THE BIRCHALL MURDER CASE

NEARLY ALL THE TESTIMONY FOR THE DEFENCE SUBMITTED.

An Effort to Show that Birchall Was Miles from the Scene of the Murder at Noon on the Fatal Day—The Relief Almost Unanimous that He Will Be Convicted.

WOODSTOCK, Ont., Sept. 27.—The people flocked to the Town Hall through a driving rain yesterday. To-day they came through as clear an atmosphere as Canada ever saw. The rain has given way before a cold wind that is laden with a biting frost, and the crowd in the public square got close together for warmth, but still they shivered and their teeth chattered. The prospect that the taking of testimony would close by noon, and that a recess would then be had until Monday morning, was a cheerful one to the army of newspaper men, who have been working under many disadvantages, and to the struggling lawyers, but the curious idlers who are the happy holders of tickets of admission seemed to think that this worked a wrong to them, and so they crowded into the court room nearly an hour before his Lordship arrived, and amused themselves by a critical examination of the prisoner's box and by indulging in speculations as to what the outcome of the trial will be.

There is but little difference of opinion regarding this. Where one person believes that the jury will disagree there are a hundred who are certain that the verdict will be guilty and that it will be reached in a very short time after the jury retires.

Birchall came into court with a sprightly step and a smile upon his face. The careless air that made him a study on the first day of the trial is still noticeable, and if the suspense and worry of the trial that will probably end in condemning him to death have affected him seriously there are no visible signs of it. Polly, one of the prisoner's victims, and Charles Benwell, the brother of the murdered man, sat at one end of the lawyers' table and commented on the points brought out in the trial. Dr. John Meyers, who has been a physician and surgeon here for twenty-two years, was the first witness.

In answer to a question by Mr. Blackstock he said he did not agree with Dr. Welford, who testified that rigor mortis begins within from one to one and three-fourth hours after death. In the opinion of the witness it may not begin until four hours after death. The time is influenced by weather, by circumstances. "If, for instance," said Mr. Blackstock, "a young and vigorous man should suddenly meet death when the temperature is about 22°, how long, in your opinion, would it be before rigor mortis set in?"

"I should say that it would take eight, ten, or twelve hours."

Q.—Would the temperature be liable to defer or to hasten rigor mortis? A.—It would defer it.

These questions were following up the line of the defence in their effort to fix in the minds of the jury an impression that Benwell was killed at some distance from the spot where he was found, and was placed there before rigor mortis began. According to the testimony of this witness the murderer would have ample opportunity to carry the dead body a long distance before the limbs began to stiffen.

Mr. Blackstock went into the question of the bruises found on the abdomen of the dead man. The Crown has shown that the bruises might have been inflicted after he was shot, and through his falling forward. The witness did not think this was possible, and he was sure that they could not have been caused by injuries inflicted contemporaneously with death or after it. This testimony helped out the defence in making it appear that the deceased had fallen into evil hands after his alleged separation from Birchall, and that he had been maltreated before being killed. On being cross-examined, the witness admitted that there are bruises which it is difficult to say when they were caused, before or after death. He also admitted that the age of a bruise could be told by its color.

Mr. Osler consulted Dr. Taylor and other authorities, and guided his questions by their opinions.

Q.—Is it a sign of a post-mortem injury that the color is uniform? A.—I think not.

Q.—Is it a sign of an injury before death when the color is uniform? A.—I do not think so.

Mr. Osler wanted to know if the witness considered Dr. Troy an authority. The witness said he did. Then followed a great number of technical questions regarding the color of the blood about a wound inflicted at various hours before and after death. The witness was a grey-bearded, sturdy built man with a decided manner, and he grew warm under the questions by Mr. Osler, who quoted frequently from Drs. Taylor and Tidy. The Crown was anxious to convince the jury that the bruises found on the body of the dead man were caused when fell heavily after the bullet had been sent into his brain, and that they were not caused by blows inflicted by an assailant. Every time the witness hesitated in answering a question Mr. Osler asked him sharply, "Then you differ from Taylor?" When the witness said that he did not, Mr. Osler quickly said, "Well then you agree with him. Why didn't you say so first?" In speaking of the setting in of rigor mortis, Mr. Osler said that Dr. Tidy says that in 113 cases it was complete in four hours. The witness said that this might be so.

Q.—If a body fell suddenly forward on an uneven surface covered over with stumps and brush, is it not likely that in the fall I should bruise myself? A.—Oh, I think not. The body would be protected by the clothing.

Q.—But suppose the body, when it fell was lifeless, without the power of making any effort to save itself. Don't you think that an injury might be inflicted on it? A.—Oh, I think not.

Q.—Well, if a body weighing 140 pounds should fall suddenly from two and a half to three feet, is it likely that the fall should cause no injury? A.—I think so.

Q.—By Mr. Blackstock.—Can a body weighing 140 pounds, resting on the ground, fall with its full weight on the ground? A.—No, sir.

The bruise found on the body of the dead man was of a bluish green color, and this alone, in the opinion of the witness, made it clear that the injury was received during the and from one to two days before death.

Q.—Do you see anything in Tidy which conflicts with your view? A.—I do not.

His Lordship asked the witness if the bruise had been caused by a blow two or four hours after death, whether it would be apparent to the medical examiner. The witness said it would not unless inflammation had set in.

Dr. Richardson, a physician and surgeon in Toronto, who has lived since 1847, was called. He is professor of anatomy to the medical school there. He was asked by Mr. Osler "Suppose you had