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# The Toronto World

Senate Reading Room, 24 Victoria St.

TWELVE PAGES—THURSDAY MORNING MARCH 11 1909—TWELVE PAGES

FOR RENT

Handy to down town district, eight rooms and bath, open plumbing, furnace, gas, large yard, concrete cellar.

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## Young Indian Acquitted Shooting Was Accidental

### Verdict of Belleville Jury is Received With Astonishment—Defence Claim that Weapon Was Intended Only to Frighten Aged Victim.

BELLEVILLE, Ont., March 10.—(Special.)—If the roof had fallen in on the packed courtroom the surprise would not have been greater than when, at 10:30 to-night, the jury returned a verdict of not guilty in favor of Thomas Smart, the young Indian on trial for the murder of his uncle.

Altho the surprise was agreeable to probably every person here, since nothing but sympathy for the lad had been in evidence, yet everybody in the room was amazed. From the tone of Justice Teetzel's address, which, however, could not be considered partial, it looked very cloudy for the prisoner. The defence was solely constructed on the theory that the shooting was accidental, and on the point taken the prisoner's word was taken against that of his grandmother. This the judge dwelt on at length and also on the peculiarity of his having forgotten to tell at the inquest that the gun went off while his grandmother was trying to take it away from him. He didn't even know what would have happened if it wasn't cocked, unless the hammer struck his artificial leg.

Thomas Smart went to his home on the reserve at midday, attended by a large cortege of democrat wagons piled full of Indians. He told The World that he didn't expect to get off, and felt so ill thru the whole proceedings as to almost faint. No compliment was paid the jury when they were finally dismissed. "You are discharged until six o'clock to-morrow morning," said his lordship, shortly.

Should Be a Warning. Then, to the prisoner, Thomas Smart, stand up. The jury have given you the benefit of the doubt in this case. Altho certain circumstances are incriminating against you, there were circumstances that might not have justified them in finding a different verdict. It was a very improper thing for you to have taken a firearm, as the jury have taken from the evidence, you did, to frighten your step-grandfather; it was very wrong for you to take the law in your own hands, and it was a most dangerous thing for you to do.

"I hope this will be a warning to you and to others who are inclined to be foolishly reckless, not to attempt to do a thing, even for proper purposes. You have a chance to redeem yourself now in the eyes of the citizens. So try to become a respectable young man."

From the conflicting evidence of practically all the witnesses it was quite evident that Justice Teetzel was puzzled to know what statements to believe. Also the majority of the principal witnesses testified at utter variance with their testimony at the preliminary hearing. As forecasted in The World yesterday, Dorothy Smart's stories showed a wide discrepancy. Defense Counsel Harrington sprung a surprise by informing that the young girl had not told the truth before because she was afraid of her grandmother, husband of deceased.

Mrs. Adelaide Sager, sister of the prisoner, swore that Dorothy had told her lately that she got married in order to get away from her grandmother, so that she could tell the truth, and also that her step-grandfather had accused Tommy of having improper relations with her.

Counsel for Defence. Mr. Harrington's appeal to the jury was a most eloquent attempt. He did

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## Rumor Spread Of the Death Of the King

A rumor which was going the rounds last night, announcing the death of King Edward, seems to have been treated pretty widely to judge from the number of people who were ringing up The World to seek verification.

It was even announced at a prominent evening service at a prominent downtown church, the first justice to a rumor, the suitable references to such an event were made.

NOTED SCOTTISH PREACHER. Rev. Professor James Orr Will Address Bible League.

A visit from Prof. James Orr, D.D., of the United Free Church of Scotland, at the present juncture under the auspices of the Bible League, which is announced for April 6-12 next, is one of the most interesting bits of church news since the visit of the Bishop of London.

## New Daily Paper at Berlin

BERLIN, Ont., March 10. (Special.)—It is stated here that William Lyon Mackenzie King, M.P. for North Waterloo, and a journalist by profession, is to have a new evening paper here. It will be backed by \$100,000 capital, provided by three or four prominent manufacturers who have been anxious for some time to establish a new daily.

## Changes to Figure in U.S. Tariff

WASHINGTON, March 10.—It was authoritatively learned to-night that the new tariff bill which will be submitted to the house at the special session by the ways and means committee will contain the following recommendations:

Lead and copper, no change. Sugar, no change. Iron ore, placed on free list. Rails and billets, substantially reduced. Pig iron, 25 per cent. reduction. Textiles, graduated tariff on high-grade cotton and on silk goods an increased tax; on medium goods, no change; on low grade, a reduced tariff.

## STOP! LOOK! LISTEN!

Senator McMillen Would Save People From Themselves.

OTTAWA, March 10.—(Special.)—In the upper house Senator McMillen, in moving the second reading of his bill to compel drivers of vehicles to come to a halt before crossing a railway track, on grade crossings, said his object was not to relieve the railway companies from responsibility for accidents, but to guard the public against themselves.

Sir Richard Cartwright objected to making new sins by act of parliament. He was not certain how far this bill would interfere with the recovery of damages from a railway company by one who had suffered in an accident. Before the senate committed itself to the principle of this bill he would like to submit the bill to the minister of railways.

## RAILWAY EMPLOYE INJURED

HAWKESBURY, March 10.—(Special.)—Thru a collision of a Grand Trunk snow plow and an engine of the Canadian Northern Quebec line on the Hawkesbury branch of the O. T. R. this afternoon, Pilot Foreman Carlow of Coteau lost his right arm, and a boy was less seriously injured.

## ORANGE ORDER PIONEER OF LIBERTY

### And 150,000 of its Members Will Resist Any Interference With Rights of Worshipers.

ST. THOMAS, March 10.—(Special.)—Many Orangemen are in the city today as delegates to the grand lodge of Ontario West, and the city hall, one of the biggest west of Toronto, was unable to accommodate the gathering, and to-morrow the proceedings will be held in the Grand Opera House, which to-night was crowded to overflowing.

The public meeting this evening was presided over by the grand master, E. T. Essery, K.C., who delivered a patriotic address, in which he spoke in strong terms against interference with Orangemen's rights. Among other things, he said that if the time ever came when there was an interference with the right of the people to worship according to their conscience, there would be 150,000 trained men ready to fight. What the Orange Association objected to was that any church should be allowed to dip its arms into the public treasury to propagate its dogmas.

The Orange Association had been accused of being a political organization, but it was broad enough to take in all parties. In the past it had acted as a buffer when either party was going wrong. They stood by the old flag and one school, and until they had no separate schools, Canadians could never be united. The B. N. A. Act provided separate schools, but the day would come when they would amend that.

Regarding the Racine bill, he said that what went thru the legislature would have something to say at the general elections.

Dismissing Prejudice. Col. Scott, grand master of British America, said the idea of the public meeting was to disabuse minds of prejudice.

Rev. Mr. Coburn, Toronto, denied that Orangemen were narrow or bigoted, and said if church union came, the credit would be largely due to this association. He also denied that they were narrow political opponents, but the greatest political crime, the fastening on the Northwest of the separate school system.

Fred Dane, Toronto, treasurer of the triennial council of the world, made a plea for action. At this stage Hon. James Duff, entered the crowd and cheered and sang. Mr. Duff spoke of his 30 years' membership in the association. He thought Orangemen had a great work to perform in connection with the new men coming to Canada. No organization, he said, had done so much to pave the way for confederation as the Orange Association.

Rev. William Lowe, London, grand

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## MISS KINRADE STICKS TO HER STORY THAT BURGLAR COMMITTED MURDER MEMORY FAILS AT CRUCIAL POINTS

### "I Don't Know" She Replies to Mr. Blackstock's Questions Concerning Her Encounter With the Mysterious Intruder.

### MR. KINRADE DECLARES FAMILY RELATIONSHIPS WERE OF FRIENDLIEST

HAMILTON, March 11.—(Special.)—The inquest into the death of Miss Ethel Kinrade is continuing, at this writing, well into the hours of Thursday morning, with Miss Florence Kinrade on the witness stand.

Telling the events of the tragedy, she has maintained that a burglar did the deed, as in the manner already related. The inquest into the death of Miss Ethel Kinrade is continuing, at this writing, well into the hours of Thursday morning, with Miss Florence Kinrade on the witness stand.

She has told of her encounter with the man, being seized by him, escaping to the yard, returning, passing him and running thru to the street without mentioning that a shot was fired.

Reminded by Mr. Blackstock, "You heard no shots fired?" she has declared that she heard many, beginning as she first descended the stairs with the money, and that as she ran from the house she fired after her.

Leading up to the events of the tragedy, she was questioned closely concerning her visit to Virginia, as well as of a previous visit to Syracuse, Rochester and Buffalo, when her companion was a certain Miss Elliot, apparently a woman of means.

Miss Kinrade denied having told certain versions of the murder mentioned by Mr. Blackstock, and gave a description of the assailant.

She was positive she would know him again. Mr. Blackstock asked if she had known him before. She appeared faint and burst into tears. He reminded her of her oath. She said she did not know him.

The inquest was then adjourned until to-night. Her father, Mr. Kinrade, the first witness, and who preceded her on the stand, was closely questioned concerning his relationships with his son Ernest, contractor. He denied that these had ever been any serious disagreements between them; that the families were quite friendly; that the night before the murder Florence and Ethel had spent the evening at a birthday party at Ernest's home; that Ernest came regularly to his house. Ernest paid no rent, he occupied houses that were built until they were sold. Last fall father and son had built a frame row of houses.

"Everything it settled up between father and son," said Mr. Kinrade. "I don't consider he owes me anything. I think perhaps if we were strangers I would have a lot of rent coming to me. But as he is my son, he owes nothing."

Concerning Florence and her visit



MISS FLORENCE KINRADE.

## MISS KINRADE TELLS OF SEVERAL VISITS WITH "MISS ELLIOT"

to the south, little new transpired in his evidence. He admitted Baum had proposed marriage to Florence and that he had been one reason why they urged her to return home, as she was already engaged to young Wright.

"Was Wright here on one single occasion during June, July and August of last year, when she was home from Virginia?" Do you recollect him being here at any time?" asked Mr. Blackstock.

"I am not positive. He was engaged as a fire ranger in the north about that time, I think," was the reply.

Half an hour before 8 o'clock, at which time the inquest was to begin, the small courtroom of No. 3 police station, King William Street, was densely packed with an interested throng. Admission was strictly by ticket, but the only limit put on the number of tickets was the capacity of the room.

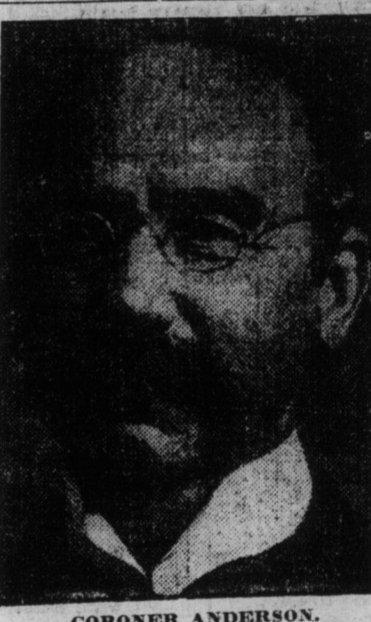
Ald. Gardiner, who had no ticket, could not get in, neither could two Brampton reporters, who had failed to arrange for passports. Reporters were present from all the big eastern Canadian cities, and from Buffalo, Cleveland and Detroit journals.

Coroner Anderson arrived at 7:30, and after some delay he was seated. She was alone when she left Hamilton. She was not sure whether she stopped in Philadelphia.

Mr. Blackstock said she had understood from her father that she had written from Philadelphia that she was delayed there. Witness thought it might have been a vaudeville and moving picture show at different places with parties of six or seven, including Miss Elliot, who usually paid Miss Kinrade's expenses of a musician, Foster, paying \$5 or \$7 a week for board, or practically her whole salary. She went to Richmond in March and stayed till about June 1.

Besides her church salary, she sang in the Orpheum Theatre, in Portsmouth. It was a vaudeville and moving picture "dime" show. She appeared once at the afternoon and evening performances. The engagement resulted from the manager hearing her sing in church. She received \$15 a week, and the church people didn't object in June she felt the work was growing heavy.

"Got Leave of Absence." The church got a leave of two months' leave and she continued at the theatre for a month, returning home about Aug. 1. Asked whether there was anything beside singing and moving pictures, she said there were humorous sketches.



CORONER ANDERSON.

where she met Miss Elliot on the trip south, and could not remember when she was alone when she left Hamilton. She was not sure whether she stopped in Philadelphia.

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She lived in Portsmouth with Mr. and Mrs. Butler, proprietors of the show. She was then a boarder. Miss Elliot remained in Richmond. She had much spare time and had a number of friends. Her stage name was Mildred Dale, a suggestion of Manager Butler.

The oppressive heat decided her to return home. Mrs. Butler wrote several letters urging her return to Portsmouth. Witness declined to do so, altho her mother didn't like her singing in the theatre. She went back to Portsmouth in October, but she didn't see Miss Elliot again. Witness travelled south alone, and resumed boarding with Mrs. Butler, staying there till near the end of December.

Witness said she grew tired of life, tho it had no unpleasant features. She didn't mix with many people. Asked whether any one paid her any particular attention, she said Baum had proposed marriage to her. It was not as a joke. He took it good-naturedly and there was no trouble, altho he was very persistent.

"Did it influence you in leaving?" "Yes," said Baum. "I don't know if it did influence you in leaving?" asked Mr. Blackstock. "I wanted to get away," replied Miss Kinrade, who said Baum showed no

## 'OCTOPUS' FREED FROM RECORD PENALTY

### Judge Landis' \$29,000,000 Fine Knocked Out by Decision Dismissing the Case.

CHICAGO, March 10.—The Standard Oil Co. of Indiana to-day was found not guilty of accepting rebates from the Chicago & Alton Railroad, and the \$29,000,000 fine was dropped.

The verdict was returned by a jury in the federal court on instructions of Judge A. D. Anderson, who averred that he followed the circuit court of appeals' decision as to the verdict returned at the conclusion of the standard case on which verdict Judge Kenesaw Mountain Landis assessed a fine of \$29,000,000. Judge Anderson's decision was not expected, and he had yesterday told the government prosecutors that the proof relied on in the first trial was incompetent and that it must be complemented or fail.

It was with something of an air of hopelessness that District Attorney Sias and his assistants appeared to the admittance of the Illinois classification to prove the existence of a legal rate of 18 cents, which was a vital point in the government's contention.

It was after Assistant District Attorney James H. Wilkerson had argued the case for two hours and in the end admitted that the prosecution could not furnish the further proof deemed necessary by the court for a continuation of the case, Judge Anderson announced his decision.

Mr. Wilkerson said that the government could proceed no further and suggested dismissal of the case. Jury instructed. Attorney John S. Miller, chief counsel for the oil company, immediately moved that there be an instructed verdict of not guilty. The court so ordered, and the jury, who had been excluded during the arguments by the attorneys, was called in and charged.

The decision of Judges Crosscup, Baker and Seaman of the United States Circuit Court of Appeals, reversing Judge Landis' judgment, together with the action of the United States Supreme Court in refusing to review the decision of the court of appeals, was assigned as authority for to-day's decision.

Judge Anderson quoted from the opinion of the appellate court judges. The strongest expression of his views, he said, was the statement in that decision that "the most we can say is that the question is one upon which the judges, after full discussion, might very reasonably disagree."

Continuing, Judge Anderson said: "The defendant is charged here by indictment; this is a criminal offense. The defendant is presumed to be innocent until proved to be guilty beyond all reasonable doubt; and before this jury would be justified in finding a verdict, on a single one of these counts it would have to be satisfied beyond all reasonable doubt to such a degree of certainty as to overcome the presumption of innocence which surrounds this defendant. It would have to be satisfied beyond all reasonable doubt that there was a definitely fixed rate of 18 cents per barrel. The court of appeals has said upon this same evidence, after having considered it in all its relations, after the evidence which has been given, that they cannot say that these two papers (the railroad tariff sheet No. 24 and the Illinois classification), really fix any 18 cent rate."

"Gentlemen of the Jury, I have made up my mind to do this case. You, as jurors, have a perfunctory office to perform, and the evidence you have heard, as presented by the government, may have given you some opinion of your own as to how this case should be decided. You have no arbitrary power. Neither have I, as a federal judge, any such power. I am bound by the law as you are. When the United States court of appeals lays down the law we are bound by our oaths to obey this law."

"The Standard Oil Company has been indicted, and the government avers in its indictment, that a rate of 18 cents per barrel on shipments of oil was a fixed standard, and that regardless of this the Chicago & Alton Railroad gave the defendant concessions allowing the oil company to ship oil over its road at a rate of six cents. The government failed to prove this charge."

"The Standard Oil Company is charged with the criminal offence, and therefore before a jury can find the defendant guilty it must be satisfied beyond all reasonable doubt that there was a definitely fixed rate of 18 cents. The court cannot say that these two instruments prove the existence of a standard, in this case meaning 18 cents."

Charges Not Supported. "The proof offered by the evidence does not support the charges relative to the Chappell, Indiana, shipments. Consequently, the defendant cannot be found guilty on charges that embrace shipments from that point to St. Louis."

"Proof of publication has not been made with reference to the alleged illegal shipments of oil from Whiting, Indiana, and consequently the defendant cannot be held on charges of accepting rebates on shipments from that place."

WASHINGTON, March 10.—The understanding here is that an appeal will be filed from Judge Anderson's court to the circuit court of appeals. Also an appeal would lie from the circuit court of appeals to the supreme court of the United States in the event that the decision in the former tribunal should be against the company. In fact, that is the best reason for stating that the whole issue will come before the supreme court of the United States very soon thru an unexpected and novel move by the department of justice.

## PREPARING FOR WAR



Leader MacKay cuts for himself a "big stick."

POOR COPY