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JAMES BAY TREATY NO. 9

HOW AN EMPIRE HAS BEEN REDEEMED BY INDIAN TREATY.

Dominion and Ontario Commissioners Traveled Hundreds of Miles On Foot, By Boat and By Canoe In Its Accomplishment — Territory Which Comes Under Scope of the Treaty Comprises 90,000 Miles.

In the making of "The James Bay Treaty No. 9" the commissioners representing the Dominion Indian Department and the Province of Ontario traveled many hundred miles on foot, by boat and by canoe during the summers of 1905 and 1906. In the first year they were not able to see all the Indians necessary to the completion of the treaty, a number of them being away on hunting jaegers, hence the work was continued last year. The Indians who are parties to the treaty represent the Ojibway, Cree and other tribes, and the territory which comes under the terms of the treaty comprises some 90,000 square miles. Roughly speaking, the area is bounded on the south by the height of land on the north by James Bay, east by the eastern boundary of the Province and on the west by the height of land west of Lake Superior. The development already in progress in northern Ontario and steadily pressing still farther north, and to which the construction of the Grand Trunk Pacific will give a tremendous impetus, made it essential that the treaty should be concluded now.

Reserves are allotted to each band of Indians to the extent of not more than 640 acres of land for every family of five persons. In addition the Dominion undertakes to construct school buildings and to pay for their equipment and the salaries of teachers. A bounty of \$4 per head per year is also to be paid to the Indians. This bounty will come from the funds of Ontario, but the Dominion Government undertakes to bear the cost of the distribution to those entitled to it. The commissioners were Messrs. Duncan Campbell Scott and Sam Stewart of the Indian Department, for the Dominion, and Mr. D. G. McMartin, Perth, for the Province of Ontario. They were accompanied



LONG PETER, INDIAN CANOE MAN, NEW BRUNSWICK HOUSE.

throughout their journeys by two members of the Northwest Mounted Police force, a surgeon, and officials of the Hudson Bay Company, the latter having arranged for the transport of the party.

A recent number of Scribner's Magazine contained an article by Mr. Duncan Campbell Scott on "The Last of the Indian Treaties," in which a graphic account was given of the experience of the commission. From that article the following extracts are taken:

"The Indian policy of the Canadian Government was inherited from the British procedure in the American colonies, which still survives with additions and modifications. The reserve system appeared at the earliest, and there was but little difference between the policy of the French and British in Canada with the exception that in the French design evangelization was an important part. So that in 1867, when the Dominion of Canada took over the administration of Indian affairs, the Government found a certain well-established condition. The Indians of the old Provinces of Nova Scotia and New Brunswick had been given lands; in Quebec the grants of the French King had been respected and confirmed; in Ontario the Indian titles had been surrendered by treaty for a consideration in land and money, as between sovereign powers. The first of the treaties was made by Governor Haldimand in 1784.

"In the early days the Indians were a real menace to the colonization of Canada. At that time there was a league between the Indians east and west of the River St. Clair, and a concerted movement upon the new settlements would have obliterated them as easily as a child wipes pictures from his slate. The Indian nature now seems like a fire that is waning, that is smoldering and dying away in ashes; then it was full of force and heat. It was ready to break out at any moment in savage dances, in wild and desperate orgies in which ancient superstitions were involved with eastern ideas but dimly understood and intensified by cunning imaginations inflamed with rum. So all the Indian diplomacy of that day was employed to keep the tomahawk on the wall and the scalping knife in the belt.

"This territory comprises much arable land, many million feet of pulpwood, untold wealth of minerals, and unharnessed water powers sufficient to do the work of half the continent. Through the map of this unregarded region Sir Wilfrid Laurier, Premier of Canada, had drawn a long line, sweeping up from Quebec and curving down upon Winnipeg, marking the course of the eastern section of the new transcontinental railway. The aboriginal owners of this vast tract, aware of the activity of prospectors for timber and minerals, had asked the Dominion Government to

treat for their ancient domain, and the plans for such a huge public work as the new railway made a cession of the territory imperative.

"The treaty policy so well established when the confederation of the Provinces of British North America took place has since been continued and nearly all civilized Canada is covered with these Indian treaties and surrenders. A map colored to define their boundaries would show the Province of Ontario clotted with them like a patchwork blanket. As far north as the confines of the new Provinces of Saskatchewan and Alberta the patches lie edge to edge. Until lately, however, the map would have



INDIAN GIRLS, NEW BRUNSWICK HOUSE, shown a large portion of the Province of Ontario uncovered by the treaty blanket. Extending north of the watershed that divides the streams flowing into Lakes Huron and Superior from those flowing into Hudson Bay, it reached James Bay on the north and the long curled ribbon of the Albany River, and comprised an area of 90,000 square miles, nearly twice as large as the State of New York.

"As soon as the treaty had been signed a feast had been promised by the commissioners. There is a rigid etiquette at these feasts; the food is piled in the centre of the surrounding Indians, the men in the inner circle, the women and children in the outer. When everyone is assembled the food is divided as fairly as possible and until each person is served no one takes a mouthful, the tea grows cold, the hot pork rigid, and half the merit of the warm food vanishes, but no one breaks the rule. They still wait patiently until the chiefs address them. With us the cloth is cleared and the speeches follow; with the Albany River Indians every formality precedes the true purpose of the food, the eating of it.

"The James Bay treaty will always be associated in my mind with the figure of an Indian who came in from Attawapiskat to Albany just as we were ready to leave. The paylists and the cash had been securely packed for an early start next morning, when this wild fellow drifted into the camp. Ferg Fafard, he said, thought we might have some money for him. He did not ask for anything, he stood smiling slightly. He seemed about twenty years of age, with a face of great beauty and intelligence, and eyes that were wild with a sort of surprise—why at his novel position, and proud that he was of some importance. His name was Charles Wabinoon. We found it on the list and gave him his eight dollars. When he felt the new crisp notes he took a cruise from his breast, kissed it swiftly, and made a fugitive sign of the cross. "From my heart I thank you," he said. There was the Indian at the best point of a transitional state, still wild as a lynx, with all the lore and instinct of his race undimmed, and possessed wholly by the simplest rule of the Christian life, as yet unspoiled by the arts of sly lying, paltry cunning, and the lower vices which come from contact with such of our debased manners and customs as come to him in the wilderness."

THE GOVERNOR'S TROPHY.

Drama and Music Troupes Given by His Excellency Earl Grey.

The above picture represents the model of one of the two identical trophies competed for at Ottawa last week by music and dramatic companies from various parts of Canada at the invitation of His Excellency the Governor-General. The groups are now being executed by M. Hebert.



THE GOVERNOR-GENERAL'S TROPHY.

the brilliant French-Canadian sculptor. The figures represent Music and the Drama. Music is represented by a man with a lyre, not classic, but rather Watteau period. The Drama is represented by a woman towards whom Music turns his eyes for inspiration. As the woman holds up the horror-stricken mask of Tragedy she herself is smiling to suggest Comedy. As Acting and Music are always crossing the border into each other's territory each figure has a foot on the stile which divides them. The Drama Trophy was won by the Winnipeg Dramatic Club, and that for Music by the Quebec Symphony Orchestra.

SLIPS OF NOVELISTS

LEGAL MISTAKES THAT HAVE BEEN MADE BY GREAT AUTHORS.

Dickens and the *Minnam Case of Hardell Versus Pickwick—The Trial Scene in Reade's "Hard Cash"—Trollope's Dip Into the Law.*

"Legal fictions," says one of Gilbert's gondoliers, "are solemn things." Yet it is curious how seldom a novelist ventures into a law court without driving his quill through acts of parliament and rules of law alike.

That Dickens' knowledge of law, like Mr. Waller's of London, was "extensive and peculiar" is amply demonstrated by the famous case of *Bardell versus Pickwick*. Students of that report may have been struck by the fact that neither plaintiff nor defendant appeared in the witness box. "The explanation is that at that time parties 'upon the record' were not competent witnesses, their interest in the case being regarded as too strong a temptation to shall we say, inaccuracy. But had Dickens been a lawyer Mr. Winkle and his friends might also have been spared the ordeal of cross examination and their friends and admirers deprived of many merry moments.

In his anxiety to satirize the abuses of cross examination Dickens overlooked the legal rule that the counsel who calls a witness is not permitted to cross examine him at all, but, on the contrary, is bound by his answers; therefore had Serjeant Buzfuz permitted the Pickwickians to be called as witnesses for the plaintiff (which he would have known better than to do) their version of the words heard through the door "on the far" must have been accepted, and at the first attempt to badger either of them it would have been the learned counsel for the plaintiff who received his lordship's injunction "to be careful."

But all lovers of Dickens will rejoice at his ignorance of the rule which forces counsel never to call a hostile witness. Who could bear to be deprived of the evidence of Mr. Samuel Weller?

Exactly the same mistake is made by Anthony Trollope in his well known novel, "The Three Clerks." There the hero, Alaric Tudor, is placed upon his trial for misappropriating trust money and defended by that famous leader, Mr. Chaffanbrass of the Old Bailey. Tudor's Mephistopheles, the Hon. Undecimus Scott, is called, much against his will, as a witness for the defense, cross examined by the celebrated Chaffanbrass, forced to confess his misdeeds and dismissed covered with ignominy, to be subsequently expelled from his club—poetic justice which would have been defeated even by a chairman of quarter sessions.

The great theoretical and practical knowledge of law possessed by Charles Reade saved him from this error, as from many others. Yet the famous trial scene in "Hard Cash" would have been ruthlessly deprived of its most dramatic moment by any judge of the high court. When the hapless Alfred Hardy, who has been wrongfully imprisoned in an asylum by his wicked father, comes at last to establish his sanity before a jury, his case is closed by the reading of a letter from his dead sister. Writing at the point of death, she solemnly denies his insanity and begs him to show her words to his accusers when she is no more. Read aloud by the judge himself, her letter reduces a crowded court to tears and goes far to secure her brother a triumphant verdict, with heavy damages.

"Hard Cash" is termed "a matter of fact romance," but, as a matter of fact and law, no such letter could have been received in evidence. Knowing that, under ordinary circumstances, such testimony would be inadmissible, Reade is careful to establish that the writer knew herself to be dying; but he was unaware that a "dying declaration" is only admissible in evidence upon a charge of murder or manslaughter of the person who has made it, and cannot be laid before the jury in any other case whatever.

Numerous and entertaining are the trial scenes which adorn the works of Mrs. Henry Wood, but they hardly progress to be strictly accurate. Let me point, rather, to an interesting slip on the part of that most careful of novelists, David Christie Murray, who shares to some extent the popular confusion on the subject of the law of libel and slander. His powerful story, "A Capful o' Nails," has for its hero a working naller, who becomes an agitator on behalf of his much oppressed class. In consequence of a speech denouncing an unscrupulous employer he is prosecuted on a charge of criminal libel; but, thanks to a faithful friend and a smart lawyer, he emerges triumphantly.

No fault can be found in this case with the way in which the villain is cross examined to pieces. The difficulty is that no such prosecution could have been instituted at all. You may slander a man by defamatory speech, but to libel him you must "write, print or otherwise permanently record" your defamation of him, and, though slander and libel alike may expose you to an action for damages, it is libel alone that can bring you within the grasp of the criminal law.

It is difficult to uphold this distinction. A libel is regarded as a public crime as well as a private wrong because it tends to provoke a breach of the peace, but one would think as much might be said of slander. Still the distinction exists, and the aggressor who confines his attack to words may suffer in purse, but not in person.

Such are a few of the slips to which the novelist is liable who unwarily trespasses upon legal preserves.—*Pearson's Weekly.*

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THE RAREST DAYS.

What's so rare, so cool and airy—
Seldom is it overdone—
As a day in February.
May I ask you, little one?
Count 'em, and you'll find it straight;
There are only twenty-eight.

June for rareness isn't in it.
Though its roses it may flaunt,
For you'll reckon in a minute
If you ever feared to count.
And you'll find the answer clear—
It has thirty every year.

How it got the reputation
I could never comprehend,
For the slightest computation
Would its claims forever end.
Mention leap year if you will;
February beats it still.

Yes; when it comes to rareness
February wins the drink,
And it's nothing more than fairness
To admit it, don't you think?
And you often wish, I'll bet,
That its days were rarer yet.

Tracing Back Our Music.

Professor Starr of the University of Chicago, who has been down in central Africa interviewing the pygmies and asking them when they think they will be grown up, if ever, has brought back a trunkful of phonograph records to prove that the American popular song is nothing new under the sun.

Of course the African song writers are handicapped in some respects, for they cannot use bad grammar, as their



language does not run much to grammar and most anything goes, but the professor assures us that they can stay with us on the tune until the cows come home and the milking is all done. However, taken as a whole, the records go to show the kinship of the human race. All he needs now to make it complete is a record made by three women and four men of one tribe when they were calling for help, being about to be overpowered and robbed by a superior force of another tribe, and call it grand opera.

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"But the paper said he only lived to be 107."

"Yes; but he quit smoking on his one hundredth birthday and it seemed like 200."

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