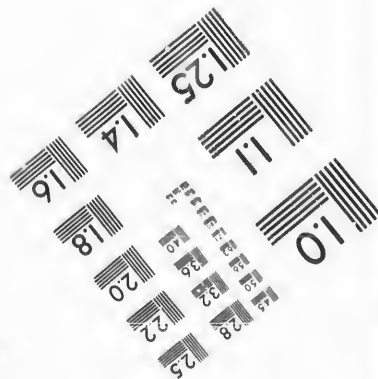
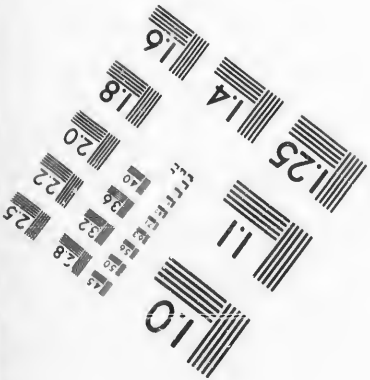
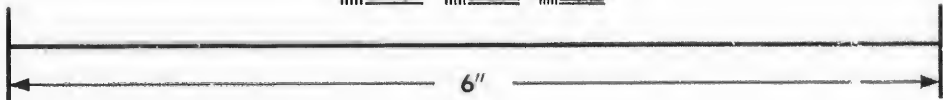
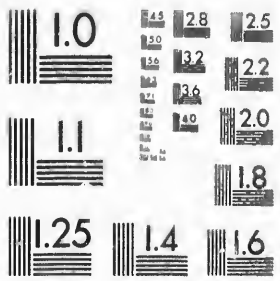


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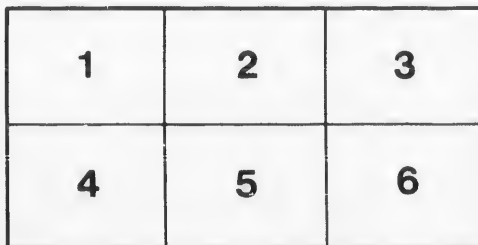
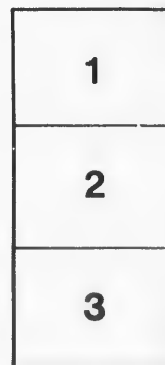
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T R I A L

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WILLIAM TOWNSEND

ALIAS

ROBT. J. MCCHENRY,

AT MERRITTSVILLE, C. W.

(From the Hamilton Spectator.)

Merrittsville, March 24, 1858.

The time has at last arrived when a jury will solve the question whether McHenry is or is not Townsend. The current opinion, which is, that the prisoner in question will not be tried by any particular name but as "the man who murdered Ritchie," is false.— He is to be tried once more as Townsend; and here, you will observe, lies the chief difficulty of the defence. They cannot urge that McHenry has been *mistaken* for Townsend because he is like him, since they urge that McHenry is as dissimilar from Townsend as one individual can be from another.

The crown officers, Messrs. Macdonald and Harrison, are taking every means to bring about a conviction. More than a hundred witnesses have been subpoenaed by them—many of whom know nothing about the matter; and the expense to the country will probably be very great. But the defending counsel, Messrs. Freeman, Currie & Start feel very confident that they will be successful. It is very likely that extraordinary facts will be brought forward. It is said that it will be proved that Townsend was living at Beachville for some time after he had committed the murders which have made his name so fearfully notorious. There are four witnesses here from California, Messrs. Aikins, Walters, Barber and another, all of whom know a man named McHenry to have lived there at the time Ritchie was killed, and three of whom recognize the prisoner as that man.

Bryson, Brown and another Penitentiary

occupant are here to give testimony. The Rev. Mr. Howe or Horn has been brought from New York. One or two are here from Toronto; these intend to identify the prisoner as Townsend. What will result from such contradictory evidence we cannot as yet say.

McHenry himself is not much altered in appearance from what he was a twelve-month ago, when he entered Cayuga Gaol. Confinement has made him look three or four years older, but that's all.

FRIDAY, March 26.

The interest taken by the public in the extraordinary trial of McHenry still continues. Early this morning, as was also the case yesterday, people streamed along all the various roads leading to Merrittsville, all having a common destination—the Court house. At an early hour, consequently the building was completely thronged—the gallery with women, the floor with men.

At nine o'clock His Lordship ascended the Bench, and, the Court having been opened, the jury was impanelled.

A number of jurors were challenged by the Defence, and one, who was absent, was fined 30s.

Mr. FREEMAN stated, in answer to a request from the Crown Counsel, that he had not a complete list of witnesses, and might probably have to call on more than those whose names he had written down.

Mr. MACDONALD said thirteen months had elapsed since the prisoner had been committed for trial, and surely the defence ought to have prepared a complete list of witnesses.

Mr. FREEMAN handed in a list to his Lordship, agreeing to abide by his decision when the time should come. He expressed a desire

that a few of the Crown Counsel's witnesses, those who had seen the murder of Ritchards committed, and the person committing it, should be removed from court. This was granted; and these persons were sent into the grand jury room, which was vacant.

Mr. FREEMAN wished that one of the witnesses for the defence, viz. Mr. R. Flanders, should be allowed to remain in Court, as he knew more of the history of the case than any other, and would be of assistance to the Counsel for the defence.

Mr. HARRISON objected.

The whole of the witnesses for the defence were then sent out of court, with that exception, and Mr. Freeman stated that he would rather lose the benefit of his evidence than have him sent out of court.

Mr. Flanders therefore remained.

Finally, at half-past ten,

Mr. HARRISON commenced the prosecution by saying—It was a fundamental principle of British law that every man accused of crime should be tried by his equals. The law, just and righteous, allowed the prisoner to challenge twenty jurors, while the Crown, without showing good cause, could not challenge any. The prisoner's defence had challenged 16—the crown only one. The prisoner was charged before the jury—which was therefore, at least impartial as it regarded him—with killing one Ritchards, a constable, at Port Robinson, in November, 1856. He need do no more than mention the name of William Townsend, to excite a shudder in the breast of every one who had known anything of his career of dreadful crime. Now the prisoner was charged with being he, and this was done, not so much to favor the crown but in behalf of the defence, who were thus enabled to set up several pleas which they could not have done had the prosecutors adopted a more indefinite policy. He would now briefly narrate what was known of the history of Townsend. He was not much heard of before the year 1854, in which he associated with himself a gang of similar spirits, and after committing various depredations he killed Mr. Nelles, a farmer, and passing over his prostrate corpse, robbed his house. He then escaped to Buffalo, and passing by Niagara Falls and St. Catharines came to Port Robinson, whither he was tracked. On coming out of a tavern there, constable Ritchards arrested him, and placed his hand on his shoulder.—Townsend told him to take off his hand, or he was a dead man. The constable did not relax his hold, and, in a moment, he was a dead man indeed. He thence escaped by the Western train, and, as news was telegraphed in every direction, the gaoler at Woodstock arrested him upon the cars, but suffered him adroitly to escape. Previously to this he had effected a very cunning escape from Port Dalhousie, where he slipped off a vessel on which he was known to have embarked, so that when it arrived at Oswego, those who had expected to find him were disappointed. After being seen at Woodstock, he was seen

no more of until last year. Then the prisoner was found in a railway car going to Cleveland, and when the conductor asked him for fare, he tendered a loaded pistol in payment. The conductor took him to a hotel in Cleveland, kept by one Isles (who had known Townsend), telling the landlord, to whom he gave the pistol, that he might let the man go and give him the pistol when he had paid the amount of his railway fare. Isles looked at him, and recognizing him was so frightened that he let a glass he held fall from his hand. Isles, recovering from his fright, had the prisoner arrested. He (prisoner) being informed that he was arrested for being Townsend of Canada, he professed never to have been in Canada, and yet exclaimed "oh heavens" when told that two of his former confederates had undergone the last penalty of the law. Again, when in Toronto gaol, he made a remark when one Higgins said a certain boat had been sold in Cayuga "no" he said, "not Cayuga, but Duonville." Yet this man said he knew nothing of Canada! The defence, he (Counsel) believed, were about to plead that the prisoner was not Townsend. But it would be shewn on behalf of the Crown that there was strong reason to believe he was. Persons were to be known, first, by their general appearance, and secondly by their peculiarities. Now, in this case it would be established that the general appearance of this man was not unlike that of Townsend, while as to his peculiarities, respectable men would swear that Townsend had a mark on the eye, which this man had, a mark on the foot as this man had, a scar on the left cheek, which also this man had, and a scar on the under lip, which the prisoner also exhibits. It had been said that no two men created were alike. Would there then be a probability that two men should be alike, not only in general appearance, but in trifling peculiarities too? Doubtless, if the scars could have been changed or obliterated, they would have been. But this was impossible, since to do so the flesh would have to be burned to the bone, and the scars on the prisoner's face remained silent though speaking evidences of his identity and of his guilt. He would ask, if the prisoner said he was not Townsend, who was he? Any one, accused of crime, would naturally say, if he were not guilty, "I am so and so, I have lived so and so." But this man said merely, "I am McHenry of Glasgow," and refused to give information concerning his former career. It was, indeed, only after he had been some time in Cayuga gaol that he began to think of establishing an *alibi*, and went to California to do so. Concerning the writing, he (Counsel) had seen several letters purporting to come from the prisoner. In all of them strange features could be seen by observing the signature. Now he called himself R. McHenry, at another time the letters were formed as if they were not easily written. It would have been far more easy to sign his name "William Townsend." And now it was said that witnesses were in

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attendance from California, by whom an *alibi*
 would be proved. Let their movements be
 well and carefully watched, lest it be
 found that these witnesses, or any of them,
 had not come from California, or, if so, had
 known a person there named McHenry, who
 was not the prisoner in the dock. It was an
 easy thing to attempt to prove an *alibi*. He
 recollected that, in one case, a man designing
 to murder another, hired a room above those
 in which a family lived. He introduced a
 friend into his apartment, who *walked about*
 while the first was committing the murder.
 Thus the family swore that the man charged
 with murder could not have done it, because
 he was in their house at the time! The *alibi*
 was proved, but it was a false one. He
 would say a few words, in order to remove
 from the minds of the jury a prejudice which
 seemed to exist against convicting on cir-
 cumstantial evidence. If that prejudice were
 acted upon, it would be, in effect, saying
 to murderers—"Commit your crimes se-
 cretly, and we will not convict you." The
 duty of a jury was, palpably, not this,
 but simply to say, if they thought, if they had
 a moral conviction that the accused was
 guilty, to say so. He might mention, before
 resuming his seat, that since the trial at
 Cayuga a law had been passed which ren-
 dered it possible for a prisoner, convicted of
 murder, to apply for a new trial, which he
 would receive, if it could be shewn that fresh
 evidence of an important character could be
 adduced. So that, even if convicted now, the
 prisoner might have his execution delayed,
 and, perhaps, if he were not Townsend, the
 true Townsend might turn up. It was said,
 and he would not censure the saying, that the
 law conceived every man to be innocent until
 he were proved guilty. But the guilty should
 not, through sympathy, be declared innocent.
 Sympathy, if there were a call for its exercise,
 should be exercised in behalf of the murdered
 men, not of their murderers. But sympathy
 should, in this case, be laid aside, for justice
 and the Crown would both be satisfied by
 the Jury's rendering a faithful verdict, accord-
 ing to the evidence.

The first witness called for the Crown was

AUGUSTUS NELLES. I am the brother of the
 Nelles murdered at North Cayuga. I slept
 next to the bedroom where he was shot;
 heard the discharge of the pistol, and imme-
 diately went into the room. I was stopped
 by the men who had broken into the house,
 but afterwards got into the room. I did not
 know my brother was shot till the men had
 left. There were three men, one had a mous-
 tache. He was about the same size as prisoner.
 I think prisoner said "you scoundrel, you
 slammed the door in my face." They got no
 money, but got a gold watch, key and guard.
 My brother died in about three hours after
 receiving the wound. I could not recognise
 any of the three men.

To Mr. FREEMAN.—Was about 14 years of
 age at the time my brother was murdered.
 Gave evidence against another man named

Patterson, who was examined by the magis-
 trate

WM. BRYSON. I come from the Peniten-
 tiary. Was present at the murder of Nelles
 at the Grand River. There were five of us
 there, but three only came into the room.
 They were Wm. Townsend, John Blowes and
 myself. I would recognise Townsend (point-
 ing to prisoner.) "That is he." Townsend
 fired the shot. I was not armed myself.

To Mr. FREEMAN. I have been tried for
 the murder, but my sentence was commuted
 to the Penitentiary. I believe it was the con-
 fession I made that saved me from being hang-
 ed. I had made this confession before my
 trial, I was led on by Townsend. I had
 no idea of committing murder. I have a
 hope of getting out of the Penitentiary.
 All my comrades are dead but Townsend. I
 do not think my hope of release would be
 greater if Townsend were convicted and
 punished. I first saw the prisoner at Cayuga
 at the side door of the Court House. I was
 told Townsend was to be shown to me before
 I saw him. He was brought out into a hall
 before I saw him—when I first saw him I
 said it was not he. I was then taken back
 to my cell. The Solicitor General came to
 see me the next morning, and I told him I
 thought I had not had a fair chance of seeing
 the prisoner. The Solicitor General told me
 that there were several people who would
 swear that he was Townsend. I saw the
 woman from Hamilton who said the prisoner
 was he after I saw Townsend the first time, and
 before I saw him the second time I wanted to
 see him again and suggested that his whiskers
 should be taken off. I never saw him with
 any but false whiskers. I saw him next in
 his own cell. I walked right up to him. He
 asked me if I knew him. I gave him no
 answer. The night before I saw him, but he
 could not see me. I asked him if he ever
 wore earrings, because I knew him to have
 worn them. I expected to find holes in his
 ears, but did not find earrings or the holes.—
 I saw him on the Thursday morning after
 Nelles's murder at Buffalo. I left him there.
 He had earrings in his ears that morning, but
 took them off in the barber's shop. I then
 went to Hamilton and remained there one
 day. I then went to Toronto and stayed
 three days. When I came back to Hamilton,
 I was arrested. King was taken on Burling-
 ton Beach, Blowes was taken by Flanders.—
 I never saw any of Townsend's family, they
 lived at Cayuga station, as he told me. I
 never saw any other Townsend.

Mr. MACDONALD—I did not consider that it
 would make any difference in my hope of
 pardon if Townsend was convicted. No such
 hopes were held out to me by any officer of
 Government. I made my confession of my
 own free will. Townsend wore false mous-
 taches. I was not much surprised at not find-
 ing holes in his ears, I have worn earrings
 myself, and had holes in my ears which have
 healed up. Townsend could imitate voices
 and dialects. He was a person of a great
 deal of agility. In Cayuga gaol, at first view,

I did not recognise the prisoner as Townsend, because I had not a good view.

HIS LORDSHIP—You should have had a good view before giving your decision.

WITNESS (continued).—When I recognized him in Cayuga gaol, he flew into a violent passion. I had seen him and the Solicitor General talking together for some minutes before this.

Bryson was then led away to the cells, and

JACOB GAINER, Jr., affirmed and said, I have a distinct recollection of being robbed on the high way in Nov. 2nd, 1854. It was at a spot about four miles south-west of Port Robinson, on a new road leading from the Quaker road. I was alone and was attacked by three people. I saw two of them at first, coming through the wood towards the road. They came into the road ahead of me, and seized the horses by their heads. One presented his pistol to my breast, asking if I had any money. He said, "my name is Townsend, I am out of money and want some. You know a man can't travel without money." I said "I worked hard for what I have got and don't want to let it go." "Well," said he, "I must have it." I said "all I have in the world is here, but don't take all." He said "he would not take it all if the others with him did not want it." I then gave him my pocket book, and he who was at the head of the horses came, took it from Townsend and, without any words, emptied it of money, and gave it back to me. They took away nearly \$25—They asked if I would make a fuss about it. I did not know if I should, for the money was gone, and I did not suppose I should get it back again. Townsend had no whiskers then. He had a white hat with a low crown to it, and the other had a black hat. I then went to Mr. Rice's farm, but Mr. Rice, a magistrate, was not at home, neither was the man next house at home. But the man who lived in the next, Mr. Richard Wilson, was at home, and had the alarm given, which extended rapidly, and reached, among others, the Hagar family. They went to Port Robinson, and gave the alarm. I recollect that, sometime after, a man named Lettice was shot on Swan Island. I saw the body at Fort Erie. I said that, to the best of my recollection he was one of the persons who robbed me—the one who held the horses. But—going back to the time of the robbery—I remember that we went in pursuit of the two robbers. We found traces of them in various directions. At last, at Port Robinson, we heard they had been there, and that Ritchie was shot. I found that persons from Pelham had followed them in that direction, chasing them through the woods. Some of these knew one of the men to be Townsend. The hat which had been dropped by Townsend at Port Robinson, when he shot Ritchie, was shewn to me, and I recognised it as the hat of him who had robbed me—or at least one exactly like it.

[The hat was here produced, and identified by the witness.]

I am satisfied that the man who robbed

me and he who shot Ritchards were the same, and that Townsend. I saw the prisoner at Cayuga before his trial. I told him I had been robbed by Townsend, and had come to see if he were like the man. He protested his innocence, and I asked him why he did not take means to prove it. I even offered him money to bring evidence for the purpose, and so did Wm. B. Hendershot, who was with me. He said he had led a rambling life, had not stopped long in any particular place, and would have difficulty in finding those willing to testify; moreover, that if he had friends within 100 miles he would not send for them. He did not tell me he had written to California. This was on the 4th of July. He told me he had been in Canada once, some 17 or 18 years before, when he first came from Scotland, but he had only travelled along through it, and had never visited it since. I took the man who robbed me to be a small man—not so tall as I. I thought I should have recognised him again, if I had seen him within a short time, but I thought I should not know him if I saw him three or four years after the robbery. I told Hles so, who came to take me to Cayuga. When I first saw the prisoner I thought he was not the man, but after conversing with him I became inclined to think he might be, for his voice was the same as that of the man who robbed me. I am not now prepared to say whether he is or is not the man.

TO MR. FREEMAN—When I saw him the hat was well down on his head. He looked me in the face pretty well, and although I was in a high lumber waggon I saw his features well.

FRANKLIN HOGAN deposed— I heard of the robbery a little before dark on the day it was committed. I and Mr. Spencer went to Port Robinson. After going to various places we entered Mr. McCoppin's store. Saw Mr. Mc C. and Constable Ritchie, and told them our errand. Finally the whole of us went to Mr. Jordan's—a hotel. Ritchie went in, and a few minutes after Townsend came out of the bar-room door. It was in the dusk of the evening. He (Townsend) stood under the verandah, near a pillar, to the west of the door. Ritchie came out and spoke to Townsend, asking him where he was going. I don't remember the answer. Ritchie then arrested him, I at the time being four or five feet off. Townsend told him to let go or he would shoot him. Ritchie persisted in holding him by the collar, and followed him off the verandah, a little way. Townsend then shot him. I saw the flash. Ritchie fell immediately and Townsend went round the west end of the house towards the canal. He went towards a church yard, and effected his escape through it, although many pursued him. All the pursuers were unarmed and afraid to go near him. I have heard Townsend had a companion. With him who made his escape in the same direction. I don't think I could recognize him again if I saw him. His height was the same as that of the prisoner.

chards were the same, I saw the prisoner at all. I told him I had heard, and had come to the man. He protested and asked him why he did not know it. I even offered evidence for the purpose, Hendershot, who was said to lead a rambling life, in any particular place, guilty in finding those who recover, that if he had known he would not send me he had written a letter on the 4th of July, when in Canada once, before, when he first told me he had only travelled and had never visited a man who robbed me to the full as I. I thought I had seen him again, if I had not time, but I thought I had seen him if I saw him in the robbery. I told him to take me to Cayuga, a prisoner I thought he was after conversing with me to think he might be the same as that of the man I had not now prepared to recognize the man.

When I saw him the hat was on his head. He looked me in the eye, and although I was sure I saw his features I could not recognize him. I heard of the murder in the dark on the day it happened. Mr. Spencer went to the bar and was going to various places to buy provisions. I saw Mr. Ritchie, and told them the whole of us went to the bar. Ritchie went in, and Townsend came out of the bar. It was in the dusk of the evening (Townsend) stood under the bar, to the west of the bar, and came out and spoke to him where he was sitting. I remember the answer. I saw him, I at the time being sure it was Townsend told him to go to the bar. I did not know him. Ritchie perhaps was wearing the collar, and forehead, a little way. I saw the flash. Mr. Spencer and Townsend went to the house towards the west of a church yard, and although it, although many persons were unarmed and I have heard of the man. I have heard of the man with him who was in the same direction. I don't know him again if I saw him the same as that of the

To Mr. FREEMAN.—I did not see enough of Townsend to be able to recognize him.

JANE FLEMING testified.—I was boarding at Mr. Jordan's when Ritchie was shot. When tea time came, there were two men who came in, and Mr. Jordan wanted me to take tea at the same time. I did not wish to do so, and told her I preferred waiting, as, by their looks and actions I thought they did not wish me to take tea along with them. When I went to the door, one of them looked up and then at his plate, as he wished to be alone. Mr. Jordan said, if I were afraid, he would go with me, and we both did go in. Soon after Mr. Jordan went away and I remained. They seemed very uneasy, and one of them ate very poorly. I saw this one throwing back his coat, and putting his hand in his breast—I thought there was a pistol in his breast coat pocket. I was quite frightened and, before anything occurred, I said to Mr. Jordan something was going to happen that evening. I left the table for a time, and when I returned, I still noticed the appearance of the man who was at the head of the table. He was still unsettled and disturbed. Then the other went out, and he (remaining) began to eat very heartily. I recollect his speaking, asking Mrs. Jordan when the stage went out to St. Catharines. He asked me too, for some mustard or vinegar, and I handed it to him. A young man, a ship carpenter, came in and stood near him for a time. My husband also came in, so that he could see. More may have come, but I don't recollect. Mr. Ritchie just opened the door, and while I was at tea, called Mrs. Jordan out. Some time after all this, the man at the head of the table went out into the bar, and I went to the dining room, whence, from the window, I saw several persons on the veranda. The candles were lighted, inside, but I could see who were outside. I heard the report of a pistol just at the same time that Mrs. Jordan was telling me that the two men were highwaymen. I afterwards saw Lettice, after he had been shot. He had a small head. I saw the prisoner in his cell, here, last fall. He resembles, a good deal, the person who was at the head of the table on the night I have spoken of. I gave a description of the man I had seen before I saw the prisoner. It corresponded with the appearance of the prisoner. I believe he is the person who sat at the head of the table that evening—Ritchie died the same evening he was shot.

To Mr. FREEMAN.—I have been living in Cleveland for the last year. I know Mr. Iles by sight. I met him in company with Mr. Sheriff Tupper. I was in Cleveland when the prisoner was arrested, and it was said Townsend was captured. I did not go before the authorities in Cleveland. I said to some of the folks that I should know Townsend. A constable came, and I said I was sick.—I was not very sick, but said this as an excuse. I don't recollect whether I told the constable I should or should not know Townsend. My husband saw Townsend at Port Robinson, and went before the authorities at

Cleveland, I know Mr. John Abby. I believe I did not tell him I should not know the man who shot Ritchie. I heard, in Cleveland, when the prisoner had been brought to Canada, that he was the real Townsend. I heard this from the conversation of various men, one of whom was Mr. Iles.—I saw Mr. Tupper a few days since, who left some money to bear the expense of myself and husband in coming to Canada. I don't know how much—perhaps some \$20. I have heard the story about the glass, but can't recollect whether Iles told me or not. The prisoner is fairer and thinner than Townsend was when I saw him.

To Mr. MACDONALD.—I knew nothing about the murder of Nelles—hence I did not attend at Cayuga. I recollect your telling me my expenses should be paid coming here. I did not know Mr. Iles before the investigation concerning the murder of Nelles took place. I expect nothing more for giving my testimony than the expenses of travelling. I have formed my opinions from my own knowledge not that of others.

Mrs. ELIZABETH JORDAN testified. I am the keeper of the hotel near which Ritchie was shot. I recollect the two men who came in and asked for a glass of liquor, supper and a bed. One of them asked about the conveyance from Port Robinson. I recollect Mrs. Jane Flemings boarding with me, and that she, with some reluctance, went in to supper with the men and myself—Mr. Ritchie came shortly after and asked me if there had been any men there, that evening. I was then inside, and he just outside the door. I said there had been two strangers, and that they had just gone into the bar room. I was not looking on when the shot was fired—it was a moonlight night, and I could have seen if I had looked. I heard the shot and heard Mr. McCoppin cry "murder." I saw Ritchie after he was shot. He was hit in the head and died that night. I took no particular notice of the person who sat at the head of the table, and I saw nothing remarkable in his appearance.

To Mr. FREEMAN.—I recollect the last witness saying she apprehended something was going to happen that evening. This was after they had left the supper table.

WM. R. PORTS was sworn and said: (To Mr. Macdonald) I was a little acquainted with Townsend the murderer. I first came to know him at Ben. Duffin's, in Pelham.—This was before the murder of Nelles. Next time I saw him at O'Stronger's, in Bayham, where he was with a nigger show, taking part in the performance. I remember the murder of Ritchie, for I was at Port Robinson at the time. I happened to be at the Post Office, at early candle light, when a man came along and said Townsend and another were taking supper together at Widow Jordan's.—I ran thither, and, the curtains being parted, I got a glimpse at the face of one of them as I looked through the window. The moment I saw him, it struck me he was Wm. Townsend. I next saw the two coming out of the door,

and Charley Ritchie, the constable, having his hand on the shoulder of Townsend. I heard somebody say, a minute after, "Take off your hand or you are a dead man," and no sooner had this taken place than I saw Charley fall. I did not recognize the voice, particularly, I was frightened and young, and went to the other side of the street, while the men went away. To the best of my knowledge the prisoner is William Townsend.

To Mr. CURRIE--I was taken to Cayuga, to give evidence against Townsend, but was not examined. I made a statement there to Mr. Tupper, and told him I knew very little about William Townsend, so that it was not worth while my staying at Cayuga at an expense.-- I know Aaron Farr and V. Plummerfeldt, also Mr. Robert Flanders. I saw these persons at Cayuga. I don't recollect telling Mr. Plummerfeldt whether I could or could not prove that Townsend was the man.

Mr. HARRISON.--I saw Townsend at a show; he was black'd then.

To Mr. FREEMAN--Mr. Tupper told me I might go home when at Cayuga.

Mr. McCORPIN.--I was a magistrate at Port Robinson on the 2nd of November. An information was laid before me that Mr. Gaynor had been robbed. Richards had gone to have some butter weighed. I saw him and he and I and two others went down towards Mr. Jordan's. I stopped on the way to let Mr. Coulter, another constable, know of the robbery, while I stopped at Coulter's. Hagar Spencer and Richards went on. When I got there Mr Richards had gone into the house. It was not a very clear night, but I could see pretty well. I went into the bar-room, the two boys stayed outside. I saw several people in the bar, some of whom I knew, some I did not. I mentioned to Mrs. Jordan that I wished to speak to her. I asked her if there were any strangers there; there were two she said. She thought they were not sailors. As she spoke a person stepped out of the bar room and she intimated to me that he was one of them. I commenced a conversation with him for the purpose of seeing whether I could learn anything from him. He had his hands in his pockets and was leaning against a pillar. I asked him where he was from. He either replied that he was going to Dunnville or that he had come from there. While we were in conversation another person came out of the house and went round the corner. I think Richards went after him. About that time I ceased talking to prisoner. I had no suspicion then that he was the party who had committed the robbery and was about leaving. As I went toward the east the person with whom I had been talking went west, Richards walked with him talking. As they stepped off Richards quietly laid his hand on him. He turned round and said, "let go of me or you are a dead man." He spoke very coolly, then it struck me there was something wrong. Richards did not let go, and the man discharged the pistol which killed him. He fell and groaned but never

spoke. When I was talking with the man he had his hat over his eyes, and I could not see his feature plainly. His voice, manner and height, made an impression on my mind. I saw the prisoner at the bar in Cayuga jail. I had some conversation with him then. Mr. Gaynor was present. I heard the conversation between Gaynor and him. When I first looked at prisoner he seem to me to be larger than the man who shot Richards. After seeing him with his hat on, (which I brought with me,) I thought he was the man; it struck me from his motions and voice that he might be the man, (prisoner standing up said "take a good look") I could not swear that he is the man, his voice and motion were the same as those of the man who committed the murder. I know that money has been offered to bring evidence in the prisoner's behalf, if he would declare who he was. And I myself have made a similar offer. I heard Mr. Gaynor detail to him the circumstances under which he was robbed. Mr. Gaynor spoke to him of the propriety of stating to the world who he was, if he was not Townsend, and this in a friendly manner. He replied he did not require any money, all he had to do was to prove an alibi. He said he was not in this country at the time, but I have no recollection of his saying he was in California. I remember the circumstance of a man being shot on Squaw Island, some time after the murder of Richards. I went to see him--his countenance was familiar to me, but I could not identify him as one of the gang. It was said to be Lettice. Mrs. Fleming recognised the body as that of one of the two she had seen.

Dr. MACPHERSON--I attended Richards after he was shot, he lived about an hour after I arrived. The cause of his death was a ball entering the brain about $\frac{1}{2}$ of an inch above the left ear.

ROBERT FLEMING--I was living at Port Robinson at the time of the murder of Richards. I boarded at Mrs. Jordan's. I remember two strangers taking their supper there that night. They came into the bar room first. One of them called for a glass of brandy--he only drank. They asked for tea, and afterwards for a conveyance to St. Catharines. Mrs. Jordan told them they could get one from Mr. Coleman. They took supper in the dining room, adjoining the bar room.--my wife, Mrs. Jordan and myself, sat at the table with them. I went out and left them still at supper. I saw something like the butt of a pistol in the side-pocket of the coat of the man who sat at the head of the table. I noticed this particularly, and thought it strange he was eating his supper heartily. He kept his head down hanging over the table. I had a good view of him in the bar room. He had on a light colored hat, resembling this, (the hat of the murderer.) In a little time Charles Richards came in. He asked me if there was any strangers there. I said there was. He went out again. The men were then still at the table. The one who sat at the side of the table came out some

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time before the others. The one that sat at
the head of the table came into the bar-room
and smoked a pipe; in a few minutes he
went out. I heard Mr. McCoppin speaking
to him. Mr. Richards was standing quite
close to them and spoke to the man. He
asked him where he came from. I did not
hear his reply. I then went back into the
bar-room. I stood looking out of the win-
dow and saw Richards put his hand on him,
saying he was his (R's) prisoner. Towns-
end stepped off the verandah and told Richards
to let go or he would blow his brains out.
Richards did not let go, and Townsend fired.
I saw the flash. It was so near me that I
turned my head away; Richards then fell; I
believe I could identify the man who sat at
the head of the table. I believe the prisoner is
he. I returned to Port Dover from Port Robinson
and last spring, I went to Buffalo. Finally I
went to Cleveland, where I have resided for
about a year. I never made it a secret that I
had witnessed the murder. When Lettice
was shot, my wife went to identify the body.
The first thing I heard about the arrest of
Townsend, was from the Cleveland papers. I
was examined before the U. S. Commissioner
as to his identity. My evidence went to show
that the prisoner was the man who shot
Richards. Previously to this I had not seen
Mr. Hea. I lived 16 miles away from the
city when this man was arrested, and was
asked by the Sheriff's officer to go to see him
in the gaol. I recognised him before he spoke.
I was subjected to cross-examination before
the U. S. Commissioner. I was also examined
by you (Mr. Macdonald) last fall, privately.
I received some money from Mr. Tupper or
you, but not sufficient to pay the expenses of
myself or wife. I was told I should be re-
quired again, this spring. I and my wife
were issued with a subpoena a few days
ago, and Mr. Tupper gave us \$20 for travel-
ling expenses. I expect to receive no more
than what will pay our expenses. I have not
been promised by any body any portion of
the reward, in case it is paid, nor do I expect
any of it. I first saw this during the investi-
gation before the U. S. Commissioner, and
after I had identified the prisoner.

To Mr. FREEMAN.—I went to the Clevelan-
gaol with the Sheriff's officer, and, at the time
several persons were in the hall, I don't know
who they were. The only person I spoke
to inside was the turnkey. I told Mr.
Jones, when I got outside, that I knew the
man I had been to see to be the murderer of
Ritchie. I never learned whom it was that
the officer came to know I had any acquaint-
ance with the case. I had never seen the mur-
derer of Ritchie before the evening he com-
mitted the crime, and then only for two or
three minutes while he was eating his supper.
I don't remember pointing out, in Cleveland,
another man than the prisoner as Townsend.
I am sure I did not.

JAMES WILSON deposed. I was in the bar-
room at Mrs. Jordan's at the time of the death
of Ritchie. I saw two men at supper there,
as I passed through the room, whom after-

wards I saw in the bar-room at the same
place, drinking. The man in the box resem-
bles one of them, very much.

To Mr. FREEMAN, I was working on board
a vessel at Port Robinson. I remained there
some few days or weeks. I now live at Osh-
awa. I saw the man for some five or ten
minutes. I had not seen them before, nor
have I seen either of them afterwards until
this morning I said, when I was on the stage
coming up, that I did not think it was of any
use for the crown to bring me here, for I did
not think I should know the man. Mr. Tupper
asked me this morning, after the Jury
were locked up, if I recognized the man.

MR. FREEMAN. Oh! you have been keeping
up communication.

MR. MACDONALD. We did not know until
after the witnesses were removed from court,
whether he was here or not.

WITNESS. (To Mr. Freeman.) I came up
the day before yesterday.

To Mr. HARRISON.—I have been promised
that I should have my expenses paid me, and
I did not understand I should get any more.

To Mr. FREEMAN.—I heard some of the folks
in this village say I should get a little more.
(Sensation)

GEO. FORBES said—I am gaoler of Oxford
county. I recollect a telegraph coming to
the Sheriff at the time of the Fall assizes in
'64. It was from the east, either Hamilton
or St. Catharines. It described a man who
had committed a murder, said he was
on the train, and was to be arrested,
The Sheriff showed it to me, and sent me to
the station to try and arrest him. I got the
assistance of three constables and went. Our
plan was to enter each car at each forward
end. I took the first, and noticed a man sit-
ting on one seat with his feet on another; he
had a book in his hand. I stood and looked
at him for a moment, took the dispatch out
of my pocket, and looked at it. He looked
up and said—"Oh, I know what you are at—
you take me for Townsend." I said,
"Yes, I believe you are the man." He said
that he had been taken for Townsend before
that day, but that he was from east of Ro-
chester. He spoke so coolly and looked so
respectable, that I went to see the other con-
stables before arresting him. I found them,
but when we went back he was gone. I con-
fidently recognise the prisoner as the man. We
saw him jump on the platform of the last car
as the train was moving off. He was more
fleshy then than he is now, but he smiled as
he eluded us much the same way as he does
now. I don't recollect who signed the tele-
graphic dispatch, but it described the man as
accurately as I have ever known a dispatch
do.

To Mr. FREEMAN.—I did nothing after the
man went away, because I thought the mes-
sage had been sent to all the stations. I re-
member it said the man's eyes were large and
blue. The dispatch mentioned \$1000 as the
reward for taking him.

To Mr. MACDONALD.—There were two const-
ables with me—Thomas Talman and Nelson

Brown. They know the truth of what I say, and they agreed with me that there was no need of telegraphing on.

HIS LORDSHIP said he was already tired of the trial, after 12 hours work. The Jury were to be made as comfortable as possible during the night.

The Court, at nearly ten o'clock, adjourned until 9 o'clock on Monday morning.

SATURDAY, March 27, 1858.

The Court House was thronged at an early hour this morning, and his Lordship took his seat at nine o'clock, punctually. The Court having been opened, and the Jury called on (one of whom was suffering acutely from rheumatism,) the first witness examined was

HUGH MCKAY, who affirmed—I resided at Woodstock in the fall of 1854, and was then a bailiff for the Division Court. Mr. Forbes came to me one day, telling me he had received a telegraphic message to arrest Townsend, who was known to be on the next train, and that \$1000 reward was offered. He asked me to go with him to make the arrest. I have an impression that the message had come from Thorold. Four of us, in all, went down to search the cars, and concerted a plan of operations. One was to go on each side of the train, and one to enter at each end. Mr. Forbes, who entered the fore car, soon came to me, and wanted me to come and look at a man. He could not then find him in the car Forbes said he was in. We found him on the platform, and I said we wanted to speak with him. "Oh," he said, "it's about 'at Cayuga affair. I answer the description given very well." I said, "Yes, you do." I asked him leave to look at his wrist, on which there was said by the telegraph to be an anchor. I looked and could see no anchor. We told him we would detain him. He remarked it was a hard thing to detain a traveller. This he said quite coolly, and not as one might be imagined to do who had committed any great crime. The others indeed said he was surely not the man, but I contended that a man, wishing to escape, would conduct himself in just that way. At length we agreed to detain him until the next train should come, and we imagined he had made up his mind to stop with us. The cars then commenced to move off, and as the last car swept by, he, with a jump, sprang upon it, unexpectedly. He had to exert considerable activity to get on. I would not have undertaken to do the same thing, as it was very dangerous. We did not telegraph any further, because we thought every station had received the same telegraph we had. The prisoner in the dock is that man. I have not the least doubt. I pointed him out to Mr. Forbes the moment I saw him in the dock at Cayuga.

TO MR. FREEMAN—I swear this is the same man we saw. I swear it as against all creation besides. When the man escaped we thought he was Townsend, yet we did not go

down to the next train, although we expected some men would come up in pursuit of the murderer.

MR. MACDONALD—Look and see if you see a scar on the left cheek of the prisoner like that which the man on the train had.

PRISONER—Oh yes—there it is.

WITNESSES—Yes, that scar seems the same. It was a little larger and fresher then. I said something about the scar at Cayuga—but it was not taken down.

PRISONER—Mr. Forbes had been in my cell that morning.

MR. ILES was then called forward.

MR. HARRISON stated that Mr. Iles had requested the prisoner to be searched. His (Iles) life had been threatened by the prisoner several times, and he feared lest he might have some pistol or other concealed weapon about him.

HIS LORDSHIP assented, and the prisoner was searched by two constables, who reported that there was no weapon on his person.

PRISONER—Poor fellow, come along.

MR. ILES then deposed—I am a hotel keeper at 110 Erie street, Cleveland. In the spring of 1857 I kept a hotel on Water street. [A plan of the house of Mr. Iles, on Water street, was then produced, and shown to his Lordship and to the Jury.] I was washing some tumblers one day, when the railway conductor came in with Townsend. The instant I saw him I knew him. I had previously been in the habit of seeing him, occasionally, for from 7 to 9 years. I drank with him in bar-rooms, and was well acquainted with him. I was in London at the time. I heard then that there was a reward offered, by the Government, of £1,000 for the body of Wm. Townsend, dead or alive. In Cleveland, I first saw the conductor and Townsend through the window of my hotel. I was so surprised at seeing Townsend that I let one of the glasses fall from my hand. I went into the bar and then came straight out to tell my wife, leaving the bar-tender in the bar. I then again went into the bar. The railway conductor asked me if I would take his companion as a boarder. He said he knew nothing of the man—but that he had taken his pistol as a pledge for the amount of his passage—\$3 50. He handed me the pistol—a Colt's revolver—and told me I might give it back when I should receive the \$3 50.

(The pistol was here produced by the Counsel for the Crown, and identified by the witnesses.)

All the compartments of the pistol were loaded, and all the nipples had caps on. I asked him for the trimmings. He said—"You need not be alarmed, for neither you nor any other good man is going to get that revolver." I said I did not want his revolver, and told him to go in and get supper, any way. He went, and I ran for the police, with the view of having him arrested. I told the chief of police there was a man in my house who had committed murder in Canada, and that I knew him. The chief told me to run away home, see that the man did not escape,

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the man did not escape,

and the constables would speedily come after
me. I left for home by myself, and the con-
stables came in a short time. Two came in
one way, and two another. I pointed out
the prisoner to the police, and when they
seized him he expressed considerable surprise,
and asked, "What have I done?" He tried
hard to get away from the constables when
they took him, and refused to go along with
them, but they marched him off to the police
station, whither I accompanied them. Con-
stable McCarthy searched his pockets, and
found three knives and about fourteen cents
in change. One of the knives was a two-
bladed penknife, but the others were like
small bowie knives, about five inches long.
The prisoner asked if there were any masons
there, and said if there were he wanted to
see them. None appearing to be a mason
came forward. He was then taken to the
County gaol. He said, holding his hands up,
"only a few hours in Cleveland and the
'darbies' on." The Marshal asked him where
he heard them called "darbies" (handcuffs.)
He said "in Canada." I then entered into a
brief conversation with him, and asked him
if he ever was in Canada. He first said "no,"
but in a short time said "yes." I asked him
what part of Canada he was acquainted with,
and he replied he had been on the Grand
River, and knew a little of London. I asked
him if he knew any persons in Canada, and if
he knew a man named King? He asked if
that was a man who kept a saloon in London.
I replied yes; he had a slight acquaintance
with him. Then I mentioned Bryson whom,
he said, he had seen, but did not know much
of. I told him he would never see them again,
for two of them were hanged for the murder
of Nelles, and the third was in the Peniten-
tiary. Up to this time we and he were in
good humor, lively and chatting. But, when
informed about Blowes, Bryson and King, he
said "Oh God! is that so," and became
affected. I entered the gaol with him, and
when we got in he called me by name, saying,
"Iles, Iles," can you do anything for me." He
asked who had informed on him, and then
added "d—n you, I know you won't do any-
thing for me." I then went away. I gave
evidence before the Commissioner at Cleve-
land against the prisoner; but did not men-
tion the circumstance of the glass falling, be-
cause I did not recollect it or see the import-
ance of it. The prisoner is the man that was
taken in Cleveland, and is William Townsend.
I am aware of the reward that has been
offered, but no reward, however large, would
induce me to swear away the prisoner's life.
It would be no inducement, as I am making
a comfortable living. I know Robert Fland-
ers. I have seen him in the company of the
prisoner at Cleveland gaol.

To Mr. FREEMAN.—This is the second per-
son I have taken up, and for whom a reward
was offered. The first was a man accused of
murder in Toledo. He was let go for want of
evidence to prove his identity. I have given
more evidence now than I gave at Cayuga,
and mentioned some additional circumstances,

although I had some conversation with the
Solicitor General before I gave my evidence.
I only spoke in answer to questions. I think
I did speak of my mentioning King of London
to Townsend, but I don't recollect saying any-
thing about his calling handcuffs "darbies."
I have nothing to say of what happened in
Cleveland that may tend to the benefit of the
accused

Mr. FREEMAN.—Did he not refer to a man
named Turnbull?

WITNESS.—I think he did mention Mr. Turn-
bull. I saw Mr. Turnbull several times, and,
almost every day, conversed with him about
Townsend's trial. He said this was the man
who had worked for him in 1851, under the
name of J. McHenry. I expect the reward
offered for the apprehension of Townsend will
be given me, if this man is convicted. I was
told, soon after the arrest, that Flanders knew
Townsend better than almost any other one
did, and I therefore came to Canada to see
him. I described the man I had arrested, but
he said he thought it was the wrong one. He
said he thought he should know him. I
offered to pay his expenses to Cleveland, to
see him. He came thither and said he was not
Townsend. I told him I thought he was. He
then went privately to the lawyer defending
Townsend, and made an affidavit that he was
not the man. Mr. Hall, of Cayuga, was also at
Cleveland at the time. He said he had seen the
prisoner somewhere, but he was not sufficient-
ly acquainted with him to say at what place.
I did not say to him that I was not sure
whether the prisoner was Townsend. I
never spread the report that Flanders was
connected with the gang of murderers. I
knew Townsend at a time when I lived near
Caledonia, also, when I lived at York, and at
London. He used to be the principal among
a band of minstrels, who played nigger shows.
The prisoner's hair is of the color of Town-
send's. Townsend had a large blue eye. He had
a complexion which was a medium between
a dark and a fair one. He had a power over
his voice, and I noticed that he walked on the
outside of his boots.

To a JUROR—There were persons who heard
his conversation with me. Constable Mc-
Arthur is one of them.

ARTHUR KNOWLTON deposed—I am a con-
ductor on the Columbus and Cleveland Rail-
way. I first saw the prisoner in April, 1857.
The train left Columbus at 1:20 or 1:40 in the
morning. The prisoner was on the train, but
had no money to pay his fare, as he handed
to me a pistol, as a pledge for the \$3 50, the
amount of his fare. He told me he had just
come from Nicaragua. He was very quiet,
and talked to no one that I observed. The
train arrived at Cleveland at 8 o'clock, a.m.
He afterwards came to my house, without
money, to ask for the pistol, but I did not give
it to him. I went out in the afternoon and
made my report, when coming back, I found
him at my house again, waiting for me. I
had made the arrangement with him to come
at three o'clock, but he did not come until
long after. I asked why he had not come

at three. He said he had not understood that to be the arrangement. He then told me the pistol was all he had to raise the wind with, but he had a friend on River Street who would make it all right. River street is a rather disreputable place. It was between five or six o'clock, and, it being April, it was getting towards dark. He asked me to go to River street with him, but I did not like to trust myself in that locality, and I had an objection to his company. I nevertheless said I would try what I could do, by going to find him a boarding place.—I went, accordingly to a boarding house on the corner of Clare and Water Streets, and told the proprietor the circumstances, but the prisoner said "he'd be G—d d—d if he'd eat a meal in the house after what I had said." I then went out with him, and was going towards home, when we came to the house kept by Iles. I had previously known Iles by sight only. I saw a man in the bar, and asked where Iles was. He said he was in the bar-room, just gone in. I saw him, told him the prisoner's story, and handed him the pistol. He said he would be responsible to me for \$3 50c. He previously asked the prisoner if he had any trimmings, at which the prisoner seemed to be angry and said "neither you nor any other G—d d—d man can ever get that pistol." He explained that this was not because we wanted to get the pistol away from him, and this seemed to satisfy him. We then passed into the bar room together, and Iles asked me if I would have something to drink. I don't know that he seemed nervous. I did not notice anything as I was in a hurry.

To A JUROR.—When I took the pistol I asked if it was loaded, as there were fresh cups on it. He said it was.

A. McARTHUR deposed—I reside in Ohio, Cleveland, where I lived in the Spring of 1857. I was a policeman. I recollect Mr Iles calling at the city prison, and asking for constables to go with him to arrest a man. I did not hear him tell the chief what the offence was, but he said he could not go because he had the roll to call. Soon after Iles left, a man belonging to the Independent Police, named Melnstry, came to me and said he believed there was, at Iles's, a man named Townsend. He accompanied me from the station to Iles's. He asked me if I had any tools with me. I said no, and, by his advice I went back to the station and got one of the night watchmen's revolvers. We then ran up to Iles's, and near that place met Mr. Gallagher, who was then one of the Independent police, but is now Marshal of the city. He went with us and we saw Iles in the bar-room. He pointed the prisoner out to us. I can't say that I saw anything particular in his manner when he was arrested. He got up and faced us. We told him we had come to arrest him, and he then made a sort of effort to get away. He asked what we arrested him for. We said it was on the authority of a despatch from Buffalo, for stealing a trunk. He asked "how long since?" We said five or six months. He laughed and said, "By G—d, old fellow, you

are mistaken this time, I haven't been in Buffalo for two years." We took him to the city prison, searched him, and found three knives and a few cents. I think one of the knives was a single bladed knife, and the others were smallish knives, pretty much worn out. The longest blade of the biggest knife may have been four or five inches long. We had some conversation then about the telegraphic despatch, and he asked if there were any Masons there. He asked if I were one. I said no. He replied he wished I were. Then I put him in the lock up.—But before I did so, he said he wanted to see a man, and I went with him to the middle of the room, when he called out "Iles, Iles, come here." Iles came part of the way, and he (prisoner) said "Iles, you know me". Iles said "yes." I said "Iles can't bail you out if he does know you." Then he spoke of a man named Turnbull, but I could not wait for him to be sent for, and we then, after consultation with each other, thinking the city prison was not a safe place to keep him in, handcuffed him and took him towards the county gaol. After we had gone two or three rods he said "this is a d—d pretty how d'ye do. Only four or five hours in Cleveland, and dead broke with the 'darbies' on." At this we all laughed. Mr. Gallagher asked him where he heard them called "darbies." I don't recollect what he answered. Some one made the remark it was a common thing to hear them called "darbies" in London. I supposed London, England, was meant. I think they named several places in Canada and asked if the prisoner had visited them. He said he had been along the Welland canal and had stopped also at one place which Iles mentioned. I forget now which it was. I heard Iles ask if he was acquainted with a man named Blowes and another named King—he might have mentioned other names, but I don't recollect. I think he said he had seen Blowes, and perhaps knew something about King Iles said they were no more. He said nothing for a short time, and, when he did speak, his voice seemed considerably altered, as it affected. I could not hear the words he used. I did not enter the county gaol with the prisoner, but he came back to the door, and Iles said "here he comes, be careful." He asked "where is my pistol," or "who has got it." I replied it was taken care of, and would be delivered to him when he went away, if it was right he should have it. He said "By G—d, its mine, and I want it." Afterwards he said "I see through it all—you're a G—d—m man to sell a friend." He then walked back into the body of the gaol. Presently he called "Iles, Iles, Iles"—raising his voice at each call—Iles turned back and said "well?" The prisoner said "Iles, I want you to get me out of here; by G—d do you understand?" Iles said "I'll do what I can." We then left.

To MR. FREEMAN.—I am sure the prisoner said "I have been through Canada on the Welland Canal." I recollect his saying, in the city prison that he had been on a vessel.

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Mr. FREEMAN.—Did he say he had been wrecked anywhere in Canada?

WITNESS.—Well, now you mention that, my impression is that he said he had been wrecked at one of the places which Iles mentioned. I don't remember if any more conversation took place. I think it was Iles's intention that he should not be look upon as an informer, in other words, that the prisoner should look upon him as a friend.

To Mr. HARRISON.—I know this was thought necessary, that Iles might carry out the object he had in view.

To a JUROR.—I don't know how the prisoner came to know Iles's name.

GEORGE MAY testified—I live in Chicago, Illinois. I lived there in the fall of 1854. I ran a hack then. Previous to my going to Chicago I lived about St. Catharines—at Pt. Dalhousie. I was at school with the notorious Wm. Townsend. We were, of course, both young at the time. The last time I recollect seeing Townsend was in 1856, when I met him between St. Catharines and Port Dalhousie. I thought I saw him once in Chicago afterwards, as I imagine, but it was dark and I should not like to swear positively. This was after the murder, but previously to my knowing of it. He came off the cars with what we call a Canada suit on. He reached out his hand and said "how d'ye do, George." I looked at him, and was going to speak, when he put his finger to his lip, as much as to say "silence," and telling me he had some baggage, asked me to drive him to the St. Louis cars I could not swear to the voice with which he spoke, it was so long since I had heard it. no name was on my lips at the time, for I could hardly recollect his name. In fact, I was going to tell him he had a little the advantage of me. But when he put his finger to his lips, it seemed to me that he did not wish me to mention his name in the hearing of those who were around. After he got his baggage he mounted the carriage, both of us sitting on the outside seat. We got into conversation, and he asked if I knew what his name was. I said I thought I did, his first name was "Bill." He asked what the rest was; I said I thought it was Townsend. He remarked, "I wish you would not call me by that name now." He did not say whether it was or was not his name. He gave me a name of which I don't recollect the whole; it seemed to me as if there was a *Mac* to it, but I would not be positive. I believe I had a recollection of it last year when my father went up to see me in May and June. I think I told him the name. I told him I had seen Townsend, but that I was a little doubtful of it. I don't recollect any person resembling Townsend with whom I was so familiar that he would come up in the same manner and say "How d'ye do George." He said he was going to take the first boat to New Orleans, whence he would go to Australia or California.

Mr. MACDONALD.—There's your California man.

Mr. FREEMAN.—Only two men went to California that year!

WITNESS continuing.—I took him to the St. Louis Depot, whence the cars went southward, and that's the last I saw of him. I don't recognize the prisoner as the man—he must have changed very much. I don't undertake to identify him.

To Mr. CURRIE. I was brought here by Mr. Tupper on behalf of the Crown. I told him I might know Townsend if he were not very much changed. My opinion is that I never saw that gentleman before. The prisoner has a higher forehead than Townsend; he has a larger eye than Townsend has. Townsend had heavy, dark eyebrows when a boy. In 1854 it was dark when I saw the man, and I could not distinguish the color. In height, the prisoner and Townsend (if the man I saw was Townsend) are alike. Townsend never looked a man fairly in the face. He looked more sidelong and downcast. I knew the Townsend family at Port Dalhousie, but not since. I spoke of my supposed meeting with Townsend to my brother John, who is on his road to California.

To Mr. MACDONALD. I recollect the size of Townsend's eyes only, not their color.

The jury then retired for a short time, and, on their return

Mr. WM. MAX was examined. He said I went to see my son George, at Chicago, in the spring and summer of last year. We had a conversation about Townsend, and my son said he had seen him there, or at least supposed so. He gave me the particulars of the conversation he had had with the young man. He mentioned to me the name the supposed Townsend had given as his real name, and it was, I think, McHenry. I am not positive about the whole name, but I am about the "Mc."

To Mr. CURRIE.—I was well acquainted with old Mr. Townsend. The first I knew of the family was when they moved from Port Dalhousie. I did not know William Townsend. The prisoner has no resemblance whatever to old Mr. Townsend.

JAMES GAYNOR recalled—Townsend held the pistol to my breast for some minutes. I noticed it had only one barrel. I had not seen any revolvers before that time, and imagined they had as many barrels as they carried bullets. The muzzle of the pistol was as much like this one (the one produced) as could possibly be.

SAMUEL HIGGINS sworn—I live in Toronto, where I work under G. Zowski and Co. I lived in Dunnville in 1852, and knew Wm. Townsend there. He was boarding at the same tavern as I was for nearly three months. He was at that time working in a saw mill. The prisoner is he. The only thing different is his voice. He was brought to Toronto about May last, and Mr. Sherwood asked me to go and see him. Mr. Allen said—"I'll unlock the door of the cell, and you will see if you can tell which is he." I pointed this man out as the one I should take to be Wm. Townsend as soon as I entered. He asked if I knew him. Yes, I said, I knew him in Dunnville. Prisoner said he had never been there.

I believe Mr. Sherwood heard all this conversation. The prisoner said—"I begin to believe I am Townsend, for everybody says I am. But," he said, "Townsend had different shaped ears to mine, a different nose, a different forehead, and different eyebrows which grew across his nose—but," they say, "I have been plucking mine out, so as not to look like him." He asked my name. I said, Sam. Higgins. He replied that he never knew a man of that name, dropped his eyes and walked away. Presently he came up again and asked me if Wm. Townsend ever told me about stealing a boat off the *Mohawk*. I said "yes he did, and told me he sold it in Cayuga for \$5". Prisoner corrected me, and said it was not in Cayuga but Dunville." The last time I had seen Townsend before seeing him in Toronto was on the 4th of July 1853, at Buffalo. Wm. Townsend had a scar under the jaw. I had forgotten until I saw him in Cayuga which side of the face it was on. He was very active at throwing somersets.

To Mr. CURRIE—I did not see the scar in Toronto, for he had whiskers which, I suppose, nearly covered it. I did not look for the scar, for the man's face was so familiar to me that I did not think about it. As soon as I came out I told Mr. Sherwood about the scar. I know of nothing remarkable about Townsend's feet, unless perhaps that he used to run over one boot. If the scar on the face were not there, I should doubt whether the prisoner was Townsend. His hair is not worn the same as when I saw him in Buffalo. He used to have long hair and wear it down his shoulders.

Mr. HARRISON said that hitherto all the witnesses had been brought forward, so that their testimony should be connected. He regretted that Mr. Sherwood of Toronto, who would have corroborated the evidence of the last witness, was unwell in Toronto, and had telegraphed that he was unable to come.

Wm. KENNEDY deposed. I recollect two men coming to me about a week before the murder of Nelles, asking about buying some oxen. One of them walked away towards the kitchen door as the other remained talking. I asked what he wanted the cattle for. He said it made no difference so long as he got them. I told them where they could get them, but they did not go in that direction. I saw the whole five together on a road leading from Hamilton to Caledonia, on a Monday morning, I noticed the prisoner most particularly, some of them had bundles. I did not know prisoner's name to be Townsend at that time. I had some conversation with F. J. Cheshire the morning I saw prisoner.

To Mr. CURRIE—I only spoke to prisoner at one time. I recognised him by the cap he wore. I cannot be mistaken, the prisoner's countenance is quite familiar to me.

F. J. CHESHIRE—I know Wm. Kennedy, of Oneida. I was in his company on the Sunday previous to the murder of Mr. Nelles. I was living on his farm, met him in a field and had some conversation. He turned down

the concession line towards the plank road. I went homewards in the opposite direction. I saw a horse and buggy with two men and a female in it driving along towards the plank road. One of the men got out of the buggy and walked up the road, the other remained with the woman. They went on down another road which led only to McKenzie's pond. I supposed they were strangers, and went forward to tell them they were wrong. They drove a short distance into the woods, when I perceived the man attempt to take some liberties with the woman, which she resented, and jumped out of the buggy and walked towards the plank road. The man drove after her. I noticed who the man was. I had a clear sight of his face. I saw Mr. Kennedy that evening and told him what I had seen. He thought there was something suspicious about them. I reported for the *Globe* at the Cayuga trial, I was then fully convinced that the prisoner Townsend was the same man I had seen. I have not the least hesitation in saying the prisoner is the man.

Rev. Mr. Haw.—I reside at present in Belleville. I resided in the Township of North Cayuga, near Canfield, in the year 1854. I was then in the lumber business. Mr. J. B. Smith and myself built a mill. I knew Wm. Townsend at that time. He was frequently employed about the mill and by Mr. Smith. The mill was built in January 1854. His services did not cease with the completion of the mill. He only worked occasionally. The longest period he was employed was about three weeks or a month. I cannot say what he did when absent. Mr. Smith was a brother-in-law of Townsend's. My house was so situated that I could see, daily, all the hands employed upon the mill. My attention was directed to the prisoner by a series of circumstances. In 1852 Mr. Smith and I had a joint interest in a mill at Canboro, which was afterwards sold. I there became acquainted with him first. The character of Townsend and the parties by whom he became surrounded was so bad that I placed my house in a state of defence, for I was informed by a young man employed about the place, called Morice Delamatre, that Townsend and his gang were enquiring in whose hands some money was which had been agreed to be given to me for the mill. I moved into Hamilton about five or six days before the murder of Mr. Nelles, and I did not see Townsend after my removal until I saw him last year in Toronto. Then I perceived, and I am now quiet sure that the prisoner is the man. I know the prisoner's stepfather. He was a Scotchman, or at least he spoke with a decided Scotch accent. I did not give evidence at Cayuga. I arrived too late. I was asked by Mr. Start, at Cayuga, if I would swear that prisoner was not Townsend. I said I would not, but that I could swear positively that he was Townsend. I spent about an hour with prisoner on Sabbath morning after the trial. I offered then that if he would give me any satisfactory history of himself I would do anything in my

Garrett Patterson was the man who robbed me. I did not swear as positively to Patterson as I do to prisoner. Patterson was about 5 feet 10 inches. It is not possible for me to be mistaken in prisoner as I was in Patterson. I was only deceived for the moment. He appeared much taller at St. Catharines than at Cayuga. I had no conversation with any of the witnesses at Cayuga, except old Mr. Patterson. I understood there were a number of witnesses to prove Patterson was not the man.

DAVID YOUNG.—I was acquainted with Wm. Townsend. Caledonia is the only place I ever saw him. The first time I saw him was at Abel Young's negro performance; his face was blacked. I have seen him when his face was not blacked. That was in 1854; he left Young there and was away about six weeks when he returned to Caledonia. He took a violin player with him. I asked him what had become of the man. He said he had died in Chatham. I saw him after across the river, at Waldon's tavern, he was exhibiting the same characters there. There was some dancing after the performance was over—John Hess (a cousin of mine) danced with Townsend during the performance. Townsend beat Hess at dancing. I saw them round together after that. Townsend said one of his feet was tender; it was sore. I don't know which foot. I never saw Townsend after the murder of Nelles till I saw him in Cayuga Jail. I recognised him then. I swear prisoner is the Wm. Townsend I knew in Caledonia.

To MR. FREEMAN—I do not know how long prisoner had been in Cayuga jail before I saw him. I did not expect to see him. I did not think they had got the right man. Abel Young went with me. Young said he looked older than he expected to see him. Prisoner asked me if I thought he looked like Townsend. I told him he looked like Townsend, but was much changed. I never saw him have any beard in Caledonia. I never saw him shave, he had no hair on his face. He had some light fuz on his face, but no beard. He was about 20 or 22 years old. I could not tell the color of his eyes. He had a very quiet way of talking, and wore his cap down over his brow, he had a full eye and generally looked down. He had rather heavy eyebrows. I do not know whether they met over his nose. I am positive this is the man. Hess is now on Grand Island.

To MR. HARRISON—I never observed the color of Townsend's eyes. His eyebrows were heavier than they are now.

JAMES McINDOE—I live in Dunnville and am a merchant. I have seen William Townsend, he was on the "Mohawk" or "Minca" war steamers. I think he was Capt. Tyson's man, this was in 1847 or 1848. I do not know when he left the vessel.—I should take him to be 16 or 17 years of age at that time. I do not know whether he was discharged from the vessel. I have seen him occasionally in 1852, '53 and '54. He was working about Mr. Cameron's place in

Dunnville. He worked at the Town Hall in 1852 or '53. I suppose I have seen him 40 or 50 times. I could not swear to his eyes, but think they were dark grey. I have no doubt in my own mind Prisoner is the William Townsend I have been speaking of. Townsend had a scar under the jaw. [Witness went up to prisoner and swore to the scar being the same.] (Sensation) I have no doubt about that scar. I was at Cleveland on business when prisoner was arrested. I also gave evidence at Cayuga. I had no difficulty in recognising the scar then. I have received anonymous letters. [A letter was handed to his Lordship by the witness, but was not read.] I know John Horn, he is a Scotchman, and speaks broad Scotch. Prisoner's stepfather is also a Scotchman. There was a scar above prisoner's eye. I observe it now. Townsend wore his hair long, it is a little lighter now.

To MR. FREEMAN—This man's eyebrows and Townsend's are about the same as in 1854, except that they are a little lighter. I could not say whether they united across the nose. No one asked me in Cleveland to give evidence against prisoner. I recognised him on the road from the gaol to the Court House. I remember speaking to David Dewar concerning prisoner. We did not speak of the identity of prisoner. I have several times spoken to Townsend. He boarded at Cameron's. I might be mistaken about the scar. Townsend had no beard when I saw him. I do not think he would have a heavy beard. There was no appearance of beard when I saw him last in 1854.

ABNER STRINGER sworn—I remember the day Richards was murdered. I saw Townsend between ten and two o'clock on that day, about 7 miles from Port Robinson, in Pelham. I knew him previous to that time, and recognised him then. There was a man with him I did not know. They were going west. I was going south. Port Robinson is east of where I met them. I believe they changed their course. I saw Mr. Crowe a few minutes after. He said he was after Townsend, and wanted all his men to go with him. I told them I had just seen Townsend. We all turned out in search of him. They went west, but did not find him. I see very little resemblance between the prisoner and Townsend. He does not look like Townsend at all. I could not say whether he is or is not Townsend.

To MR. FREEMAN.—I have the recollection of Townsend in my mind. Prisoner's eyes are different from Townsend's. He had a small dark blue eye and a middling heavy eye brow. He wore his hair long and curled under. It was darker than this man's.—Townsend's hair would naturally hang straight. From my recollection of Townsend, I would not say the prisoner is like him at all.

To MR. MACDONALD—Townsend's hair might have been darker from having been oiled.—It was straight.

JACOB WEAVER—I knew Townsend, the murderer. I saw him last in 1854. I had seen him often before that. He worked be-

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Townsend, the
n 1854. I had
He worked be-

low St. Catharines, and lived with Mr. Pat-
terson. I know Townsend's mother; I have
taken dinner in her house; Townsend was
present; the same man is in the dock. I re-
cognised him last fall, here; I saw him in his
cell. I knew him immediately I saw him. I
remember faces well. I would know Town-
send anywhere. I never noticed any marks
particularly about him. I saw the one on
his cheek when I saw him in 1854; in 1850
he had the mark over his eye. It was in
August, 1854, I saw him—before the murder
of Mr. Nelles. The mark above prisoner's
eye is the one Townsend had in 1850. I have
no doubt prisoner is the very man.

[Witness did not recognise the scar on the
jaw, but swore to a supposed mark on the
right side of prisoner's face, where no mark
exists.]

To Mr. FREEMAN—I have been living here
since 1854. Townsend had a dark blue eye.
He stood up boldly, and talked out plainly.
Sometimes he spoke through his nose. I have
heard him sing negro songs. He had a small
tooth. It is eighteen years since I saw him at
St. Catharines; he was quite a boy then; he
will be about 25 or 26 now. I saw him at
Cayuga when I was working with his father.
Prisoner was there then. I saw him on the
canal, driving horses, four or five years before
I went up to Cayuga. I have been in gaol
here. I was confined last July. I went to
prisoner's cell to see him, but did not get a
good view of him. I have not heard much
about prisoner.

To Mr. HARRISON. I was put in gaol on the
18th July; but not for any crime. I was in
gaol one month,

GEORGE BUCK. I live in Dunnville. I know
prisoner. He used to be called William
Townsend. It is about five years since I saw
him in Cleveland. It was the end of Feb.
1853. I saw him working in a cooper's shop
in Dunnville. He was not a good workman
as a cooper. I had seen him several times
before that. He left in September 1853. I
then saw him two or three times a-day. Hall
took me to Cleveland to identify the prisoner.
I was a constable, and considered myself under
the orders of Mr. Hall. I was not sworn,
because he said to me "don't you swear to
him, for, if you do, they'll laugh at us
when we go back." I previously told him I
should know Townsend, and, after I had
seen the prisoner I told (Hall) I knew it
was he. I saw him (prisoner) laying in a
little bunk in the cell. The Sheriff told him
to get up, when he did so, swearing some tre-
mendous oaths. Then he reached out his
hand and said, "How dy'e do Mr. Hall?" He
first asked him if he (Hall) knew him late in
the fall of 1852 in the Powhattan. He (pri-
soner) asked him if he did not recollect hav-
ing been asked down to take dinner with
him. Hall said no. He claimed no acquaint-
ance with me. I formed the opinion that he
was the William Townsend I knew. I told
Mr. Hall that, if he was the man, there was
a particular mark on his arm, which I had
seen when last I saw him. This was the

mark of a mermaid, on the left arm, which I
had seen when he was working in the shop.
I then looked at his arm, but found no mark,
as of a mermaid there, I was not surprised
at this, because I knew these marks could be
easily taken out. The mermaid was pricked
in with Indian ink. A. "G. B." was put on
my arm with Indian ink by a sailor of
my acquaintance named Jacob Turnbull,
about twelve years ago. It remained
on my arm for five years, but was afterwards
taken off by a doctor M—, of Gananoque.
No mark is now visible. It was done by put-
ting breast milk on the arm over the mark,
and then pricking the arm in the same place
again. My wife's brother had a mark of the
same description removed in the same way.
His name is Henry Duholin. He had a fish
marked on his arm, and, on my telling him
the way it was taken off, he removed it by
the same process. I know others who have
removed marks in the same way. There is a
considerable change in the prisoner's appear-
ance since 1854. He then wore his hair parted
in the middle, long, curled under at the end,
and well oiled. His hair now is of the same
color, and only different in the way of wear-
ing it. I notice no great difference in
his eyebrows. They may have been a
little more bushy then than now, and
his eyes are of the same color exactly.
I should call his eye a light hazel. I noticed
him walk in Cleveland. When he was first
asked to walk, he kicked his feet up as high
as he could, and swung his arms about and
said "d'ye see that." I was not deceived by
that manoeuvre. His smile now is just the
same as Townsend's. His shoulders are just
the same, and I have no manner of doubt the
prisoner is Townsend.

To Mr. FREEMAN.—I had much conversa-
tion with several persons about the matter,
and always said that this was the man. I did
not tell Mr. Weatherby and Mr. Chas. Stevens
that he was not the man, or that I did not
know him. This man's complexion is lighter
now than Townsend's, but it was the same
when I saw him at Cleveland. When I
knew Townsend he was always dancing and
imitating niggers.

Mr. SAM. SHERWOOD was next examined.—
He said, I saw the prisoner in Toronto gaol,
whither I went with Samuel Higgins. There
were a number of prisoners in the gaol at the
time. Higgins went into the right passage
(one of three) The prisoner was standing
with two or three other persons, but Higgins
pointed him out, saying, he thought that was
the man. The prisoner had fetters on, but I
did not speak of this to Higgins before he
went into the gaol. Some conversation passed
between the two, Higgins saying "You are
Bill Townsend." Prisoner said "a great
many call me so, but I'm not." He then
pointed out the discrepancies in the descrip-
tion given by the government, of Townsend,
and himself, shewing why he was not Town-
send. He said he knew nothing of Canada—
did not understand the geography of the
country. He asked Higgins' name, and, on

being told he walked away to the end of the hall. Coming back, conversation was re-commenced about a boat, said to be stolen from the "Mohawk." Higgins remarked, "yes, you and your brother Weaver sold it for \$5 at Cayuga." "No," said he, "that was not at Cayuga, but at Dunville." Nothing further passed, except his saying he should be glad to see Higgins again, and we then left the gaol.

To Mr. FREEMAN.—I recollect that the prisoner also said he had been wrecked once in Canada, somewhere on the Grand River.—This he said before he spoke of the boat. The prisoner was the only man in irons.

To Mr. HARRISON.—The conversation about the boat struck me as being so strange that I reported it.

HEZEKIAH DAVIS said.—I was an inhabitant of Dunville for about twenty years previous to a late period, and knew Wm. Townsend there. He used to work in a cooper's shop there in 1852, and I knew him in '52 and '53.—I was called upon by the U. S. Commissioner at Cleveland to give testimony. I happened to be at Cleveland on my own business, and a man came to me and asked me if I knew Townsend. He pulled a paper out of his pocket which described Townsend as a man with a small black eye, black hair, well defined eyebrows. I told him then, that if they had such a man in gaol for Townsend, they had better let him go, for it was not he. I then gave a description of Townsend, describing the scar over his left eye, and the one over the jaw bone. Before long, I went to the gaol, and was introduced to the prisoner. I shook hands with him, and while doing so I noticed the scar over the eye. He saw I did so, and turned round, whereupon I perceived the scar under the jaw. The scars were not so distinct as they had formerly been. They are now less distinct than they were at Cayuga, but the scars are the same. (The jury here examined the scars, and the witness continued.) His personal appearance was changed from what it was when I knew him, and I should not have said positively he was the man unless I had seen the scars. His personal appearance has changed even within the last few months. His hair was lighter and his eyebrows darker at Cayuga than now. Two of my sons left me, and came back after about five years; their beards were grown, and I did not know them.

Mr. MACDONALD—That shows that a few years make a great difference.

WITNESS (in answer to a question)—I did mistake, at Cayuga, Mr. Barker for Mr. Stevenson, and said, "How is your brother, the judge?" Prisoner is a little more stooped shouldered than he was.

To Mr. FREEMAN.—At Cayuga I described the scar as a circular one.

Mr. FREEMAN read from the evidence—"It is a small perpendicular scar," &c.

WITNESS (to Mr. FREEMAN)—His hair, as I saw him in Dunville, was inclined to be sandy—so were his whiskers. He had a light blue

eye. I account for the prisoner's hair being darker now by his having dyed it, or put something on it. Mr. Wetherby, the other day, did not bring up a lot of Dunville people for me to recognise, who, having known at one time, I then did know. Mr. Darling did this. There were two of them that I did not know. When my sons went away, one of them was under 21, and the other a married man—older.

ABEL YOUNG said. I have seen the prisoner at the bar. His name is Bill Townsend. I have not the slightest doubt. I came to know him at the latter end of 1853. He and others stayed at my place on one occasion from Friday night to Monday night, when they had a show. Townsend had on a black wig, had the tambourine, and danced. He also dressed in female dress and played "Lucy Long. He did it very well, too. I thus had a very good opportunity of knowing him, and, indeed, I knew him off and on for nearly two years.—Three days before Nelles was murdered Townsend came to my place early in the morning, together with Bryson and King.—King wanted to stop and have breakfast.—The others said no, the rest of the boys were up at Cook's. They then went away, and I heard nothing more of them until the murder of Nelles, and saw nothing more until I saw him at Cayuga. Then he looked natural about his eyes, but yet he threw them kind of strange like. He seemed in other respects as if he had failed considerably. It was rather dark in the cell. He then had a beard on. When his beard was removed it made a great difference, and I recognized him better. He used to wear his hair differently from what he now does, not so high off the forehead, but I have not the least doubt this is Townsend.

To Mr. FREEMAN—I am sure I saw him in April, 1853. He was about also in the fall.

BARTON WALT said.—I live at Gainsboro. I met Wm. Townsend often, and became well acquainted with him. I think there is a little difference between this man and Townsend. I thought Townsend's hair was a dark brown, and his eyebrows heavier. He used to wear his hair long, and straight down. I swore at Cleveland and at Cayuga that this was Townsend, but a good many who knew him better than I have said he was not. Townsend once shewed me a scar on the right foot. I was shewing a scar on my knee, whereupon he pulled off his boot and shewed the scar on his foot. I saw it plainer than I did at Cleveland or at Cayuga. I told one Cornell, before I went to Cleveland, that if this was the man there was this scar on his right foot. When I went I found the scar. When I first saw it it was very large, but in Cleveland it was very small, but in the same place exactly.

Mr. MACDONALD.—I can bring a doctor to prove that they do decrease.

WITNESS (continuing.)—I thought Townsend's eyes were smaller and darker. I thought he had a dark brown eye, but I may have been mistaken.

To Mr. FREEMAN.—I don't say positively

ner's hair being dyed it, or put thereby, the other of Dunnville people, having known w. Mr. Darling of them that I did went away, one the other a married

seen the prisoner Townsend. I came to know s. He and others occasion from Friday when they had a black wig, had He also dressed Lucy Long. He had a very good m, and, indeed, I rly two years.— was murdered

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re I saw him in also in the fall. at Gainsboro. I and became well k there is a little and Townsend. as a dark brown, He used to wear wn. I swore at t this was Town knew him better Townsend once ht foot. I was , whereupon he d the scar on his than I did at old one Cornell, that if this was on his right foot. r. When I first t in Cleveland it me place exactly. ing a doctor to

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say positively

this is Bill Townsend, but I think so. The joints on Townsend's feet were large, I think. This man has midling sized joints, and unlike Townsend's.

PETER POTTS deposed.—I know the prisoner in the dock. He used to go by the name of William Townsend. He and one Weaver used to go about singing darkey songs. I boarded at his step-father's for a month or so, the prisoner being there two parts of the time. His stepfather was a Scotchman, and spoke with a Scotch accent. All the difference I see between this man and Townsend is that this man is Townsend.

JOHNSON BURTON said.—The mark on the prisoner's cheek is, I think, a little more under the cheek than Townsend's. I think that man is slimmer than Townsend. It's five or six years since I saw Townsend, but before that I knew him well. I could not undertake to say whether that man is Townsend or not.

MR. MACDONALD—I was aware of what you would say on that point. I brought you for another purpose.

WITNESS (continuing)—I once had my name pricked on my arm, "Johnson Burtch" This was done in Indian ink, in the city of Michigan. The year after it was done, I had the Johnson taken out and a J. put in. The same man that put it in took it out with breast milk and flannel, pricking it with needles. [Witness here showed the jury his arm, which showed no trace of the word Johnson.

FRANCIS BENEDICT said—I think the prisoner in the box resembles a man they call William Townsend. I saw Townsend at Benj Diffin's tavern in '53 or '54.

TO MR. FREEMAN—I saw him in various other places, all in the same year. I remember him particularly, because I took him at Diffin's for one Lemuel Yokem. He resembled that person then and he does so now.

JAS. BROOKS—deposed. I live in Pelham township. I knew Townsend there, and also when I lived in Seneca in 1852, in harvest time, when he was working and binding for Mr. George Roberts. He was a smart young man, who was fond of tricks, balancing poles, &c. on his chin. I knew David Dewar, his step father, who lived near Cayuga Station, and whom I took to be a Scotchman, as he spoke broken Scotch. Townsend had a scar like half a moon over the left eye. Prisoner has a scar in the same place, which is, however, smaller than that on Townsend. However it is smaller now than it was at Cayuga, and smaller there than at Cleveland.

TO MR. CURRIE—I believe the prisoner is the very man (Townsend). I don't do any tricks by looking for water through a stone.

MR. J. LATIMORE said. I knew Townsend. He frequently came to our house in Caledonia I think the prisoner is he. I see little difference in him now, except that he is paler and thinner and wears his hair differently. He then wore it more over his forehead than now. Townsend had a scar on the left side of his face, just like that on the prisoner. I have not the least doubt prisoner is Townsend. I recollect once asking Townsend how he got

the scar on his face, but I forget what he told me. Prisoner's eyes are like Townsend's, and so are his features.

LEVI LATIMORE testified. The man in the dock is Wm. Townsend. He often came to my place in Caledonia. He played the tamborine and danced like a negro. The first sight I had of the prisoner I knew him. The scar on his face is the same that Townsend had. He used to wear his hair longer, but save that he's thinner and paler, there is little difference in him.

CALVIN KELSEY affirmed. The prisoner is he who used to go by the name of Wm. Townsend. I frequently saw William Townsend while I was driving a threshing machine. This was in 1853. I saw him, too, at John Clark's tavern, at Canboro', where he had shows to which my boys were very anxious to go. This caused me to notice him particularly. He used to wear his hair combed down all round, so that his forehead did not look so high as the prisoner's. The shape of his face, his motions, his voice, all seem the same as they used to be.

TO MR. CURRIE. This man's physiognomy is the same as Townsend's. His chin, his cheek, his nose, are all like Wm. Townsend's. I am near sighted

MEROY ANN HATCH said. I live in Hamilton. I saw Wm. Townsend there in 1853, driving a cab. I saw him so often that I could form an opinion as to his identity. I identified him at Cayuga; I am still of the same opinion. I swear that man is he. He has got thinner and paler, his height is the same. He did not comb his hair so far back. He did not wear earrings when I first saw him, but afterwards he did. Earrings are sometimes worn without making a hole through the ear. If holes are made, they often heal and leave no mark. Townsend had the power of mimicking different dialects, Irish or Scotch. I had no difficulty in recognising Townsend at Cayuga. I have seen Townsend with a moustache on the upper lip. I can't say whether it was false or not.

TO MR. FREEMAN.—He drove a cab, first, I think, for Mr. Nowlan; afterwards for my brother. I knew Bryson, Blowes and King. I knew Townsend for about a year. I saw him a week, or two or three days before Nelles was murdered, when he left town along with Bryson, Blowes, King, Lettice, and another. I heard of the murder shortly after it took place, when I heard Townsend, Blowes and Lettice, all in Hamilton, talking of it; saying that there was a reward for them in the paper. I understood from what they said that they had been the parties who committed the murder. I said at my examination at Cayuga that Bryson was there that evening, but now I am not sure. I heard afterwards that the parties had gone away, and I told the Chief Constable, Mr. McCracken, which way they had gone. Blowes was arrested in my mother's house. They all used to frequent it; and at the time I was living there, my mother was sometimes brought up before the police, but it is not my business to

say what for, or whether she kept a disorderly house.

PETER BROWN deposed—I come from the Penitentiary. I knew Townsend at Cayuga for about two years. I used to live with my brother-in-law, Mr. Flanders. I can't say that I see any difference in his hair. His eyebrows don't look so dark or bushy. He may have pulled some of the hairs out. His features are the same as they were. It is easy for a man to change his hair from dark to light, or from light to dark, but he can't change his features. I would know Townsend anywhere in the world where I might meet him. Townsend would now be 23 or 24 years of age. He had not much of a beard when I knew him, but it sometimes does not grow until a man is 23 or 24, and going to a southern climate would reasonably bring it out. I knew the prisoner to be Townsend before I saw him at Cayuga, by hearing him laugh and talk. I went in to the gaol with Bryson, and we heard him talk. I said to Bryson—"Do you hear that voice? That's Townsend." He had a heavy beard then, and I shaved him. After that, and even before it, I had no doubt at all as to who he was. Townsend was very active, and could imitate dialects. He spoke sometimes with a little Scotch accent.

To Mr. FREEMAN—I have been very unfortunate, having been once convicted in Cincinnati for winning a span of horses by gambling, and also several times in Canada. In Cayuga, too, I was once kept six months on suspicion of being Townsend. (A laugh) I always thought Townsend had a dark grey eye, not overhung by the brow—flat between the brows. I don't know whether he had or had not holes in his ears. He had rather a small foot. Robert Flanders is my nephew. His father is my brother in law.

To Mr. MACDONALD—I swear to the truth, irrespective of my having been in gaol.

RICHARD LEE said—I have been for four months in the Penitentiary, for larceny, having been convicted in St. Thomas. I gave evidence before the United States Commissioners in Cleveland, that the person in the dock is William Townsend. I knew Townsend in Caistor and Louth townships, also in Grimsby, St. Catharines and Smithville. I know him when he worked as a cooper in Caistor. We worked in a shop together at Mr. Paterson's for nearly a month. This was in 1852. He looks more natural now than he did in Cleveland. I am satisfied he is the man they called William Townsend. Townsend had a scar over the left eye, one under the left jaw, and one on the right side of the under lip. All these I found on the prisoner's face at Cleveland. There is also a scar on his foot, but I did not know he had it until I saw it at Cleveland, where he told me he had cut it with an axe.

To Mr. FREEMAN—Townsend and I measured ourselves together and I was then $\frac{1}{4}$ of inch taller than he. When I was in Cleveland I stopped at Mr. Lee's. When went to see prisoner in the gaol, I went to see him in the

cell, and, on coming out I said I would not say whether it was he or not. I said I would have my breakfast first and come back to examine him. (Mr. Freeman read from the evidence "I said, outside the gaol, I did not think it was Townsend.") Witness said that was not the case. (Various other statements were given in evidence at Cleveland, the witness said was all wrong.)

To Mr. MACDONALD—I only looked through the grates the first time, and as it was a dark day I did not see him well.

THOS. MCCOY deposed—I am also from the Penitentiary, where I have been confined for two years and eight months, for having stolen goods in my possession. I knew Wm Townsend well. I saw him two days after Nelles was shot, and no more after that until Tuesday last. I travelled in company with Townsend at the shows two different times. We exhibited together at Dunnyville and Canboro, and at Marshville and Merrittsville. We had nigger performances, dancing and singing. I slept with Townsend. He danced and sang, and played the tambourine, castanets and triangle. I notice marks upon his face above the left eye and under the left jaw. These I noticed because he sometimes asked me to see if the black was rubbed clean off his face, which he put on with burnt cork and tallow before performing. At first sight I hardly made out that this was he, but the scars decided me. To the best of my knowledge I think that is Wm. Townsend. The features are there, paler and thinner.

To Mr. FREEMAN—At first sight I thought he was not Townsend, and said so. He came and said—"Do you pretend to say, sir, that you do not know me?" I made no answer, but told Mr. Macdonald I did not think he was the man. Two days afterwards I sent for Mr. Macdonald, and told him I thought he was the man. I had not seen the prisoner a second time in the interval, but I had seen the turnkey and another man. Townsend had a cut in the right foot, and the joints of his big toe were large, so that he had to wear large shoes on account of it. You could see the lumps through the boot. I can't say anything about the color of his eyebrows or hair. His hair looked black. The scar on his foot was middling large; that over the eye was circular, half an inch or more above the eyebrow. The scar on the cheek runs so (pointing all over the cheek.) The scar on the foot ran across the big toe (marking on his boot a place about two inches long.)

[Prisoner was then requested to bare his foot, and did so. There is a scar on the instep, half an inch long, and the toe joints are of moderate size.]

SYLVESTER DOANE, living at Skinner's corners, testified. I went to Cleveland to give testimony. I believed and still believe this is Townsend. I had noticed a scar over his left eyebrow which was considerably larger when I first saw it than it is now. He is paler now and not so fleshy as he was. His hair looks a little darker now than it was. He used to wear it long and roll it under; while

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he parted it in the middle. His size and build correspond with those of Townsend. His eyes too are about the same. I have no doubt that he is the man.

To Mr. FREEMAN—I swear this is the man. I say that Townsend had a blue eye. I went to Cleveland with Mr Tupper. Somebody—I don't know who—paid my expenses.

CHAS. BROOKS said.—I have lived at York on the Grand River for 14 years, less 5 when I was at Canboro. When I look at the prisoner in the dock I think he is William Townsend, and yet my recollections of Wm. Townsend are different. His features are not exactly like Townsend's, and yet I think it is he. I saw Townsend often, I knew him first in 1847. The next year he went to sail on the lakes. He returned to spend the winter at home and went to the lake again. On land he spent a wandering life. I saw him and McCoy show at Canboro. I observed a scar over his left eye, nearly the shape of the eyebrow. It is not so plain now as when I first saw it. He could imitate various dialects.

To Mr. FREEMAN.—I knew the whole family.

To Mr. MACDONALD—The prisoner seems longer from the back of the head to the chin than Townsend.

PRISONER—I came of a long headed nation.

WITNESS—Yes, he has a long head. All I can say when I look at him is that I think he is Townsend. I saw prisoner in the box at Cayuga, and then felt confident it was Townsend. Afterwards I went out, and, on seeing the sisters, I feel as if I might have been mistaken. I feel it my duty to say this.

To Mr. FREEMAN.—I don't think there was a very strong likeness between Townsend and his sisters. His hair was not so dark and his eyes not so dark either. I said at Cayuga I was sorry I had sworn to him so positively as I did. At Haw's tavern I said "I wish I could swear my oath over again."

The court at this time, 10:30, adjourned, the room being still crowded with male and female spectators

TUESDAY, March 30.

Punctually at nine, his Lordship took his seat, and the jury were summoned to their box.

JAMES CORNWALL was the first witness examined, and said—I live about a mile from Merrittsville. The prisoner seems to me like William Townsend, with whom I first became acquainted at Pelham. The last time I saw him, before he was imprisoned, was at Diffin's, the night after the murder of Nelles. He came thither in a buggy, a little before sundown, in company with another man, whose name I do not know. He spoke to Samuel Burrows in my hearing, saying, "Did you hear of a murder up west?" Burrows said "No." "Well," said he, "there was a man shot, of the name of Nelles." Nobody had heard of the murder there previously. Townsend mentioned no circumstance connected with the murder, which he said had been done "last night." There were two others present besides Townsend and I. He

remained but a very short time after sundown.

This witness was then removed for a time, while

Mrs AYRES was examined. She said—I live in Merrittsville. I knew William Townsend in 1853, during three or four months. I met him at Diffin's tavern, where he was boarding. I lived at that time close by. He had a scar over his left eye. The prisoner in the box I call William Townsend. I saw him in goal here, immediately after he was brought down, and on his asking me if I knew him, I said he was the man. I have not seen him since, and I am still of the same opinion, viz: that he is the man.—He is thinner and paler, but I remark no other change in his appearance. He used to wear his hair longer, and the colour of his hair is perhaps a little darker now than then. His eyebrows are perhaps thinner than they were then. His height is the same. The color of his eyes too are just the same.

To Mr. CURRIE—I don't recollect whether he used to wear whiskers, and I recollect no other scars on his face but the one over the eye. When I went to the gaol I expected to see Wm. Townsend, and I did.

To Mr. MACDONALD—I recognised the peculiar smile on his countenance.

Mr. Wm. AYRES recollected going to the gaol with Mrs. Ayres, his wife. She went in while I and some lady stood outside by the door. She gave me no opinion as to whether he was or was not Townsend, until after we got home, when she said he was the man.—She said she had not satisfied herself at first sight until he commenced laughing, when she saw "Billy Townsend" to perfection. He said she might as well hold her tongue about it.

To Mr. FREEMAN—He always seemed to say the evidence against him was got up to persecute him—and in that connection he said it would be of no use.

Mr. CORNWALL was then called to give further evidence, as follows. When Townsend left Diffin's he went towards St. Catharines with the same man that went with him. During the week I heard that he was himself the murderer. I was examined as a witness at Cleveland, whither Mr. Hobson asked me to go for the purpose of identifying him. I know Barton Wait. When I was going he told me to look for the mark on the right foot, which, he said commenced from the big toe joint. The prisoner, at Cleveland, was unwilling to shew his foot. I told the United States Commissioner that, to the best of my knowledge, he was the man. I swore to him again at Cayuga, and I do so now for the third time. I have no doubt in my mind about his identity. The mark on the left brow looks the same as the one Townsend had. I recognized him at once.

To Mr. FREEMAN—When Townsend told us of the murder of Nelles, several others heard him, but nothing was said about it among them that evening.

ROBERT POTTS Deposed.—I live in Wingfield. I learned to know Wm. Townsend at

Diffin's, six or seven years ago, but I saw him several times afterwards. The man in the box is he. His face is not so fleshy and round as it used to be, but the features are exactly the same. I noticed no marks on Townsend, so I speak from the general appearance of the features. His hair is darker now than then. His eyes correspond. The eyes are not so heavy now. I have no doubt at all that this is the man.

To Mr. FREEMAN. I went to the Cayuga trial at the request of Mr. Tupper, but I was not sworn. I told Mr. Tupper I wanted to go home, and he said I might go.

AARON JENNINGS sworn, said. I live in Pelham. I was not intimately acquainted with Townsend, but I think I saw him enough to know him again. I saw him once, or it might be oftener. It is my belief that the prisoner is he. I recollect going to the gaol last month along with two ladies. They went out first, and I stopped because he seemed to have an inclination to talk with me. We had a conversation by ourselves, he telling me about his adventures and, when I came away, he said "What a d—d fool I was to tell Sheriff Hobson what I did about you."

Mr. MACDONALD wished to ask what the witness' impression about the sense of this answer was, but was prevented.

To Mr. FREEMAN—My recollection of Townsend is that his cheek bones were prominent, and face rather long. I never saw him with his hat off, so I did not at any time catch the expression of his eyes. I was one night at a raffle with him, playing with him.

SHERIFF HOBSON deposed.—I recollect being sent to see the prisoner at last assizes to know by what name he would be indicted. He said there were a number of Cayuga witnesses about persecuting him. I said Mr. Jennings had not been at Cayuga, and was a respectable person, when he remarked "I know Mr. Jennings." I can't say whether prisoner had seen Jennings before that.

Mr. JENNINGS was re-called, and said he had not seen the prisoner before Mr. Hobson had been to see him.

ALEXANDER ALLEN testified.—I have lived in Dunnville for 13 years. I could not say who the prisoner is, but he "favors" Townsend very much. I noticed Townsend particularly at Dunnville. I remember that he lived at Mr. Cameron's, there, while I occasionally boarded there too, and so did Samuel Higgins. We used to play in the Bowling Alley together. He was very active and sometimes used to throw a couple of somersets after rolling the ball, and before it struck the pins.—I observed three different scars, one over his left eyebrow, another under the left cheek, and a third on his foot, cut by a cooper's adze, which I saw when it was so, but I can't say whether it was on the top of his foot or on the bottom. I have not seen the scar on prisoner's foot since he has been in prison. It might be an inch or more in length. The scar on Townsend's jaw was very much like that on prisoner. I described it before I went to Cayuga as a witness, and

it agrees with my description. The scar is pretty much the same now as when I saw it in Cayuga, smaller if anything. The scar on Townsend's eyebrow was not a straight one—it ran just above and pretty even with the eyebrow. It resembled the one on the prisoner. I am employed in Dunnville in running a hand cart and the people call me "wheelbarrow Jim." That makes no difference in my evidence.

To Mr. FREEMAN—I did not say at Cayuga that the cut was underneath his foot.

Mr. FREEMAN read from the evidence to the effect that witness had said "Townsend had a scar on the sole of his foot made by stepping on a cooper's adze."

WITNESS—continuing—I deny that I said the mark was under the foot.

WM. HARTLEY said. Wm. Townsend worked for me at Thorold at coopering. He was a very poor cooper, and he made but a few poor barrels. He did not do his work properly. I told him so, and he left. I recognized him last fall by his voice, not by his appearance. He had a beard then, whereas, when I used to know him he had but very little hair on his face, and that chiefly on the upper lip. His hair used to be worn long, instead of short, and in short, I could not remember his features at all. Prisoner speaks, however, just like Townsend—there is no difference in his voice. Townsend, when I knew him, might be from nineteen to twenty-one years old.

JAMES CHAMBERS deposed.—I think the size and general appearance of the prisoner resembles Townsend's. (This witness, before giving his opinion, made the prisoner turn round to get a side view of the face, and afterwards put a hat on, pulled down over his face. I saw Townsend at Diffin's and afterwards at Mr. E. Jennings's of Watflet. I also saw him giving a show in the winter of 1853. My wife's brother is married to an aunt of the prisoner's.

CHAS. W. HELLEMS deposed.—I live at St. Catharines. I knew Wm. Townsend when he was a boy. I also saw him five and six years ago, a number of times. Before that, too, I occasionally saw him. I met him at the Junction and at Duff's tavern. I knew his appearance so well that I thought I could recognize him again. I remember once that three teams were towing a vessel, in May '54. Now the rule is that no wood is to be loaded from the tow path. Two of the teams, however, cast off to let the line pass over the wood, but the third did not do so until the captain had him, several times. When they came back, riding, the next day. I asked the man in charge of their team why he was so stubborn, and wished to get me into trouble. He made no answer. This man was he called Wm. Townsend. I saw this man again on the Friday after Nelles' murder. I have a cooper's shop which many people come to see. Garrett Patterson came in on the Friday, with another man to whom I paid no attention until, as he was going out, when he seemed to me to be Townsend. I have since become satisfied he was. In January last, when I was up

tion. The scar is as when I saw it being. The scar on not a straight one pretty even with the one on the prison in Cayuga in running a wheel call me "wheel" no difference in

not say at Cayuga his foot. The evidence to the "Townsend had made by stepping

deny that I said

not. Townsend work- ing. He was made but a few his work proper- left. I recognized not by his appear- ance, whereas, when I out very little hair on the upper lip long, instead of I do not remember his looks, however, just a difference in his knew him, might one year old.

—I think the size the prisoner re- ceives witness, before the prisoner turn the face, and after- led down over his Diffin's and after- of Wainfleet. I also the winter of 1853. ed to an aunt of the

posed.—I live at St. Townsend when he five and six years. Before that, too, I let him at the June- knew his appear- t I could recognize ge that three teams May '64. Now the be loaded from the ms, however, cast the wood, but the ne captain had him, came back riding, e man in charge of so stubborn, and able. Me made no called Wm. Towns- gain on the Friday ve a cooper's shop e to see. Garrett Friday, with ano- no attention until, he seemed to me to be become satisfied st, when I was up

here on business, having a desire to see the prisoner, I obtained leave to do so. I went in with Mr. Yale, and a few others I was under the impression that the prisoners wore moustaches, but when I went to see him, although he had not, another man in the same room had, I expressed myself convinced that the man with moustaches was no Townsend. I then went into the prisoner's cell, whither he had retired, and asked him to converse.— I said I had no business there, save to gratify curiosity. He complained that a lot of "swamp angels," as he called them, came in and went out, telling all manner of stories about him. He asked if I would be candid. I said yes, and conversation commenced. I said that at such and such a time I and Townsend's father were working for Mr. Felling, building the piers at Port Dalhousie. Prisoner said "you were driving piles." "Yes," I said. He immediately recovered and said, "what did you remark you were doing." "I was in a piling machine," I replied. I am confident I had not previously told him what I had been doing. He made several remarks in regard to the Townsend family, saying that their organization was different, and his own relatives had such different heads from the Townsend family that he could tell the difference in the dark, or blindfolded. "You know," said he, "the Townsend tribe is an Indian-looking one." I said I did not think they were, and that his forehead, chin, and other features were like theirs. He said people could easily be mis- taken. I said yes, but it was not so easy to deceive one's Maker. He then proceeded to use some harsh language towards Mr. Mc Coppin, various other relatives, and the Government. I cautioned him not to indulge in such language, and said I presumed his mother did not teach him to use it. Here- upon he became much affected, and tears rolled down his cheeks. In a short time he recovered. He asked, when I told him Town- send had been in my shop a day or two after the murder, if I knew that he was the mur- derer of Nelles? I said no. I then said I thought he was doing wrong in not giving an account of his past career, for that I and others would then give every assistance to bring evidence to clear him. He replied— "Mr. Halleme, you do not know my family history. There are many things connected with their history, which, rather than expose, I would die on the gallows."

JOHN ROBINSON said. A day or two after the murder I was working in the neigh- borhood of London, at Ekfrid station or a few miles east of it, drawing piles and putting them in, on the Great Western Railway. In the afternoon, about 4 or 5 o'clock, I saw this man walking on the track towards the station. He passed close to me within a yard or two. I noticed the scar over his eye and, by the description which had been given in the papers I thought he was Townsend, I said to one man who was working with me "I think that is Townsend" "No," said he "it can't be." "Well," said I "I think it is,"

and I walked after him to the station. There he asked when the train went West, and the station master told him. I said to several people on the platform that I thought he was Townsend, but they said no, and did not care to arrest him, so he walked restlessly in and out of every place until the train came up, when he went away. I have not seen him from that time until yesterday when I came into court, and, seeing him in the box, I said that is the man I saw pass me on the Great Western Railway. I was here as a witness in a case last fall, but did not see the prison- er. The dock was then in a different part of the court house, and I was rather surprised at seeing the man I took to be Townsend among the Jurymen, as I supposed. I am positive the prisoner is the man who passed by me at that time.

TO MR. FREEMAN.—I am a railway contrac- tor, living at Milbrook, township of Cavan.

MR. JOSEPH MAINE testified I reside at Gainsboro'. I knew William Townsend. I became acquainted with him in the fall of 1853. I worked for the same man that he did, and boarded at the same place with him for about a month, eating at the same table. I saw prisoner at the Cayuga trial, and again here. I should call him William Townsend. I observe the scars on his face to be exactly the same. He combs his hair up higher now and his eyebrows are a little higher. I am posi- tive the prisoner is Townsend.

TO MR. FREEMAN.—Townsend was a nice sort of fellow. He kept very good company. He did not amuse us by tricks at all. He had very little music in him. When I was at Cayuga I did not tell any one I knew the prisoner to be Townsend.

JOHN MARTIN deposed.—I live in Dunnville. I have frequently seen there a countenance like the prisoner's. I never knew the person who had it nor heard the name, all I know is that I saw the countenance frequently in 1852 and 1853. I think, too, I observed that person to have a walk similar to the prisoner's. The prisoner is fair, but confinement, I should suppose would make that difference. I saw the prisoner at Cayuga and the countenance struck me.

PRISONER—Be sure, sir, take a good look at me. Remember the consequence.

WITNESS—I am pretty positive.

PRISONER—I think you are mistaken, sir.

TO MR. FREEMAN.—I have had a conversa- tion with Hles, to-day, who just asked if I was a witness in the case. I told him what I now say.

MARY ANN STRINGER said. I remember the robbery of Mr. Gaynor. I saw the prisoner the same day it was committed. He was be- tween Stamford and the township of Thorold. There was another person in his company. They were sitting on a log, eating buns. It was in a lonely place, near cross roads but no houses close at hand. I was coming from Mr. Brydon's and going to my home. When I came to the men, one of them said, "Sir, stop." I said I would not. They said I must, but a waggon just then came up the cross

road, and the driver took me up. The prisoner was only three or four feet from me. His hair was longer then than now. He had on a drab rowdy hat with a band, like the one produced. He was lighter in complexion than now, but, notwithstanding my fright I have a distinct recollection of his features.

To Mr. FREEMAN—I shall be 21 years of age next June.

JAMES PHILLIPS (colored) said. I am a barber. I have practiced my trade in New Orleans; I came here in 1842. I have known cases in which change of climate in circumstances has made a difference in men's heads, after they came to be 22 or 23. Eyebrows can be made lighter by plucking the hair out with a pair of tweezers, and also as I have heard, by putting on some stuff. I have heard, too, that there is some stuff with which you can take the hair off the top of the forehead.

To Mr. FREEMAN—I never took a man's eyebrows or hair off, or saw it done. I think I could always tell whether a man is to have a heavy beard or not.

A. J. BURNS, M. D., said—Some people are unable to discern shades of colors, or one color from another. I have heard of persons' eyes growing lighter or darker, so that it is possible for a man to have a dark blue eye one year, and a light blue one four or five years afterwards. This would be from a deficiency in the secretion of colouring matter. A man's head, too, may be increased in size by the active exercise of the brain. Increased activity of the brain may or may not increase the size of the head. I have known bumps on a man's toe joints, caused by disease such as gout, or by the friction of boots, by the thickening of the outside skin, &c. Some may be removed. I think scars inflicted in early youth may diminish in size, or, in some cases, disappear altogether. Scars are visible on the complexions of some people more than on others. The sun would not tan a scar, as it would the rest of the face. Hair oil gives sandy hair a darker shade. It is possible to pluck out hair, and prevent its growing again by a preparation made to destroy the bulb or root. I don't know whether change of climate would affect the growth of hair.

Dr. AUGUSTUS BROOKS said—Cases are common in which persons cannot distinguish blue from red. I know of one instance of a change of color of the eyes. One person's eyes whom I know had light blue eyes when a child, they are now dark hazel. She is grown up and 22 years of age. I have known no such change in an adult, or a change from dark to light. A man appears to have a larger eye when great emaciation of the face has occurred from sickness. I think hair can be removed, but not without leaving a mark upon the skin. Scars may grow less, in time, especially at the ends, where they sometimes become indistinct. The continued use of tight boots might enlarge the toe joints, and, in some cases, the cause being removed, the enlargement would disappear. I think I have noticed that educated men have larger heads than the ignorant, and increased activity of brain sometimes

enlarges the head. Some men notice and recollect peculiarities of person or dress which others do not observe, or think of observing.

Mr. MACDONALD here proposed to produce evidence to show that witnesses had been brought from Cleveland to testify that the prisoner was an Englishman or American.

His LORDSHIP said he could not allow such evidence to be received. He would take evidence as to statements the prisoner had made, but not as to what has been said by witnesses in his behalf.

Mr. HARRISON asked whether, if the prisoner had been in gaol at any place, he could prove this by the gaoler, and show whether he had called himself by a different name.

His LORDSHIP said certainly.

This closed the case for the prosecution, at twenty minutes to five o'clock.

THE DEFENCE.

Mr. FREEMAN stated that, owing to the absence of some of the witnesses, he could not adopt a connected line of defence.

Some conversation took place about the admissibility of the evidence of witnesses who might have been in court during the trial, after which

Capt. LEWIS deposed.—I am a sailor, living at Cleveland. I am the captain of a propeller. I know the prisoner in the dock. I became acquainted with him in August or September 1852. I was first mate on the "Powhattan." Prisoner was then a steward, and continued on board until the 18th of December, when she went ashore near Ashtabula. He was then known as Robert McHenry. I have not the slightest doubt that the prisoner is the Robert McHenry who sailed on the "Powhattan." I did not again see the prisoner until he was arrested. On the "Powhattan" he used to be a quiet, sober man. He used to swear a little, but, barring that, I considered him a steady moral man. His hair is now just the same color as it used to be; he always wore it brushed up off his forehead. I took no particular notice of his eyebrows, but I think they look much the same now as then. I understood him to say he was a Scotchman.

To Mr. MACDONALD—I have not been inside the Court since the Deputy Sheriff told me the witnesses for the defence were to remain outside. I recollect some cooping being done on board the "Powhattan, and I think I have seen the prisoner putting old hoops on barrels, if you call that cooping. I came here at the request of Mr. Jones, of Cleveland. Prisoner was generally called Bob or Rob, and he was called McHenry not Henry. I saw him write and I think he signed his name "Robert J. McHenry." He spent his spare hours generally in writing or reading. When prisoner was arrested I went to see the ship's book, to make myself certain, and I saw the name Robert J. McHenry. His face is whiter

men notice and reason or dress which I think of observing. I proposed to produce witnesses had been to testify that the man or American. I would not allow such a prisoner had made, as said by witnesses

her, if the prisoner see, he could prove whether he had a name. I saw the prosecution, at the dock.

EVIDENCE.

owing to the absence, he could not see.

place about the admission of witnesses who were during the trial,

I am a sailor, living on board a propeller in the dock. I began in August or September on the "Powhatan" as a steward, and on the 18th of December near Ashtabula I met Robert McHenry. I saw that the prisoner had sailed on the "Powhatan" as a prisoner.

On the "Powhatan," a sober man. He was wearing that, I consider a common man. His hair is black and used to be; he had a scar on his forehead. I saw that of his eyebrows, and the same now as I saw he was a

He has not been inside the jail. The Sheriff told me that he would remain in the jail, cooperating being a cooper, and I think that the old hoops on the coopering. I came from Cleveland, and I had led Bob or Robert, not Henry. I signed his name in his spare hours reading. When I went to see the ship's name, and I saw the man's face is whiter

than it was then, but that is the only point of difference I see. I never saw him intoxicated. I have heard him hum or him while at his work. I never saw him dance. He had no musical instruments. When we were wrecked the vessel was got off. I don't recollect noticing any other scar than the one on the chin. Captain Turnbull was then my superior officer. I rather think I should know the prisoner's hand writing. I should judge this letter produced, written to the Sons of Temperance, California) to be his writing. Perhaps the writing is a little better now, but the general character is the character of his hand. Captain Turnbull told me that in February (or thereabouts) of 1854 he had received a letter from this McHenry. He said, "Do you remember Robert the cook?" I said "yes." He proceeded, "Do you remember his talking about going to California?" I said "yes." Said he, "I have got a letter from him, and he's there." He then told me some particulars of what the letter contained; it said McHenry was about 100 miles in the interior working in a saw mill at \$100 a month. I did not think of the matter from that time until the prisoner was arrested in Cleveland. Then Captain Turnbull spoke to me, but neither he nor any body else spoke to me or reminded me about the date. I am sure it was in 1854, but I am not positive it was in February. There was snow on the ground. Previous to the arrest Captain Turnbull only told me of his having received one letter only.

CORNELIUS McNEIL said. I have lived in Dunnville for 6 years, I knew Wm. Townsend well, having become acquainted with him at Cayuga Station in the year 1853. I drove the stage thence to Dunnville. My father was the proprietor of the stage. I knew him well. The prisoner is not the Townsend I knew. He had a low forehead, dark eye brows; sunken eyes; I don't know of what color; dark hair. He never looked a person in the eyes, but had a downcast look. He wore his hat down over his eyes. I saw the prisoner at Cayuga Assizes, and was of the same opinion then as now.

To Mr. MACDONALD—I don't know that my father has any bets as to the result of this trial. I have heard him offer to bet, but I don't think he has any money upon it. He offered to bet this was not Townsend. I did not leave court when I heard witnesses were not to be admitted, but I only came up today.

To Mr. CURRIE—I offered to bet because I was sure the prisoner was not Townsend.

BERNARD CARROLL said—I knew William Townsend well. I became acquainted with him in Dunnville, two years before the murder of Nelles. He worked in a cooper's shop. I recollect his boarding at Cameron's. We played cards together once. He was a smart active dancing young man, rather small. He had dark hair, which he wore long, cut round even. I think his eyes were dark, but I won't swear positively. He had black heavy eyebrows. I have seen the prisoner at Cleve-

land, after his arrest. I was up there on a vessel, and, hearing Townsend was taken, as I knew him, I went up to the gaol. This was on a Sunday, and I was told I could not see him then, so I went away. During the week Mr. Nelles came to fetch me to see the prisoner. They sent me in to find Townsend. I could not pick him out.

To Mr. HARRISON—I expect to pay my own expenses, and I have no bets on the result.

EZRA SMITH said. Townsend had a low forehead and dark eyes. I hardly think Townsend could have had a scar without my knowing it. I observed none upon him. He used to come into my house just like one of my own family. My son married one of the Townsend girls, and has five children. But I think that if Townsend were caught he ought to be punished, and I have no desire to screen him. I saw prisoner at Cayuga, a fortnight before the trial, and could see no resemblance between him and Townsend. I never knew Townsend get into any particular scrapes. He used to sing negro songs. Townsend's feet were big, with high joints. This man's feet are small and smooth. I am sure this man is not Townsend. The joints in Townsend's feet were naturally large, so much so that people used to laugh at them.

To Mr. MACDONALD.—Mr. Flanders subpoenaed me, but I pay my own expenses. This man has not a single feature like Townsend's. He looks no more like Townsend than you do. Townsend may have had scars, but I never saw them.

ALFRED CAWFIELD deposed—I have the recollection of William Townsend. I have no doubt I should know him if I were to see him. I saw the prisoner at Cayuga at the trial. I did not know him. I have not the least belief that he is the man. I see nothing in him that looks like Townsend. Townsend combed his hair down, and his forehead was lower than this man's, I have sat in the school-house and looked at Townsend's eyes often. I am sure they were black. I have heard him called "blackeyes." This man's eyes are larger and lighter. Townsend's eye had an expression which I did not like. I did not like the man, any way, for he did not keep good company. I never heard of a scar being on his face until I heard the description given after Nelles' murder.

To Mr. MACDONALD—I believe there was a description of Townsend, mentioning a scar on the forehead.

W. E. BADGELEY testified—I live near Canboro station. I have lived there since May, 1852. I knew Townsend. I saw him probably a hundred times. I should know him again if I were to see him again. I was at the Cayuga trial. I was not a witness there, but I saw the prisoner in the dock. He is not William Townsend. I never heard of a second William Townsend. I saw no scars on his face. He always wore a downcast look.

To Mr. HARRISON—I only conversed with Townsend once, and that for a very short time, about an order for lumber. I think he

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was a little shorter than this man. I saw no mark on his face. He generally parted his hair on one side, and brushed it over his forehead. His hair was dark brown. This man's had a shade of auburn last fall. I can't see it now by candle light. I always thought his eyes were black or dark brown.

L. G. WETHERBY deposed.—I have resided at Dunnville for twenty-two years. I have been the Reeve of the place. I knew Wm. Townsend. His countenance was quite familiar to me before the summer of 1854, when I learned his name. A robbery had been committed at that time, and during the investigation I asked his name, because I looked upon him with some suspicion. I saw him repeatedly from that time up to October. The morning after the murder of Nelles I was returning by the cars from Paris—I was a director of the road—when I noticed parties come on board at Canfield. I did not notice their countenances, but one of them I have no doubt was Townsend. I know of no scars on the face. I first saw the prisoner in Cayuga gaol. I then said he was not Townsend, and I am of the same opinion still. I was not examined at Cayuga. I see no resemblance between the prisoner and Townsend. I think there is a general opinion against Townsend in these counties.

To Mr. HARRISON—Mr. Buck is more positive now concerning the prisoner's identity than he was when he returned from Cleveland. Townsend wore his hair long. He usually wore his shirt-collar turned down. I never observed a scar under his jaw.

EDWARD WIGG deposed.—I lived in Cayuga. I first saw Townsend at Beamsville in 1851, next at Cayuga station, in February, 1854. I saw him at Flanders' tavern about nine days before the murder was committed. I knew him well, and, when the prisoner was arrested I certainly expected to see Townsend again. I at least thought they would have somebody more like him. The prisoner is not he. Townsend always held his head down. He talked through his nose. He ran his words together, muttering so that at times you could hardly understand him. He had dark eyes—very dark. He had black hair. I have seen him play the fiddle.

To Mr. HARRISON—I did not give evidence at Cayuga. I was subpoenaed by Mr. James Flanders—brother to Robert.

Mr. HARRISON—Oh, that's it, is it?

Mr. FREEMAN—My Lord, I must state, lest the minds of the jury be influenced, that we first made application to the Crown to bring our witnesses. This was refused, or at least not answered. And, now that the charity of the people is appealed to, we are said to be influencing witnesses, or colluding with the prisoner.

Mr. HARRISON—I beg to contradict Mr. Freeman. No application was made to the Crown to summon witnesses.

Mr. FREEMAN—I sent the memorial myself.

The Court then, at nine o'clock, adjourned

His Lordship ascended the bench at nine o'clock precisely, and, the court being opened, the first witness examined was

HUBERT SUTTON of Brantford, who said. I knew Wm. Townsend, having become acquainted with him at Robert Flanders' at Cayuga Station. I had a contract for plastering the station house there in the spring of 1854, and boarded at Flanders' for six or seven weeks, while Townsend also was there, in and out constantly. He was there almost every evening dancing, and at that time I knew of no crime imputed to him. I was also at Cayuga with him one night, a few days before the murder, and allowed him to ride up thence to the Station with me in a buggy. I never observed any scars upon his face. I often saw him combing his hair, of which he seemed to think a good deal. He wore it long and turned it under. I have seen him washing, so that I have seen his whole face. I have a recollection of his features. He had no beard. He used to play the violin very frequently. I knew him as well as I knew any one at Cayuga Station. I went to his step-father's there, to ask if they took in boarders. When the prisoner was brought to Cayuga from Cleveland I and several others went from Brantford to see him. I examined him carefully. I expected to find Wm. Townsend, but did not. I am positive the prisoner is not Townsend. I had expected to see a change in him because Mr. Tupper had previously told me his eye-brows were pulled out &c. Prisoner is taller than Townsend, for Townsend appeared very little if any taller than I.

To Mr. MACDONALD.—I did not tell Mr. Tupper the only way I could recognise Townsend was by his eyes. I have told Mr. Tupper I would not swear whether Townsend's eyes were black or brown, but I am pretty sure they were one or the other. When I got back to Brantford I made public my reasons for thinking this man was not Townsend. I live next to the high bailiff of Brant, but I can't tell the color of his eyes.

JOHN ROBINSON, of Port Maitland deposed. I knew Wm. Townsend when he was on board the "Montreal," in Her Majesty's service, in the spring of 1846. He was a second class boy. He remained on board till the summer of 1848. During all this time, with the exception of one week, we ate at the same table together. We always called him Crockett. Learned in 1847 that he was called Townsend. For, one day, when a couple of us were on shore, we met an old man named Townsend, who said his son was on board. I said no. But, when we had left the old gentleman, my companion asked why I told that lie. How, I asked, and he told me that Crockett's name was really Townsend. Shortly after, when we had returned on board, the old man came on too. He recognized and was recognized by his son. We asked if that were really his son, because we thought he was an orphan. He said yes, so

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his mother said In 1848 the boy deserted and I was sent in pursuit. When a boy is taken into the service he is described in the books. He is stripped naked and all the marks on his body noted. This boy was entered in the ship's books by his proper name, "Wm. Townsend." He always spoke through his nose. He had very little education. He could read a letter, but you could never get him to read. He was fond of singing nigger songs and of dressing himself like an Indian, and, when at Penetanguishine, we helped to dress him up, and you could hardly tell him from an Indian. His hair was dark. I should call it black. His eyes were dark too, what is called in the service hazel. I saw it so taken down in the description. His eyebrows were dark, meeting over the nose. I saw him after 1848, every year until 1854. He came back to the service in the summer of 1849, to the "Mohawk." He remained three months and ran away, the second time, in Cleveland. He had no marks upon him then that I know. I afterwards, in the fall of 1849 saw him near Port Maitland. From this time to the fall of '50 I did not see him. In 1854 I saw him frequently. I last saw him three weeks before the Nelles murder. I should know his looks and actions as well as I know my own. When I went to Cayuga, just before the trial, I expected to see Crockett or Townsend, or else a man so like him that I would hardly tell the The prisoner has no resemblance to Townsend that I can see—not, at least, to the Townsend that I knew. I never heard of but one Townsend. Up to the last I knew of him he had no scar. I think it was not possible that he could have had a great big scar like the prisoner's without my knowing it.

WILLIAM CAMERON testified—I live close by Dunnville. I lived in the place until about two years ago, and kept a tavern and a ball alley. I knew Higgins and Townsend, who boarded at my house in 1852. Townsend was at my house from 1st of June to August in that year, working in a cooper's shop and in mills. He used to take his meals at my house. I saw him last about eight or ten days before the murder of Nelles. I have a perfect recol- lection of the man. I went to the trial at Cayuga, believing that they had caught Town- send, and expecting to see him. I first saw the prisoner in the dock, at Cayuga, and I was at once convinced that he was not Townsend. I was called up by the prosecu- tion, but when I found the man was not Townsend they did not call me, and I was called by the defence. Townsend had dark hair, Indian-like, loose and straight. This man's hair is not like Townsend's. Townsend had rather a small black eye—his eyebrows almost meeting over the nose. His forehead was low, but this man has a high forehead. I never observed any scars on Townsend; it would have been strange if he had a scar like that on the prisoner's cheek and I not see it. Townsend had no beard—only a few hairs.

To Mr. MACDONALD—I see little difference between the prisoner's appearance now and

when he was at Cayuga. I should think Mr Higgins could have known Townsend as well as I. I did not hear at the time that Towns- end was hurt in the right foot. He boarded nowhere steadily. He has not settled for his board up to this day. A person he worked for told me he would pay me, but did not.

Mrs. MARTHA STEWART, of Cayuga, testified —My husband was on board the Government vessel the "Mohawk" in '48 and '49, as pur- sor's steward. I was on board too. We were there for two years and a half. Townsend was on board for almost all that time. He was up with us at Penetanguishine in 1848 I think the vessel was paid off in 1850, in the spring, but Townsend had deserted previously, at Cleveland—in the fall of 1849, I believe. I am sure he could not have had such scars as the prisoner has without my knowing it. I am confident of that. He had no scars. When the "Mohawk" was paid off, I went to live in Seneca Town- ship, near Cayuga and saw Townsend after— for the last time about two weeks before the murder of Nelles. I am certain I have a per- fect recollection of the man. Saw the prison- er in the cells at Cayuga gaol, went there to see Townsend, expecting the prisoner was he. But was quite surprised, because I could see in him no resemblance to Townsend whatever. Several other persons went with me to the cells. Townsend's hair was dark brown or black. His eyes were what I should call black, or dark hazel. His eye-brows were very heavy and met. He did not speak his words out cleverly.

To Mr. MACDONALD.—I came here on Fri- day, and have only been in court during the trial for a short time on Saturday night. I bear my own expenses here. Walked from Port Colborne to this place, which I should not have done if any body else was paying my expenses. I saw Townsend in 1853 at Dunnville. Went there often, and am sure I met him several times, I think in the fall of 1853

JOHN SIMES, of Dunnville, said.—I boarded at Mr. Cameron's while Townsend was board- ing there too, in the summer of 1852. I never saw Townsend previously but became ac- quainted with him then. I heard frequently that he was doing cooping. Townsend and Weaver and I slept in the same room. There were two beds, and Townsend, although he generally slept with Weaver, sometimes slept with me. Townsend had no scars about him that I noticed, but he had remarkably ugly feet with very big joints, in fact lumps when shewed through a fine boot. I have not seen the prisoner's foot.

Mr. FREEMAN.—Go and look at it.

WITNESS.—Those are not the feet Townsend used to have, at all events. If that's Bill Townsend he has got new feet on him. When I saw this man at Cayuga, I laughed at the idea of his being Townsend. Townsend had black hair, and dark eyes. I could not say whether or not they were jet black. They were small, sharp, restless and twinkling. He had a dark complexion. His forehead was low, because the hair grew down upon it.

To Mr. MACDONALD.—Townsend was a very inattentive workman. I have not bet upon this trial, nor offered to do so. I knew Mr. Higgins. His eyes were lighter than Townsend's were.

PETER SCRHAM deposed.—I reside in Cayuga township. I know the Townsend family. I became acquainted with William Townsend fifteen years since. I have seen him cooping a little, and often at work in a saw mill. I have seen him a thousand times, and knew him as well as my own brother. The last time I saw him he was at a paring bee of mine, about nine or ten days before the murder of Nelles. I went to Cayuga gaol, expecting to see Townsend. Prisoner's voice is not like Townsend's. I think I could pick Townsend out from a crowd by his voice alone. I have a perfect recollection of Townsend, and prisoner is not the man. Townsend had a low forehead, black hair, heavy eyebrows running quite across, high cheek bones, short nose, thin lips, a small black eye—or what I should call black—a short chin, his mouth as it were sunken in, dark complexion, flat face. He had a hard looking foot with queer knuckle joints, quite prominent, which you might see through the boot. He always wore moccasins or a fine boot. I could know the prisoner was not Townsend by the feet alone. I never saw any scar on Townsend. I don't think it possible he could have had such scars as the prisoner without my knowing it.

To Mr. HARRISON—Just as the prisoner turns round, there is a little of the cheek bone that looks like Townsend. His cheeks are sunken, too, rather like Townsend's.—Prisoner's face is long—Townsend's was short. I did not tell Mr. Tupper I had any doubt about the color of Townsend's eyes. Townsend had a kind of a swing when he walked, not unlike what the prisoner had in Cayuga gaol, with the fetters on.

To Mr. FREEMAN—Mr. Tupper seemed to wish me to believe that the prisoner was Townsend, and that his eyes had changed their color.

SAM. CARNES deposed—I live in Dunnyville. I knew Wm. Townsend well. I knew him to work at carpentering. He was fond of playing tricks. I have a recollection of him which satisfies me that I should know him. He had dark hair, a low forehead, small dark eyes, which, I should say, were weak, dark eyebrows, not very heavy. His look was always downcast. The prisoner is not Townsend.

To Mr. HARRISON—I only saw Townsend once with his cap off. But I could then see the full extent of the forehead. His hair was combed up a little. The forehead was broad above and narrow below. He stooped his head and was square across his shoulders, which stooped a little too.

Mrs. LUCINDA KHELMAN, of Thorold, testified. I formerly lived at Cayuga station, and knew the Townsend family. I knew Wm. Townsend ever since he was a small boy, and until Mr. Nelles was shot. I saw him frequently, and I think I should still know him. I saw the prisoner last fall at this place, but did not

recognize him as Townsend. I am confident he is not Townsend.

To Mr. HARRISON—I have never received a letter from the prisoner signed R. J. McHenry. Townsend had dark brown hair, brushed up from the forehead, short in front, long behind, and curled under. He had a narrow forehead, broader below than above. I could generally see the forehead from the manner in which he dressed the hair. His eyebrows joined, as if they were one eyebrow. Townsend had full fleshy cheeks, ordinary lips not thin ones, an ordinary chin, not a sharp one. Nothing was remarkable about his cheekbones. I am a cousin of Mr. Robert Flanders.

Mr. TURNER said—I lived in Canfield in '52, '53, and '54. I know the Townsend family, and William Townsend. He had black or dark brown hair, darker than the prisoner's. He had dark eyes, what I call black. His eyebrows were dark and heavy, and met together. He wore his hair long. He combed it up from the forehead, which was low. I am confident this is not the man. I was often at parties with him. He used to play on the violin and on the tambourine. I knew of no scars on him. He had no such scar as that on the cheek of the prisoner. I am positive of this. He used to wear his shirt collar down. He had a downcast look. He had large toe joints, which could be easily seen through the boots.

To Mr. MACDONALD—In 1854 he was never at any steady employment, but I saw him often. He had thin lips, square chin, cheek bones stuck up. The cheeks themselves were sunken. His hair was long and straight down behind, but I have seen it curled, and in fact he almost always tried to curl it. His hair was long in front, but not so long as it was behind. The forehead was low, wider below than above. His height was about 5 feet 6 inches. His shoulders stooped. He was middling stout. I don't know much about his ears. His eyes were dark or black. Prisoner's eyes are, I should think, a dark blue.

To Mr. CURRIE—I went to Canfield in 1852, and saw Townsend a number of times during that year. I saw him at his mother's.

To Mr. MACDONALD—he had a small nose, and I think he did not shave.

WILLIAM HARVEY, a farmer of North Cayuga testified. I have known the Townsend family for about 8 years. I knew Wm. Townsend. I had been in his company a great many times. In four years there was hardly a week in which I did not see him, except when he would be absent for three weeks or so together. This was from the fall of 1850 to the fall of 1854. I don't recollect his ever being away more than a month at any one time. I saw him last about a fortnight before the murder of Nelles. He was about 5 feet 7 inches tall. He had dark brown hair, not quite black. His eyes I should call black, although they were probably dark hazel. He had dark heavy eyebrows. His forehead was tolerably wide.—His eyes were sunken and his cheeks rather hollow. His chin hooked out. He had hard-

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ly any beard or whiskers, and looked as if he never would have any. He was about 22 years of age when I last saw him. He had lumps on his big toe joints, quite extraordinary ones. The prisoner, whom I went to see in Cayuga, gaol is not at all like him. He is not the Wm. Townsend I knew. I have not seen the prisoner with his feet naked, but I have with his shoes on, and that is quite sufficient. I saw no scars on Townsend, and there was no such scar on Bill Townsend when he went away as there is on prisoner.

To Mr. MACDONALD—I know a woman called Nancy Lemon or Nancy Crumps. I never told her that there was no longer any Bill Townsend—that he had changed his name and was called McHenry.

THOMAS SMITH, of Canboro, son of Ezra Smith, testified.—I have known the Townsend family since I was big enough to know any one. I used to skate and bathe with William Townsend. He had dark eyes and hair, low forehead, large toe joints, a downcast look. He had a sailor like walk. I never saw any scars on him.

To Mr. MACDONALD.—The scars might have been there without my seeing them. I am not connected with him. His sister and mine married brothers. He threw his hair up, displaying all the forehead he had. I have seen his hair parted, but can't say on which side. His height I took to be 5 feet 6 inches. Sometimes he would absent himself from home for a couple of months. I saw him in Dunnville in the summer of 1852, but he was not there all that year.

HIRAM HOLIDAY, of Dunnville, a carpenter, deposed.—I had a job when the Dunnville Court House was being built, in 1852. I then saw William Townsend daily. I have a distinct recollection of his countenance. I first saw prisoner on the Monday before the Assizes. I don't think I can be mistaken in saying he is not the Townsend I used to know.

To Mr. HARRISON.—I don't recollect anything very remarkable about Townsend's lips, chin, cheek bones, nose or ears. His cheeks were rather thin, but I do not think they were hollow. He had no scars on his face that I know of.

THOMAS REYNOLDS, who lives between Cayuga village and station, deposed.—I knew Townsend for between 13 and 14 years, and should know him again if I were to see him. He had dark hair, a dark brown eye, a low forehead. He had no scars that I know of, but he had uncommonly large lumps on his toe joints. I am certain the prisoner is not Wm. Townsend.

To Mr. HARRISON.—He had a long nose, thin, small and sharp. I can't say how far the hair came down on his forehead. I can't measure an inch on a man's face.

WALTER MAITLAND, of Canboro, deposed. I am a farmer. I know the Townsend family, and Bill Townsend too. I knew him well, and should know him again were I to see him. I saw the prisoner at Cayuga, before he was tried. I went, expecting to see him, but found I was mistaken. I have no desire to

screen Townsend I am a Scotchman, coming from near Glasgow. It is 16 years since I left, but I have been back since. Prisoner told me where he was from.

Mr. FREEMAN said he proposed to ask witness whether the prisoner had not described the city of Glasgow and the neighborhood thoroughly.

Mr. MACDONALD objected, but the Court disallowed the objection.

WITNESS then continued.—I saw a letter in the Hamilton Spectator, saying that he was from near Glasgow. When I saw him, he described the village he was from, and the farms around it. He gave such a description that I was satisfied he must have been there. He described the village of Springburn, two miles from the city. He told me the names of the farmers who occupied the farms there about 18 or 20 years ago. I was acquainted with the parties, and knew that they had occupied these farms. One party that he mentioned had been dead this 10 or 12 years. When describing the locality, he spoke of a place where people used to water horses along the road. He described the place particularly and correctly. He said there was, as there really was, a stone trough cut out to receive the water. He mentioned the names of several farmers, and of one particularly, who had returned from the Indies and bought a farm. His name was Hunter, and the prisoner gave it correctly. I knew the fact well, but not the individual. I asked him if he knew anything occurring on the railway which passed the village where he was from. He asked if I referred to the murder of Green? I did, and he told me about it. He also told me about the execution of Mrs. Jaffrey in Glasgow, some twenty years since. I was present at the execution, and knew the correctness of the details.

To Mr. MACDONALD.—When I asked what part of Scotland he came from, he said Springburn. The murder of Green and the history of Mr. Hunter were familiarly known in the neighborhood, but I don't think he could have made up his story from any information gathered from a person talking, or from a book. I can't well describe Townsend's features. His chin was sharper than the prisoner's; his cheek bones were prominent; I think his cheeks were sunken; his face was of ordinary size; his mouth was sunken; his lips were thin. I can't tell what sort of forehead he had. I am certain he had black hair, which he wore long and straight. His shoulders were, I think, square. His height might be five feet seven or eight inches. I can't tell the color of his eyes or the shape of his ears.

RICHARD CARNES said—I live in Dunnville. I knew Wm. Townsend well. He boarded in Dunnville just opposite the place where I worked. There was that about the man which attracted attention. He was fond of singing negro songs, and of "cutting" up tricks. I have no doubt I should know him if I were to see him. I saw the prisoner

for the first time yesterday morning. There were no scars on Townsend's face. I wont swear that I ever saw him with his hat off, I think I have, I never saw the scratch which some people say was on his eye. The prisoner is not Townsend, nor anything like him. He is perhaps of nearly the same size. Townsend's hair was black.

To Mr. MACDONALD.—Townsend always walked with a stoop, having his hands in his pockets.

WM. REED deposed—I reside at Canfield where I am a carpenter and joiner. I knew Wm. Townsend, whom I first learned to know in the spring of 1853. I have heard him speak; have spoken to him constantly. The last time I saw him was probably nearly a fortnight before the murder of Nelles. I cant recognize Wm. Townsend in the prisoner. He is not Wm. Townsend. There is a vast difference between the two. He is the last man that would remind me of Wm. Townsend; there is not one expression about the face similar to his. Townsend's complexion was sallow. His hair was dark brown or black. He had small eyes, which I think were black.

To Mr. HARRISON—I have had no conversation to day with any one about Townsend's features. The hair grew low down on his forehead. He combed his hair across it, parting it at the side. He always wore a down cast look. He had a straight thin nose. His cheek bones were prominent, not at all resembling the prisoner's. His ears stood out from the head, different altogether from the prisoners. He brought his hair brushed down at back and turned in behind, but his ears stuck out.

GEORGE FLANDERS said—I live at Cayuga station. I know Wm. Townsend. I knew him when he was a child, but I came to know him better in 1853, when he came to live at my house. He was at mine almost every day. I left in December, 1853, and went to Brantford. When my son came to keep the place I left. He went away and came back several times during these months. I have not seen Townsend since that. I should know him again were I to see him, but the prisoner does not at all resemble him.

To Mr. HARRISON—I didn't give evidence at Cayuga. The James Flanders who did and Robert Flanders are sons of mine. My sons were not intimate with Townsend that I knew of. They were about the house with him. Townsend had dark eyes and hair, what I should call black. His eyebrows were heavy and black, darker than his hair. He had very large ears, queerly lopping over, and almost standing out from the head. I noticed no scars on his face, but I can't say how he parted his hair.

SAMUEL MACDONALD, of North Cayuga, said. I know Wm. Townsend and saw him in the Spring of 1853 at my own house. Whither he came with John Dill and remained all night. He was backwards and forwards frequently, after that, at my place. I saw him, too, at Mr. Dewar's, his stepfather's. I remember his countenance very well, and I

have no doubt I should know him if I was to see him. I saw the prisoner for the first time after he came from Cleveland. I said at once he was not the man. I never saw any marks on Townsend's face.

To Mr. MACDONALD. I know Mr. Jas. Brown, of this place. I knew him when he was a small boy, and had not seen him for some 14 years until a day or two ago. I was taken into his store and did not know him from the clerk. I never said I knew the man to be Townsend.

Mrs ELIZABETH ANN GRANT, of Gainsboro', said. I came to this country in 1852; knew Wm. Townsend, having met him at Ben Diffin's tavern in Pelham. This was in the winter of 1852. He was employed in coopering. The prisoner does not look like the Wm. Townsend who boarded at Diffin's. Townsend was a dark man, with dark brown hair and dark eyes.

To Mr. HARRISON—As far as I can recollect the eyes were dark blue. The eyebrows were heavy and dark, but not black. His hair was darker than the prisoner's. Prisoner's eyes I should call dark blue, but not so dark as Townsend's. Townsend's eyebrows grew together over his nose, but not so heavy between the eyes as over them. I did not leave Diffin's until after Richards was shot. I saw Townsend there the day after the time Nelles was shot. It was in the evening just towards dusk. He came to tea, and I did not see him until he came to the table. I think there was one other with him, but don't know who. I did not see him go away, nor had I seen him conversing with any of the family. Mr. Diffin was absent when he first came. I did not see him afterwards, but had often seen him before. I knew of no scars on his face, but they might have been there without my noticing them.

JAMES McLAUGHLIN deposed—I am a carpenter and joiner at St. Catharines, where I lived three years. Previously I lived at Canboro. There I was acquainted with the Townsend family. I knew Wm. Townsend as well as any other neighbor boy, and I saw him frequently. I left for the States in '49 and returned in '53, between which dates I did not see him. I saw him in 1854, and knew him at once, even after this lapse of five years. Then he worked with me at James B. Smith's saw mill where he was a fireman. He was at work there before I was. I worked there seven or eight weeks, and he was there all the time. I don't think I saw him after I left the mill, but I think I should know him if I were to see him again. He had a small dark eye, high cheek bones. There was a small scar on the left cheek, running from the cheek down to the jaw, dark hair, no whiskers, a little beard which appeared to be dark. There was a scar on the great toe joint of the right foot. I first saw the prisoner a week ago, and made up my mind as soon as I saw the man that he was not Townsend. The scar on his cheek does not resemble the one I saw on Townsend.

JAMES PATTERSON said. I have lived at St.

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Catharines for four years. I became acquaint- ed with the Townsend family when they lived near Port Dalhousie, some 20 years ago. I remember their moving to Canfield, and I, a short time afterwards, in 1846, moved up to Grimsby township, some thirteen or fourteen miles from there. Townsend lived with me in the spring of 1851, being an apprentice to learn the coopering business. He was between three and four months with me. During the time Townsend worked with me no man named Lee worked with me. Richard Lee never at any time worked for me. I have heard of him by hearsay and may have seen him once or twice. (Richard Lee, now in the Penitentiary, had sworn that he had worked with Townsend.) I don't recollect where Townsend went when he left me. I went to live at St. Catharines in December 1853. I saw Townsend there. He generally called at my house when he came to the place. I saw him the next day after Mr. Nelles was murdered, in my house, at about noon. I saw him the next day too, when he drove up to the gate, stepped out of his buggy, came into my house, stayed a few moments and went away. I saw him too on Saturday morning, when he again came into my house. This is not the Wm. Townsend I knew.

To Mr. MACDONALD—I won't say that Town- send had no scars on his face.

WILLIAM MUIR, of St. Catharines, said—I knew Townsend, we worked together at cooper- ing at Mr. Paterson's for a month or two, boarding in his house. I saw him last a short time—a few days before Nelles was murdered. I should know him again. Prisoner is not the man.

To Mr. HARRISON—I don't think Townsend could have had such scars as those on the prisoner without my knowing it.

GEORGE CRUMB, of St. Catharines, had come to know Townsend when he (Crumb) was hauling lumber near Cayuga station. I saw him last a short time before the murder. I think I should know him now if I were to see him. Prisoner is not the man.

To Mr. MACDONALD—I knew him for two or three years, but I don't think Townsend had such a scar on the cheek as the prisoner.

CAPT. TURNBULL deposed—I live in Clevel- and. Saw the prisoner first, more or less, during the whole season of 1852. The season commences in April and ends in December. I saw him towards the first of the season. He was a cook or steward on a vessel. In the early part of October and from that to the middle of December he was on board the "Powhatan," under me. I have no doubt I saw him on various vessels in the season before that. I think I saw him on the St. Lawrence, commanded by Captain Land. I next saw him a year ago, in Cleveland, after his arrest. I recognised his voice there before I saw him. He was then in one of the cells. When I saw him I recognised him at once. There was a scar on his left cheek when I knew him on the lake, and no other that I was aware of. I understood he was from Scotland. He left me to go to Califor-

nia. It was in the latter part of 1853 or beginning of 1854 that I received a letter from the prisoner, from California. In 1853 I had been on the propeller Ohio, and we laid her up in November. I had, about that time, a little disagreement with my brother-in-law about paying some instalments on property, and wrote to a Captain Coyne, in California, about it. When I received the letter from McHenry, I at first thought it was from Captain Coyne; that's why I remember it so distinctly. The hand-writing was that of McHenry. I don't remember the date of the letter, nor the postmark. My impression was that the letter was dated in September or October. I showed the letter to a good many. I showed it to Captain Lewis, a few days after I received it. I thought I knew McHenry's hand-writing at the time. He went by the name of McHenry when in my employ- ment. In the letter, he said he was working for the California Lumbering Company, at Megg's mill, or for Megg and brothers—that he had \$100 per month, and that he had been offered a situation as cook in a vessel at \$100 per month, which he would have been glad to have accepted, had I been there to go as master in her. The prisoner's habits were good while in my employ. There was nothing peculiar about them. He was writing most of his leisure time. He never tried to fiddle, and I never saw him dance or attempt to act or sing like a negro. I think when I have heard him sing, he was trying to hum from a sort of Metho- dist hymn book he had. I never saw him shave, but my impression is that he did shave. I first saw an account of his being arrested in the Cleveland "Plaindealer," and my name being mentioned, I came down to see him. I went to the gaol, and afterwards went before the U. S. Commissionere.

To Mr. MACDONALD—I do not think I stated before the U. S. Commissionere the names of the vessels I saw McHenry upon. Before I gave my evidence, Mr. Jones stated that I need not be very particular, as it was only an affair got up by lies. I never knew the prisoner by any other name than McHenry, and have no reason to believe he is William Townsend. I did not state to Mr. Sherwood, within the last 24 hours, that, if I were not paid my expenses here, I would "let out upon him."

To HIS LORDSHIP. Mr. Jones came to me and asked if I would come to give evidence. I said I did not know if I could raise the money. He said they would get my expen- ses paid some how. That is all about it.

To Mr. MACDONALD. I'll prove you said so, to your very teeth. You said "if they don't give me the amount they promised me, I'll let out upon him."

WITNESS. I don't think I said so, or used such an expression.

Mr. FREEMAN. Bring Mr. Sherwood up at once.

Mr. MACDONALD. Why do you not speak up at once, and say no. The prisoner never told me in confidence anything that would

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criminate him in this suit. I am sure of that. I never told any one that this man had told me matters which, rather than disclose, I would tear my heart-strings out.

Mr. MACDONALD—The man is in Court who told me so, but I have promised not to bring him forward.

WITNESS.—I wish you would. I only received one letter from the prisoner while in California, and I did not answer it.

Mr. MACDONALD—I would not call that a correspondence.

WITNESS.—I read the letter last in January 1857. I read it several times and to several different people, soon after I received it. I could not find it when prisoner was arrested in Cleveland a short time after that. I had been burning my old letters when I got a new writing desk in January '57, and I read most of them before burning them. I thought I saved the letter from McHenry after reading it, but my wife said I had burned it. I am just as confident that I place the date of the letter right as that I am standing here.

Mr. MACDONALD.—Or that you did not tell Mr. Sherwood you'd let out on him.

Mr. SHERWOOD—(who was sitting in court.)—He did not say anything of that kind to me or in my presence.

Mr. MACDONALD—Did he not, and in your presence?

Mr. SHERWOOD—No, sir, certainly not, and I never said so.

Mr. FREEMAN—There!

Several persons in court here began to whistle and catcall.

His Lordship called "silence" and Mr. Macdonald said "those are the companions of Townsend who are whistling—the thieves of Canada and the States."

Order being restored, witness continued. The handwriting of the letter produced (that written from Cayuga gaol to California) is in a handwriting which may resemble the prisoner's, as I knew it, but I would not swear to it. I don't recollect a vessel called the "H. B. Wilson," there may have been one, nor do I recollect ever stating the prisoner was once on it. I can see no difference in the prisoner now and when I knew him. He wore his hair just the same then as now. His face is perhaps thinner now. I don't recollect hearing the prisoner swear when on board my vessel.

In reference to the statement of Mr. Sherwood, Mr. Macdonald here stated that if he had done the witness injustice he was sorry for it. He really wished that people would not tell him what was not true.

Mr. FREEMAN stated, in answer to a question from the Judge, that there were probably 50 or 60 witnesses more to be examined.

The court then adjourned at 9.30. His Lordship saying he feared that he would have to sit until the end of the week.

At nine o'clock, as usual, his Lordship ascended the bench, and the first witness examined was

WILLIAM WINNINGS, who deposed. I live near Cayuga. I first became acquainted with Townsend a dozen years ago. I knew him working at the mill in which Mr. Haw had an interest. I saw him in 1849 and 1852 and saw him for the last time a week or two before the murder of Nelles. This was at a sale near the mill belonging to Messrs. Haw and Smith. I saw the prisoner at Cayuga, in the gaol, and expected to see either Townsend or some one looking very much like him. This prisoner is not Townsend. I never saw this man before I saw him at Cayuga. I noticed no marks on Townsend's face. I have a good recollection of Townsend as he was then. He had a low forehead, a dark complexion, black hair and very dark eyebrows, heavy and reaching quite across his forehead, and small eyes. I never noticed his feet particularly. In all the above peculiarities the prisoner differs from Townsend, and, indeed, there is no expression in the prisoner's face resembling Townsend's.

To Mr. MACDONALD—He wore his hair long, and brushed it off his forehead backwards. It was straight, but he tried to curl it under. I don't recollect his oiling his hair. He had a middling broad forehead, a pretty straight nose of middling length. I have not been "posted up" about the nose lately. I never saw any scars on Townsend's face. I think I should have seen them had they been there. I don't recollect any thing peculiar about his ears. I am not positive as concerns the dates I have mentioned.

THOMAS WALT deposed—I have lived at Canfield station since 1844. I know the Townsend family, and also know William Townsend. I saw him last, a week or two before the murder of Nelles. This was at the station. I was with him times almost without number. Should know him well were I to see him again now. The prisoner is not the man, but very unlike him in features. He has no resemblance to him whatever in the face. Townsend had a very low forehead, and a very flat head, that is, low from the ears to the top of the head. His hair was black, darker than the prisoner's. His eyes were small and dark—considerably sunken. He had a wide broad mouth, and that was considerably sunken, too. His brows were very very heavy and black, nearly coming across the nose; his look was downcast, and you could seldom catch his eye; his feet were large, and the big toe-joints were very large, though they had come from wearing tight boots, and I have heard this at different times.

To Mr. HARRISON—I gave my evidence at Cayuga; do not remember saying there that I knew him for 18 years.

(Mr. HARRISON—Then your'e not reported correctly.)

, April 1st, 1858.

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I don't recollect there being any reser-
blance between Townsend and his father;
never liked Townsend, although I had no
particular reason for dislike; have never
heard of lumps on his feet being reduced by
wearing loose boots; Townsend's forehead
was broad but low; his chin was of consider-
able length; don't recollect the number and
size of his teeth.

Mrs. WALTERS.—To Mr. HARRISON—I have
not been in Court since the trial commenced,
except an hour on Saturday

Mr. HARRISON—Constable Boyne is prepared
to swear that she was in the gallery on
Monday.

To Mr. FREEMAN—I was not. I came to
Cayuga in 1836, and have lived there ever
since. William Townsend often came to my
store. I saw him about ten days before the
murder of Nelles. He was in company with
two others, one of whom was David Weaver.
Recollect the expression of his face, and could
pick him him out of this whole court, if he
were here. Saw the prisoner in Cayuga.
Was going, with several others, to give evi-
dence in his behalf, but we were told the
counsel were satisfied with the evidence al-
ready given. Townsend was a small, dark
man—womanish looking, with a low brow,
like that young man (pointing to one in
court). He had nearly black hair, a very
low forehead, very bushy eyebrows, meeting
over the nose. His eyes were small, and
dark brown, rather dull than bright—rather
sunken. He had a sinister look. He was
rather morose, and never spoke or laughed out
boldly.

To Mr. HARRISON—I have said, concerning
Nelles, that if I were a man I would shoot him.
Perhaps it is fortunate I am not a man. I
said that when talking and funning in conver-
sation. I said he was womanish because he
had a thin skin and no beard on his face.

JOSEPH HUNSELL said—I have not been in
court since Monday, when I was first made
aware that the witnesses for the defence
ought not to remain. I was reeve of North
Cayuga last year. I knew Townsend. I saw
him during the early part of the summer of
1854 at Cayuga station and at Cayuga. I
saw him frequently before that, since 1851.—
The man in the dock is not Wm. Townsend.
I have no doubt at all, but that I should know
Wm. Townsend if I were to see him now. I
did not give evidence at the Cayuga trial.

To Mr. HARRISON—I did not tell Mr. S.
Nelles that I would not swear positively that
this man was not Wm. Townsend. I was not
a companion of Townsend's. I noticed nothing
peculiar about his walk. He generally
wore long hair which generally covered his
ears. I think he was about 5 feet 6 inches
high. His dark eyes and eyebrows and his
sallow complexion attracted my attention.—
He had a small low narrow forehead. I saw
nothing remarkable about his lips or the posi-
tion of his mouth. I have seen his side face
but don't recollect whether he had a sunken
mouth. I will not swear there were no scars
on his face, but I never noticed any. I think

I should have noticed had there been any
material scars.

ROBERT ROGERS deposed—I live a mile from
Cayuga station. I have seen Wm. Townsend.
I knew him first in 1852. I saw him last at
my house in Sept. 1854. I had a logging bee,
and he came at about half past 8 and danced
all night. I saw him a great many times be-
fore that, and knew him as well as any of my
neighbors. I should know him again, the
prisoner is not he.

To Mr. MACDONALD—I don't remember see-
ing any scars on Townsend; he wore his hair
long, and I could not see his ears; if he had
had a scar like that on the prisoner I should
have noticed it.

VALENTINE SCRHAM deposed—I live at Dunn-
ville; I lived in Cayuga township, farming,
until two years before the murder; I knew
Wm. Townsend there; I became acquainted
with him before the family moved to Can-
boro from St. Catharines. He boarded with
me for two or three weeks, eight or nine
months before he committed the murder of
Nelles; I lived in Cayuga on a lot adjoining his
mother, and he used to come to mine two or
three times a-day; I recollect the time he
was in the navy; I believe he ran away and
came home; the prisoner is not Wm. Town-
send.

To Mr. MACDONALD—I could not be deceived
about Wm. Townsend if I saw him; Town-
send had round shoulders; in walking he had
a racking gait—he had a wide mouth and flat
chin; I never noticed the scar on his fore-
head.

NATHAN B. PAULDING said.—I reside at Port
Dalhousie; learned to know the Townsend
family and William Townsend there. I saw
him last about a month before the murder. I
met him frequently until he was grown up,
but not so frequently afterwards—quite often
enough however to know him. He prisoner
in the box is not the Wm. Townsend I knew.
I am a school teacher; in 1848 I taught school
in the same section of country where the
Townsend family then resided near Canboro.

To Mr. MACDONALD.—I have not noticed
any scars on Townsend. He never came to
my school. I saw him once a short time before
the murder, previous to which I had not seen
him at all for five years. I recognized him
at once.

FRANCIS WEAVER testified.—I live in Smoky
Hollow near St. Catharines. When I first
knew the Townsend family they lived near
Port Dalhousie. I knew William Townsend
when he was quite small, but not particularly
well until he moved up to the Grand River.
I worked for his father in Cayuga township.
After Nelles had been killed I met Townsend
in the street at St. Catharines. I think I
should know him again were I to see him.
Prisoner is not the man. I was not examined
at Cayuga.

To Mr. HARRISON.—I have a pretty good
memory of faces. I can't say I was very in-
timate with Townsend. The prisoner's shoul-
ders are not at all like Townsend's, who
stooped more, and naturally looked down.

Townsend had a low forehead. I would not be positive about its width. I should imagine it was over two inches high. He wore his hair somewhat brushed up off his forehead, and long I never observed anything extraordinary about his ears. He had a rather a flat mouth. I don't think it was sunken in like an old woman's. His lips were thin. He had a pretty large mouth. His face was pretty wide, wider than his forehead. His cheeks were not hollow. He had a middling long slim nose. I have not talked about his nose with any body that was examined yesterday or this morning. I could not say that I observed anything peculiar about his walk. I don't think he could get out of his stooping way so easily. His chin was sharp. Prisoner nose is wider below than Townsend, and I don't think a nose could be made wider by use. His chin is not so sharp and the shape of his mouth is not the same.

GEORGE SCHRAM said—I am a farmer of Wainfleet. Knew the Townsends family at Port Dalhousie. Worked at ship building with old Mr. Townsend. Knew the son, Wm. Townsend. The last time I saw him was in 1851, when he was cooping for Mr. Patterson, of Smithville. I then stayed two days and nights at Mr. Patterson's, where he boarded. Think I should know him were I to see him again. Should think the man in the box is not he. I have not the least doubt. I was not examined at the Cayuga trial. First saw the prisoner here, in the cells. Expected to see Townsend, from the descriptions given. Told Mr. Hobson my opinion when I came out—it is the same opinion I now entertain. I deny that, in the cell, and in the presence of Dr. Burns, I said "There, now I see Townsend."

MR. HARRISON—I have it from his own mouth!

WITNESS—You have it from me too. I deny it. I said, when I went into the cell and saw several prisoners, "there's the man that fits Wm. Townsend best" or "fills the measure best," I meant as to size, and I think I used the word size. I said he had a slight resemblance from the tip of the ear to the point of the jaw—nothing more. I said he, of all in the cell, resembled Townsend most.

MR. HARRISON—It would have been better for your character if you had said that first.

WITNESS—I'm not afraid to compare my character with yours. I did not say that he resembled Townsend, but that he was more like him than any man in the room.

HIS LORDSHIP said it was a pity witness could not give straight answers.

MR. CURRIE said Mr. Schram's character stood as high as that of any man in the county—it was a pity he could not be allowed to tell his story in his own words.

JACOB FLANDERS deposed—I have lived in Canboro since 1861. From that time to 1854 I used to see Townsend almost every day while he was at home. He used to go away sometimes for two or three months at a time. I consider I knew him as well as I did any of my brothers. Last saw him about ten days

before the murder of Nelles. Should know him again. The prisoner in the box is not he, nor has he any resemblance. Townsend had a dark eye, smaller than the prisoner's. His hair I should call black. He had a low forehead, and heavy dark eyebrows. He had no scars on his face, nor any where else that I remember. He had large lumps on his big toes, which shewed through the boots. He had a down cast look. He spoke and laughed through his nose indistinctly.

TO MR. HARRISON—I am a cousin of Mr. Keilman's, and a brother of Robt. Flanders'.

JOE STROBRIDGE, of Canboro, farmer, said—I have known the Townsend family ever since I lived in Canboro, for ten years or more.—Know Wm. Townsend, and saw him, last, a short time before the murder of Nelles. Knew him when he was a fireman in Smith and Haw's mill. Should know him again were I to see him. Am quite confident the prisoner is not Wm. Townsend.

TO MR. HARRISON—I gave evidence at Cayuga.

CORNELIUS CRURP said—I live in the township of Louth; I knew Wm. Townsend well; I have just seen the prisoner; he is not the Wm. Townsend I am acquainted with; Townsend's shoulders stood forward, giving him a stoop; he had a shorter face than Townsend.

ELIAS PATTERSON, of the township of Louth, described Townsend with whom he was acquainted. He said Townsend had prominent cheek bones, low forehead, black hair and eyes, and had no scars, to my knowledge. I met him last at Mrs. Brady's, the Friday after the murder, but before I had heard of it.

TO MR. MACDONALD—Knew Dittia was at Mrs. Brady's that day. He came in quite late. Townsend did not stop there long. He was there before I got there, which was about nine o'clock, and he left about half an hour afterwards. I should judge Townsend to be about 5 feet 6 inches in height.

MRS. DELL, of Louth township, said—I knew Wm. Townsend; I became acquainted with him at his mother's, in Cayuga, when I was quite a small girl; I saw him last the same fall that Nelles was shot, at my father's-in-law; I have a good recollection of him, and would know him anywhere. The prisoner looks nothing like him; I saw him first from the gallery of this court house; I thought then he was not Townsend, and now I am close I am sure of it. Townsend had black eyes, hair and brows, which met across the base of the nose. This man's nose is larger than Townsend's. If this man is Townsend I never knew Townsend.

TO MR. MACDONALD—Townsend was an inch or two shorter than this man.

JOHN GOULD, residing between St. Catharines and Port Dalhousie deposed. I have never seen the prisoner before to-day. I knew Wm. Townsend having become acquainted with him 6 or 8 years ago. I met him and another young man on the road just after the murder. During the whole time I knew him I had frequently conversed with him. I had an idea until to-day, that the prisoner was

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Townsend, because a profile was shewn me by a colored man in St. Catharines which resembled Townsend. I find that the profile does not at all resemble the prisoners. I don't think the prisoner has any features resembling Townsend. Townsend's forehead is low, and his eyebrows come across his eyes.

WESLEY SMITH testified. I live at Canboro, and am a farmer. I knew a man named Bill Townsend, whose family lived near the Canboro station. I had known him for a series of years. I can't say when or where I saw him last. I knew him when I did see him. I saw him frequently and should know him again, as I have a distinct recollection of him. The prisoner is not the man. I never saw the prisoner before, except as I passed the court house door, yesterday, when I got a glimpse at him.

HARMAN HAYNES said. I live about a mile and a half from Cayuga station. I am a farmer. The Townsend family live about a mile and a quarter from mine; knew Wm. Townsend before my father did. I last saw him the summer before Nelles was killed. I knew him as well as any of my neighbors. I have a perfect recollection of the man. The prisoner is not Townsend, nor can I see in him any resemblance to Townsend. There is no expression on his face like Townsend's. His hair is not so dark, his forehead is higher, his eye is fuller and larger and his eyebrows lighter.

To Mr. HARRISON.—The prisoner looks just the same as he did at Cayuga. There was a good deal of resemblance between Townsend and his father as to the color of hair and eyebrows and their sunken eyes.

THOMAS HUMPHREY said.—I live on the Canboro road; am a tavern keeper, became acquainted with William Townsend ten or fifteen years ago; saw him last the fall before the murder; should know him if I were to see him now; saw the prisoner at Cayuga; was not a witness. I thought I was going to see William Townsend, and was disappointed when I did not. Prisoner is not Townsend. I never saw any scars on Townsend.

To Mr. HARRISON.—I expected to see Wm. Townsend looking something like that I had known him to be. He might have had scars without my knowing it.

WILLIAM HAYNES, residing near Cayuga Station, said.—I knew Townsend for about 14 years; knew him as well as one neighbor knows another. Prisoner is not William Townsend. I never saw any scars on Townsend's face that I recollect.

To Mr. TOWNSEND.—I don't swear that he had none.

BERNARD DELL, of South Township, said. I was pretty well acquainted with Wm. Townsend; should know him if I were to see him; the prisoner in the box is not he.

To Mr. MACDONALD. I think this because the prisoner is a lighter complexioned man than Townsend, and also larger; his hair is not so dark; his lighter.

CHARLES GREEN testified. I live in Dunnville, I knew William Townsend on the Wel-

land Canal, about 9 years ago, I saw him last in Dunnville, about four years since; should know him again; the prisoner, I am perfectly satisfied, is not the man; I was not examined at Cayuga; first saw the prisoner a week ago, in the Court House.

To Mr. HARRISON.—I see no likeness between the prisoner and Townsend; I wrestled with Townsend; he was smaller than I; (5 feet 6 inches) he did not alter all the time I knew him except that he gained a little in size; he had a rolling sort of walk; he had large knuckles to his feet, and I often heard him complain; I never saw him dance at negro shows; I saw him dance once; he danced poorly; he had a low, narrow forehead.

GEORGE DISHER said. I became acquainted with William Townsend about 5 years ago. I saw him last on the Friday after he shot Mr. Nelles; I saw him frequently and should know him if I were to see him again; prisoner is not he, I am satisfied of this; was not examined at the Cayuga trial; I first saw the prisoner a week ago in the dock.

To Mr. HARRISON. I never saw Townsend dance; never heard anything against his character before Nelles' murder; he walked much as other people do; saw him at Mr. Diffin's at about 3 o'clock on Friday after the murder; he came with another gentleman; We had some drinks together; can't say when he left Diffin's. I noticed no scars on his face.

JAMES COVERDALE, living on the Canboro Road, deposed.—I live about two miles from the Townsend family. Knew Wm. Townsend eight or nine years ago. Did not see him for several months before Nelles was murdered. Did not know him well, but met him often, and of course knew him when I met him. Should know him again. Won't say the man in the dock is he. Won't say he is not, but my opinion is that he is not.

THOMAS KERBY said.—I live in North Cayuga township, about half a mile from where the Townsend family live. Became acquainted with William Townsend in May, 1852, when I moved into that locality. Last saw him about a month before the murder of Nelles. Think I should know him again. The prisoner is not the man. I was not examined at the Cayuga trial. Never saw the prisoner until now.

To Mr. HARRISON.—And yet the glance I have at him is sufficient for me to know him not to be the man. Townsend had a sharp, thin nose.

Mr. HARRISON.—And yet others have sworn he had a flat nose.

Mr. FREEMAN.—I submit, your Lordship, it is not fair to endeavor to confuse the witness by telling an untruth.

Some further conversation took place on this point, after which the next witness examined was

RICHARD COVERDALE, who said.—I live about a mile and a half from the residence of the Townsend family, on the Canboro stage road to Cayuga; knew Townsend well; should know him again if I were to see him; the pri-

soner in the dock is not he; was not examined in Cayuga as a witness.

To Mr. HARRISON—Was not called upon to give evidence at Cayuga; Jacob Flanders called upon me to do so this time; he is a brother of Robert Flanders; have seen Townsend dance; he was a pretty smart fellow at that; was intimate with him; there was nothing remarkable about his nose, eyes or cheeks.

MELINDA LAMBIER, residing near Cayuga, said—I came to know Wm. Townsend about 12 years ago; last saw him a few weeks before Mr Nelles was shot; often saw him, and know I should know him again were I to see him; prisoner is no more Townsend than I am.

To Mr. HARRISON—Townsend's eyebrows were heavy, and met; can't say whether they were lighter or heavier than the brows; he had a very low forehead; never noticed his ears particularly, nor his lips, mouth or chin; he had lumps on his feet; think they would remain as long as he lived.

NANCY BORDEAN said— I knew Wm. Townsend very well, and should know him again; the prisoner is not at all like William Townsend.

To Mr. HARRISON—Until I saw the prisoner at Cayuga I was quite convinced that they had caught Townsend; expected to see a man with black hair and eyes, heavy eyebrows, &c.; never remarked anything extraordinary about his face, such as scars; they may possibly have been there without my seeing them.

SETH K. SMITH said.—I live on the Cayuga and Canboro road. I knew the Townsend family and Townsend himself from the time they moved into the neighbourhood until the murder of Nelles. Knew him as well as I would any other neighbour boy. I should know him if I were to see him again. Can't recognise prisoner as Townsend, I was not examined at the Cayuga trial. I kept school in 1845 in the locality, and he came to it. He was an indifferent scholar. He was learning reading and writing, and tried to learn to figure. He was not a very apt scholar.

To Mr. MACDONALD. —I never observed any scars on Townsend.

FRANCIS LAMBIER said.—I live on the Talbot road, two miles below Canboro Station. Saw Wm. Townsend frequently, and, for the last time, about a fortnight previous to the murder of Mr. Nelles. The prisoner is not Townsend. I was not examined at the Cayuga trial.

To Mr. MACDONALD —I heard that after the murder, there was a description of Townsend given. I never saw it, nor do I recollect what the general understanding concerning it was. Never saw any scar over Townsend's eye or anywhere else. He had darker eyes and hair than the prisoner.

HERMAN WEAVER said I live near Canfield Station, about a mile from the Townsends. I knew Wm. Townsend for many years. I went to school with him, to Mr. Love's school. I saw him last about three weeks before the

murder of Nelles—I should know him again. Prisoner is not he. I was not examined as a witness at the Cayuga trial.

To Mr. HARRISON—Townsend's ears were large and leaned forward. There was nothing in his walk peculiar until he came off the *Mohawk*, when he walked rolling. People said he got the habit from walking on ship-board. I never saw any scars about him.

His LORDSHIP asked Mr. Freeman if he had all the other boys of the Township.

Mr. FREEMAN said "Pretty much all."

His LORDSHIP said he could bear it if the jury could.

Mr. FREEMAN said he would desist when the Jury said they had heard enough evidence for the defence.

A JUROR said they would be glad to hear of any fresh facts.

JOEL R. SMITH, living near Cayuga, testified. I know the Prisoner. He is not Townsend.

GEORGE GIBSON, Hotel keeper, at Cayuga, deposed—Townsend and others came to my house the evening after the murder of Nelles. Knew Townsend before that night. Should know him if I were to see him again. Am positive prisoner is not the man.

To Mr. HARRISON—I am sure I never told Mr. John Walters that I would not be so positive about the prisoner now as I was at Cayuga. I brought the parties down to the station from Cayuga, but, at that time, I knew not that they had committed crime. I was one of those who helped to make out the description of Townsend. Don't recollect any thing about a scar being on it. Perhaps there was, for there are persons who say Townsend had a scar somewhat near the hair.

To Mr. FREEMAN—I never authorized the mentioning of a scar on his brow or cheek.—Mr. Hursell and I made out the description. We went to the Morning *Express* office in Buffalo and wrote it. Never heard a scar on the cheek spoken of until the prisoner was arrested in Cleveland.

To Mr. HARRISON—I recollect a binding pole once striking Townsend on the top of the head when we were getting out timber in 1848. It made the blood come. It was somewhere in the hair. It may have caused a slight scar.

To Mr. FREEMAN—I see the scar on the prisoner. That is not in the place where the pole struck Townsend.

ROBERT FLANDERS deposed—I knew Townsend well; I first heard of his murdering Nelles on the day after the murder. I was then at Canfield station, where I lived. Several persons brought the intelligence down; I had seen him the night before—after the murder was committed—at my house. Mr. George Gibson brought him and four others there at about 10 o'clock. The western train went up at about 12 or 1 o'clock. They did not go by that, but waited for the Eastern train, which was to go at 4 o'clock a.m. They left my house at 3 in the morning, waited until the train, which was a couple of hours

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late, came up, and went away. I was sworn in as special constable, the next day, when news of the murder came, and, along with several others, went to Buffalo. Eventually I, in company with two policemen, arrested Blowes, whom I had never seen but on the one night when Townsend came to mine with him, after the murder. This was about six weeks after the deed was done; I also recognized King who was in Hamilton gaol, arrested for robbery; I had only seen him that one night too; I also helped Mr. Yeoward to arrest Bryson, he had tracked him to Toronto, but could follow no further, when he came over for me, and I, after a short time went. At my instance he came with me to near Barrie and arrested Bryson. We got the first trunk of Townsend in Buffalo, where he had been at the United States Hotel. Went to Oswego, Rock Island, Missouri, and down the Mississippi in search of him. Lost track of him at Alexandria, below Cairo. Heard of the prisoner being arrested from a conductor on the Buffalo and Lake Huron cars. Afterwards had a telegraph from Mr. Iles to meet him at Port Colborne. I went there. He first asked me to describe Townsend. I did give a sort of description, but not much, because I wanted to hear his. When I asked the color of the eyes of the man he had arrested, he said blue, where-upon I remarked, "That's not the man, for Townsend had dark eyes." He said he had not noticed them very closely—they might be dark blue or dark grey. Then he asked if I recollected Townsend's having any scars upon his face. I told him I did not. He said there was a large scar on the man's cheek, but he thought it had been freshly done, as there was a patch on it. It had always been in my mind that he had a scar on his forehead, under his hair. His mother said no, it was a "cowlick," he had no scars about him. He (Iles) further said there was a scar over the eye. I said, "Then Wm. Townsend must have been scarred a good deal since he left." He wanted me to go to Cleveland, and said he would pay my expenses there and back, and promised me a share of the reward. I rather think he said I should have two-thirds of it. He expressed himself confident that the man was Townsend. Well, I went to Cleveland with him. Mr. Gallagher, the city marshal, Iles and I went to the gaol. The marshal and I went up to the prisoner, while Iles remained below, the gaoler telling him the prisoner felt vicious towards him. The gaoler stayed outside the cell and Iles remained below and indeed locked out, for the gaoler locked the door inside. When I saw the prisoner I said to the gaoler "is this the man they have arrested for Townsend." He said "yes," and I answered "I've seen enough of him." I conversed very little with the prisoner. I think he asked if I was from Canada. I said yes, and I further said in answer to his question that I had come to recognize him as Townsend. This is all the conversation we had. I told Iles of this, and he told me to keep still about it. He said he was

afraid if the man got out he might shoot him. I wrote a description of Townsend when in Cleveland, signed it and gave it to the marshal in his office. I returned to Iles before I gave the document to the marshal. I then went to the police office, and was asked to write a description before I thought of doing so. I told Iles that the prisoner was not Townsend before I gave the written opinion; my opinion became known and the examination of the man was put off because it was said I was a brother-in-law of Townsend. I thought perhaps this might be a man who had committed a robbery in St. Catharines, and I telegraphed to the police there to know. It turned out not to be so. Mr. William Jones, who was the attorney acting for the prisoner, told me I should be wanted at the examination (deferred for a week) and, as I could not conveniently attend, I, at his request, made affidavit as to the description of Townsend and as to the differences between him and that man. It was arranged between the Attorneys for the prosecution and defence that my evidence should be taken in that way. I left that afternoon by rail.—Iles accompanying me to the Railway depot. It got into the papers that "I was Townsend's relation," and people began to say that "I might as well acknowledge him for I was the only man that swore he was not Townsend," so I put a card in the *Buffalo Express*, that I would make a wager of \$1,000 with any man, that the prisoner was not William Townsend; no one took it; made, however, some bets, and I have, I think, three \$5 bets on the subject; am no relation of Townsend; a half uncle of his married a cousin of mine, if that is being a relation; knew Townsend in 1861; knew nothing of him in 1852; kept a public house, and saw him often; he used to play the fiddle, but poorly; he always behaved well in my presence; knew of nothing against him; did once say to his father "how does Bill live—he don't work any." He replied, "You know as well as I do." Have heard he went about showing nigger songs or dances, indeed he would never stand still, but kept drumming with his feet; have all along entertained the same opinion, that the prisoner is not William Townsend.

To Mr. MACDONALD. I did not tell Iles that Townsend had a scar on his left brow and another on the left cheek; I recollect being in old Mr. Nelles' house one day after Blowes and King were hanged; Mr. James Nelles and Sampson Nelles were present—at least I think so; I swear I did not tell them that Townsend had a scar over the left brow and another on the left cheek.

[The three Nelles's were then removed from Court.]

I know Mr. Cheshire—by sight—I did not know that was his name. I never said to him that they were under a mistake, that Townsend had scars upon his face which he would point out. I never spoke to the gentleman, I am positive.

To Mr. FREEMAN—There's no doubt that I gave a description of Townsend at Nelles's. I

always thought there was a scar under his hair, until the last assizes at Cayuga, when his mother corrected me. I may have said something to Nelles about the scar. I know one of the advertisements said Townsend had a scar on the left cheek; but I knew this was wrong, and the description of the other of the gang were not correct either.

The Court then adjourned.

GOOD-FRIDAY, April 2nd, 1858.

Notwithstanding the legal holiday, which Good Friday always has been, is, and (it is to be hoped) always will be, the parties engaged in the suit here commenced work at nine o'clock. The first witness examined was

DAVID DEWAR, stepfather to Townsend.—He said. I last heard Townsend speaking on the night after the murder of Nelles. I was in bed, and heard his voice and the voice of a stranger. I am a Scotchman, and left Scotland in 1841. I am from Cupar, Fifeshire, fifty or sixty miles from Glasgow. I never was at a place called Springburn. I am sure I have stayed a few days in Glasgow, waiting for the vessel to sail. I am not acquainted with the localities about Glasgow. Never gave Townsend any information concerning the place. Townsend was poorly educated. He had read a good deal, generally "Yankee Notions," and low sorts of works. Those are the only books I ever knew him to read, except the spelling book. He never showed any desire to acquire valuable information. He was working with Smith in 1854, and boarding with me. I don't recollect the time of the year; it was some time before the murder. I should know Townsend again. He had no scars on his face. I never heard of his being kicked by a horse. His feet had big toe joints—so much so, that they looked as if the great toe were over the other. He had dark hair—almost black, a rather low forehead, middling heavy, black eyebrows, black eyes—not as black as some people's. He talked a great deal through his nose—what I should call chewing his words, so that you could not understand him properly. I never recollect his being away from home continuously more than six months; this was in the summer season. Townsend had a brother in law, who came, I understand, from Dunfermline, a long way from Glasgow. The prisoner in the box is not Townsend, and does not look like him.

To Mr. MACDONALD—Townsend, on the night of the murder, was talking to his mother and one of his sisters. I heard his voice, but did not see him. He had a rolling sort of walk. He tried to be particular about his hair, which was straight. I believe the description of him said he had a scar over his eye and one on his cheek. I said it was no description of Townsend.

O. C. McLOUTH said.—I am an attorney, of Sandusky, Ohio. I was brought here on behalf of the Crown.

Mr. MACDONALD.—One of our most important witnesses—we meant to use him.

Mr. CURRIE.—When we've done

WITNESS.—I first saw the prisoner on the 29th of July, 1851, at Sandusky, Ohio. I was then keeper of the gaol there, and he was brought there in the custody of an officer, on the charge of stabbing the mate of a vessel on which he was employed in the capacity of cook. He remained in the gaol until about March, 1852. I have the register with me, but omitted to register the discharge. That was when the term closed. He was discharged because the prosecuting witness did not appear against him. We received him by the name of Robert J. McHenry; think I have seen that name written frequently by him, and think I got it from him then. I recognize the man who looks somewhat paler, and I think his hair is a little darker. His eyebrows look a little thinner now than they were, but I hardly know.

Mr. FREEMAN.—You must recollect he has his hair dressed and oiled every morning by a special barber, at the expense of the Crown.

WITNESS.—His eyes were blue then as they are now; can't recollect his having the scar on the cheek then. I think I can remember his having a scar on the face, but could not locate it; don't recollect any peculiarities about his feet.

To Mr. MACDONALD.—The entry in the book is (reading)—R. J. McHenry, aged 29, place of birth America, residence on the water, when committed, July 29, charge, murderous assault, previous crimes unknown, when discharged not registered. I must have got the particulars of birth &c. from himself; never recollect hearing the "Mc." This signature (that to the affidavit made at last trial) is like the one he used to sign when with me except the Mc.; saw all the letters he sent from gaol, except perhaps those to his attorney. He wrote quite often, more than any other prisoner. During the seven months he was in gaol I never discovered that he was anything else than an American. My impression is that he wore his hair short, before his commitment. He was frequently spoken to as Robert, but generally as Henry. He used to be taciturn, and kept apart from other persons. He was peaceable and quiet in the main, shewing a violent temper at times, and was impatient to regain his liberty; don't recollect his reading other than law books; think I furnished him with Blackstone's Commentaries. I never say him write his name like this (Henry) as in the letter written to California.

To Mr. CURRIE My recollection is that he wrote a very good hand. I notice no change in his voice. I can't recollect whether he wore a beard in Sandusky; think he kept it closely shaved; think he had a beard, but a light one; never heard him sing any nigger songs.

To Mr. MACDONALD. He never stated anything about his previous history; he appeared to me to be very young for 29, and yet I took his word for it.

JAMES B. SMITH deposed. I live in the

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village of Canboro'. I am a millwright; I became acquainted with Townsend in the latter part of 1845; last saw him about Oct. 1, 1854. He was at this time in my employ; he entered my employment (reading from time book) on the 12th of Feb., 1855, and continued working for 13 days. He commenced again on the 22nd of April, and quit the 23 d of May. I commenced building the mill on the 14th November, 1853; I had seen a good deal of Townsend for three or four years previous to the murder of Nelles; I had him in my employment more or less every year from the commencement of 1851, never observed any scars on his face; There were lumps on the big toe joints of his feet; first saw the prisoner a week ago, when I saw him from the door opposite; had frequently been bathing with him and knew him well; the man in the dock is not Townsend, (after a long survey.)

To Mr. MACDONALD I recollect Townsend saying to me that he could dress himself so that I would not know him.

To Mr. FREEMAN He meant by blacking his face and dressing in clothes like a nigger girl.

JOHN NELSON O'BRIEN I live in Port Robinson; knew the Wm. Townsend who used to live in Canfield; saw him last in a Blacksmith's shop opposite Mr. Smith's mill in Jan. 1854; we used to play with one another; knew him both before and after he went to the war ships. The prisoner is not the man I used to know as William Townsend; I feel quite satisfied in my own mind.

To Mr. MACDONALD. I have frequently been in Court since the commencement; there is a possibility of a person's being mistaken, and I therefore told Mr. Coulter or Mr. Coulburn, of Port Robinson, that I would not swear he was or was not Townsend, but I was sure in my own mind.

ADAM WILSON FRALICK, of Canboro', said. I knew Townsend well for about 2 years. I should know him now; the man in the dock is not he.

To Mr. MACDONALD—I am quite positive.—He had a sharp nose and rather a longish one. He was somewhere about 5 feet 2 or thereabouts. I am not positive. I was not examined at Cayuga.

BENJAMIN DUFFIN said—I live in Merritts ville I knew Wm. Townsend 12 years ago, and from that period up to the time of Nelles's murder. The first time I saw him was about two weeks after the murder of Nelles, when I saw him pass Steele's store in Pelham, near where I used to live at that time. This was the day of Richard's murder. There was another person with him whom I had seen, I think, once before, at my place, on the Friday after Nelles's murder in Townsend's company. They came in the evening. I saw them just for a minute as they were getting into the buggy to go away. This was when I was coming home from squirrel shooting. On the occasion when I saw him, it was, I think, in the forenoon. I was leaning over the fence, talking to Mr. Steele, who was in

the garden. Townsend asked "is this the way to Wellandport?" and I said "Steele, that's Townsend." I knew his voice. I don't recollect whether Steele or I answered the men. Steele said to me "that's not possible." I said it was. I knew him as well as my own brother. We went to several people then and told this. Then I went along alarming the neighbourhood, telling every one I could see. Townsend worked for me at coopering in this township, in 1852. I had a servant girl then named Muir, now married to a man named Grant. She left me in February, 1852. I have seen the prisoner before at Cayuga.—He is not Townsend. Townsend had very bad shaped feet, large, and with large toe joints. If he wore ever so nice a boot for a few days it would be all out of shape. I once got a pair of boots for him and wore them out of town two hours. Townsend could scarcely get them on, but could not wear them, they were so light. (Prisoner and witness here exchanged boots. That of the prisoner fitted very tight indeed on witness, and that of witness easily slipped off and on prisoner's foot.)

To Mr. MACDONALD—I think mine was the first place Mrs. Grant lived at after she came to this country. She lived with me for three or four years. I never saw any cut like that on the prisoner's brow, on Townsend's. I never saw Townsend come into the shop whilst Andrew Oliphant was there, and Townsend having a cut on his forehead, bleeding, bound up with a handkerchief, nor do I recollect remarking to Oliver that he got it by a stove thrown at him by one of the boys.

Mr. MACDONALD—I'll prove you did.

To Mr. MACDONALD—When I went along, arousing the neighbours, I passed him on the road. He kept close under the fence, kept his head down, and spoke nothing to me, neither did I to him. I was in a covered buggy, and I did not tell him the constables would be after him and he must look out.

HAMILTON PATTERSON said—I became acquainted with Wm. Townsend at Smithville in 1851. No such man as Richard Lee ever worked for my father during the time I was with him. I should know Wm. Townsend again. The prisoner is not he. His forehead is higher.

ANDREW BRADY—I live in Pelham. I knew William Townsend. I saw him in 1852. He then worked at Ben Duffin's. I saw him after the murder of Nelles. Some days after the murder, Duffin told me that Townsend passed him on the road, and he asked me to come along, that we might take him. The prisoner does not resemble the man I knew as Townsend.

To Mr. MACDONALD—I moved into the house opposite Duffin's in the spring of 1852. I saw William Townsend in the fall of that year at Ben Duffin's.

MOSES BRADY said—I live in Pelham. I used to know Wm. Townsend. I recollect being at the dance with him the day after the murder. I heard of his being in the neighbor-

hood again. Means were taken for his arrest. About 20 persons assembled at Diffin's for the purpose of taking him the day he was seen on the Canboro road, they surrounded the wood in which he was. I should not say for certain whether I should know Wm Townsend or not. The prisoner does not look like him at all.

RICHARD PATTERSON, of Grantham, said I had known Townsend ever since he was a lad; knew him both before and after the family moved up to Canfield where I had a saw mill which I ran in 1852, and at which he worked as fireman in the fall of that year. The prisoner is not William Townsend; saw the prisoner in the cells, last quarter sessions here, and could not pick Townsend out from among them.

To Mr. HARRISON.—I last saw Townsend in June 1854; I always understood Townsend was born between Buffalo and Black Rock; recollect Townsend's features quite distinctly. He had high cheek bones, flat cheeks, totally unlike the prisoner's. He had a flat mouth, and a wide one, and showed all his teeth when he laughed. I believe his teeth were middling large. His ears were set forward, as was said by the family, because a school teacher had pulled them. The ears were large. His forehead was low, inclining a little backwards above, quite unlike the prisoner. His hair grew low on the forehead. He always walked with his head down. His feet were so that he stepped flatfooted. He wore a great boot because of his great toe joints. He was not so tall quite as the prisoner. I never saw any scars on his face, there could have been none of any size without my seeing it. There might have been a small one near the eyebrow, but never saw it or heard tell of it.

JOSEPH M. SABINE said.—I knew William Townsend who lived at Canfield; knew him for 14 years, excepting the time he was on board the "Mohawk." I should know him if I were to see him now. I am positive I should; never saw any scars upon his face, but I think I should have seen such a scar as that upon the prisoner's if it had been there.

To Mr. HARRISON.—His forehead was flat and low. His mouth was wider than common. I lived with his father for some time, and at the period when he ran away to the Canadian Government steamer. This was twelve or fourteen years ago. He used to dance a good deal in spite of his feet, which were partly crippled, owing to the large lumps on the toe joints. Townsend is my half-sister's child.

FRANCIS WEAVER said. I am little older than Townsend. I was with him very often, and knew him well. I should know him if I were to see him. The prisoner is not he. I often compared my feet with his. His foot was broad, quite as broad as mine and even broader, having larger lumps than those on mine (about the size of half an egg.) The lumps were on his feet ever since I first knew him, 16 years ago.

To Mr. HARRISON.—We were both very young then. I have a light boot on now, and it pains my foot to wear heavy ones.

A Juror here requested that the feet of prisoner and witness should be compared, and in doing so the great difference in size was at once apparent.

THOMAS CARROLL of Dunnville, was next examined and said. I know Wm. Townsend, and David and Frank Weaver. I last saw Townsend about two or three weeks before the murder of Nelles. He boarded at the house next to mine in Dunnville for two or three months in 1853. I recollect remarking that Frank Weaver's feet were just like Townsend's, and I said that, were it not for his (Weaver's) face I would take him for Townsend. The first time I noticed Townsend was when he was hanging by his feet from the limb of a tree.

To Mr. HARRISON.—I have seen Townsend dance, and dance without music too, cutting up capers in the bar room. The lumps on his feet did not cripple him.

NELSON FLANDERS said. I live near Canfield station. I am 24 years old. I knew Wm. Townsend for 15 or 16 years. I should know him were I see him. Prisoner, whom I first saw last Saturday, is not the Townsend I knew.

To Mr. MACDONALD. The Townsend I knew had a high forehead and heavy eyebrows; no scars that I know of.

To Mr. CURRIE. If he had had a scar like that on prisoner's cheek, I am sure I should have seen it.

AARON FARR said. I knew William Townsend of Canfield; he was with me at a show that I had; we shewed together twice; should know William Townsend again. Prisoner is not the man who travelled with me; knew of no scars on Townsend's face; if he had had such on his face as the prisoner has, I think I should have seen it.

To Mr. MACDONALD. I never told Mr James Chambers that I could not swear this was not Townsend; If I told him anything, it was that I could swear positively one or the other; I told Mr. Tupper once that this man was Townsend, and that I would not have his chance of hanging for the world. The first time I saw Tupper I told him the prisoner was not Townsend. We then met an officer of the gaol, and I told Tupper what I did. I was led to say this because I thought Tupper wanted me to do so. I further told him that a likeness which I had of myself was a likeness of Townsend. He said it was like the prisoner and shewed it to several persons as a likeness of Townsend.

JAMES WALTERS said.—I was brought up in Canada, with which my earliest recollections are connected. I lived in different parts of Esquewaug and Nassagawaya. I left the latter in 1849 for California, in company with my brother, who is still in California, in Chipp's Flats. No one else left the township at the same time. We arrived in California, in the steamship "City of Nevada," in 1850. I remained there, or in the vicinity, until 1853. I had, up to that time, no acquaintance in California whom I had known in Canada. I sailed from San Francisco, to re-

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Nevada," in 1850
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I had known in
a Francisco, to re-

turn to this country, in the beginning of Au-
gust, 1853, and arrived here in September,
having been a month and a day travelling. I
went back again, sailing from New York in
the "George Law," afterwards the "Central
America," in the beginning of January,
1854. I went back to Nevada, arriving there
towards the close of February. I resided
there until July, 1854, when I went to
Forest City for a couple of weeks, and
thence to Chipp's Flat, in Sierra County.
It is from 25 to 30 miles from Nevada to
Chipp's Flats, which is a mining town, loca-
ted immediately on the diggings. The popu-
lation, when I went there, was rather small,
and transient or fluctuating. There were
from 100 to 250 when I arrived. My brother
and myself went with the intention of carry-
ing in water from the stream to the town.
We brought in the water, and made the place
a town. I left the place in January, 1855. I
then went to Yuba county, where I remained
until September, or the end of August, 1857,
but in the intervening time I went frequently
to Chipp's Flats. On the 6th of September I
sailed again from San Francisco for Canada.
I also have a brother in Yuba county. I
landed at New York on the 4th of October. I
arrived in Canada and came to Merrittsville
on the very day the prisoner's trial was
brought up. We came to New York by the
"Star of the West." When we arrived I saw
the prisoner. I heard in California that a
person named R. J. McHenry, formerly resi-
dent at Chipp's Flats, was indicted for mur-
der, committed in October, 1854, and who
was said to be one William Townsend.
Some papers were accordingly prepared in
California and shewn to me before I left. The
first I heard of the case was when the papers
were given to me to bring. I was going
home, and the opportunity was taken of send-
ing them. The papers were prepared at
Chipp's Flats. I knew almost all the parties
whose signatures were attached to the papers.
A letter from McHenry, from Cayuga gaol,
was addressed to James Anderson, Recording
Scribe, Sons of Temperance. I never was
connected with the order and don't recollect
any one named Manning. I don't think I
should know the hand writing of R. J. Mc-
Henry. (The letter from Cayuga gaol, dated
June 29th, 1857, was here read.) It has been
already printed in the newspapers. It is ad-
dressed to Jas. Anderson, and details the his-
tory of McHenry in Cleveland and Canada,
and tells a number of books in which his
name was recorded in California. (The letter
to the Governor General, from California,
was also brought forward, but the Counsel for
the Crown refused to allow it to be read.)—
Witness then continued. I am not nor have
I ever been a member of the order of Sons of
Temperance. The signers of the documents
sent in reply to the letter are real, known,
residents of the place. I came here and saw
the prisoner. I recognized him, and knew I
had seen him as soon as I perceived him in
his cell, into which I was introduced. I saw
the prisoner first in Chipp's flats, Sierra

County, California. The first time I parti-
cularly recollect him was when I saw him in
Davidson & Ryley's store. But I may pre-
viously say that I was one of a company
formed to supply Chipp's miners with water.
I can't be sure, but I think I saw him in Octo-
ber. As I have stated I left the place in
January, probably about the 10th, and pre-
vious to that time I had seen him frequently;
I never saw him engaged in any thing par-
ticular; he was, like other miners, fixing up
his cabin and writing until the water was
brought in; if he worked at the mines, I can-
not have seen him, for all the work was done
underground, and I did not go under ground;
earlier than September or October I was not
likely to have seen him because he was work-
ing some miles above the town, but I am
fully convinced I saw him as early as Octo-
ber; he looked about the same then as now,
as far as general expression is concerned; he
is paler and thinner; it is not at all a proba-
ble thing that I am mistaken; in November
I and others were often in the habit of pass-
ing his house, seeing him about it, off and on,
during the whole month, and I am sure I saw
him in Davidson & Ryley's previously, argu-
ing with the man he alluded to in the letter,
called Scotty; this Scotty had peculiarities
which almost any one would notice. Mr.
Aikins and I went into the cell when we came
here; he was quite familiar with the locali-
ties; he related to me some circumstances
which I had forgotten, but which his relation
brought to my mind, and which had happened
at the time of which I speak; he recognized
my friend Aikins, but called him Hugh Wal-
ters, instead of Hugh Aikins, which it really
is; I think I can account for this because
Aikins lived with myself and two brothers,
and people often thought him one of ourselves
and called him Walters. He was also inter-
ested in the company for supplying water. I
don't know when the prisoner left Chipp's or
where he went to thence. I have no recol-
lection of seeing him there in 1856. I never
noticed the scar on his cheek. I now live in
Canboro. I have friends in Halton My
brother there has been a magistrate. I have
my father, sisters and family in Canboro.

To Mr. HARRISON—I have spoken to differ-
ent persons about the time at which I saw
the prisoner in California. I saw him in Oc-
tober, November and December, but cannot
recall any particular time or any particular
day. I never knew him by any other name
than Bob. That is the name by which I
heard "Scotty" call him. I myself had no
intimate acquaintance with him. I have nod-
ded to him, in passing, but I never entered
into a conversation with him that I recollect.
I did not know his name to be McHenry, nor
do I know any thing about the J. I am
guided in dates by knowing that the rains
commenced that year in November. I fully
believe I saw the prisoner during the whole
month of October. I knew Mr. Davidson to
be an intelligent man and an honest man. I
should not say that he is very strait or very
crooked. I noticed his hut after about a

three days' rain in the middle of November. It appeared quite new. I did not see him put up the hut himself—he may have bought it. But before he had it I knew him to have been boarding at Davidson's and Ryley's. When I first saw him his dress was that of a miner. I did not know Mr. Chips himself, so I can't describe him. He was a ship carpenter, hence the name. McHenry had the complexion of a sunburnt miner. It was, however, lighter than that of many others. I recollect him as a well sized, well proportioned man, well built, stout, and likely to be a good laborer. I understood by stout, strong. I know another man named Henry, a butcher, living at Forest City, who supplied Chips with meat. His name I have seen on a card to be Henry. The man who used to peddle beef was a stouter man than this. He was not a Son of Temperance, because he kept a saloon. The stage I used to travel on to Yuba county used to stop at his house. I can't tell when I last saw Henry—it was, probably, in August, two or three weeks before I started. Henry, the butcher, is not a very large man. He is a dark complexioned man. He is not in the habit of butchering himself, but he buys cattle. He is not quite so large as the prisoner. He wore very large whiskers, nearly black. He spoke quick, with a kind of Yankee tone. He was considered a very nice young man. He had, I think, dark hair, but I can't say how he kept it. I can't say what countryman he was—I suppose an American. When I saw him, he was generally behind his desk or on horseback. His saloon was called the Henry House. He kept the Post Office. I saw him last in the summer of 1866. We arrived in New York the last time on the 4th of October. We came to Merrittsville on the 8th. We told our friends here that we had had no sleep since we came from New York. That is how the mistake may have got into the papers which say that we came in 48 hours from the steamer. We were in no hurry to get here until we came to the Falls, where we heard the trial was going on, and then we hurried, as we were entrusted with the papers. Mr. Aikins came with me from California, all the way. He had been in California all the time from July, '64, until he left finally in 1857.

To Mr. FREEMAN—I am sure we went to camp round McHenry's shanty in November. Then, when I saw him, I knew where and when I had seen him before that time. Before we moved our camp to that, I had been to Davidson and Ryley's sometimes two or three times a day.

McHENRY requested Mr. Freeman to ask if he recollected Chips's name, but his interest in the flats at auction at Ryley's saloon. Witness did not remember.

Witness then continued to state his knowledge of his having been at Chips's flats early, because he has told me little circumstances which he could not have learned unless he had been there. In particular he told me of a fight two men had had, and all the particulars concerning it, which fight I know

to have been held before we moved down our camp to the diggings. He related it so that I know he must have been present at the time.

After a little more cross-examination, the next witness called upon was

FRANK J. HUBER, who said—I went from New York State to California on the 5th of January, 1858, in the "Ohio" vessel. We arrived on the 29th of January at San Francisco. I went first to Red Dog, Nevada county. It is a little mining town there. I got there about the middle of February, 1858. I remained there about two months, and then went to Washington, another mining town in the same county; stopped there a month and went to Marysville, some 70 or 80 miles, and stayed until the 4th of July; then went to Philadelphia Bar, on the middle Yuba river, and remained there until I left for Chips Flats, where I arrived on the 1st of October. There I remained until the middle of May, 1857. I then went to San Francisco, which I left on the 4th of June, when I took passage for New York. I live in Waterloo, Seneca county, which I reached on or about the 29th, and have since remained. When I was in California I was a miner, carrying on active mining operations with shovel and pick; first saw the prisoner in August, 1854, at Chips Flats; became acquainted with him in a law suit of the Wisconsin Company against the Wilkinson Company; was a member of the Wisconsin Company. The suit was held, I think, before the County Judge of Sierra county. I can therefore fix the time when I saw him; am positive I saw him; he took a great interest on the opposite side, expressed his opinion as to the mining claim; have the records of the suit with me; these are they (producing) He was mining at that time; was not aware when I came to this part of the continent that I was to be a witness; first heard of the matter in December last through the Rochester Union. It stated that McHenry claimed to have been in Chips' at the time the murder was committed. I went to the editor and told him I knew a man named Robert J. McHenry, who had been in California. I further told him that I would offer my services for McHenry or the prosecution. I meant by this that I should know him if he were R. J. McHenry, and should not know him if he were Bill Townsend. In consequence, a piece was put in the paper by the editor. I thereupon received a letter from Mr. Barker, I answered him.—From the correspondence I was about convinced he was R. J. McHenry, and I came to Dunville a week ago last Saturday. I came here on Monday or Tuesday last week. I went with Mr. Barker to the prisoner's cell. At first sight, as soon as I saw him, I knew him. I stood outside the cell and looked in through the door. I heard him speak and would have said it was his voice. We were both members of the same lodge of Sons of Temperance. I was the older member of the lodge; in fact I was a charter member, one of those who started it in October, 1854. He

that I should have dismissed him, had it not been for Graham's testimony. To the best of my memory, Patterson was said by Mr. Graham to have been the one who wore mous taches—that is, I believe, Townsend. Graham did not express the least doubt. I first saw the prisoner when he was sent to Cayuga gaol in 1857. I went to see him. I mailed two letters for him—giving them to the postmaster. One of them was addressed "Mr. J. Anderson, Recording Scribe, Sons of Temperance, California." It was the same letter that was read yesterday. The other one was addressed "Mr. T. Gray, Foster's Bar, Yuba Co., Cal." I knew what was in the letters, and I made extracts from them before I sent them. Prisoner sent for me, and told me he wished to have a special commission to try him. I told him this was simply impossible. Then I advised him to write to California. He said it was of no use, for the population there was floating, and the people in California to whom they were addressed were roving people, and might not get them. I am sure he would not have written the letters which he afterwards did write but for my urging him, and I post-paid and registered the letters, endorsing on the envelopes a request that the postmasters would open them if the parties had removed. I recollect the public description given of Townsend at the time, after the murder. It was held to be so inaccurate that it was regarded as of no value.

To Mr. MACDONALD.—I never heard of two descriptions in Canada. I think the one that was current was got up by Judge Foley. My remembrance of it is that it mentioned a scar on the brow.

JOHN FOLINGSBY said.—I reside in the State of Wisconsin. I was once in California. I left New York to go thither on the 5th of April, 1854. I arrived on the 6th of May at San Francisco. I then went to French Corral. I went to Chips diggings about the 1st of August, 1853. I left it on the last of March, 1857. Before I went to California I lived in Wisconsin; and returned to the same place—Lafayette Co. I saw the prisoner in California. I saw him first in the end of July 1854, in Chips Flats, in Davidson's restaurant. When I first came here, I did not recognize the prisoner, nor did I until I had conversed with him a little. I asked him if he recollected what time the law suit was commenced about the Gas Tunnel Company. He then detailed to me the circumstances, asking me if I remembered so and so. He told me when it was commenced and how. He asked me further whether I recollected a young man being killed by a span of horses running away on the Flats. I did, and at that time I remember recognizing the prisoner. That brought him to my recollection here, and I was able to place him there. I recollect he and James Anderson's telling me of this accident, at Andrew and Fuller's store. This was in October or November, 1854. After this I remembered seeing him previously in Davidson's, in argument with the man called Scotty. I place the month in July, because on the 4th of that

month I went to French Corral again, and on arriving back I spent a short time lounging about the restaurant where I saw him. I knew Huber, and Aikins, and Walters, of Chippis. I don't remember the subject that prisoner and Scotty were talking about. Scotty's name was Andrew Smith. He was a baker about the house. I don't remember any other person there named Henry or McHenry. The conversation I had with him was on the second time of my seeing him here. The first time I went in I did not recognize him, and I think that, on coming out, I told some people he was not the man I had in my mind. I did not know the full name of the prisoner when in California. I knew him by "Bob," and no other name that I remember. The first intimation I had of this matter was on my receiving a letter from Mr. Barker (produced) which came to me, by hand, as I lived some distance from the place whither it was directed. I came upon its receipt, and on no other ground than that of humanity, and without expectation of reward or of having my expenses paid. The man whose image I had in my mind was Bob Winscoll, as I found in conversing with Huber. I am quite sure now that the prisoner is he who told me of the accident referred to.

To Mr. MACDONALD.—He did not recognize me any more than I did him. I didn't know that there were two suits with the Wilkinson Company. I don't know whether the Wisconsin Company had. The Gas Company's dispute with the Wilkinson Company lasted all the time until the next spring. The date of the killing of the young man is fixed in my mind by the fact that it was during October and November, 1854, only that I was engaged in getting out timber. I told the keeper of the City Hall here that the man I had in my mind was a short man, thick-set, with sandy whiskers and hair. I don't know out I have had some talk with Mr. B. T. Campbell, deputy sheriff of Detroit, who is here. I don't recollect having told him that I had not seen the man in California, although I was convinced he had been there from the facts he had told me. I recollect on one occasion, when all the California witnesses and I were sitting at table with Mr. Springer, that Mr. Springer described a man with sandy whiskers, light hair, and thick-set form. I don't recollect anybody saying, "Yes, that's Henry." Springer called the man McHenry. I believe Scotty and the prisoner argued considerably.

To Mr. FREEMAN.—The timber I was getting out was for a breast work I was making for a cutting at the City Hotel. Springer described a man he knew in California by the name of McHenry. I did not assent that this was a McHenry that I knew, nor did I understand any of the others to do so. I think Mr. Springer said he never was at Chippis Flats. He said he was a drover and had been in Lower California. I think he did not profess to know any one in Chips.

HUGH AIKINS testified.—I reside in Nassa-

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I reside in Nassa-

gaweya township, Halton County, C. W. I
was in California and at Chip's Flats. I left
my father's residence on the 8th January 1854,
and arrived at Chip's Flats in June 1854. I
was connected in business there with Walters,
Gibson and others in ditching, to supply the
miners with water. I left California the 5th
of September 1857, and arrived here in Octo-
ber. I came to this gaol with Mr. Walters,
bringing with us papers. I saw the prisoner
then. I first remember seeing him about the
middle of October, 1854, in Chip's Flats in
Davidson's house. I remember the time from
the work I was then doing on the Kanacket
ditch. I know that I was at that work in
October, and that I saw the prisoner then.—
We were working at the ditch in October,
Nov. and part of December. I recognized
the prisoner's features directly I saw him
here, but I could not place him for a time.
He recognised me at once, and called Hugh
Walters. I can account for that because in
1854 I was known at Chips, generally, by the
name of Walters. There were very few who
then knew me by my proper name. It was
not long before, and during the first inter-
view that I recognised him so as to place
him. He put up a sandy while we were
camping out in November. Davidson's was
a place of very general resort. Here, his
features drew him to my recollection, being
familiar to me. I recollect hearing of an ac-
cident happening to a young man getting out
timber. I heard of it at some time in Oct.
or Nov., 1854, as a matter then taking place.
I remember hearing of one suit at Chips;
can't say if there were any more. I don't
remember having seen any scars on the man
in California. He might have had them with-
out my seeing them, for I am sure he wore a
beard there, which appeared to me a kind of
a sandy beard; it was so heavy as to con-
ceal the skin; did not know him by any
name that I remember; have seen a person
here who says his name is Springer; if I re-
member right he said he was never in Chip's
Flats, but had been driving cattle. I think
he said he had been driving cattle from
Forest City to Donoughville. He said he
had sold cattle to a man who called
himself McHenry. I never knew this pri-
soner indulge in purchasing cattle. I think
Springer described the McHenry he knew.—
He did not say that man was this one. I
never assented to this, nor did I say any more
than observe that "it might be Bill Henry
whom I knew." I knew a Bill Henry, of
Forest city, who does not look like this man.
He kept an eating house and sold beef. He
became postmaster of the place. He was a
very respectable man. I used to go down to
Davidson's to get provisions for the company.
I went along with Walters and others. I am
still interested in California, and in the ditch
company. I was a member of the Sons,

To Mr. MACDONALD—I have read an account
in the papers about my coming here at great
speed. I believe we were 36 hours without
sleep when coming here. The statement in
the papers was not strictly, although it was

very nearly correct. I recollect the prisoner
speaking to me some time in November, con-
cerning a tunnel called the Oregon tunnel in
which he was interested. He was then sun-
burnt, a miner, fair complexion. The Henry
I knew at Forest city had dark hair and
whiskers, and I don't think he was so heavy
as this man, a little lighter built. I could
not tell which was the heaviest.

Mr. Macdonald here pressed the witness
for a length of time as to whether Henry was
straight or very straight, ruddy or very
ruddy, &c. and

His Lordship said he could not see that this
was pertinent.

Mr. McDONALD remarked that if his Lord-
ship wished to conduct the case himself—

His LORDSHIP replied—And Mr. Macdonald
asked pardon.

WITNESS to Mr. Macdonald. I don't know
whether I saw Scotty and this man arguing
at the same time. The other Californians
did.

To Mr. CURRIE—Scotty was a very gassy
talkative man.

ORISHA B. CROSSMAN said. I live in Pelham.
I knew Wm. Townsend. I know he was in
this country in 1852. I became acquainted
with him on the 22nd of January, 1852. I
lived a short distance from where he worked.
I was ordered by Diffin to make what was
called a Crisset, an instrument used for beat-
ing barrels. I made it and it did not suit,
whereupon Diffin sent it back by the man
Townsend, who gave me directions how to
alter it. I looked on my books this morning,
and the charge for making it was entered. It
was a misunderstanding, or I should have
brought my book. I asked the man who
served the subpoena if it was necessary to
bring the book—he said he supposed not, and
I therefore brought a memorandum only.

To Mr. MACDONALD—I never enter in my
books "to whom delivered" I remember
Mrs. Grant, as living at Diffin's tavern. I
don't know whether she was living there
then. The next article charged in my book
after the crisset is probably a horse shoe. I
can't say who brought the horse. I don't
know what the next thing I did for Mr. Diffin
was. I had worked for Diffin ever since he
lived in Pelham, for 12 years. I can't say
whether I mended a buggy for him soon be-
fore or after I mended the crisset. I saw
Townsend early in 1852 at Diffin's. I'll not
say he was or was not there in the winter of
1852-'3. Townsend sometimes brought other
articles to me. He afterwards brought a
trace hook to be mended. That is not entered
in my book. I can't tell all the persons who
brought things to me from Diffin's. I can
recollect this because there was considerable
talk about it.

Mr. Macdonald reserved further examina-
tion until the books should be brought.

JAMES M. JONES deposed.—I reside in Cleve-
land, Ohio. I acted for the prisoner at the
time his case was under consideration there.
I knew one Robert Fleming. He made a
deposition at the time of the prisoner's arrest.

I was with him when he went to the gaol to see the prisoner. The prisoner was in the hall. I had that morning objected to the manner in which witnesses were shown the prisoner, by persons asking them if they saw anything like Townsend in him, instead of asking if they could pick him out from others as Townsend. Fleming then came in, and McHenry among other prisoners stood before him. He said he was not sure whether he knew Townsend, but he did know the man who had shot the officer at Port Robinson, who had sat at the head of the table. He looked at the prisoner and so did a Mr. Waring, and both were unable to point out any of them either as Townsend or as the man who had shot Richards. Waring indeed pointed out another man who had a scar on the cheek. Fleming told Mr. Philpotts, on being asked if he recognized the man who shot the officer, "I don't know that I do." I repeated the question and Fleming made the same reply to me. Philpotts then stepped up to McHenry, and slapped him on the back, saying to Waring "Is this the man." Waring replied but Fleming said nothing. I heard no more conversation inside the gaol. Presently Fleming and Caleb Hunt who had come with him went out. I remained for a minute or so, and, when I went out I heard them talking together in a low tone of voice. I stepped up and remarked "well Fleming, what do you say now?" He was about to reply when Hunt said in a quick tone "here Daniel, come here" and, taking him by the arm, led him away. I perhaps ought to state that, just before leaving Cleveland, now, I had a conversation with Mr. Hunt who admitted all this, except the word Dan. So that, instead of the circumstances being as I see he related them, they are very different. Mr. Flanders gave his statements on affidavit after an arrangement had been made between us and the opposite counsel that it should be taken. The arrangement was a public one.

To Mr. MACDONALD—He knew nothing about it that I am aware of.

To Mr. FREEMAN.—The prisoner gave me his history, and, if I had had the means of making it public and bringing the witnesses, I would have disclosed it. I advised him, however, that he had best let the state make out a case if he could, and even if he were convicted there, he would be acquitted when he got to Canada, where there were lots of people who knew Townsend.

To Mr. MACDONALD—This (produced) is, I believe, the handwriting of McHenry.

Mr. FREEMAN then informed the Court that the counsel for the defence could bring forward very numerous witnesses, but that they were willing to rest their case on the testimony already adduced.

Mr. MACDONALD said he had no objection to wait until all possible witnesses were brought forward; but

HIS LORDSHIP directed the

REBUTTING EVIDENCE

to be brought forward.

JAMES NEELES deposed—I remember Robert Flanders being at my father's after the hanging of Blowes and King, when my brother and my father were also present. I recollect something being said about the means of recognising Townsend. It is my impression that something was said by Flanders about several scars, but I am sure he described a scar over the left eye. I am not positive that he put his hand up, but I think he did. He said nothing about a scar or cowlick near the root of the hair. He said "Townsend had a scar over the left eye, its not very perceptible, and if you met him on the street and did not know he had a scar, you might not notice it, especially as he had a hat on." This was all said before the apprehension of the prisoner. Afterwards, about three or four weeks before the trial at Cayuga, I met Mr. Flanders in the street at Dunnville. Conversation passed concerning the prisoner, and he expressed his surprise that so many people should go forward and identify this man as Townsend, as he could see no resemblance whatever between the two. I said, "Well, Townsend had a scar over his left eye." "No," he said.

To Mr. CURRIE—I was not examined at Cayuga. I would have contradicted Mr. Flanders at Cayuga on oath if I had been called upon by the Solicitor General to do.

SAMPSON NELLES said—I also recollect the occasion. Flanders described the color of Townsend's hair, and said he had a scar over the left eye. He remarked "you might meet him and talk to him and perhaps you might not observe it, but if you knew it is there you can see it quite plain." I'm not sure whether he described any other scars. He said nothing about any cowlick.

To Mr. FREEMAN—He put his finger up, but I don't remember where. I did not know Flanders before the murders. Flanders said here, that Townsend had a cowlick. If he did not say that I misunderstood him. Flanders told about the scar just as he was leaving, and standing on the verandah.

To Mr. MACDONALD—He did not say the scar was at the roots of the hair.

WM. W. NELLES deposed—I recollect the conversation. Flanders came to my place and received the reward, £25, that I had offered for the apprehension of the murderers. He said he had had good success. That he had taken three of the gang whom he had only seen once. I said they were all taken except Townsend. Flanders said he knew him, and that he had a scar over the eye. I don't recollect that he mentioned any particular scar. He said this inside the house. I don't know whether my sons were present at the time. I am not sure whether he said scars or scar. I think scar. I rather think my sons talked with him under the verandah, but I didn't go out.

To Mr. FREEMAN. I can't say whether he

the
EVIDENCE

—I remember Robert
father's after the
King, when my bro-
also present. I re-
said about the means
It is my impres-
said by Flanders
I am sure he des-
t eye. I am not posi-
up, but I think he
out a scar or cowlick

He said "Townsend
eye, its not very per-
him on the street and
scar, you might not
e had a hat on." This
apprehension of the
about three or four
at Cayuga, I met Mr.
Dunnville. Conver-
the prisoner, and he
at so many people
identify this man as
see no resemblance
two. I said, "Well,
his left eye." "No,"

s not examined at
e contradicted Mr.
oath if I had been
or General to do.

also recollect the
cribed the color of
e had a scar over
d "you might meet
perhaps you might
knew it is there
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any particular scar.
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id scars or scar. I
nk my sons talked
ah, but I didn't go

't say whether he

said "he had a scar on his forehead over his
eye." He gave me nothing further to under-
stand than he had a scar on his forehead; only
heard him mention this since.

ANDREW OLIPHANT. To Mr. MACDONALD. I
reside at Lundy's Lane, and used to follow
blacksmithing; knew Benjamin Diffin; he
resided in Pelham; was also acquainted with
him in '51 and '52; knew him before; can
easily recollect the time he was at Diffin's, in
the Cooper business; at that time I used to
burn charcoal a short distance from there;
remember Townsend having a handkerchief
over his head; on one occasion I understood
it was on account of a hurt which he had re-
ceived: could not say who informed him
might have obtained his knowledge of it
from Townsend himself, but do not remember
if Diffin was present.

Here Mr. Freeman objected that at this
stage of the case the Crown could not be
allowed to ask anything that had not occur-
ed in Diffin's presence, and upon an alterca-
tion His Lordship ruled that evidence in chief
could not now be gone into.

JAMES CHAMBERS said. I am acquainted
with Aaron Farr; had some conversation
about the time of the examination in Clevel-
land. I asked him if he would know
Townsend positively; he said he would, and
he (Farr) had looked over his shoulder into a
glass, and Townsend said that "the (Townsend)
had as good a blue eye as he" I understood
him at that time to say that Townsend had a
scar over his left eye.

B. J. CAMPBELL, of Detroit, Michigan, De-
puty Sheriff and Revenue Officer, said I came
down here on business; I had a very few
words with Mr. Pillings concerning the pris-
oner. He sent this man brought to his mind
circumstances which had transpired, but he
did not recollect to have seen him there.

To Mr. FREEMAN. I can't say that Mr. Pil-
lings had any conversation with me after the
second time he (Pillings) had seen the pris-
oner.

Mr. GLOVER, of the City Hotel, said—Mr.
Pillings staid at my house a part of one day.
He said he knew a man by the name of Bob
in California, who was a good-looking man
with sandy whiskers—a stout-built man, with
not dark hair. He did not recollect, he said,
whether the man's name was McHenry or
not.

To Mr. FREEMAN—I rather think he had
not seen the prisoner at all at that time.

SAGRES S. HAGAR—I had some conversation
with Mr. Valentine Schram concerning Town-
send. He described him as a man with high
cheek-bones, thin cheeks, a long chin, &c.,
and he spoke particularly of a scar over his
eye. I can't say whether he mentioned either
eye in particular.

To Mr. FREEMAN—Mr. Schram is a respect-
able man. I should think, if he said he had
not told me this, he must be under a mistake.

NANCY CRUMB, living about a mile and a
half from Bridgeport, (Jordan,) said—I know
William Harvey, who resides in Cayuga
township, near the Townsend family's resi-

dence. I heard him say, after Townsend
had murdered Mr. Neiles and had gone away,
that Townsend had changed his name, and
called himself McHenry. I can't say how
long after the murder this was. He was
talking to my son Benjamin, if I mistake not,
and in my own house. It appears to me that
there were other persons present, but I don't
remember who.

To Mr. FREEMAN—Prisoner is not Townsend.
Mr. MACDONALD said this was an improper
question. His Lordship agreed with him.

WITNESS, continuing, said that when the
prisoner was caught the whole thing came
back fresh to her mind.

WILLIAM TALCOTT said—I now reside in
Cleveland. I have been a sailor for twenty
years or more. I have known the prisoner,
and saw him in the spring of 1852 on the
schooner St. Lawrence, on Lake Erie. He was
a cook, and a pretty good cook too. I think he
came on board the St. Lawrence in April. I
was mate on board the vessel. He remained
on board about a month and a half or more.
I was examined as a witness before the U. S.
Commission at Cleveland and on behalf of the
defence. On board the St. Lawrence this man
went by the name of Bob. I didn't know his
full name. I am an American, or that's what
they call me. I once asked him, "Bob, what
countryman are you?" I think he said "I am
an Englishman." He talked broad like. He
may have been Scotch for aught I know. I
thought he talked like an Englishman.

To Mr. FREEMAN—His tone was always
natural. I recognized this man in Cleveland
the moment I saw him. When he left I
understood he was going on board the brig
Powhattan, Capt. Turnbull.

Mr. MACDONALD.—That's another of his
stories, for he did not go on board the Pow-
hattan until October.

KENNETH MCKENZIE deposed.—I was born
and brought up in the north of Scotland. I
have had some conversation with the prisoner.
In it I asked him what part of Scotland he
was from. He said a little distance from Glas-
gow. I received the impression that he meant
a few miles. I asked him if he had sailed from
Glasgow. He said he had gone from Greenock.
That would be the most direct route. I never
expressed an opinion that "he had never been
in Scotland because he did not know the way
out."

PRISONER.—I'm open to answer any ques-
tions you like to ask about it.

Mr. MACDONALD wished he had known that
before.

JOHN DEVINE—I knew Wm. Townsend on
the canal. I was present when he met with
an accident.

[Mr. Freeman objected to this question
being asked or answered, as it was bringing
fresh evidence after the case was closed. He
was over-ruled.]

He was driving for Boyle & Farrell when
he was struck on the left side of the face by
the horse's hoof. Solomon Dorman, of Port
Dalhousie, was there too. "Old Spot" was
the horse's name. The place bled some.

Darling and I carried him in, when senseless, into a grocery in Thorold, on the line of the old canal. I did not stop, but went away with the vessel, leaving Dorman with him. I did not see the man for a week or two after. This grocery was where Barner's mill now is. I can't say whether the horse was shod or unshod.

WITNESS—TO MR. FREEMAN—I'll answer no more questions.

HIS LORDSHIP—You must.

WITNESS—This man had a kind of a dark brown eye.

MR. FREEMAN—Have not you said it was black?

WITNESS—Who told you that, your honor? I never said his eyes were black. I never wrote that his eyes were black. I never wrote to Sheriff Hobson that his eyes were black.

MR. FREEMAN was proceeding to cross-question this witness, but

HIS LORDSHIP ruled that he could not examine him to elicit the opinion or fact whether the man in the box is he that was hurt.

WITNESS—This letter to Sheriff Hobson (produced) is not my writing. I write better than that.

ROBERT HARPER was called.

MR. MACDONALD said he did not even know what this person was going to prove.

MR. FREEMAN renewed his objection, and on the same ground

HIS LORDSHIP overruled him again, and

WITNESS deposed—I live on the canal. I knew Townsend. I knew him to suffer under an injury received from the kick of a spotted horse. I saw him about half an hour after it was done. Devine and a man called by the nick name "Dutch" had carried him into a house. It happened in Thorold. The kick was on the cheek bone. I asked him if he was much hurt and he said he was. The house he was brought into when I saw him was a Hotel in Thorold. This was 11 or 12 years ago. Some repairs were being done to the locks at the time. It was late in the Fall. I did not know Townsend previously to that. I saw him again shortly afterwards when he was getting better.

TO MR. FREEMAN—I hid myself before coming here. I did not want to come.

MR. MACDONALD—Yes, the witnesses are all afraid to come, along the line of the canal.

TO MR. FREEMAN—You could see the wound when you looked him full in the face.

TO HIS WORSHIP—I was subpoenaed a week ago.

DANIEL SPRINGER, of Delaware, Middlesex Co., said—I lived in California. I arrived there in February, 1850, at a place called the Southern Mine. I passed through the Chip's diggings county in 1851. This was before the place was called Chips. I was in Forest City for the last time in 1852. I left California in September, 1856. I went overland to California and came home by Nicaragua. I knew a man named McHenry on the Bend River, some 60 or 65 miles from Forest City. I did not know his Christian name. He, McHenry,

I knew had whickers. He was a low sized man, about 5 feet 7 inches in height. Light complexion. I described this man the other day to one of the Californians—among whom was Mr. Pillings. One of these said, I had described a man named Henry, whom he knew. I can't say whether this McHenry, the butcher, drank anything.

HIS LORDSHIP hereupon said he wished Mr. Springer had stayed at home.

MRS. SHERWOOD said.—I had a little conversation with Capt. Turnbull. He said, "if the lawyers only knew what questions to put him, they would throw more light on the subject than had yet been thrown upon it."—Something was said about his expenses. He said Mr. Darling, of Dunnville, had promised to pay his expenses. He did not say what he would do if they were not paid. The conversation was held at the breakfast table. Nothing more passed. His Lordship refused to admit fresh testimony to show that there had been a ear on Townsend's cheek. He also refused to allow testimony to show that if McHenry claimed to be a Son of Temperance, he had not acted up to the principles of the order, and, consequently, was not one.

F. J. CHESHIRE said.—Flanders told me at Cayuga that he knew Townsend's face had scare on it, but that the people were all wrong in describing them.

DR. BURNE said.—Schram had told him after looking at the prisoner, "There I see Townsend," meaning, "There I see a resemblance to Townsend." This was when looking at him in a certain position.

ROBERT COULTER said.—O'Brien told me several times he could not swear whether this man was or was not Townsend. He expressed himself in that way to several persons in my shop.

MR. MACDONALD then wished to prove by this witness that the prisoner was not a Son of Temperance, but

HIS LORDSHIP would not allow it.

ELISHA O. CROSSMAN, Sec., put in the book in which was the entries of a criest made for Mr. Diffin in 1852

MR. FREEMAN wished to commence his speech that night; but

MR. MACDONALD said he wished to speak for three or four hours at least.

The Court then adjourned until 8 o'clock on Monday morning.

MONDAY, April 5th, 1858.

Refreshed after their Sunday's incarceration, the Jury came into the box at about nine this morning, and when both Judge and Prisoner had been ushered to their respective seats.

JOSEPH GARNER was examined and said—Mrs. Ayree worked for me, from October 20th, 1852, to June, 1853. I lived then near Diffin's. That, I believe, is the only season she lived in the neighbourhood. Her name then was Olive Yokem.

BENJAMIN LAWRIE said—I lived within half a mile of Mr. Diffin's in 1852 and 3. On referring to my memorandum book Townsend

He was a low sized
 inches in height. Light
 ed this man the other
 rians—among whom
 of these said, I had
 ed Henry, whom he
 ether this McHenry,
 hing.

on said he wished Mr.
 home.

I had a little conver-
 sation.

He said, "if the
 what questions to put
 more light on the sub-
 ject thrown upon it."

ut his expenses. He
 unville, had promised
 he did not say what he
 got paid. The conver-
 sation was at the break-
 fast table. Noth-

ing. The Lordship refused to
 show that there had
 been any check. He also
 refused to show that if

any of the principles of the
 law was not one.

Flanders told me at
 Townsend's face had
 been all wrong

people were all wrong

people were all wrong

people were all wrong

people were all wrong

people were all wrong

people were all wrong

people were all wrong

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was there in the fall of 1852. I recollect
 seeing him at that time at Comers. He
 worked at Diffin's in the latter part of Sep-
 tember of that year.

To Mr. FREEMAN—I have a memorandum
 book, but could not say how late I saw Town-
 send in the fall of the year. Saw him at
 different times in the fall. Began my cooper-
 ing in the latter end of August, and gave it
 up in 1854. I'll not say I did not see him in
 November.

Mr. Macdonald then proposed to call one
 more person, whom he had subpoenaed to
 come and testify to the fact of Townsend's
 being kicked by the horse, when towing
 vessels through the canal; and, after a delay
 of a few minutes, he entered the court, and

SOLOMON DORLING testified—I was once en-
 gaged in towing on the canal. I knew Town-
 send, but was not present when he was kicked.
 I have known two horses called "Spot;" on
 the canal. I don't recollect a man being
 brought into a house near Thorold, after being
 kicked by a horse.

To Mr. FREEMAN—I don't recollect any one
 being kicked by a spotted horse. I was once
 kicked by a horse, on my face, at Thorold
 by a bay horse of Mr. Read's, at Port Dal-
 housie. I was taken into a grocery at Tho-
 rold. Was insensible. Don't recollect who
 carried me in. Had a patch of sticking
 plaster on my face. I know Mr. Devine. I
 don't exactly know how long ago I was hurt.
 It was just about the time the new locks
 were being commenced.

Mr. FREEMAN—This is the man himself who
 was kicked—not Townsend.

To Mr. MACDONALD—I did not tell twenty
 people at Mr. Tuft's that I had helped to carry
 in Townsend.

Mr. MACDONALD wished to prove that he
 had, but his Lordship would not allow it.

The prosecution then closed.

SPEECH FOR THE DEFENCE.

Mr. FREEMAN said—He regretted that se-
 vere cold somewhat prevented his discharging
 his duties as he would wish. He felt it proper
 towards himself, in consequence of the ter-
 rible outrages committed by Townsend, to
 state how it was that he first became con-
 nected with the case. They had heard that
 at Cayuga the same prisoner had been ar-
 raigned and had expressed himself ready for
 his trial, without having any counsel, or a
 single witness for the defence. This novel
 course astonished the Court and the Solicitor
 General, who was conducting the prosecution.
 During the evening, after the prisoner had
 been for a time remanded, Mr. Barker and
 others had spoken to him (Mr. Freeman)
 about the matter, and he voluntarily under-
 took the duty of attending to the case. He
 asked the prisoner nothing about his history
 or circumstances, but contented himself with
 hearing the evidence. On that occasion, it
 was known, the jury had disagreed. On this
 occasion, he knew no more of the prisoner
 than what he had learned from the wit-

nesses on the previous occasion, except
 that he had received certain documents
 from California, which had not been allowed
 to be put in as evidence. But he might say
 that these and others had turned his belief in
 the innocence of the man into conviction. He
 would allude to the extraordinary outline of
 the prosecution. It had been carried on in a
 spirit which could only be accounted for by
 belief that the man in the box was not to be
 considered as innocent until proved guilty,
 but as guilty until proved innocent. In sup-
 port of this he would only point to the man-
 ner in which the witnesses for the defence had
 been examined and browbeaten. He would
 not allude to the influence that large rewards,
 such as the one offered in this case, had in
 warping the case. It had drawn hordes of
 men of low character to swell the tide of evi-
 dence. The officers of the Crown had hired
 the very men to deceive them in reference to
 this man's guilt. What respectable inhabi-
 tants of Canboro township had been brought
 to testify to the identity of the man? None.
 Every piece of evidence unfavorable to the
 view taken by the Crown had been carefully
 suppressed, while thieves, convicts and pros-
 titutes, had been brought to testify against
 the prisoner. Mr. Iles and Mr. Tupper had
 every possible inducement to action; the one
 had the hope of a reward, the other had been
 the paid servant of the Crown for the last six
 months, and had industriously tracked out
 every possible vein of evidence, by bringing
 witnesses from far and near, and even public
 officials of the United States. Criminal laws
 should be administered with mercy, not
 vindictiveness; the balance of justice
 should incline towards mercy. He would
 appeal on this point to well known au-
 thorities. And then there was the fur-
 ther and benevolent view taken by the
 law that, if there were any reasonable doubt
 of guilt, the doubt should be given to the be-
 nefit of the accused. It was better, in com-
 mon phrase, that ten guilty men should es-
 cape, than that one innocent should suffer.
 As further proof of the spirit of the prosecu-
 tion, he would remark that in the opening
 speech for the Crown it had been said that
 four of the five men engaged in the murder
 had suffered for their crime, while "the fifth
 stood before us." Was this just? Was this
 in accordance with the principles of law? He
 had feared, he had trembled, when hearing
 that, lest innocency could have no place in
 that Court. And it had been further said, that
 a new trial could be moved for in case of ap-
 plication, and, therefore, it was implied the
 jury ought to convict him without fear, be-
 cause, by possibility, he might afterwards
 show his innocence. This he reprobated in
 the strongest language. He would commence
 by alluding to the proceedings at Cleveland,
 first adverting to the fact that, although this
 man was charged with murdering Richards,
 the murder of another, and the robbery of
 about a dozen, crimes the most terri-
 ble, were all proved to secure a convic-
 tion. He had always understood that the

prosecution had a right to travel beyond the record. He had said so to his learned friend, but that gentleman had taken his own course, and, although there was but one crime charged against him, evidence had been offered and received concerning a number. Again, when one witness had mentioned a door, a window, another had been brought to prove that such a door or window really existed. This was all on record, although it ought not to have been taken down. The evidence opened with a very tragical display, proved only by Mr. Iles. But he would first draw attention to Mr. Knowiton's evidence. He saw the prisoner on the railway car, coming to Cleveland, and, after one or two trials elsewhere, he brought him to Mr. Iles' house. No evidence had been given to shew whether Mr. Iles' name was painted on the door. It probably was, or else Mr. Iles name was mentioned by Mr. Knowiton in the prisoner's presence. The pistol was taken hold of by Mr. Iles, and if the prisoner made a strong remark on the occasion, it was because he was unwilling that the pistol should be ultimately alienated from him. The language might have been profane, but the prisoner was not to be convicted for swearing. The language of Mr. Knowiton was perhaps this, "Mr. Iles does not want it, &c.," and then the prisoner was led into Iles' supper room. Look at the relation of the parties. The landlord had taken in a penniless man. The prisoner accepted that hospitality. Now, viewing the man as an innocent man, examine what follows. There was no proof in support of the confusion and fear which Iles professed to have felt on first seeing him. It was quite unexpectedly that the constables were quietly introduced. As to Iles' evidence, he would say that a man could not be a witness in his own cause in a civil matter—neither ought his evidence to go for much in a criminal suit on the result of which he had a civil interest. But even taking it into consideration, how did it tell against the prisoner? He was arrested on a false charge of taking the trunk, and when at the station-house said "Iles, Iles, you know me." Was not this what might have been expected? He was being carried into custody, and to whom would he apply if not to the man at whose fireside he had been sitting, and whom he believed his friend? The exclamation was not "Iles, do you know me?" but a positive declaration "Iles, you know me," and Mr. McArthur said he thus exclaimed as if he wanted somebody to bail him out of gaol. Mr. Iles might possibly have seen this, and, accordingly, all these circumstances were omitted in his relation. He put in, however, a conversation said to have taken place, in which the prisoner, it was asserted, said he had been in Canada, on the Grand River, in which no person corroborated him! On the contrary, the Constable's evidence seemed to contradict it, inasmuch as he thought the prisoner only said he had been in Dunnville, and through the Welland Canal. Again, Iles said the prisoner admitted he knew King and Blowes, and when told they

were no more, he said with an exclamation, "Poor fellows." Now, if he were an innocent man this was quite to be expected, but the Crown seemed to presume him guilty, and put on this exclamation a construction as if he were sensible that heaven was tracking him. Again, at the gaol, McArthur told him something about the pistol. "Who" said the prisoner "told you about the pistol?" Then, he exclaimed, "I see through it all, I understand the treachery"—or, as related, "d—n the man who would sell a friend," "desert a friend," or "*prove a false friend*." McArthur's detail of this conversation was different, very different from Iles, who used his expressions designedly and for a purpose, every word pointing like a dagger, untouched by mercy, to that man's (prisoner's) heart. But assuring the man to be innocent—as the law should—was there not a reasonable presumption that the more favorable construction of the conversation was the true one. One more word on this conversation. The Crown seemed to assume that a number of witnesses for the defence were of the gang with whom Townsend had been connected. The Crown prosecutor even declared in open Court that this was so, that farmers and others were "the companions of Townsend, &c." He (Mr. F.) did not believe this—he thought a regiment of soldiers could not carry Townsend through these counties alive. How unlikely, if the assumption of the Crown were true, would it be that Townsend should be ignorant of the fate of Blowes and King until he was told by Iles! Of those present at the murder of Richards, only one, Potts, knew Townsend, and he only saw him then through the parted curtain. Mr. Hagar who was there, does not identify the man.—Mr. Gaynor, who was robbed, does not identify him. Mrs. Fleming who does recognize him, described Townsend as having a light blue eye, light hair, and a sandy complexion. Now, had Townsend any of these characteristics? She described this man well enough, but not Townsend. But the Crown say "he's gone to the South, where people's eyes grow blue." "He has plucked out his eyebrows," although barber Brown says that makes them grow thicker; and it is the man, so changed, that Mrs. Fleming describes, although she saw him before the charge. To proceed, Mr. Potts' evidence is like the rest, and, if only partially untrue, ought to be rejected. Mr. McCoppin's was uncertain, and he himself would not have the prisoner convicted on his testimony. Fleming said he recognised the prisoner at once, and related various circumstances connected with his recognition. He would say no more than that Mr. Jones' evidence contradicted this; and Mr. Jones was surely a respectable man, for on the other side, just as here, men of infamous character were not allowed to have the charge of the secrets of clients. As to the evidence of Forbes and McKay, of Woodstock, they say they only arrested this man on the authority of a telegraphic despatch. In fair-

with an exclamation, if he were an innocent he expected, but the name him guilty, and a construction as if heaven was tracking gaol, McArthur told the pistol. "Who" told you about the exclaimed, "I see understand the treach- in the man who would friend," or "prove a ur's detail of this rent, very different expressions designedly word pointing like mercy, to that man's assuring the man to should—was there ption that the more of the conversation more word on this n seemed to assume eses for the defence from Townsend had n prosecutor even at this was so, that "the companions of F) did not believe ent of soldiery could ough these counties the assumption of ld it be that Town- f the fate of Blowes d by Hles! Of those Richards, only one, d he only saw him rtain. Mr. Hagar identify the man.— ed, does not iden- who does recognize as having a light sandy complexion. f these character- man well enough. But the Crown e South, where ue." "He has although barber hem grow thicker; nged, that Mrs. h she saw him be- ed, Mr. Potts' evi- if only partially ed. Mr. Mc Cap- he himself would icted on his testi- cognised the pri- various circum- recognition. He at Mr. Jones' evi- ed Mr. Jones was for on the other famous character he charge of the the evidence of odstock, they say man on the au- patch. In fair-

ness the despatch ought to have been produced before speaking of it. Now, as to the strength of this belief at the time of the arrest, he would say that they had not acted as if they believed it. Then Mr. Robinson said he saw him on the railway west of London. Why did the Crown not bring other witnesses to corroborate this? May, again, who thought he saw Townsend in Chicago, said, if that was Townsend this man was not. And as to the name which May's father said his son had mentioned as the one Townsend then wished to be called by, it surely ought not to have any weight as against this man's life. Mr. Cheshire and his friend, who said they had seen this man once, and once only, did not say that he had changed—they said he was just the same. But the Crown claimed that he was changed. Then Mr. Higgins, who identified the prisoner, had also said that he was at work with him during three months of 1858. And this, if so, was a thorn in the side of the Crown. He (Higgins) said his voice was changed, but others, and Brown among the number, knew him by his voice! And, if the prisoner then described the differences between himself and Townsend, it was not because he knew the change he had effected in his own appearance, but because he had heard at Cleveland the description of Townsend given by Flanders and others. If, again, the prisoner said "not Cayuga, Dunnville," in relation to a boat said to be stolen from the "Mohawk," it was in a playful mood, and because he had learned at Cleveland that the "Mohawk" had laid at Dunnville, not at Cayuga. Mr. Sherwood was standing by. He did not say prisoner introduced the conversation, and in this his evidence rather differed from Higgins'. Then Mr. Haw said he knew Townsend in October and November, 1852. If he did, he was not then on the "Powhattan." This man was, and only left her some time in December. Mr. Haw said he never had any doubt, he knew this man was Townsend. And yet he said he had been to see him on a Sunday, and offered, if he would give a history of himself, to get up a subscription for his defence. Away with such evidence, from whomever it came. Mr. Graham did not know, when he was robbed, that Townsend did it. He did not recognize him. Yet now he recognized in this man both the man who robbed him and Townsend, and this in spite of the fact proved by Mr. Farrell, that he had previously sworn that Patterson, a person six feet high, was the man who had committed the robbery upon him! David Young next swore to this man. In his evidence he expressed himself positive—there was no suspicion in his mind that Townsend was in disguise. Mr. McIndoe was the first really respectable man in whose evidence nothing contradictory occurred. Let it stand, in face of all the evidence for the defence, with all the weight it could command. Stringer's evidence might be passed over—he was not positive as to this man, and described Townsend as a man of a blue eye.

Mr. Buck's evidence, as Mr. Wetherby proved, was different from his previous statements. Hezekiah Davis was a strange man to give evidence, as he did not even know his own son after a short absence, he did not know Mr. Barker here, although he knew him well at Dunnville. Barton Wait was the next witness for the Crown. If he, describing Townsend as he did, had sworn this was Townsend, he would have sworn to a man whom he had described as something very different, with big toe joints, and all that. Burteh said that Townsend had a scar not like this man's, and swore he was not he. Brooks says he knew Townsend in the harvest time of 1852, and at Olney's Mills in the fall of that year. This could not be if he was on the "Powhattan." Passing over several others, he came to Mr. Kelsey. He was the only one, living within fifteen miles of where Townsend's family reside, who testified to the identity of the prisoner and he! Mrs. Hatch was a woman concerning whom more could be understood than expressed. Her mother's house was the resort of the vilest outcasts of society, and her evidence could be fitty taken up in connection with that of those who were brought from the receptacle of convicts to bear down the evidence of honest men. She said earrings could be stuck on the ears. Bryson said Townsend took his out of his ears in Buffalo. And Bryson, when he first saw the prisoner, said he did not know him. He then had a conversation with Mrs. Hatch, and the next day requested another view. He did it. He held out his hand, saying you are Townsend. I know you by the holes in your ears. He found no holes, yet he went down and swore the man was Townsend! There were no holes. There was not even a mark, although holes even when closed left one! The next evidence was Peter Brown's, a convict. He was put in the box to play a duplicate character, to show that this man was Townsend, and yet to explain how it was he was unlike Townsend. He said hairs, when pulled out, came in blacker. It was strange then that, although the Government had been barbering this man for months, oiling his hair to make it lighter as some witnesses said—oiling it to make it look darker as others said, and yet, although Townsend could change himself into everything; they could not make this man anything but what he was! Lee, again, another convict, who swore to everything, said he had learned to know Townsend when working at a cooper's shop of Mr. Patterson's, where, Mr. Patterson and Mr. Muir said he never had worked! Mr. Brooks, who swore positively at Cayuga that this was the man, said after seeing the sisters, "I'd give anything to take my oath back." Accordingly, he was doubtful here, and his evidence ought to go for nothing on behalf of the Crown. The next witness actually said that Townsend himself had carried to Diffin's the news of the murder, although nobody else from its neighborhood said people knew anything of it for two days after. That surely weakened his evidence! The next witness was Mrs. Ayres.

Now, neither she nor her husband thought they were going to see Townsend. Nor did she do so until long after she had first seen him, as her husband said. But she said she recognized him at once! Mr. Ayres, who ought to know his wife best, said "even after what she said, I did not believe it was Bill Townsend." Potts, the next witness, said this man's hair was darker than Townsend's. This was a new view of the case! Aaron Jennings, the next witness, was the man who paid several visits to the prisoner, during one of which the prisoner made a rude, inexplicable remark unless every mystery was to be made an iron link to bind this man to crime. He said, "What a fool I was to tell Hobson what I did, of Hodge." Mr. Hobson, who was put in the box, said prisoner had told him nothing! Mr. Hartley proved that Townsend was working for him in the summer of 1855, while this man was on Lake Erie. Mr. Hellem's evidence was the next of any importance. He did not know what that person thought of himself. He thought very little of him. He went inside the gaol with professions of friendship—talked of things not of this world—moved him to tears—went out of the gaol and disclosed all that had passed. Contemptible beneath contempt was such conduct, and the man so d ad to honor ought not to be believed upon his oath. But what did he get out of that conversation? Prisoner said, "you were driving piles," and this was construed into an admission that he had been in Canada! Why, had he not been previously talking of driving piles? He only said he *thought* not. And at that time, Townsend was only *five years old!* After this let Mr. Hellem's be silently passed over. The young girl who saw two men sitting on a log eating buns was, he thought, sincere, but her evidence was probably incorrect; she must have been too much frightened. The case for the prosecution was closed by what might be called a farce after serious tragedy. How, in the annals of criminal jurisprudence in this Province, was such a proceeding enacted as to put barbers into the witness-box to testify, in a case of murder, to impossible things, which ought to be laughed at, and medical men to testify that it was possible for carbuncles caused by tight boots to be removed, while prisoner himself never wore tight boots here, but always a fine boot or a moccasin! Wherever Townsend now was, he had his marks with him, as would be seen if, as God grant, he ever was found. This closed the case for the prosecution, and he would be far more brief in adverting on that that for the Defence. Evidence of the best and most respectable neighbors of the Townsend family had been brought. Even His Lordship had almost chided chided him and asked if he were about to bring all the boys of the Township to testify. He had therefore let many of them go, although he thought even the finger of a boy was never to be despised if it could roll back in any way the tide of evidence brought against an innocent man, although he was thankful that boys would

come without even the promise of a cent, to give their evidence against those whom the Crown had not let go away dissatisfied. He made no accusation against the Government. The Government believed the prisoner guilty, and believed the cloud of witnesses for the defence forsworn. He thanked heaven, in the face of this, that men from hundreds of miles away, had come spontaneously. It was done because they believed the cause of this man was that of truth and innocence. To him, he would say that he had no hope of reward for the part he took, and it was far more grateful to his feelings to spend so as to see truth triumphant than to receive a heavy reward for securing the triumph of error. It was the duty of the community to defend the innocent as well as to prosecute and punish the guilty, and it seemed that the Administration might well have expended a little to establish this man's innocence, when they spent so much to establish his guilt. But he would analyse the evidence for the defence a little. There was a man named Canfield, who said "I have often sat in the school house with Townsend and looked into his eyes. I know they were black, and I have heard him called black eyes" Would this man ever be called black eyes? And who was this Mr. Canfield. Was he a man brought here by that notorious gatherer of false witnesses—Robert Flanders? No. But he would just say of this Mr. Flanders, that he was the man who had tracked out the others of the gang, and whose recollection of features was so good that he did this in the face of an incorrect description, although he had only seen them once. The Crown insinuated that he had connived at Townsend's escape. But the sooner they dropped that, and in fact all their proceedings, the better. He would now just refer to the scars. It had been attempted to be shown that Townsend had a scar on his face, made by the kick of a horse. How had this been corroborated by Mr. Dornan, the last witness examined this morning? Those who said so forgot, perhaps, that such scar must have been made while the new locks on the canal were being built, and *before* he was entered on the "Mohawk," at which time there was no scar on him, or it would have been registered in the books of that vessel. And could that scar (pointing) have been inflicted by the kick of a horse? Could it have been inflicted by the iron shoe of a horse, and have broken no jaw, no bone—have made no other injury? Impossible. As to the conversation, eyes, general appearance, habits, &c., as described by Mr. Robinson and others, how different were all from this man's! Mr. Stuart gave the same description as Mr. Robinson. Mr. Cameron, of Dunnville, at whose house Townsend boarded, said this was not the man; Higgins, who lived there, said he was. The law said the prisoner should have the benefit of the doubt. It was true that many of the witnesses could not give the description of Townsend's nose. But what of that? It was surely not necessary that a man should speak to the form of

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another's chin to be believed that he knew him. Mr. Maitland, an honest, fair-dealing man, told us that this man had an intimate knowledge of the localities near Glasgow. Townsend never had a thought above a negro melody; but Mr. Dewar was a Scotchman, who had told his stepson all about it, in order that he might escape after murdering people. Ridiculous. The mind must be convinced that he who could describe the fences, the hewn stone on the road, the architecture of the houses, the history of the inhabitants of the place, must have been there. And what a mistake the prosecution had made when they brought Mr. McKenzie forward. He did not come even from the same part of the county, and could, of course, like many others, make but a mockery of a contradiction. After noticing the fact that Mr. Grant and Mr. Laury placed Townsend in Canada, near D'Arcy's, in the fall of 1852, Mr. Freeman said he would leave those witnesses who had known the real Townsend,—he would carry the jury along with him to other places than Canada. It would be recalled that Mr. McLouth, the gaoler of Sandusky, had been put into the box, and showed that the prisoner had been in Sandusky gaol until the last of March, 1852, from the middle of July, 1851. It had been said by the prosecution "put him in the box and you hang your man." Not at all. In spite of threats, the defence had moved on triumphantly, as every case of truth will triumph over every organization for purposes of falsehood, however strong. Mr. Lewis then shows that the prisoner was on the "Powhattan," and left with the expressed intention of going to California, and that in February of the next year a letter was received by Capt. Turnbull from the prisoner. Capt. Turnbull corroborates this, and said he saw him on the St. Lawrence, and other vessels on the Lakes during the year. Mr. Tallcott proved that Mr. Turnbull's recollection was true, that the prisoner was on the St. Lawrence, and that he there left with the intention of getting that situation on the "Powhattan," which he sooner or later assumed.—All these witnesses said the prisoner then had eyes, and hair, and forehead and appearance just as he now had. Could this be true, and yet the same man occasionally appeared in Canada, in all essential points different?—Surely not. He did not slip up and down on the lightning train from place to place. He did not assume the silent, quiet character of McHenry on Lake Erie, and the low negro singer at the next instant in Canada. There was no other way of solving the enigma than that the Crown witnesses were mistaken, and that this man was not Townsend. He would now pass on to the Californian testimony.—The first heard of him here was from the letter hence. True it was lost. True the post-mark could not be remembered. But more important documents were often lost too, and, to instance a case, he would mention that none of the Government advertisements describing Townsend had been produced, and the reason for the disappearance of the letter of

McHenry was very well accounted for by the Captain. But the date was pretty well fixed, by the recollection of parties, as February 1854. Then Mr. Aikin's testimony came in. Who was this Mr. Aikins? It had been said by the prosecution that we dare not put in the box a man from California, the land of black-legs and thieves, for there were men from the States who would take them up and bring them to justice. He would say of this Mr. Aikins, and of Mr. Walters, too, that if California had many such noble spirits, she had much to boast of. Earnest, respectable, self-relying; they had sought and found riches there, and returned here to their relatives. Their very appearance was such, that those who spoke of the officers of justice in connect on with their names should stand abashed. Mr. Pillings, too, the action of whose memory might seem strange to some, gave a fair and natural account of what he had seen and remembered. Rough he might seem, but he had the fine feelings of a man within his beam, and he came from the far west at the call of humanity alone, at his own expense, to tell the truth, the whole truth, and nothing more. What if, after one circumstance was brought to his mind, he tracked back, as it were, the train of thought. The recollections of the mind are sometimes so brought forth, and more than sometimes—nay, often. Pillings, Walters and Aikins, bid defiance to all that could be said about their integrity, and told, in words that could not be gainsaid, that the prisoner had been there, in California, while Townsend was here, in Canada. The evidence in reply was not worth an allusion, further than that it had helped to strengthen the defence, by showing clearly that Townsend was in Canada while the prisoner was on Lake Erie. The case, on the whole, was one of the most extraordinary that had ever occurred, in the way it had been prosecuted, in the way the evidence had been brought forward and given. But cases of mistaken identity ought to be governed by the known principles of common law. In 1748, at the Kingston assizes, Richard Coleman was tried for being one of three who had assaulted a woman and caused her death. He had been asked "Had he heard so and so had been assaulted?" He replied, "Yes, and what of that?" and upon two or three expressions like this he was convicted and executed, and it was afterwards proved that he was not even near the place. He read several other cases similar to the above, in which men had been convicted, and wrongly, although many had testified to their identity as having committed these crimes. He brought forward a still more extraordinary case, mentioned in Beck's "Medical Jurisprudence," in which one Joseph Parker was indicted for bigamy under the name of Richard Hoag, who had a lisping speech and certain scars just like Parker. This was in 1804, before Judge Livingston, in New York. Here the jury had acquitted the prisoner. To conclude—On the one hand, in this case, characters of various and doubtful repute had all been

brought to testify, to cry "vengeance" against the prisoner. On the other, men of known character had asked the law to stay the sword of justice, for this was an innocent man. If all the various testimony created a doubt, the verdict of the jury should be in favor of the prisoner.

Mr. Freeman, who commenced his speech at 10, concluded at 25 minutes to 3.

Mr. Macdonald then commenced by analogising for indisposition. He said he had never until this day felt called upon to reply to the evidence brought forward by the defence. But the position of a prosecuting attorney, and that of counsel for the defence was very different, the latter might indulge in the declamation of the advocate, but the former was a looker on. There was no one in the Court House who would rejoice more than himself that the innocent should escape, but he thought that, if all the circumstances of this case pointed with unerring finger to the prisoner as the murderer of Richards he would rejoice in his conviction. He confessed that he had hunted up every particle of evidence possible, but this was merely his duty. He had exercised no undue influence over the minds of the witnesses nor wished to do so over the jury. What was the crown? The embodied majesty of the people. The people therefore were really the prosecutors. He knew that the counsel for the defence thought they had a good case, for they had chosen an intelligent jury. He alluded to the fact that the witnesses for the prosecution were all removed from court while the witnesses for the defence, who were also ordered out of court, could read the whole of the case for the prosecution in the public prints. He then alluded to the services rendered in the case by Mr. Harrison, who had both talent and application, and would undoubtedly rise to eminence. If he had expressed his conviction, in his opening address, that the prisoner was guilty, it was perhaps an error of the head, but with singular inconsistency the counsel for the defence had committed the error he pointed out, and had himself expressed his conviction of the innocence of the prisoner. The case under consideration was indeed an important one, and one that would be read with interest, both by the people here and in Europe. The Jury would have to hear the verdict of popular opinion upon their verdict, but they could disregard that. He would say that, if there were on the minds of the jury any reasonable doubt as to the guilt of the prisoner, they ought to acquit him, and he hoped that the decision they came to would be a unanimous one, that it would not be a lame and impotent conclusion, by disagreeing, as a jury before had done in the same case. He denied Mr. Harrison for having stated to the Jury that the law now allowed a delay of a few months between sentence and execution. And he would state, on behalf of the Government, that if he were convicted, and, at the very foot of the gallows, mentioned circumstances of his former life to show that he was not Townsend, he should have a reprieve. He next paid the newspaper press of the country a compliment for the ability, energy and fairness with which the reports of one day's trial had been furnished to the people the next, a proceeding which formed a new epoch in the history of this country. He was obliged, he said, to show that Townsend had murdered Nelles and committed other atrocities, for, if he had not done so, it would have been agreed that the man, whoever he was, was justified in resisting the arrest, even to the death. As to Penitentiary evidence, he would mention that those who associated with such characters could not complain if they testified at law against them. Their evidence was of a certain weight, although not so weighty as honest people's. He would remark, concerning Bryson, that if he had not at first recognized the prisoner, it was because he wore whiskers. Concerning the earrings mentioned by Bryson, it was indeed strange that only one other, besides he, had testified to Townsend's wearing earrings. Then, as to the hat which had been dropped by Townsend, it was indeed small for the prisoner, but this only increased the force of the evidence against him, for, had it not been too small for Townsend, it would not have dropped off him. Concerning Mrs. Flemming's evidence, it was extraordinary indeed that she had had a presentiment that something would happen, when she saw the pistols in the man's pocket. Her evidence had been somewhat different from that of her husband, but

this very discrepancy added to the presumption of its truth, by shewing that it was not a made up story, like that of the California witnesses, who had made the man argue with Scotty from the beginning of July until the end of November. Mr. Gaynor, although perhaps not a very intelligent man, had touched a point at issue when he asked who this man was. How is it that nothing was heard of McHenry from the time he was said to leave Scotland until the time he came up at Sandusky gaol. The Crown said he could give no account of himself because he had no past history other than a Wm. Townsend. They dated his birth as McHenry when he was engaging on the "St. Lawrence" on Lake Erie. The course taken by the defence in putting Mr. McLouth in the witness box themselves might have considered dangerous in a civil case. But it was not in this instance. For, when there was a McHenry there was no Townsend, and at every time when we could trace McHenry they lost sight of Townsend. They had gone to California for an alibi. This was needless, for, if they could have proved that Townsend was anywhere out of Sandusky gaol between July 1851 and March 1852. Townsend was well known here. Why did they not point out where he was at this time.— This was the strongest point in the whole case.— They all knew there never was a cooler or more daring character than Townsend. How cool and arid calculating was his conduct at Woodstock. How cool was his conduct when he sat down to supper at Port Robinson and ordered a bed, after committing a murder and a robbery in the neighborhood. He said he would make witnesses of every one of the jury to point of resemblance. Let them look at the cool conduct of the prisoner during the trial, reading new papers and holding on occasions the candle to his face. There could not be two men of such inimitable coolness. As to Mr. Fleming and Mr. Jones' evidence, which were in some degree contradictory, it ought to be considered that Mr. Jones' evidence was no more straightforward or true than that of Mr. Fleming. It was said that Mr. Fleming and one or two others had only seen Townsend once, and could not therefore recollect him. Now they had seen him under circumstances which fixed him in their minds. The man's smile was a thing that any one could recollect when his features were forgotten, and Mr. Forbes and others pointed this man out as Townsend. His learned friends had chosen to speak very severely of Mr. Iles, whose evidence he distrusted because he was working, as it were, for a reward. He dissented from this opinion, and thought that Mr. Iles' evidence ought to be received, especially where corroborated. Where not corroborated, it was for good reasons. In the matter of breaking the glass, no other witness stood by to corroborate it. On that occasion the pistol first appeared, and he would remark, although it did not much affect the case, that there were on the pistol two letters, W. T. These were probably the maker's mark.

His LORDSHIP.—What is the good of taking up time so.

Mr. Macdonald only alluded to it as an extraordinary coincidence. Mr. Iles and Mr. McArthur's evidence agreed in the main, and were not so dissimilar as had been said by the Counsel for the defence. About the pistol, he would just further remark that it was strange a man should carry a pistol and three knives who had but thirteen cents to protect. He had said to the Constables who arrested him that he had not been in Buffalo these two years. If he had been in Buffalo two years before, he had not been in California in 1855 as his affidavit set forth. The evidence of Mr. Iles concerning the conduct of the prisoner at Cleveland was very strong. He (Mr. Macdonald) threw aside all the testimony as to the color of this man's hair and eyes. One often knew nothing about the color of hair and eyes of one's friends.— Although even now it was difficult to say whether the prisoner's hair was black or brown, and the downiest eye which Townsend showed, might have given it a dark shade; although even lumps on one's feet might diminish, and scars grow less in size. With regard to voice, it was said Townsend's was peculiar. But he had a power of imitating voices. The evidence of George May, connected with that of his father, made up an important point. He said he had met Townsend in Chicago, and had told his father that he (T.) told him it was McHenry. That was the first heard of the name McHenry, and when it was considered that Mr. Harvey told Mrs. Crumb Townsend had changed his

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identified the prisoner not as Townsend, but as having seen him before in Canada. There were a Mr. Kennedy and a Mr. Cheshire who belonged to this class, of course if this were so, the prisoner's statement could not be true—that he had never been in Canada. There was then a young woman, Margaret Ann Atkinson, who also identified him. Fortunate indeed was it for her that a waggon had opportunely driven up when she was stopped by him, or another would doubtless have been added to the long catalogue of crimes which clustered around Townsend's career. There was much, in the defence, to show that the prisoner was R. J. McHenry, another man altogether from Townsend. It could however not be shown that he lived at the same time as Townsend, then the same man might have personated two characters. Now he had taken a note of the times at which Townsend's whereabouts was known. In '49 he was at Port Maitland. In 1880 he was at St. Catharines. In 1850 and 1851 he was said to be in Cayuga, while McHenry was said to be in gaol at Sandusky. In the summer of 1852 Townsend was at Dunnville. In September, 1852, according to evidence given that morning, Townsend was at Diffin's. In October, 1852 prisoner was on the "Powhatan." In the winter of 1852-1853 Mr. Grant saw him living at Diffin's. In the winter of 1853 Townsend was around, but there was no testimony to shew where he was except during the spring. He saw nothing, however, in all this to show that the same man might not have been in all these places at these different times.

Mr. FREEMAN here referred to Mr. Haw's testimony.

His LORDSHIP said Mr. Haw had believed Townsend was working for him in October or November, 1852.

At this point prisoner became impatient, and said, I would suggest, your Lordship."

His LORDSHIP said I can't receive any suggestion.

PRISONER then requested Mr. Currie to come to speak with him, saying he would "have to make it known somehow."

Mr. CURRIE quieted him.

His LORDSHIP then continued to read the evidence of various witnesses, and at last came to that of Mr. Helms, to whom the prisoner had said "you were driving piles" at a particular time, before Mr. Helms had mentioned the circumstance at all. These were all the special circumstance to which he desired to call attention. Of the long list of witnesses who spoke to identify on behalf of the prisoner, there was but one, Mr. McLaughlin, who spoke of a scar; all the rest saying there were none. He said there was a scar upon the left side of his face, running from the teeth under the jaw, which, he said, did not resemble that on the prisoner. Most of the rest urged on their description of Townsend's general features, and it was not to be wondered at that they could hardly describe each individual feature. The witnesses on both sides said he was but little changed, and this made it the more extraordinary that a large number of people could or could not identify him. He next came to the evidence of the Californians. An *alibi* ought to be established with very considerable particularity. It was an ordinary defence, sometimes trumped up. And, in connection with that line of defence, he might mention the testimony of Captain Turnbull, and of Capt. Lewis, one of whom had received and the other had perused a letter from him in California. It was a pity the letter was not forthcoming. We therefore had to depend on Capt. Turnbull's memory. He said the letter was received in December 1853, or January 1854. It so, then, doubtless, the prisoner was not Townsend. But there was some little discrepancy between Capt. Turnbull and Lewis as to the date of its receipt, the latter saying he thought it was in February. To support the view, four witnesses were called, who had been in California. They all recognised the man as having been there, but this gave no very satisfactory dates as to the time. They did not recollect the time by specific events. Mr. Walters merely said that his ditch was being built in August, September, October, November and December, and thought he saw him in November. He stated no specific circumstance connected with this. He did indeed get more positive towards the close of his testimony. It was very strong too, that almost all of these witnesses based their knowledge of the man in having seen him in conversation with a man Andrew Stewart, otherwise called Scotty. He then read Mr. Walters' evidence and said, if the jury were satisfied of its correctness, no doubt the prisoner was entitled to an acquittal. The testimony of Mr. Huber, also a

Californian, was rather more direct as to time. He read it. He said he could not understand the expression of Huber's that he would offer his services either for the prosecution or for McHenry. Then Mr. Pillings was called. He thought it rather strange that the recollection of one circumstance such as the killing of a man by a span of horses should bring an earlier circumstance to any one's recollection, as seemed to have been the case with Mr. Pillings, whose evidence he read. He said that Mr. Campbell had contradicted Mr. Pillings, and that his testimony therefore ought to go for but little.

Mr. FREEMAN corrected his Lordship by shewing that Mr. Campbell did not contradict Mr. Pillings. He said he really could not understand his Lordship's expression.

His LORDSHIP continued to read the evidence of all he witnesses to the end. He then said that if the jury believed that the prisoner had been in California in October or November, they must acquit him. They could take his notes with them to their room and read them. If they came to the conclusion opposite, then after thinking the man was not McHenry, they would have further to weigh whether he were William Townsend. Townsend, it seemed to be established, was a man of a low forehead, and also had big toe-joints. Those who had these excrescences naturally could not curb them, but others had them as a consequence of wearing tight boots. If this were shewn, then there might possibly be means of curing them. He must, however, say that the jury were able to weigh all these matters, and to them he referred the case, with every confidence that the evidence alone would be allowed to guide them to a decision.— If they had in their own minds a moral certainty that the man was Townsend the murderer, their duty was plain and obvious. If they had a reasonable doubt they must acquit him.

The Court, during these speeches, was densely crowded, with a large number, especially of ladies.

The jury having expressed their opinion that as they had so much to look over, the Court had better adjourn until the morning. Their suggestion was complied with.

THE VERDICT.

THE PRISONER ACQUITTED.

{ "SPECTATOR" OFFICE
4 o'Clock, P.M.

We have just received the following telegram from Merritsville, announcing the result of the Townsend Trial:

MERRITSVILLE, April 6.

VERDICT OF THE JURY.—Prisoner is McHenry, and NOT GUILTY.

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RDICT.

ACQUITTED.

PECTATOR" OFFICE
4 o'Clock, P.M.

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STAVILLE, April 6.

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