had gone into the house, Blowes and I went in, along with Townsend. The other stood outside. The prisoner took the watch off a nail, and put it in his pocket. We then went to Mr. Nelson's tavern, Cayuga. We hired horses and went to Cayuga station. Gibson drove us there. No one could easily recognize Townsend when he had whiskers on. The prisoner is a good hand at imitating voices. He imitates a negro well. He is a good hand at making handsprings and performing feats of agility. I have heard him say he had been sailing, near Dunnville. I wore earings a short time before, having holes in my ears. These holes have completely healed up. Townsend wore earings. I do not now notice any remarkable thing about his ears. He wore earings when he shot Nelles, but took them out and put them in his pocket when at Buffalo, at the United States Hotel. I was with him.—When he came back to Canada I went to Hamilton. I know Ellen Windmill. I know a person by the name of Hatch, who went by the name then of Mercy Ann Arno.—They would know him because he brought them from the house of ——. Peter Brown would also know him. He knew him from a boy. He had lived in Toronto. Townsend always kept his lips close. Townsend never wore suspenders, but kept his pants up by a belt round his hips. He told me he had shot five men once, in one house, he also said "dead men never tell any tales." He never said whom he had shot. I never have seen a man so like the prisoner, that it would be possible to make a mistake.

CROSS-EXAMINED BY MR. FREEMAN.—I can't say how long I resided in Hamilton before I became acquainted with Townsend. I was raised in Niagara. My parents lived there. I was in Hamilton a short time with Mr. Pronguey, then I went to Stoney Creek for 7 months, then on the 1st May I went to Mr. Lawlor's, Hamilton. Mrs. Arno keeps a house of ill fame. I was brought thence by the prisoner. I saw the prisoner at St. Catharines, Beamsville, Buffalo, &c., between May and October. I met him by chance. I left Hamilton to go with a girl to Buffalo. That is how I came to meet him there. In Hamilton he stopped at Cropp's Saloon. Townsend is the son of a woman who lived at Cayuga Station. Her husband is his step father. At Hamilton, Brown used to play cards and the prisoner used to pick people's pockets. I was in Cropp's Saloon once when Brown was playing cards. I am not sure he made his living by playing cards. He both made and lost money when playing. I boarded at the saloon for two or three weeks. Brown and Townsend came to the saloon on Friday, and stayed till Monday, when they went away without paying their bill. I never wore a belt. It is not an uncommon thing to wear them. I left Townsend in Buffalo, after the murder. I never saw him afterwards in Canada. I have never said I came to St. Catharines with him. I don't recollect whether the prisoner wore ear rings all the time he was in Hamilton. I was put in the prisoner's cell yesterday.

Mr. F.—Who told you to say he *charged* and *discharged* the pistol?

Witness.—No one. I never heard any one use the expression. I confessed after I was arrested. This was to save my life. I knew this. I can't tell when I was first spoken to on the subject on which I gave evidence. It was in 1857. The Warden of the Penitentiary told me Townsend was taken—or rather they had a man who they thought was Townsend. The Deputy Warden said the same thing. I was spoken to about half a dozen times upon the subject. I believe I have behaved properly for some time since being in the Penitentiary. I have always had a hope that I was to be pardoned—that my imprisonment for life would be shortened. This is because I know I did not commit the murder. The Governor can release me from prison. This prosecution is carried on on behalf of the public, that is, the County or the Government. I would not like to see Townsend or any man hanged. When I returned from the cell in which the prisoner was, I expressed no doubt that he was Townsend. The first time I saw the prisoner I could not see him well—he passed

Mr. Nelles, 1854; I was Mrs. N. had one spoke, nor noise. door open. not know. lying on the back an infant in walk the a one of the "you are are a brother men stepped black whisker whether the They said new nothing to the room st trial. The who lived a until about food that the

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The prisoner, oner had two y we wanted.— came after. I We then went er first team and er wheat teams. an, whose name, e it was dark.—



before me at a side door. I then spoke to the Solicitor General. He asked me is that Townsend? I said I did not think it was. (This was said after some hesitation.) When I went into his cell I said, "that is Townsend." When I first said the man was not Townsend, the Solicitor General did not say anything; I said nothing more than that the man was not Townsend. I first saw prisoner the same day I came here. In the evening, before dark, I again saw the Solicitor General, who came to my cell. He did not say much. Before he could say anything, I said "I was waiting to see him, because I had not had a fair chance to see the prisoner." I could only see the man's forehead. I said to the Solicitor General I had been reflecting upon the matter, and that he ought to have his whiskers cut off. He said there was a woman from Hamilton who knew him to be Townsend, and that various other persons had recognized him.

Mr. FREEMAN.—Did he express any opinion that the man was certainly Townsend?

WITNESS.—I won't answer.—[THE COURT.—You must.]

WITNESS.—He did, sir. The day after, I was let into the prisoner's cell. I did not say, I know you are Townsend, because you have holes in your ears I did not expect that if there were no holes they would have been closed up. Townsend had worn rings during the nine months I knew him. Some of the officers spoke to me when I entered the cell. I said to them the man was Townsend. I expected to see Townsend when I came up. I wondered to see how he would look. Brown said he would know him, never mind how he would look. Brown heard his voice the day he was shaved—he said "that's Townsend." Brown did not see Townsend until he shaved him. I spoke to Brown about the prisoner while we were coming from the Penitentiary. I have always said I should like to see Townsend caught, but did not think I should be an evidence against him, until I was coming up. It has never occurred to me that the government thought the others were led into crime by Townsend. I was led to crime by him. People ought to think Townsend was the worst of them. I think human justice ought to be satisfied if the principal in the crime were hung. When Brown and I were coming up, we did not talk about any transactions we had in company with Townsend. When I first saw Townsend here I was told "the prisoner was coming." He was brought into the hall that I might see him. He was brought to within a yard or two. There were two men standing between the prisoner and me. I was standing some three minutes. One of the officers said "here he comes." I looked at him as well as I could. He had the side of his face to me when he walked up. At St. Catharine's once I met Townsend in the night. I saw him once by accident at Stoney Creek, after he had robbed a man at Hamilton, of a silver watch. The occasion when he came to Nelles' was the only one when I saw him disguised. He could not get on my boots then—he might now—I have grown some—I am 21.

To THE SOLICITOR GENERAL.—I expect no reward for giving testimony. I expect to go back to the Penitentiary. You have spoken to me in the Penitentiary, but always before the officers. The officers hid me from the prisoner when he was first shown to me. Thus the officers screened him from my sight. When I next went into his cell, he said "Good day, Sir." I said "I am Bryson." He asked me "if I knew him." I said "yes, you are Wm. Townsend." He then began to curse and swear, and wanted me to be taken away. Brown could have heard his voice in his cell. I knew Mrs. Hatch when I saw her. I did not expect to see her. The holes in my ears are thoroughly closed up. I think this is the man (brought forward) Husband, who was robbed. These men (brought forward) hid me from the prisoner. They are tall and I am short.

To THE COURT.—My father is dead, he was a laborer, living opposite Moffatt's tavern, Niagara.

To Mr. FREEMAN.—Mr. Husband was at my trial. I think I have a recollection that he was the man Townsend robbed.

MERCY ANN HATCH.—I am a married woman. I recollect when I was in Hamilton, I saw Townsend several times. The prisoner wore earings. He wanted me to buy them. There is no one in Hamilton that I knew better than Townsend. I found a great change in Townsend. The Townsend I knew kept company with Blowes and King and he is the man now in the dock. He had the power of imitating different dialects. Was first acquainted with Townsend when he was driving cab.

CROSS-EXAMINED BY MR. FREEMAN.—I lived with my mother at Hamilton. My brother lived there to. He had a cab on the stand. He kept the family. I have been before the Police Court at Hamilton, but not when my mother lived there. I became acquainted with Townsend from his visiting my house. He was there about three years ago. I saw Townsend and Bryson in Hamilton after the murder, and spoke to Townsend. They said they had just met. I saw Bryson afterwards, and he said he was glad he had got away from Townsend. I never saw them together again, nor did I see Bryson afterwards. When I saw Bryson the second time it was two or three nights afterwards, he then said he was going to his father's. I heard of Nellis's death. I heard of Bryson being arrested near his father's, back of Toronto. I knew Blowes and King, Blowes was arrested in my mother's house. Nellis had been murdered before I saw Bryson and Townsend together. Mr. McLogan first spoke to me about giving evidence at this trial. I heard nothing of any reward besides that which was offered to the Constables who took Townsend. I recognized Townsend as soon as I saw him. I understood they were going to show me the prisoner. If they would tell the truth, every one who knew him would recognize him as Townsend. I know nothing of Townsend's family. I expected to see Townsend when I came here. I came here to be a witness. I expected to see Townsend in the box. When I first saw him I knew it was Townsend. He wore a moustache when he was in Hamilton, but I do not know whether it was false or natural. I see no change in him since I saw him in Hamilton.

ELLEN WINDMILL sworn.—The prisoner is the man they call Townsend. I saw him in Hamilton two or three times. I knew Bryson, Blowes and King. Since then I have been living at London. Since I came here I first saw the prisoner in the dock. I have no doubt in my mind that this is the man whom I saw in Hamilton.

CROSS-EXAMINED BY MR. FREEMAN.—I remember hearing of Mr. Nelles being killed. Blowes was arrested at Mrs. Arnold's, where I lived. Nelles's murder was talked of when I saw them. I do not know that they were at the house afterwards. Townsend stopped about half an hour each time at Mrs. Arnold's. I had conversation with him. Mr. Logan brought me here. He first spoke to me yesterday morning. I heard where Townsend was.

PETER BROWN sworn.—I came from Kingston, from the Penitentiary. I once lived at Cayuga Station. My sister lives here. The man in the dock is the man whom they call William Townsend. I used to see him frequently every day. He does not drink. I have seen him treat other persons. I have been in the Penitentiary for six months: was sentenced for three years. I am a barber by trade. Townsend was too young to shave. When I was here he had a moustache. I can tell his voice any where. While in my cell I recognized the prisoner by his voice; the first evening I came here. He was cursing when I heard him. I went into his cell yesterday afternoon. He showed his features more plainly when shaved. I had previously seen the prisoner at Cayuga and Hamilton. The prisoner has been present when I have been playing cards. I should identify the prisoner anywhere in the world by his countenance and features: he is paler and thinner now than then. Townsend was an excellent hand at making handsprings and singing negro songs.

To Mr. FREEMAN.—I never heard the prisoner speak anything but English. Sometimes he spoke a little "on the Scotch order." He could not deceive me by speaking any way. I should know him even if he spoke with an Irish accent. I could not recognize him by his whispering or his breathing. (Laughter.) I have been tried altogether by a jury three or four different times: first at Cincinnati, then at Hamilton, then here, once, too, at Brantford, and lastly in Toronto. I did not speak to any one convict in the Penitentiary about Townsend. I was told, when I left, not to talk coming along. We did talk, though, in the coach coming from Hamilton to this. Bryson and I did not talk about it in Toronto. Bryson spoke to the man in charge of the coach coming here, showing in what part of the woods he and others had been when they were going to rob people. Bryson asked me yesterday what I thought about the prisoner. I said I would keep my counsel until I came into the Court House. I did not wish anybody to know what I thought before I came to trial. I have not intimated to any one what I thought, except to the guards who came with me. I told them I meant to keep my own counsel. I told Bryson I knew Townsend by his voice. There was a cell between Bryson's and mine. Bryson shouted to me

"Do you hear that voice?" I afterwards told Bryson I had seen the man, and he was Townsend. I also told the Solicitor-General so. I used to live about Cayuga Station. I used to know Townsend well. He used to be much like one of his sisters. He favored them both. They were alike in features, hair, &c. I was at Fiddler's Green once in company with Townsend, at a horse race. I see no other change in Townsend than his being paler and thinner. Townsend is only 25 or 26. I don't think the prisoner is older than that. I never heard Townsend read; understood he had pretty good learning. He used to converse but little. He had travelled along with an exhibition dancing nigger dances. I knew him when he was about 19. He used to be often from home; once he was away between two and three months.—I heard he was at St. Catharines among his friends. I don't know that he ever was on vessels, but I have heard it said he had been sailing on Lake Ontario.

FRIDAY, September 25.

The usual rush was made on the opening of the Court doors, and every available space was at once occupied.

After the jury were sworn, his Lordship said that he wished to refer to a matter that had come under his observation, by communications from two magistrates, who had placed in his hands a statement that very large bets had been made upon the issue of the present case, and that there was reason to fear that some of the jury were mixed up with so disgraceful a proceeding. If such were the facts, he would inform them that such conduct was highly reprehensible, and would disqualify them from acting as jurymen. If such was the case, it was essential that they should at once leave the box. With one exception, the whole of the panel declared that they had not made any bet.

A jurymen then rose and said that there was one of their number who had asserted in his presence that he would take a bet that the prisoner was not Townsend. The jurymen referred to said that he had made use of the expression, but he had not made any bet. If, however, it was objected to, he would rather not sit on the case. His Lordship observed that the offer was a very improper one, and no jurymen should form, much less express, an opinion until the whole of the evidence had been adduced.

The subject then dropped and the case proceeded.

The first witness called by the Solicitor General was—

THOS. BRIANT.—Witness has lived in this country 30 years; knows Bryson. (Bryson was brought into Court.) Saw him here at the last examination and also recognized prisoner as William Townsend; these two men, with three others, called at the house of witness who was then living near to the residence of the late Mr. Nelles, the night before the murder of that gentleman they got breakfast and then went westward; the men took their breakfast by themselves, although witness had provided for them at the public table, but they said that they wished to be alone; they took some cards out, and commenced playing; I cannot so distinctly swear to Townsend, but Blowes and Bryson were two of the men.

BURTON WAIT—Lives in Gainsborough, twenty-six miles from this; the prisoner very much resembles William Townsend, or the man who was then represented to me as Townsend. Four years ago last winter, witness met him at Mr. Diffin's, in Pelham, near the Short Hills; he had a mark upon his foot, which he showed to witness at the house of Diffin; the reason of his doing so, witness had a scar on his knee, which he showed to Townsend, who then said he had one on his foot; that scar was on his right foot; witness saw that scar when he went over to Cleveland; is positive prisoner is the same man; the scar was right along from the toe to the ball of the foot, (describing it.)

THE SOLICITOR GENERAL to the Court—It is desirable that your Lordship should order the prisoner to retire, in order that the examination may be made.

MR. FREEMAN—Let it be in open Court.

His Lordship directed the Sheriff to bring the prisoner round before the witness and jury box.

Prisoner to MR. FREEMAN—I wish the witness to give a more particular description of the scar.

WITNESS continued—The scar commenced from the joint of the large toe, up to the ball of the foot.

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Prisoner having been brought round to the jury-box, bared his right foot, and disclosed the scar as described. Its appearance was quite clear, and had a reddish appearance at its termination on the instep of the foot.

Doctor Baxter was called to examine the foot, and declared the scar to have been produced from a cut.

EXAMINATION RESUMED.—Recognized prisoner soon as seeing him at Cleveland, and at once spoke of the scar, and it was then examined in presence of prisoner, but the scar did not appear so large as when witness first saw it.

To Mr. FREEMAN.—Witness knew prisoner about four years ago at Diffin's, at the cooper business; thinks Townsend had large toe joints, so much so as to be seen through his boots; before witness went to Caledonia did not know that the man there had a scar on his foot; no one there said he had such mark; witness first stated there that such mark existed; Townsend did not point out the mark himself; a doctor examined his foot; it is not by that mark alone that witness recognized prisoner as William Townsend; firmly believes prisoner is the man from his general appearance.

Jos. Brooks.—Lives in the township of Pelham; has lived in this part of the country 11 years and is 59 years of age; the prisoner used to go by the name of William Townsend; knew him in the township of Seneca, where he was working for George Robinson, harvesting, raking and binding; he practised sleight-of-hand and other feats; knew him first at the Cayuga station, at his step father's.

By direction from the Judge, witness then described the scar on his brow to the jury as above the eye-brow, and proceeding to the prisoner pointed out a similar mark on his brow, amidst silence and deep sensation in the Court.

Mr. FREEMAN put this witness to a sharp cross-examination as to his having practised the finding of water by looking through a stone.

SOLICITOR GENERAL SMITH wished to know if the finding of the water had anything to do with his cross-examination in reference to the finding out of the murder.

HIS LORDSHIP—I cannot perceive its bearing.

JAMES CORNWALL.—Has seen prisoner at Diffin's, at Pelham; and seen him there repeatedly; the last time I saw him was the night after Mr. Nelles was murdered; there was another man in a buggy with him, and I was told that a man west had been shot; heard after that Townsend was the man that had murdered Nelles. Prisoner is that man Townsend.

To Mr. FREEMAN.—Has seen the prisoner; saw him at Diffin's; saw him again at Bradley's store; there was a shooting-match, and he wanted to bet on it; witness was working with Martin Knowles at farm work; saw him next at Cleveland, and wore to the best of his knowledge that he was Townsend; the hands of prisoner were of a deep brown, his eyes a dark blue; saw a mark over his left eye; did not observe if he had one on his cheek; the mark turned up from his eye brow.

To SOLICITOR-GENERAL SMITH.—I noticed that mark at Diffin's; he might have had a mark on his jaw, but his handkerchief was over it.—[Witness then pointed out the mark as described on the brow of the prisoner. The Solicitor-General then placed witness a short distance from prisoner, and he then said he could not discover this mark.]

CHARLES BROOKS—Lives at York, on the Grand River; has lived in this part of the country 14 years; knows prisoner's name is William Townsend; first saw him at Danboro', ten years ago; he was then 15 or 16 years of age; was then living with his mother, and thence he went on the lake sailing, and came back in the winter, and went on the lake again the next year; came back and commenced a perambulating life; witness had lived at Dunville; went then to learn the cooping business; he was for some time at St. Catharines, and witness saw him at Diffin's at different times, and frequently at the Canfield station; he went about with shows performing various acts; he had a mark over his left eye. [The prisoner was here directed to turn his left eye round, when witness said he could not see the mark; on being directed to look up to him, he at once put his finger on the scar, but said it was not so large as when he first saw it.] Have frequently conversed with prisoner; was upon such intimate terms as to shake hands with him; when I last saw him he could imitate several voices; witness is an American; has not seen prisoner from the death of Mr. Nelles to the present time.

To Mr. FREEMAN—Have a distinct recollection of Townsend, and firmly believes the prisoner to be him; he answers my recollection of Townsend, excepting that his hair is a little more curly, and he is a little thinner and paler; the mark on his face may have been there without my seeing it; it is possible the prisoner may be another man, but such is not my opinion.

To THE SOLICITOR-GENERAL.—He might have got that scar on his face after I saw him.

JAMES McINDOE—Lived in Dunnville 12 years; knows the prisoner; it is William Townsend; first time I saw him was 10 years ago; he was on board the Mohawk; he was then 16 or 17; have known him working at the building of the present Town Hall; since then have frequently seen him passing to his friends at Canboro'; it is three or four years since I last saw him; there was a scar on his left cheek; it was a burn; I cannot see it here; (passes to prisoner and points to the scar); I have seen him at least fifty or sixty times as he was passing; the general appearance of prisoner corresponds with my recollection of Townsend; witness is a merchant; Townsend boarded at Cameron's; witness passed there when he was working in going to meals.

To Mr. FREEMAN.—I was at Cleveland on business when Townsend was in custody there; gave evidence there; I may have had some conversation with his step-father as to the murder; he is a highly respectable man; if he says I did, it is so, but I don't recollect it.

DAVID YOUNG—Lives in Caledonia; has done so some years past; has a farm and keeps a tavern; knows prisoner as Townsend; saw him frequently in Caledonia, three years ago last spring; he was a player and had a show; he did not stop long, but went west; had a violin player, and on his return he said he died in Chatham; several other persons with Townsend got up a tavern in Caledonia; did not then notice any mark on prisoner's face; have seen him also at Bryant's tavern of late; talked with him; never saw him drunk; he left and afterwards came back to Abel Young; often saw him in McDonald's shoe store; the last time I saw him in Caledonia was a few days before Mr. Nelles's murder; the next time I saw him was in the cells; Abel Young was with me, and said he was the man.

To Mr. FREEMAN.—When I saw him in the cells, he was changed more than I had expected; Abel Young remarked he had altered very much, if he was Townsend; I said that he was Townsend, and I think so now.

LEVI LATTIMER.—Lives in Caledonia; knew prisoner as Townsend three years last spring; he with several others had a kind of a concert there at different places; he had lived at Hess's tavern; I particularly noticed him playing the tambourine in the character of a nigger; was at my house at times fixing his tambourine along with John Hess; I saw a scar on the left side of his face; have seen it also since he has been here; would have recognized him without seeing the scar; saw him in the spring, but not after the murder of Nelles until I saw him here and at once knew him.

To Mr. STARR.—Do not think it would be difficult to see a scar on his cheek; can not say that I noticed it when I first saw him here.

ANN LATTIMER.—Is wife of last witness; the prisoner is William Townsend; he was showing darky feats at Hess's tavern; have seen him playing the tambourine; he had a scar on the left side of his face; saw it first time he came there and often noticed it; once asked him how it came there; he did not say; (looking at prisoner closely) perceive the scar looks quite natural; I do not quite recollect if he told me how he got the scar; used to call himself Townsend, and every body else I heard called him so; he came from Canboro'; do not perceive much change in him, except that he is paler and not quite so fleshy.

JANE PINKERTON.—Lives 13 miles above Caledonia; while there saw some performance; saw eleven of these performances; saw William Townsend there; could not say surely that the prisoner is the man; he appeared rather darker; did not leave prisoner my dress; did not perceive any mark on Townsend's face.

GEORGE FORBES.—I am Gaoler at Woodstock. During the Assizes of 1854 the Sheriff came into Court with a telegraphic despatch. It ran,—Another murder had been committed, supposed by Townsend. The murderer is known to be in the train bound west. Arrest him. It then went on to describe him. I got four men to as-

slst me. We arranged to enter the cars one at the forward end of each. I went into the forward car. About the middle of the forward car, I saw a man at whom I looked intently. He said to me, "oh! I know what you are at. You take me to be Townsend." I said "yes I do." "Oh, said he, I do favor the description very much; I have been taken for him once before to-day, but I'm not he. I am going west, and come from the east of Rochester." He was so well dressed and had such a smile on his face that I did not arrest him. I went to take counsel with the other constables, and when I went into the car again he was gone. That is the man (pointing.) We saw him again, afterwards, on the platform, and concluded we would detain him. He said it was very hard, for he wanted to go west. We said it would only be for a short time, for people were coming on the next train who could identify him. He then stood still while the train was moving away, but, as it had attained a good rate of speed, he darted away like a deer and jumped on the last platform of the last car, leaving us behind. This was a day or so after the murder of Ritchie.

To Mr. FREEMAN.—The despatch was headed \$1000 reward. There was also a description. It said he had dark brown hair, and quick perceptive eyes.

HUGH M'KAY.—I saw that man at Woodstock on the occasion referred to. In the conversation with the man he said, is it about that Nelles affair? The despatch said there was an anchor on his wrist. I looked but could not find the anchor.

To Mr. FREEMAN.—When we consulted and conversed, some men said the man was not Townsend. We thought the despatch had been sent to all stations on the line, that is why we did not telegraph further on.

GEORGE BUCK examined.—Have lived at Dunnville for seven years; know the prisoner; saw him, once, twice, and sometimes three times a day; part of the time he pretended to work. There was a man there who played the fiddle, and Townsend would dance. I saw him for several months. We used to be in Cameron's ball-alley together; went to Cleveland this season on purpose to identify him; knew him directly; he tried to make me believe he was somebody else; I now speak positively that he is the man I knew at Dunnville and Cleveland. I did not give any evidence at Cleveland, because Mr. James Hall, of Cayuga, called me out and said if I swore to him they would laugh at me when I came back to Dunnville. I had told him I knew the man; don't know that there had been any transaction between Hall and Townsend previously; Hall went to receive the prisoner in case he should be convicted.

To Mr. FREEMAN.—Mr. Hall is a peace officer here. I am a constable. He had the orders. I told Mr. Hall I should know Townsend by a mark on his arm; there was a mermaid pricked on his arm in Indian ink. I told Mr. Hall I should know the man by the mark; there was no mark on his arm, although I looked and examined it in the presence of Mr. Hall. I told every one I knew that the prisoner was Townsend.

Mr. FREEMAN.—I understood that you told Cornelius Perry differently.

WITNESS (continuing).—When we went to see the prisoner in Cleveland, he shook hands with Mr. Hall and called him by name. Mr. Hall said you have the advantage of me. The prisoner then asked if he did not recollect asking him (prisoner) to dinner on board the Powhattan, in New York. Mr. Hall said no. I did not refuse to make an affidavit in Cleveland.

To the SOLICITOR-GENERAL.—The marks on the skin can be taken out with pressure. If I had given evidence at Cleveland I would have identified the prisoner just as I do now.

ABBY YOUNG DEPOSED.—I think the prisoner is William Townsend. He came into any house quite often. Townsend played the bones and the violin and the tambourine, and performed parts. I saw him the Monday before Nelles's murder. I have not seen him from that time to now.

To Mr. FREEMAN.—I see a change in the prisoner. When I first saw him in the cell he looked kind of strange. His hair used to be a little darker than it is now. His eyes are the same as Townsend's were. I don't recollect saying that if that was Townsend he was very much changed. I hardly think I said so. Mr. David Young said, when in the cell, that he just exactly looked like Townsend.

THOMAS GRAHAM'S EVIDENCE.—Previous to the murder of Mr. Nelles a gang of five men came to my house. Bryson was one of the party. I think that the prisoner was one. I have been deceived as to the identity of a person named Patterson. Town-

end was a whittling something with a knife. This man (the prisoner) had a large holster pistol; I have reason to know, for he drew it at me, saying "your life or your money." I asked him what he meant. He repeated the words a second time, and I made the same reply. King then marched up with a large dagger, and said "there is my warrant." On the previous trial, the men acknowledged having come to my house. I once said Mr. Patterson was Townsend. I was deceived then. I did deliver money, for he cocked the pistol the third time he spoke, and swore I was a dead man if I did not give it up. The end of the pistol came close to my breast. I said you are all infernal scoundrels to follow this for a business. He said that was none of my business. They would be that way again in about three weeks, and it might be two or three hundred dollars in my pocket. The next morning I heard of Nelles's murder.

To MR. FREEMAN.—Garrett Patterson, of St. Catharines, was arrested on a description I gave of the leader of this band, whom I afterwards heard called Townsend. (This witness was evidently very unwilling to give testimony, and much delayed the Court by evasive answers.) I don't recollect describing the leader of the gang as having a weak, effeminate voice or sunken eyes. I described Bryson and Lettice as having anchor marks, but not Townsend. Patterson was arrested and I was at his examination, at St. Catharines. I did swear before the magistrates that, to the best of my recollection, Patterson was the leader of the gang. I am convinced that he was not the man. It was but for a moment that I was deceived.

To THE SOLICITOR GENERAL.—This man (prisoner) has stopped at my house for six years, off and on. I never knew his name. Patterson I had never seen before. That was how I was deceived.

To MR. FREEMAN.—The man that came to my house, disguised, to rob, and the prisoner in the dock, are one and the same man.

JAS. R. BIRDSALL, of Canboro', said—I knew the father of Townsend, as well as Townsend himself. I saw the boy when he was in a sawmill, near Cayuga station, I had a "deal" with him afterwards, when he bought his show clothes from me. I never saw on Townsend's face the scar there is on the prisoner's cheek.

To MR. FREEMAN.—I saw the prisoner in the gaol the third day after he was brought here. When I returned, I went to Dunnville, and told a number of people that the man was Townsend. I know Mr. Wetherby. I called him Mr. Owefield there. There was a regular burst of laughter when I said Mr. Wetherby was Mr. Owefield. It was said I was a pretty man to identify Townsend, if I did not know my own neighbors. I know a man, a saddler, of Dunnville, named Stephens. I do not recollect saying to him that the man's back was like Townsend's, but his face had no resemblance. I told a man named Wynings that perhaps I should not, know Townsend. I thought he might be very much changed.

FREDERICK GARRICK'S EVIDENCE.—I can now see quite plainly that the prisoner is the man who I saw on several occasions before I saw him at the time when the robbery was committed. He had a gruff voice, not a feminine one. His eyes seemed of a dark blue.

WM. KENNEDY'S TESTIMONY.—Two people came to my house about five days before Mr. Nelles's murder, about buying some cattle. The prisoner was one of them. On the Monday morning after, which was ten days before Mr. Nelles's death, I saw the man in company with four others going along the road, 40 yards from where I was. I did not know Wm. Townsend by name.

JOHN AIKENS.—I have seen a man that resembled the prisoner at Mr. Graham's tavern. I afterwards saw and recognized Bryson as having been one of them.

To MR. FREEMAN.—I do not pretend to swear that this prisoner is the man I saw at the tavern.

JOHN SCOTT.—I now live at Bintrook. I believe this man is Wm. Townsend. I knew him at Port Dalhousie. I am a local preacher, and I used to go to his father's house and hold meetings. I had not seen the prisoner for years until yesterday. I always thought he resembled his eldest sister, a Mrs. Smith. Her eyes were dark.

ALEX. ALLEN.—I live in Dunnville, where I have resided for eleven years. We used to call a certain man Townsend, but I cannot say if the prisoner is he. He had a scar on his left eye brow, and one on his left cheek, also one on his right foot, cut by a cooper's adze. He has also one on his under lip. The scar I speak of is under

the foot, on the sole. Townsend had a heavy eyebrow. The mark on the brow ran right along above it.

To Mr. FREEMAN.—I am a man with no fixed business, and do anything any body wants one for. I am called "wheelbarrow Jim." (a laugh.)

CAPT. MARTIN FARRIS.—I should call the prisoner Wm. Townsend. I had a man named Townsend in my militia company. I believe the prisoner is he.

JOHN ILES.—I have lived fourteen months at Cleveland, Ohio. I have previously lived at Seneca and York. I have lived 15 years in this part of the country, and 30 years in Canada. I had lived in Caledonia, too. That man is the man I have always heard called Wm. Townsend. The first time I saw him was in 1853, when the Indians were getting their presents, above Caledonia. I was sometimes in the habit of speaking to him. I never saw him working; he had a mark on his face, I believe, but I did not want that to recognize him. I knew his features, I again saw him about two months before the murder of Mr. Nelles. Then again at the Provincial Fair, in London. From that time to the time I saw him in Cleveland I had not seen him at all. A conductor of the railway came to my place along with him and said—"this young man owes \$3½ for his fare. When he pays you that, and his lodging, let him have his revolver, which I took from him." I was washing some tumblers at the time. I was so surprised at the appearance of the noted robber that I let a glass drop and it smashed. When the prisoner came in he had on a light shirt, tweed coat and boots "run over" at the heels. That was how I always recollected him to have used them. While he was at tea, I hid the revolver and ran for the police. The revolver had each barrel loaded. The police had to handcuff him for he tried to escape. I asked him as we went along, whether he had ever been in Canada. He said at first "no," but afterwards "yes." He said he knew but few people there. I asked him if he knew a young man called King and another called Blowes. He said he believed he did. I said then he would know them no more, for they were hanged for the murder of Nelles. "Oh heavens!" said he. He presently said, when the backs of the police were turned, "Iles, come here." No one, to my knowledge, had previously called me by my name. He asked me if I could do anything for him. I said no, I was afraid not. He referred the police to a man named Turnbull, who, it was said, had known him. Capt. Turnbull said he had sailed with him as cook on a boat on Lake Erie for about two months, bearing the name of J. Henry. He was searched when he was arrested, he had no papers, but three small knives.

To Mr. FREEMAN.—I know all about the reward offered, perfectly. I expect to apply for it, if this prisoner is convicted. I have heard different accounts of the amount of the reward. Some have said \$4000, some \$6000. I never procured the arrest of Robert Wires. I have arrested some on suspicion. I once arrested a man supposed to be James Conlisk, who had committed a crime in Toledo, for which a reward was offered. I only took him on suspicion—he was dismissed for want of proper evidence. I think Townsend has several friends here. I think Robt. Flanders is a friend of his. I don't remember speaking to Robert Flanders about the reward. I came here for him as he could identify Townsend. When he went to Cleveland, he saw the prisoner, and I swear that he did not tell me to my face that the prisoner was not Townsend. I told him that if the prisoner was convicted, and I got the reward, he should have his share of it for his trouble. I know Mr. Hall, a peace officer of this county. I did not say to him that I was doubtful if this prisoner were Townsend. I never expressed doubt to any one. When I say Townsend has friends here, I think he must have, for I see he has some clothes which I don't know where he got. When he was with me, he had clothes and a revolver and three bowie knives which he had to leave behind him.

To the SOLICITOR GENERAL.—I have seen people at the corners of the streets and taverns here offering to bet money on the case. I never saw such proceedings before about a criminal case. In Cleveland several people came forward to identify him, although he had not resided there.

To Mr. FREEMAN.—He said he had been in Cleveland once before.

THE SOLICITOR GENERAL.—That, my Lord, is the case for the Crown.



## THE DEFENCE.

Mr. FREEMAN then announced that he would on this occasion depart from his usual course, and delay his address to the Jury until afterwards.

Some conversation then took place between the Counsel as to the propriety of sending out of the Court the witnesses for the defence. Mr. Freeman hoped this claim would be waived. He was already placed at a disadvantage, inasmuch as, acting more from humanity than any other cause, he had not so complete a list of witnesses as could be desired.

Mr. PLUMMERFELDT—Came to Court on behalf of the Crown: knew Townsend in Wainfleet Township, Welland County; first time I saw him was at Pelham; should know Townsend if I were to see him; the prisoner is not he.

TO THE SOLICITOR-GENERAL.—Mr. Farr made me acquainted with Townsend in 1852; he went home with me to my place; he stopped with me two days and a night; two weeks after saw him at Merrittville. In 1852, when I last saw him, he had no beard; am not sure the prisoner is not Townsend, but think not; Townsend's eye was darker than mine.

EZRA SMITH testified—Lives at Canboro'; have resided there for more than fifty years; have known the Townsend family for 10 or 15 years; the eldest daughter, Elizabeth, is married to my son; from their being relatives, I know them well; have no sympathy for Townsend; William Townsend was more like Elizabeth than any, but Frances is also like him; the whole of the family have very dark hair; their hair was rather darker than the prisoner's; saw Townsend last time the summer before the murder was committed; have not the least doubt that Townsend committed the murder; have not the least doubt I should know Wm. Townsend if I saw him—I know I should; the prisoner is not he; if these were my last words I should say the same.

TO THE SOLICITOR-GENERAL.—I do say that if the court were all to swear the prisoner was William Townsend, I would not believe it; he had dark eye.—not blue ones; if the prisoner himself was to say his name was William Townsend, I should not believe him; did not know that William Townsend had any scars; was in the gaol here two weeks ago, seeing the prisoner; Townsend had a different voice altogether from this man's; did not say to any one that if this man was William Townsend I would not swear to him.

JOHN ROBINSON.—I knew William Townsend when he was in Her Majesty's service on the "Mohawk" and in the "Montreal" from 1846 to 1848. In '54 I saw him in Dunnville. From '46 to '48 I saw him every day. I saw him often enough in the intervals to keep up the perfect recollection of his face. The prisoner is not the man. This man is a big lantern jawed man. Townsend's face was short and flat. His eyes were what is called in the service hazel. His hair was darker than this man's. His hair, too, was as straight as an Indian's but this man's curls. Townsend's hair comes down on his forehead. This man's forehead is high and full. This man is nothing at all like Townsend. Townsend spoke through his teeth and nose. He talked a great deal about pumpkin pie, and said very often "I'll be d——d" (imitating). I never knew that Townsend had a father alive. He was entered as William Townsend, but went by the name of David Crocket. He ran away at Cleveland as he had to paint the ship's bottom with red ochre. I afterwards saw him, when he was at first rather shy, because he thought I was in the navy. He said he came from New Orleans, until I said I was not in the navy any longer. Then he was all right again. The prisoner is not the man, unless he has another head on.

TO THE SOLICITOR GENERAL.—When I afterwards saw him at Dunnville, he had not changed in countenance one bit; Townsend never will have a beard; he could not, he had a woman's face. He never could have a real moustache.

BENJAMIN DIFFIN—I know Townsend, who was said to have murdered Nelles, and I never heard of any other. The same man who used to go about with shows. I saw William Townsend a great many times; he worked for me all one winter, when I was a cooper in Pelham. I had known him for five years before he came to work for me. I knew the family, and would know any of them if I were to see them. The prisoner is not William Townsend. I am confident of that. He does not look like him. I saw Townsend about a month before Nelles was killed, and recollect him perfectly.

He had a very "down" look. He would not look a man in the face. He had heavy eye-brows, and I think his eyes were dark. He had a large foot with large joints.—He could not wear my boots. The shape of his foot was very awkward, and his boots bore a large bunch just where the joints were. I laughed at him once about his feet.

[The prisoner came down for the witness to see his foot, and witness continued to Mr. Freeman.] That foot is 2½ sizes smaller than Townsend's at least. [The prisoner then put on witness' boot, and kicked it off, easily.] Never saw the prisoner before this week.

**THOMAS WALT.**—Have known the Townsend family for the last 18 years; knew Wm. Townsend perfectly well; the man I knew was, without doubt, the man who killed Nelles; never heard of another; the prisoner is not that man; Wm. Townsend is a man of a square face, very low forehead, very heavy eyebrows, and very black; his hair is black, and I should say his eye was black; he had a small dark eye.

**TO MR. FREEMAN.**—Townsend had a soft, female voice, quite different from this man's.

**WM. CAMERON.**—I know Wm. Townsend; I will positively swear the prisoner does not look like him, because he has different features. Townsend's eye-brows nearly met, and were dark. Townsend's eyes were much darker and smaller than this man's. His hair was Indian and straight.

**TO THE SOL. GEN.**—I saw him last week before the murder of Nelles. He had no moustache and no appearance of beard. His looked more like a smooth woman's face than a man's. He was, I should suppose, of the same size as this man. I never observed particular scars on his face.

**CALEB J. TURNER.**—I have seen Wm. Townsend frequently. I should know him again. The prisoner does not look like the man they told me was Wm. Townsend, one day at the station. I think the prisoner is not the man.

**TO THE SOL. GEN.**—This was a month before the murder of Nelles. I never spoke to the man in my life.

**DAVID QUICK.**—I knew Townsend for 20 years, or so. I had a perfect knowledge of his features. I don't think the prisoner is he. If that is Townsend he has a cut on his left arm, a little scar there, which he told me one of the sailors made on his first voyage. He had no beard then. I saw him the next night after he had done the murder at Stinson's tavern, St. Catharines. I did not then know he had committed the murder. I was in the Police at the time. I did know a short time—a few minutes afterwards. He had a beard and a moustache then.

**TO THE SOLICITOR-GENERAL.**—The scar on the left arm was an inch and a quarter long. I have not looked at this man's arm. (Looking at prisoner's arm). There is no scar there.

**TROS. WEEVER.**—I have known the Townsend family for many years. I knew them particularly well. I lived on the lot adjoining theirs. I knew Wm. Townsend perfectly well; saw him thousands of times. The prisoner is not that man. He has not the slightest resemblance. He had very heavy eyebrows, small dark eyes and a low forehead.

**TO THE SOLICITOR GENERAL.**—Am no connection of the Townsend family; he would be about 24 now; there was a little mark, I think, over Townsend's eye; he never shaved to my knowledge; he had a little down on his face; he had an awkward foot; I have a brother, who, I believe, was a companion of Townsend's; I don't know where he is now.

**NELSON CAMPBELL.**—Knew Townsend 10 or 12 years ago; knew him well; last saw him three years ago last April; had not seen him for three years before that; had previously wrestled with him many a time; I don't think, but I know I should tell the man if I were to see him; saw the prisoner to day for the first time; he is not Bill Townsend.

**THOMAS SMITH.**—Knew Wm. Townsend; I am a son of Ezra Smith's; my brother married Townsend's sister; Townsend resembled Elizabeth very much; I never knew of any mark about Townsend; I have seen him barefooted, and every way; the prisoner does not resemble him.

**HIRAM HOLIDAY.**—Knew Wm. Townsend; saw him frequently; the person I speak of is the one alluded to as having killed Nelles; should not take the prisoner

to be the Wm. Townsend I was acquainted with ; never knew or heard of more than one.

**TO THE SOLICITOR GENERAL.**—I am under the impression that Townsend had a black eye. It is very surprising to me that so many persons should have said the prisoner is Townsend.

**ROBERT KING.**—Knew Wm. Townsend ; knew the family quite well ; owned a farm in Cayuga township, adjoining his father's place ; saw Townsend very often ; the prisoner is not he ; he does not resemble him in the least ; Townsend had a low forehead, and this man has a high one ; his chin was thrown up more.—I looked at him in the cars particularly ; it was a dark grey ; he was telling me how to ride in the cars without paying.

**TO THE SOLICITOR GENERAL.**—His eyes were not blue. I call "grey" a shade off black.—The conductor did not ask him for any pay in the cars ; I don't know whether he favored him or not ; he had no beard ; he had a few scattering hairs on his face ; some of my people had lost some cattle just before this car ride ; we suspected him of being the thief.

SATURDAY, Sept. 26th, 1857.

**JOB STROBRIDGE testified.**—I reside in Canboro', and have lived there 12 or 15 years ; am a farmer ; have often seen Townsend ; he was a fireman in a steam saw mill, which I now own : often saw him there ; he used to "fire" half the time and skate the rest on the mill pond ; knew him during a course of years ; he was attending shows the last time he was about our place ; think I saw Townsend within a few months of the murder, and I am positive that the man I knew was the one who was said to have committed the murder ; I would not, and could not say the prisoner is Townsend ; should expect to see, as Townsend, a small man with dark eyes and straight black hair ; did not notice any scars on Townsend.

**TO THE SOLICITOR GENERAL.**—When I see a man as often as I have seen Townsend, I should know him again ; the prisoner's face looks like a man's of a different breed altogether (laughter) ; can't tell who the prisoner is ; never saw him until I saw him in gaol ; Townsend would now be between 20 and 30.

**MARTHA STEWART.**—I am married ; I know Bill Townsend ; first saw him during service, in Church, when he was a little boy. While he was in her Majesty's service, I used to see him every day for a long time. I was living with one of the officers of the "Mohawk," at Port Maitland. The captain used to say he was an excellent good boy. After that I saw him at Penetanguishene, at Dunnville and at the station ; I last saw him about a fortnight before Mr. Nelles's death ; he came up and shook me by the hand. The prisoner in the dock bears no resemblance to Townsend whatever ; he is fair ; Townsend was dark ; Townsend's hair was like an Indian's.

**TO THE SOL. GEN.**—Townsend had not changed much from the time I first saw him to the last time ; he had grown, but was still Bill Townsend ; he had no scars that I know of ; I never saw the prisoner, at all, before I saw him in gaol ; Townsend used to speak through his nose a great deal.

**JOHN VEDDER.**—I reside nearly two miles from the Townsend family, whom I know ; became acquainted with Bill Townsend when he was in the mill ; he fired and I sawed. We both boarded at his brother-in-law's for about a month ; remembers the time of the murder ; saw Townsend about a month before ; should know Bill Townsend anywhere ; the whole of the family favor him, with the exception of one,—Jane ; his hair was dark and straight ; his eyebrows and eyes very dark ; he used to talk a good deal through his nose : the man in the dock is no more like Townsend than I am, or any other man in court. I have not the slightest doubt in my mind. I know that Bill Townsend was the one suspected of the murder of Nelles.

**WILLIAM BROWN.**—I know the Townsend family, but I never spoke to any of them. I have seen the man they called Townsend, but I never was in his company but once. That was at a "barn raising" about three weeks before Mr. Nelles was murdered. I then had ample opportunity of seeing him. He came to the barn raising at about two o'clock, and was there at twelve when I left. He never looked up so that you could stare at him ; he had a small dark eye. I feel quite positive that the prisoner is not he.

**NATHAN HOLT.**—My brother made me acquainted with the Townsend family, but I had previously known Bill Townsend ; was swimming with him three times and saw

his feet; they were very large, with big joints; I think I have his face in my mind; he is not the prisoner; his eyes were not jet black, but they were very dark and small.

To THE SOLICITOR-GENERAL.—I am here under the charge of a constable, for getting money under false pretences.

Wm. B. CRUMB.—Knew Bill Townsend well: worked with him about two months about four years ago; saw him after that time, and, lastly, about six weeks before the murder of Nelles. Townsend would now be about 24 or 25 years old. He had dark hair, dark eyes, very low forehead, and heavy brows. He talked through his nose. The prisoner is not the man. I swear to that.

To THE SOL. GEN.—I did not know Bryson or any of the gang; this prisoner therefore may have been in their company without my knowing it; he may have shot Nelles for aught I know.

CHARLES WALKER.—Resides in North Cayuga; was the reeve of that township last year; lived ten miles from the Townsend family, and knew them well; knew Bill Townsend about six years before the murder of Nelles; have seen him in his father's house; he was once in my house; have made shoes for him; I measured him; he was of a dark complexion, small features, small dark eyes, nose very prominent; saw him last 18 months or 20 before the murder. One night I was coming up from Canboro'; the stars were out; I commenced to talk about the stars; told him about the North star, and the Great and Little Bear constellations.

THE SOL. GEN.—I don't want to know anything about the Great or Little Bear.—(A laugh.)

WITNESS.—I don't want to be insulted, Sir.—(Then continuing, to Mr. Start.) Townsend had knobs about the toe-joints; the foot was awkward.

To THE SOL. GEN.—Never noticed any scar on his face. It is, perhaps, seven years since I measured his feet. He used to grease his hair and keep it pretty slick. He did not brush his hair down; but had a low forehead.

Peter Schram.—Have known the Townsend family for about 15 years. Knew Billy Townsend, whom I saw very often; he was at my house to a paring bee two weeks before the murder. He came after dark, and stayed until the bee broke up. He had black straight hair, a low forehead, heavy eyebrows, a dark eye, a sunken mouth, and was broad across the cheek bones, although his head was small. I have taken a good look at the prisoner. When he looks me right in the face he does not look the least like Townsend. When he turns away I see a *leddy* look that resembles Townsend. I swear, however, the prisoner cannot be Townsend. Townsend was very quiet, never looked a man in the face, and talked through his nose.

To MR. FREEMAN.—The man I have been speaking about is Townsend, to whom the murder of Nelles was attributed.

ROBERT FLANDERS.—Was at one time a constable in this township; in 1854 and '55 I exercised the duties of this office; was born near St. Catharines; knew the family of Townsend in 1836: the family was then residing at Port Dalhousie; became acquainted with them through living in the same place; am not in any way connected with the Townsend family further than that I have a cousin who married an uncle of theirs; saw Wm. Townsend at Canfield; Townsend had very dark eyes, which I should call black; he had a heavy eyebrow, running across the nose; he had ears prominent and inclining forward; think I should know him by the ears if his back was turned; his hair was not exactly black, but so much so that I could not tell a lock of it from one of his mother's; Frances, his sister, was very much like him, but his forehead was low. After the murder of Nelles, that same night, I saw the four associates and Townsend together; they were in my house or barn near Canfield station; my lot adjoined Townsend's stepfather; was in bed when they came; George Gilson brought them there in a double waggon; he kept a public house in Cayuga; they enquired for the cars, and, as I went to the barn, they came out, as I thought, to take a train going west; but when the train had passed they came into the house; got them something to eat and then went to bed; they did go by the Eastern train; I believe it was about three hours behind time; at about 11 o'clock next day the rumour of the murder reached my place, unconnected with any one's name; the number of persons corresponded with the number who had been there; I then thought the persons who had been at my place were the gang;

was sworn in a special constable; others who had been sworn in came up, and we all started off to Buffalo; we had heard of the gang at the United States Hotel there; we finally left Buffalo on a Friday and returned here; matters remained without any further efforts until Sunday evening; then Mr. Hall and another came to me and said Townsend and another had been in Pelham; by the descriptions given at Pelham, whether we went, I felt sure one man was Townsend; at St. Catharines I heard that Townsend had traded a watch away, which was afterwards identified as Nelles's; heard he had gone to Oswego on a vessel, and was made certain by the lock tender (who had known him) that he had gone, and in the "Westchester." Telegraphed to the Chief of Police at Oswego, and went thither myself, per steamer. Here, after the vessel had been cleared, I was told that the man had jumped from the "Westchester" on board another vessel, bound for Kingston, just as it was leaving Port Dalhousie. When this prisoner was arrested, I went to Cleveland, on the receipt of a telegraph from Mr. Iles. I had never known Mr. Iles before. He asked me to give a description of Townsend. I said I would rather hear him do so. He then said he had blue eyes. Said I, that's not the man. He afterwards wanted me to go over to the trial; I said I would, for the satisfaction of the public, if he would pay my expenses; he said he would not only do that, but give a large share of the reward. When I went the second time, I was shewn into the cell; I at first thought they were showing me the wrong man. Afterwards, I told every one he was not the man; had to pay my expenses back; When I came back, I was ridiculed, and many, even of my own friends, said how was it I did not identify him, for I must know him. Thus taunted, I put a letter in the Buffalo Express, offering to bet \$1000 that the man was not Townsend. That was not taken up.

**TO THE SOLICITOR-GENERAL.**—Bryson would have a good knowledge of Townsend; he had, I think, a little scar on his lip; his mother said it was a cowlick; don't recollect a scar on his eyebrow; never heard until lately of any of the Townsend family being called McHenry.

**JOHN CHARLES CLARKE.**—I lived in Canboro' from 1847 to 1853, 3½ miles from the residence of the family; saw Townsend once or twice a month for a year or two; he is not Townsend; no man, I should think, could mistake him, for Townsend. Townsend's shoulders were square; his hair was a little darker than this man's; his eyes were small; I fancy he had a little scar over his left eye (looking at the prisoner close); Townsend's scar was a little like the prisoner's.

#### THE TOWNSEND FAMILY IN THE BOX.

**Mrs. DEWAR.**—(Mrs. D. is Townsend's mother; she has black hair, and does not resemble the prisoner).—Am the mother of William Townsend; he was 25 the 7th August last. He could read, but not very well; he could write, but a coarse hand; he understood about writing; he was a poor speller. He left my house five or six days before Mr. Nelles's death, as I heard, to go on some exhibition. I saw him once after that, the same night that Mr. Nelles died; he said he was going away by the three o'clock train; he had come from York and was going away; I should not see him for six or seven years. There was one man with him, a stranger. When I came here I did not expect to see my son. The prisoner is not my son, nor is he like him in any way. William was like all his sisters, but he was particularly like his sister Frances, who sits there. His eyes and hair were a little lighter, but passed for black. He had no scar that I knew of upon his person; he may have had a little scratch. He had what is called a cow-lick just near his hair. He had large joints on his large toes, which showed through his boots. He had on his arm somewhere near his wrist a couple of letters of his name, with a small anchor, in pale color.

**TO THE SOLICITOR GENERAL.**—My son came to bid me good bye. He had been talking about going away, throughout the summer, but not so soon. My son had the letters "W. T." on his arm since he was in the "Mohawk." My son lived away from home as much as at home. His father died and left him to the world; to work his way. My maiden name was Wright. I had no connection named Mollenry or Heary.

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**Mrs. E. SMITH.**—(Mrs. Smith is Townsend's eldest sister.)—I am a married woman, daughter of the last witness. I saw my brother last in October, 1854. I never heard that there was another Wm. Townsend. I am sure I should know him if I were now to see him. He had some letters on his arms, put on with India ink or powder, or something of the kind. The prisoner is an elder man than my brother, and does not at all resemble him.

**FRANCES TOWNSEND.**—I am a sister of Mrs. Smith, the last witness. I should know my brother William as well as any of the family, if I were to see him. The prisoner is not he. I think I saw my brother about a week before the murder.—My brother had no scar upon his jaw; he had an anchor and his name on his arm; he had lumps on his feet, which showed through his boots.

**DAVID DEWAR** said—Am the second husband of Mrs. Dewar; should know William Townsend if I were to see him; the prisoner is not he. Townsend's hair was not so dark as his sister's; the prisoner's hair is not black. He had no such scar as the prisoner while he was at home. Townsend's feet were large and he had lumps near the joints of his toes.

#### TOWNSEND AFTER THE MURDER.

**John Horn.**—Saw Townsend the same night as the murder was committed at his mother's house.

**Mr. Freeman:** Have you seen Wm. Townsend since?—**Witness:** Yes.—**Mr. F.:** Where?—**Witness:** I won't answer.—**Mr. F.:** You must tell. I leave it in the hands of the Court.—**His Lordship:** Yes, you must tell.—**Witness:** I saw him at my place (sensation); the prisoner is not that person.

**To the Solicitor General.**—Saw Townsend several weeks after Nelles' murder; he remained at my house for some weeks; I secreted him (excitement).

**Mr. Freeman.**—I submit, my Lord, that as the witness replied to the previous question by order of the Court, he cannot now be held to criminate himself by these further questions.

**Witness continued (hesitating).**—Frances, his sister, saw him at my place; his mother came there once; others of the family may have come there; he had a pistol, a single barrelled one, but I threw it away. Frances came to the house alone, in the fore part of the night.

**Wm. Harvey.**—Saw Townsend a few weeks before the murder; have a recollection of his countenance; he resembles Mrs. Smith most of his family. This man's head and features are larger than his. (He proceeded to describe Townsend very minutely.)

**Adam Weaver.**—I have lived nearly 15 years on good terms with the Townsend family. I have a recollection of Townsend's features. I saw him 8 or 10 days before the murder. Townsend had a dark eye and dark brown hair coming down low on his forehead. The prisoner is not he.

**Wm. Wining.**—I know the Townsend family. I recollect William's features.—The prisoner is not he, I am sure. He was very much like his sisters.

**To the Solicitor General.**—I was intimate with him. I knew nothing about a scar on him, and nothing about a blue mark on his wrist.

**Harman Haines.**—I have no doubt I should know Townsend if I were to see him. The prisoner is not he. I don't think Townsend could have changed so as to be like the prisoner.

**To the Solicitor General.**—The eyes, forehead, and eyebrows of the prisoner are different from Townsend's.

**William Haines.**—I live near Cayuga station, half a mile from the Townsend family. I knew Townsend; the prisoner is not he.

**John Wining.**—Knew William Townsend and the other members of the family.—He resembled his sisters Ellrabeth and Frances. I should know the man if I were to see him. The prisoner is not he.

**George Montagu.**—Saw Mr. Birdsall when he returned from seeing the prisoner; he said he did not take the man to be Townsend when he looked him in the face, but he thought he did when he looked at the side of his person.

**Joseph Hall.**—Am a peace officer of this county; can't say I knew Townsend;

went to Cleveland when this prisoner was arrested; George Buck (a previous witness) went with me; we went to see the prisoner; Buck said he was positive he should know Townsend; he said when he saw the prisoner he was much changed, but he thought it was he. I thought I knew the man; he jumped up and shook hands with me, saying, "How d'ye do, Joe?" I had seen him in 1852 cooking on board the Powhattan, of Cleveland. I swear I saw this man there and then.

*George Gibson.*—On the night Nelles was murdered, a party came to my house in Cayuga; there were five of them, and they asked me to drive them to Cayuga station; Townsend was one of the party; the prisoner was not one of the party; they had their coat collars up; I knew none but Townsend; he paid me for the whole.

*Jacob Flanders.*—Knew Townsend; prisoner was not the man.

Peter Bordou and his wife severally testified to knowing Wm. Townsend, and that the prisoner was not he. So did Thos. McCoy, Lafayette Parker, Thos. Flanders, Thos. Carroll, Wm. Reed, Alfred Canfield, G. W. Messmer, James Flanders, and Wm. McLachlin.

*Mr. Freeman* called upon the prisoner to show his arm to the jury; no marks were discoverable. Mr. Freeman then stated that that was the case for the defence and he did not think it necessary to address the jury.

His Lordship said that after all there was only one question to decide, which was whether the prisoner murdered Nelles or not. The fact of the murder was proved by the first two or three witnesses, and all the rest had reference to the identity of the prisoner.

The Jury then retired at half-past three on Saturday afternoon, and shortly afterwards the Court adjourned until 9 o'clock. It was 10 o'clock before his Lordship re-ascended the bench. He immediately sent the Sheriff into the Jury room, to learn if a verdict had been agreed upon. The Jury thereupon entered the box, and one of their number (Mr. Hopkins, of Cayuga), informed his Lordship that, not having agreed, no foreman had been appointed. He, however, had been requested to act as spokesman. He and a considerable majority of the jury were of one opinion as regarded the verdict; others again entertained one entirely contrary.—One Juror had been unable to make up his mind how to decide, and wished his Lordship to express his opinion by which the Juror would be guided.

His Lordship refused to give his opinion, and asked Mr. Hopkins if there was no probability of their agreeing.

Mr. Hopkins said that the minority were so firm in their opinion that no unanimous conclusion could be arrived at.

One of the jurors is said to have asserted that he would sit on his seat until he was carried out a corpse, rather than convict the prisoner.

His Lordship then said that he would not send the jury back to their room, because he was unwilling to force any of them to give a verdict contrary to the dictates of their consciences. He would, therefore, discharge them, although this would have the effect of delaying the gaol delivery, which was so much desired, until the next assizes—to be held in six months' time.

His Lordship then informed the prisoner that he would have to remain in gaol until the next assizes. In case, however, that he could procure satisfactory evidence that he was not Townsend, or could show who he was, he would admit him to bail.

This delay, at first, seemed to disconcert the prisoner exceedingly, and he afterwards expressed his opinion that "it was the d—dest piece of business he ever come across."

On Sunday he was writing letters the whole of the day.

The division in the jury was as follows:—For Conviction, 7; For Acquittal, 4; Doubtful, 1.

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