

Indian intended to comply with the customs of the band relating to marriage to make both or all of the women his wives, or if even without such intention he has complied with the case of two or more of the women with the requirements of the tribal customs. I am inclined to think that he may be successfully prosecuted under Section 278 of the Criminal Code, the maxim penalty under which is imprisonment for five years, and a fine of five-hundred dollars."

An Order in Council passed in October 1887 in reply to a remonstrance from the Aborigines Protective Society, setting forth the evils arising from the Indian Customs, it was very strongly stated that it was not advisable to go upon the principle that marriage according to Indian customs were not perfectly legal and proper (the courts having decided that such marriages should be recognized) but rather by inculcating into their minds the Christian doctrine respecting the sanctity and indissolubility of the marriage tie to bring about the desired change in their social relations.

The Order in Council referred to, which was based upon a report prepared by the late Sir John Thompson, quotes at length a judgment in the case of Connolly vs Moolwich and others given in 1867, in which speaking of the marriage rites of Indians, it says: "It exacts the solemn consent of parents and that of the parties who choose each other for good or evil, as husband and wife, it recognizes the tie, and some of the Sacred obligations of married life and it would be mere cant and hypocrisy, it would be sheer legal pedantry and pretention for any man or tribunal to disregard this Indian Custom of Marriage inspired and taught, as it must have been, by the law and the religion of nature among barbarians, who in this essential element of a moral life, approach so near to the Holy inculcations of Christianity."

Quite recently a letter was received from Mrs Hall, of the Alert Bay Girls Home, calling attention to the evils arising from the marriage customs of the British Columbia Indians. Mrs Hall's letter was referred to the Indian Agent at Alert Bay for report, and in his reply he says: "The law in regard to Indian marriages has never been defined in the Indian Act, but I am of opinion that legislation would not remedy the evil much, and that religious teaching and the civilization which follows, are the only means of putting an end to the practices complained of."

The decision given in the judgment above referred to, I take to be that the essential requisites in an Indian marriage is that the consent of the contracting parties and of their parents be first obtained, and there is nothing to show that these were wanting in the marriage under consideration and there is no doubt but that all the parties interested believed that they had complied with all necessary formalities. In addition to this, was the religious ceremony which in all probability was performed with the end in view set forth in the Order in Council referred to, and in the letter from the Indian Agent; viz., As an educating process to impress upon the minds of McKay and his wife the solemnity of the engagement into which they had already entered in accordance with the tribal customs.

It is not at all improbable that were a decision given annulling this marriage, but that it would also effect may more such marriages at which Mr. Duncan may