

## ON DOUBLE TRACKS

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### THE TRIAL: DAYS ONE AND TWO

1.

Something was lifting. Megan only sensed the change, the way an animal would, her mind still absorbed in her work; and then gradually she raised her head and looked at the window.

Earlier when she looked up, darkness had coated a mirror on to the window and she was there in the glass: her fingers on her lips as on a secret she was holding. She removed her hand then and as she did she tossed her head so that her hair swept away from her face, dismissing the look of fatigue which was also there. She returned to her notes, almost guilty in her pleasure that whenever it came she would be ready for this day.

And now it was something heavy pressed against the sky, gradually lifting, which drew her away from her work and to the window.

'Morning,' she said out loud. And then she made herself pause and observe the investiture of light; but it was almost too premature to be called light. She only knew that darkness was shedding. And she watched her image fade from the window. Soon she wouldn't be located in one place any more, but would fill out the room and would soon fill out the day.

She bit the inside of her lip so as not to make a sound, and looked away from the library window. It was eighteen feet high and still it didn't reach to the ceiling of the room walled in books.

Turning to a clean sheet of paper on the note-pad in front of her, she tentatively and then more boldly marked a line down the right side of the page from top to bottom. She divided the page the way she always did, as she had been taught to do, and yet her movement seemed almost aggressive and strangely inappropriate in the empty library with the sun just rising. The left side of the sheet was where she would write down the black letter of the law, and it was where all the facts were noted, the seemingly endless flow of details, of names, dates and events. The right side, the cordoned off area, was a free space where anything at all could be put.

And in that space Megan started to draw a series of hatch marks.

It seemed to her that, unknowingly, she had been in training for this cause, and now she was in full motion, in full career, with such a larger, expanded sense of herself: she was open, like a wide white sail. And, although she had to be careful, although this element could sink her, she felt ready for the day to come, wide, like a wide white sail.

She looked again at the divided page. And she realized that her identity had always been lodged in two separate images of herself. In one she was clear, precise, and almost stone cold, carrying all the rigidity and exclusiveness of stone. In the other she was so light she could have walked on water; she could have connected a path back to the very beginning. And both images were understandable when alone, but together they blurred like one image doubling. What an enormous effort it had taken to reach this day; it had taken the strength of a giant, sometimes a monster, to contain the images, one always drifting away from the other like a *doppelgänger*.

She bit her lip again because she was too excited. She had cut the page in order to feel the divide, in order to hold herself down. What she really needed was to be calm, and instead she felt absolutely wild and unconquered.

She put her head back and closed her eyes tight—and there, as though in front of her, was a young girl.

The girl's body was so perfect. Megan followed the curve of her arms down to the long and beautiful white hands—and that perfection seemed to be on the inside, pushing out to the very edge of knowing, like a ripeness, with nothing held back—able to run because the sun was almost rising, able to dance. Her energy wasn't coiled; it was the energy of a wave rather than a serpent—a wave through a wide white sail.

As Megan opened her eyes her excitement became snared by the hatch marks down the right side of the page. The marks looked like a strange mound of swords, or crosses.

In this case, today, in four hours, the Crown would enter a deed of surrender as an exhibit in the trial. The Crown would say that marks such as these showed the Indians' consent to the sale of their land—a series of crosses, each one different, each one signifying the location of something, the way a point is identified on a map.

And the marks on her sheet became dozens of roads, criss-crossed—as she noticed, with surprise, that she had been writing with the wrong pen.

The pen she always used was gold with black ink and this one was silver with blue ink. The blue made the words seem faint and insubstantial, almost soft and subject to error.

Megan reached inside her briefcase. She could feel paper clips, a perfume bottle, lipstick cases, Acco fasteners and Scotch tape, but her pen wasn't there.

She told herself it didn't mean anything that she had forgotten her pen—and even if it were lost it wouldn't matter; she'd buy another on the way to court. Still, she felt slightly let down, as though the day had developed an imperfection.

Her co-counsel, Mark Chambers, would be here soon. Perhaps he had mistakenly picked up her pen.

They had worked late the night before, but Megan had been restless when she arrived home. And she felt she hadn't slept at all when she got out of bed; it was still dark; she dressed, about to leave the house. And Glen was standing there in shadow, his bare feet squirming on the cold tile of the kitchen floor. She closed the door. Already she felt slightly inconvenienced, having to stop in mid-stride, but she did stop. She went back to him, making sure her leather coat didn't touch his bare skin. Leather held the cold, more like metal than fabric, and yet she liked the slick feel of the surface and its smell—even the hard suppleness of it—she didn't know why. She leaned towards Glen and kissed him.

'You talked in your sleep,' he said, as though talking out of his own sleep now, drowsy and blurred, not cut sharp to meet a demanding day, the way Megan was cut. And again she held back, making herself wait for him

'What did I say?' she asked. She couldn't even touch his face with her hand for fear it was too cold.

She did stop and go back to Glen, just as a few moments ago she made herself pause and notice that it was because of the sun that the heaviness was lifting—she didn't just continue with her work, as into a kind of midnight, when there was a whole sun there, rising.

She fingered the pages of her legal submission. Probably Mark had taken her pen from the table last night and would bring it when he arrived. But she looked inside her briefcase again, with a growing sense of contamination. She needed a sign, something that showed she would win this day.

It had been over a year since she had started working exclusively on the case. Before that, her trials concerned what had happened in recent memory: a contract broken or an injury sustained—they were events which could have occurred yesterday or the day before. And she glanced off the surface of things then, like a stone on ice, having made herself flat and sharp. Everything existed within a thin, hard layer of possibilities; she had believed that by force of her will enough

momentum could be created, by herself and all alone, to get across the frozen element.

But it had changed now. With this trial she would go back through layers of time: not just her own time but of all the time.

She looked back at her legal submission, picked up a yellow highlighter, and continued reading. She had worked hard on the opening address, trying to get the tone just right. The Judge would have to put aside most of his held assumptions in order to understand this case, and the opening was to prepare him for going into unknown territory without a map.

As she scored through the legal citations she marked a reference to an early Privy Council decision which she couldn't remember having read. The books surrounding her, from the floor to the ceiling, contained all the law ever reported in the civilized world. In order to reach the volume from the Privy Council she would have to use the metal ladder which rolled in front of the stacks and clanged loudly when it was moved.

The books were of different colours depending on their age and country of origin. The *English Reports*, once red, were faded now and the recent volumes seemed thin. Next to them were the *Canadian Dominion Law Reports*, rust-coloured, as though weathered and then abandoned: even on the new books the gold print was faint. Megan ran her fingers over the spines which were waist-high against her, and she thought of a fossil; the haphazard catching and embedding of an existence no one would know about except if the past were somehow scuffed open.

She pulled the ladder towards her and it slid on the rungs smoothly, as though the point of friction had been iced.

It was strange that in all her years as a lawyer, she had never actually seen anyone climb the ladder, as she did now. The rungs of colours on the books, and the thickness of the books themselves, seemed like the growth-lines inside a tree. Each year had a different tone, a different prosperity of thought or of judgment. And she was in the hollowed out marrow of all of that, at the centre of something which had the pretensions of growth, but it was all askew. The growth only went up, and not out. There was no real substance she could lean against, which would hold her up.

The image was of the spinal remains of something crooked, indestructible and unlooked upon.

And she dispelled it, the way she might flip over a card she didn't like, so that it was face down.

She took another step on the ladder, as though walking towards a dream map being made.

She climbed through time by climbing up. The judgments in these books, made year after year, were piled together, and the present was underneath them, carrying their weight. The old law, like a dangerous substance, couldn't be buried.

But she was determined not to be troubled; the sudden gloom she felt was from an unknown source, and it would go.

She reached for the book she needed.

Standing parallel to the top of the window she could see the sunlight coming at her, careening from one building to another, like a trumpet blasting its sound inside a cathedral. She was ready.

## 2.

Today he wouldn't get angry. As Theodore dressed in his suit and chose a tie, he reminded himself that it was simply a matter of self-control, and taking a deep breath before speaking. And if he felt the pressure fisting inside his neck, making everything spread with his anger, all he had to do was breathe. That's what Claudia had said. Just smile. The clerk would be in front of him.

It didn't really matter if the lawyers dressed improperly, their tabs crushed in their pockets like handkerchiefs—women's handkerchiefs, almost soiled, pulled out just before he walked through the door. . . Yesterday he thought he saw that young man, Mr. Jordan, pinching his cuff-link into his shirt as order was called, and, when Theodore bowed, Jordan was just straightening his other sleeve. In the old days a lawyer had more to deal with than his cuff-links; there weren't Velcro tabs then but proper tabs with separate collars. He'd have to work with studs fitted at the back of the neck, stiff collars, very stiff, hardly bending. They would scratch a young man's neck, being so rough and starched.

But he mustn't get annoyed. He had to be careful. He had to protect his health.

Were they waiting for that, were they depending on his legs failing—or his heart? But if his legs gave out he could still be a judge, even when he couldn't walk. It was only if he had chest pains and was short of breath that they would make him go to one of their doctors—a young prejudiced doctor who hated old men, a doctor who would want to listen to his heart.

The Judge pulled on one of his boots.

What would the doctor hear? Something slowing down, or something stumbling.

Theodore put on the other boot and pulled his socks to their full length, just below his knees. Then he stretched out his leg, pulled it back

and stretched it out. There was a grating sound in the movement as though sand were under his kneecap.

Would the doctor hear his blood not flowing properly? Valves not opening or closing? There would be something he would make a medical note of—some ancient flaw. And Theodore would watch the face of this young doctor and know that the man was looking for evidence, even if he smiled and said it was only a routine check-up. Theodore had spent his life judging people, understanding them, discerning if they should be believed. In court, he often smiled at the witness before asking a question so that the witness would think he liked him. And the witness would search the courtroom for assurance; he would look at his lawyer, but the lawyer would look away. ‘No, there’s no help for you out there. Look at me, please. Answer the question.’ Then he’d smile again, kindly. ‘What is your evidence? You see, I am confused.’ But he was never confused. The witness didn’t know where to turn. ‘No, look at me. It is me you have to answer.’ They couldn’t turn away from him.

They probably scoured the transcripts for evidence of his confusion. He had to stop using that word.

Except when he lost his temper, he didn’t reveal what he really thought about a case until the very end when it was time for judgment. His decisions weren’t appealed because he based them not on the law but on the credibility of witnesses. He would write ‘It seems that’ rather than ‘I think’, not putting himself as the subject of the sentence. That would be crazy. That would be like raising his head above the trench with the enemy near.

There was no evidence of confusion. No evidence of a bad heart, except if it was something functionally bad. Surely they couldn’t make him retire.

He was the only judge of whether or not he was competent to sit on the bench. And if he wasn’t able any more, if he couldn’t think straight and discern who was lying—well, then he would voluntarily retire. He would have quit years ago if he thought it was proper, if he couldn’t decide things judiciously. He didn’t even drink.

He walked into the bathroom and avoided looking at his face in the mirror as he fixed his tie, watching his hand movements and the dexterity with which he could still make a perfect knot.

Everyone knew he was competent. He could be a judge as long as his mind was functioning and he could follow the arguments. Most often he was way ahead of them, and it was so tedious listening to the lawyers in their soiled shirts and their ruffled gowns, struggling to frame in a point which was so obvious—so obvious an idiot could follow their arguments—even a child . . .

But he wouldn't lose his temper. He would stay calm and wait for them to catch up—and it was their argument, not his, not his. Ah, he could wring their necks. He could murder them for being so slow and stupid.

It wasn't that he was unkind. People hardly ever measured up, that was all.

When Theodore did look in the mirror, he saw his wife standing beside him. Claudia—ancient now, oh God, she was so old and lined. He pulled the knot in his tie, which he completed, and cinched it right against his throat.

Would she ask to help him? She could make a better knot than he, but he wouldn't allow her to do it any more. No doubt she has learned the trick during the war, with officers she had loved better than she loved him—men who had been with her all night long, hot and sweaty, and the next morning she would fix their ties and kiss them. And when they were about to die they would remember her as their last vice. Young men, killing themselves for her.

But he would not let her touch his neck, or his tie. Not today.

'Coffee?' She handed him a cup. 'Is your tie straight?' she asked.

'Of course,' he said.

But he mustn't be hostile to her. She wasn't like the others whose lies he tracked in his courtroom. She wasn't a willing witness—not a witness at all. She was innocent.

'It isn't straight. Let me fix it,' she said. She put her hand on his arm to turn him around, but he wouldn't move.

He stared into the mirror at her reflected face. She looked as old and lined as his mother had looked. She was humming a tune, some kind of lullaby. He couldn't remember the name—what was the name of the lullaby?

And his wife took his shoulders in her hands, turned him around and adjusted his tie.

'When will you finish your cases?' she asked, picking a piece of lint from his sleeve. 'Not that I care, but my garden is—'

'Your garden is just fine,' he said, moving away from her and looking back into the mirror. A timeless sense of submission was in him, as though he had struggled all his life and was still young.

'It will need my help,' she said, her jaw and lower lip protruding slightly. 'There's really no reason for me to be here. I mean, you don't need me, do you?'

'Need you?' He leaned towards the mirror and examined the spot on his nose. It was a red vein in an old man's nose. The skin around his face seemed to be receding and his jellied nose was growing. 'You told me

that you would stay this time, right through,' he said, trying only to state a fact.

'I know dear, and I will. I just wondered.'

'You can get Mr what's his name—the fellow you got in last year—damn, what is his name?'

'Tom Crane, you mean? The gardener?'

'Yes. Crane, Phone him. He'll go over and weed, and cut the lawn. You shouldn't be doing that anyway. Why didn't you arrange this before we left?'

She turned. 'I did, but last year he made such a mess of the shrubs they're still not right. I'll probably have to replace them, especially if we put the house on the market.' She walked out of the bathroom.

'We're not putting the house on the market,' he said quietly. She mustn't have heard him. How annoying she was, jabbing at him then turning her back and walking out. His face felt hot and flushed. 'The house is not for sale,' he said, louder. He could hear her in the kitchen. God damn apartment hotels. God damn little rooms.

He walked out of the bathroom, through the hall to the entrance of the kitchen, but she wasn't there. Where could she hide from him in this place? He would pursue her with his complaint the way he pursued an argument in court, forcing out the logic, bearing down on the irrational. Where the hell was she?

'Claudia,' he yelled. 'Claudia, the house is not for sale. Where are you?' The apartment was silent. Had she gone, just upped and left him?

'Claudia,' he yelled angrily into the hallway.

The door of the next apartment opened and a young man peered out, starting to speak, his face clear and his eyes questioning.

'It's nothing, nothing,' said Theodore and closed the door. He locked it and leaned against the wall. His hands were shaking. He was on a hair-line crack, he thought, on a fault line.

She was turning the door handle. Then there was a knock. 'Ted, open the door. Why have you locked the door?'

He wanted to punish her, to keep her outside. To make her feel ashamed of herself for—

The knocking grew louder. He walked into the living-room and sat down. Hair-line crack, seismic and spreading. He sat on his trembling hands.

There was a key going into the lock. How did she get a key? So what, let her come in. He didn't care any more.

'Theodore, are you all right?' She closed the door gently behind her. 'I went to get a newspaper. I told you I was going. Why did you lock the door on me?' She sat beside him on the couch and put her hand on his leg.

He wanted to punish her for walking out and not telling him where she was going, leaving him in the midst of the argument. But he felt pathetic now, and she had that understanding look on her face. He closed his eyes against her.

‘I didn’t know you’d gone,’ he said.

‘But why didn’t you open the door when I knocked?’

‘I was in the bathroom. I had the water running.’ He shouldn’t lie to her. She knew he was lying, but she wouldn’t dare press him further. ‘The house is not for sale, Claudia, and I’m going to be late for court. Call me a cab. I won’t be able to walk this morning. It’s too late to walk.’

‘Yes. Certainly.’

Her voice had gone cold and empty. It would take days before the life came back into it.

He was in a sour mood. As he rode in the taxi, the whole world seemed foul and even the cab smelled dank. If the driver lit a cigarette he would tell him to put it out. He waited in anticipation, almost hoping that the man would light up.

‘Please close your window,’ Theodore finally said. Without looking back at him in the mirror, the driver rolled up his window.

The streets were dirty in the sun. The place needed rain, a good storm to wash away the grime. The people walking on the streets looked tired. Theodore shook out his hands which felt thick and lifeless.

He gave the driver a small tip.

Even his office—his chambers—seemed like a rented room. Because he was a judge from out of the province, he never knew where they were going to put him, what they were going to do with him. The trial, which started today, was supposed to last eight to nine weeks. He was certain the Chief Justice had offered him the case because he expected Theodore to decline. It was a test. He’d said, ‘By the way, Theodore—’ No one else called him that, not since he was young, except the Chief Justice and Claudia sometimes, when she was annoyed at him or worried.

Probably she was right; she should go back home. She wouldn’t be lonely there. She had lots of friends at the ladies’ clubs, bridge, curling—What was the sense of selling the house? They’d lived in it for thirty years—it wasn’t as though it had once been filled with children who had now left. It was as empty as it had always been. Why did she want to sell it? Ah, he couldn’t think about that any more.

Theodore Leeland Selbie. ‘By the way, Theodore, I have an interesting case for you. It’s a long one, though. Expert witnesses. Lots of documents.’ The Chief Justice, still young-looking, with that frivolous, fatuous manner he had. Always testing. Nine weeks of trial having to do with native Indians and land claims. The Indians probably didn’t speak

the language, didn't understand the rules, and they'd want all the land back. His house was not for sale.

He agreed to take the case; he had even represented to the Chief Justice that he was eager to do so. But he was out of sorts. The previous night had been spent studying the court file. His brother judges had heard motions on all manner of questions—questions that had never been asked of the law; there weren't precedents for these things. In one application the lawyers for the Indians wanted leave to introduce hearsay evidence at trial. The Indians, because of an oral tradition, claimed the right to repeat, as the truth, whatever they had said to one another over hundreds of years, even though it was rank hearsay, if not mere gossip. Simply saying things out loud in front of witnesses didn't make the statements true. They might be lies—old lies, well publicized.

His job was to deal with facts, not hearsay. The question wasn't whether someone thought they saw something, but whether there was, in fact, anything there. Surely that was the issue.

The rule against hearsay had been part of the common law for generations. It was a good tradition. An important tradition that would be upheld.

But his brother judges hadn't disposed of any of the motions. They had put them over until trial, because they chose not to fetter the trial court's discretion—they had ducked out, leaving Theodore Leeland Selbie without any guidance in the case. A judge needed guidance.

What he admired about the law was that it was almost mechanical—everything rational could be measured by it and assessed to be right or wrong. He was comforted by the law. But these natives seemed foreign to the traditions he revered, as if they pre-dated what he knew and would challenge him, try to topple him. They couldn't, of course. It was they who had come to his court.

He opened the cupboard and took out his shirt and robes, sliding his fingers down the cool and slippery panel of red silk attached to his black gown. He smelled the cloth of his shirt, near the sleeve. He almost liked the acid sweet smell. It smelled like fear. Halfway through a trial the whole courtroom reeks of it. Halfway through, nobody can quit. The Judge knows what counsel is up to; they can fool one another but not him, not any more. Like an axe in a piece of wood, they can't get further in or out. The air vibrates like an axe handle. They're stuck. And the whole thing has to be lifted up and smashed, pounded, forced to one way or another—it's the Judge who has to take up everything, and pound out the truth, just pound it out.

Theodore put on his court shirt and looked at himself in the mirror—not at his face, he didn't want to see the red veins of his jellied nose—but he looked at his stomach which seemed distended, and he

turned to see his profile. His chest was concave and his pants were baggy at the back, like the empty pants of an old man. His ample robes would have to shield him, to cover his thin legs and his gravelly knees.

There was a knock on the door. He did up the top button of his shirt. 'Come in,' he said.

It was Mary. He hadn't seen her for months. She had on her black skirt, court shirt and vest.

'Good morning, My Lord,' she said.

Her hair was longer than he had remembered, pulled back into a pony tail which flipped as she walked. She was something freshly washed or new born, just beginning. She had yellow hair—blonde hair was what it was called. She wore shadow, green above her eyes, and her lashes were blackened with that mascara, so that they looked bright, wide awake, sunburst. If he'd had a child, and the child had had a daughter, this could be her, his grandchild, his sunflower offspring, bright and eager, saying, 'good morning, My Lord,' like a royal page, fit for a king. Fit for him.

He felt his whole face relax as though she had spread back his skin. Or as if something had sweetly touched the outside of his eyelids, cool and wet, waking him up.

He walked towards her and wanted to hold her to the light so that he could see her better.

Foolish old man.

He put out his hand for her to take, and when she did he placed his other hand on top. Her skin was smooth and cool. But he must not keep her too long or he might scare her away. He must let her go. And he did, releasing her hand.

All his words were knotted at his throat where his tie was. Of course, it was only natural for him to like Mary. Everyone liked Mary. But he couldn't speak.

'I haven't seen you for a long time,' she said. 'I was away last week. Have you been well?'

Thank God for her child's welcome. He could have shouted, he was so grateful to her for talking simply. He stepped back.

'Oh, yes, very well. And have you missed me?' Silly, stupid, stupid old man. Why would she miss you? How could she possibly miss you? He smiled. The tightness in his throat contracted like a thin wire cutting through something soft.

'Sure, I have,' she said. 'And you're here for quite a long time, I understand. That's nice.' And then she laughed, shyly. Her laughter had something to do with water. Water seeping into a fault line. 'Did Mrs. Selbie come with you?'

The Judge turned. His closet door was open, and if Mary looked she would see the soiled white shirt hanging there. He closed the door as he passed.

'Yes, yes she did. I think she'd rather be back east, though, working in her garden. When the time comes—' What did that mean, when the time comes? Never mind. Never mind. 'So, you have an interesting case for me, I understand. And a long one. How have you been?' The bridge he was trying to cross had such gaping holes his foot kept slipping, nearly pulling him through into thin air. 'How is your husband? Your mother, did she visit you this summer? Is she well?' He had caught himself.

He moved behind the desk and caterpillared his fists one beside the other.

'She didn't visit, not yet. Maybe this winter.. If she does, could she meet you?' I'd like her to come to court and see what my job is, and she would love to meet a judge.'

'Yes, of course. We could take her out to lunch.'

'And she could meet Mrs. Selbie.'

'Yes, if Mrs Selbie is still here.'

He aroused himself from a morning dream where the sun was warm on his face.

'I must finish getting ready, Mary. Lovely to see you. Come and get me at nine-thirty. You remember, I like to start on time. Tell counsel I am punctual.' He had a courtroom to run, a trial to start. Counsel would be ready for him.

'Say, Mary, would you order some flowers for Mrs Selbie? Something nice. Have them delivered at noon, would you? You know the address of the hotel.'

'Yes, My Lord.'

A bridge went all the way across the water. He could walk on it because he'd built it himself. There would be order in his court. Claudia would be pleased he had sent flowers.

He quickly finished dressing. When Mary knocked on the door again, he was ready.

They stood at the Judge's entrance and Mary went inside.

But when she returned she said, 'Ms Striclan and Mr Chambers aren't here yet. I'm sorry, I had Jack check earlier, and I thought—'

'Not here yet?' He couldn't believe what she was saying. 'What am I to do? Wait here for counsel?'

'Let me check again,' Mary said. 'I'm sure they'll soon be—'

I'm not going to wait out here. It's nine-thirty, isn't it?' Theodore was angry.

'Yes, My Lord.'

'I told you nine-thirty sharp.' His fury was a toxin that killed off every part of him that was kind. 'I will come into court at ten o'clock. I don't care when Mrs Striclan and Mr Chambers arrive. If they are not here by ten, I will start without them.' And he turned, walked back into his office and slammed the door.

3.

The air in the courtroom was shut in. At two minutes to ten, it was already stale and had started to take on a human smell.

Time did nothing. Time was the Judge's chair at the front of the room: elevated, official, empty. Time held people barren and thoughtless. Everyone waited, forgetful of why.

Then the door at the front of the court opened, pulled back the air, and slapped movement into the room.

'Order in the court,' said the Sergeant at Arms who walked through the door, stopped, then said, 'All rise.' His voice was full of police.

The lawyers with their fingers tented at their mouths were startled. All four of them rose to attention, felt their cuffs, and adjusted their crushed black robes.

The Sergeant at Arms took one more step forward as he surveyed the room, checking for errors. From behind him emerged the court clerk and then the Judge.

The Judge walked slowly up the steps, as though in a procession, turned and stood. He smiled as he bowed. A nice, kindly smile, thought Megan. And the lawyers, all four of them, bowed.

The Judge occupied the space that time had emptied.

The Sergeant at Arms took his place at the edge of the room, his line of vision criss-crossing the rest, like a traffic cop.

The lawyers furled back into their robes.

The clerk turned; the Judge nodded and smiled again. The clerk announced, 'In the Federal Court of Canada, Trial Division, holden in British Columbia. Calling the matter of Akwaw and Others versus Her Majesty the Queen in Right of Canada, My Lord.'

'Yes, counsel,' said the Judge. Kindly. A kind old man.

'My Lord, my name is Megan Striclan, S-T-R-I-C-L-A-N. I appear for the plaintiffs. With me is Mark Chambers.'

Mark Chambers crouched up and back down again. The Judge nodded at him.

From the opposite side of the room, separated by an aisle and a podium, another lawyer stood.

'T.G. Smythe, QC, My Lord, appearing for the Crown. Assisting me is K.R. Fraser.'

'Yes, counsel,' began the Judge. 'Now, Mr Chambers and Mrs—it's—is it Mrs Striclan?' He stopped because something was in his way, an impediment or an annoyance.

Megan stood. 'Ms, My Lord.'

'Ms. Yes. I see. You want to be called Ms Striclan, is that it? Not Mrs?'

She was surprised at the repeated question. 'It's Ms Striclan, My Lord.'

'I see.'

The Judge waited.

The clock on the wall didn't tick. It bit out time like an insect that ate and rested, ate and rested. It took two bites out of the air while the Judge waited.

'And this case, Ms Striclan, is expected to go eight weeks, is that correct?'

Megan realized that something smooth was curdling, like drops of lemon in milk. It was the Judge's lemon voice.

'Yes, My Lord. Eight to ten weeks is the estimate.'

'That's too long,' he said flatly. Megan raised her chin, stretching the skin of her neck. 'Counsel, let me tell you at the outset that this case cannot take ten weeks. You will have to shorten it. I've never sat on a case that took that long.'

He felt his hands starting to twitch and his face was flushed. He hadn't intended to say these things, but he was angry at having stood outside the door like a child being kept waiting. Still, he must avoid repeating himself with words that became shrapnel. He tried to smile but remembered again the closed door of the courtroom as he waited for Ms Striclan. Be damned. He would not wait for anyone.

'And, Ms Striclan and Mr Chambers, if the case is going to take that long because you insist on being late, then—well, I won't have it, do you understand?'

'My Lord, I apologize,' said Megan. 'I was advised yesterday by the registry staff that court would begin at—'

'Never mind that. You must be here at nine-thirty in the morning, ready to lead your evidence or—or I will adjourn the entire case. Because it is the tradition of this court to start on time, and I intend to uphold that tradition. It's a tradition I believe in.' Theodore's voice had become a tight, thin wire. The angry twang started in his throat and filled his head—the way his father yelled until his mother screamed and pushed them both from the room, as a boy hid under a pillow, rocking, the scream gone inside him. Theodore was full of bile. He'd become his father's man, and he didn't know that he had.

Megan began again. She believed that whatever misunderstanding had developed between them could be quickly resolved. ‘This complex litigation, My Lord.’ The gentleness of her voice was too much in contrast to that of the Judge, and she said more forcefully, ‘Counsel have narrowed the issues as much as possible, but there is no doubt that the case is going to take considerable time.’ She removed her glasses and the Judge became a blur.

‘I’ve read the pleadings, Miss Striclan. I’ve read them four or five times.’ Theodore started calmly, but he raised his voice again, speaking more and more quickly. ‘There are seventy-seven paragraphs in your Statement of Claim. Normally a Statement of Claim is not that long. The case can’t be that complicated, can it?’

Megan picked up the gold pen she had purchased on her way to court, and leaned forward on the podium. ‘With the greatest respect, My Lord, I can advise you that the pleadings have been drafted very carefully.’ Her voice remained quiet against the pressure-keg of the Judge. And then as an afterthought, almost an attempt to keep her position with him, she said, ‘We have agreed with counsel for the Crown that there are one thousand four hundred and thirty-two documents that may be admitted as exhibits. We have organized these into the fifty-four books that are before you.’

Megan walked towards the front of the room. Outside the window, there was a moon-shape growing in the sun, a half-face tipped into the water of the sky. The face was coming out, starting to look up.

She stood before the long table, which was part of the woodwork leading to the bench, and she touched one of the huge black binders, which were spined towards the Judge. ‘These, My Lord, are the documents that will be filed as exhibits.’

‘Not without my leave, Ms Striclan,’ the Judge said quietly, and then louder. ‘Not without my leave.’

‘Of course, My Lord.’ Megan was shocked by this man. She was on the wrong foot, it was clear to everyone.

Simple Simon says take one baby step back.

She released the binder.

‘This case as I read the claim, Ms Striclan, has to do with consent—the consent of the Indians—the aborigines . . . the original people . . .’ He said the words with growing confusion. ‘Your clients are saying that they were forced into something that happened—what is it—forty years ago? Forty years ago, isn’t it?’ His voice rose and fell with the widening and narrowing of his eyes. But dryly. His eyes seemed to have no moisture inside them.

Megan took another step back.

‘Yes, My Lord.’

'I can't remember what I did that long ago . . .' But he mustn't say that; he must speak carefully. 'Do you have witnesses who can remember an event that happened forty years ago?' Megan started to answer but he stopped her. 'Because, if you do—' Although he was calm again, his eyes looked alarmed, and it seemed he was going to issue a threat; but it never fired. Everyone waited.

The Judge had created an emptiness and she moved into the vacated space. 'Yes, My Lord, we have such witnesses. The elders can speak of that event. And the Crown has witnesses—' She half-turned to T.G. Smythe, but not quite. She didn't want to look to others for help.

The collar on her shirt was tight now, extraordinarily tight, as though her neck had swollen while she stood near the Judge; but the rest of her body felt thin, almost gaunt. She slowly backed up all the way to the podium on the plaintiffs' side of the court. As she did, she saw her colleague, Mark Chambers, sitting at counsel table. This was the first time since the commencement of the proceedings that she had really noticed him. Until now she had felt herself alone.

Mark was looking at her. Through the months of preparing the case together he had never looked at her this way. There seemed to be a long shadow coming from him and it covered his face. She felt herself clamour, trying to boost above it. And then she stopped and stared at him.

All her excitement from a few hours ago clattered around her, like fish hooks that had tangled. She realized that she was in trouble.

Megan put her arms on the slant of the podium and glanced at her submission. Nothing written there made any sense. The voice behind the words seemed inappropriate now: too advanced, way beyond the baby steps she was taking, sideways and backwards. She couldn't find the right words.

She looked again at Mark; he was now closed over his papers, ravelled up in his thoughts, diverted and unavailable. But her clients would be there. She had Steven; she had Mealie and Yanno. And as she turned around, her back to the Judge, she saw only Steven Akwaw sitting in court, his shirt unbuttoned to the middle of his full, brown chest. His shirt was red and one of the buttons was missing. Megan touched the cuff-link on her left sleeve.

Of course, the others wouldn't arrive until the next day. Somehow she had forgotten.

'Ms Striclan . . .'

She looked at Steven's dark face. His black hair bordered square across his forehead and against his neck. He had cut his hair.

'Ms Striclan . . .'

She heard him this time.

‘Consent. That’s the issue, isn’t it?’ the Judge asked.

Was that the issue? She had seventy-five pages of an opening address to tell him, all her thoughts clear and concise, set neatly down. Years of training, fifteen years at the bar, and she hadn’t delivered anything she had planned to say. Consent: the process whereby one measures risk and benefit, looks at all the alternatives, and then chooses. The word was false; someone nodding in sleep and not in agreement, something dangerous lying in wait.

She felt confused, looking at Steven Akwaw, who did not look back, looking at the Judge who was telling her to define, shorten, categorize, put in order. But none of it would fit into one word. She had trained for this moment, which was glaring at her. Consent? Was that the issue?

‘Ms Striclan—’

She was, suddenly, furious, as she turned to face the Judge again. ‘Yes, My Lord, consent is an issue that will be presented in this case,’ she said sharply.

‘And do you have from your clients, Mr A-caw and his Indian Band, the *consent* which *you* required to have started this law suit? Because if consent is the point then I want to know whether you got it from them. Whether they consent to what you are doing—whether they agree to come to this court, to come before me.’

She felt an ancient and familiar sensation in her chest. Something was burning under her skin, on the inside. It had to do with humiliation.

‘Yes, My Lord, I have the necessary consent.’

The Judge turned to Crown counsel. ‘And are you satisfied with what she says?’

‘Well, My Lord, I—’ T.G. Smythe, QC, seemed to have lost something and he fumbled his words, searching for it. ‘I don’t—I mean . . .’

‘Never mind,’ interposed the Judge, cynical and impatient.

They were on a see-saw. The Judge pushed off and was at the top, high above her, and gradually he came down, lowering himself, asking again if her clients had consented to the law suit. And, as Megan paused, controlling her anger, the Judge said, ‘Mr Chambers, do you have something to add?’

The Judge had touched the ground and Megan felt herself bumped from the game. Her fist on her cheek pressed her teeth together. She sat down and Mark stood.

Megan hadn’t really noticed before how extraordinarily tall her colleague was. He towered massively above her. At her child’s eye-level draped the black cloth of his robes, and the white, so white skin of his hand.

Mark began to speak in a low and measured voice. ‘My Lord, consent is an issue in this case because the Crown acted in a conflict of interest

towards the Indians and did not take the care that was necessary to ensure that they agreed to what was being told to them, when they were moved off their land. Counsel for the plaintiffs, Ms Striclan and I, have taken the necessary care. We have inexhaustibly explained the law and the legal proceedings to the Band. We have had meetings with all the Band members. In my respectful opinion, nothing more needs to be said about that issue.'

The Judge nodded. 'Thank you, Mr Chambers, I suppose that suffices. You may proceed.' The Judge seemed calm now.

Megan thought Mark had given a good answer, and she was pleased with it, but she found it strangely discomfoting to stand. The burning sensation in her chest had gone, but it left an absence, like a hole.

As she rose, Mark was just sitting down: they clicked past one another on the absurd see-saws they rode.

She resumed her position at the podium. 'My Lord, we have prepared an opening address, which I am now handing to Madam Clerk and to my learned friends.' She had chosen a red binder for herself, a blue binder for the Judge and a black one for defence counsel.

'Do you intend to read this?'

'Go through it, My Lord.' The hostility of this old man was inexplicable to her. She suddenly felt quite defeated.

Take one baby step back. Simple Simon says.

'And how long, Mrs Striclan—'

'Ms My Lord. I am not married,' she snapped.

The Judge stopped fanning the pages of his blue binder.

'Oh, it's Miss, then, is it?'

He had trapped her again; but only if she was going to play. 'If Your Lordship pleases, we expect the opening to take most of this week,' Megan said.

The Judge clapped the binder closed. 'Now, Miss Striclan—'and his voice was milky with condescension; each word soured the air. 'I have never heard of an opening taking one week. When will you call your evidence? That's what I want to hear. Evidence.'

Splashes of sour, curdled milk.

'My Lord, you will hear the evidence after we have finished the opening,' she said flatly.

The Judge seemed to smoulder. 'It's eleven o'clock. We will take the morning break. And I would like to see counsel in my chambers.'

The Sergeant at Arms jumped to his feet and called, 'Order in court,' as Theodore brushed past him.

'What the hell is going on?' Megan whispered to Mark. But he only shrugged and indicated, with a nod, that the clerk was waiting for them.

Mark seemed stunned, closed around himself and insulated from her, as though he had scattered and was trying to gather himself up.

In his chambers, Theodore absent-mindedly moved a chair and sat behind his desk, full in the realization that everything was going wrong with this trial. It was apparent that his reaction to Miss Striclan contrasted with his response to Mr Chambers, as if some long-held grievance were now surfacing, some ancient torment starting to show through, like the bones under the receding skin of his face.

He didn't know this woman, Striclan, and so he couldn't have a grudge against her; yet her physical presence grated on him as if she were an old enemy. Why had she brought this case to his court? They weren't on a frontier anymore; the past had been settled long ago. There was no frontier. It was all finished, settled—the case was closed. Why was she here?

As he waited Theodore tried to stay calm, but he felt as if he were being forced into a passage which was too narrow, where one could only go alone—and he didn't want to go.

Striclan was a woman, she was virtually a child—it would be impossible for her to know all the rules to this old game. Her competence was therefore doubly annoying. She was trying to challenge rules that were of long-standing, which ought not to change.

And, as he looked up, the lawyers filed into his office, stopping to bow at the door and getting confused in their steps.

'Sit down, sit down,' said Theodore impatiently.

Megan took the chair directly in front of the Judge's desk. She noticed that on his feet he wore boots which rose above his ankles: highly polished boots, like the ones men wore in the Army.

'Counsel, I asked you in because I'm concerned about how things are developing, and it's a bit easier to talk here than out there.' Close up, it was apparent to Megan that the Judge was an old man, his face worn out and sickly coloured. It reminded Megan of a glove without a hand. She almost felt sorry for him.

'Now, Miss Striclan, you say your opening is going to take a week—I'm sorry, but that's an awfully long time. I mean, openings normally take an hour, a morning at most.' The Judge moved his hand slowly down towards the desk and then it seemed to drop so that it lay there, inert, the fingers not separate and active any more. 'But we'll put that aside for the moment. By the way,' and then he paused before he continued, 'is your normal practice that of civil litigation?'

As innocent as a child, he seemed, with his barbed-wire question which tatted her robes and pulled out the threads as she tried to

disengage. ‘Yes, My Lord. It has been for fifteen years.’ She had to get away from him without acknowledging that he was ripping against her.

Theodore was embarrassed that he had levelled his hostility at her again. ‘Good, that’s good. Now, let me—yes, I was saying I don’t want to be in here too long with you. I see that your client is in court, is he—the native fellow at the back of the room?’

‘He’s Steven Akwaw, the Chief of the Band, My Lord.’

‘Right. Although we wouldn’t be able to say all these things in front of him, not comfortably, I don’t want him to wonder what we’re doing. So, I propose that you limit your opening to two days; then we can get on with the evidence. And I’d like to finish the case in a maximum of seven weeks. Seven weeks should be long enough. That will be my order. Please, explain that to your client, Miss Striclan. Thank you. Madam Clerk? And he smiled at the young girl who stood beside him taking notes on a steno pad. ‘That’s all. Thank you.’

The lawyers withdrew, backing out the door and bowing again to the Judge who wasn’t looking at them.

When court resumed, Megan Striclan assembled her papers and began to half-read, half-paraphrase what she had written in the submission. She started with new energy, clearing away the rocky beginning of the day, pretending none of it had happened. The Judge would have to listen to her now.

‘My Lord, this case is about equity. I want to begin my opening with some remarks of a general nature. Equally important as the facts in this case, My Lord, is the discourse out of which those facts emerge. And that discourse, in this instance, is flawed. The problem lies dormant. It is not only revealed when the dominant culture—not dominant in the sense of superior, but in the sense of dominating—wants something from the native people. The native people have a very different world-view from ours. Their world-view, or at least that of my clients, is factual, material, and highly spiritual in a way that we don’t usually acknowledge in our society. The other—’

‘How can they be material and spiritual at the same time?’ interposed the Judge. ‘Isn’t that a contradiction in terms?’

‘My understanding is that the plaintiffs in the case before you—for them, even the material world, the facts, are charged with spirit . . .’ Megan paused. ‘I shouldn’t really use the word “charged,” implying that there is some thing that is overlaid or infused with another essence.

‘That’s not what I mean. In their hunter society, where everyone is totally dependent on facts which must be accurate, on correct information, all those facts and things are nevertheless what we would understand as and call spiritual—’

‘Miss Striclan, I have to stop you again,’ said the Judge. ‘Go back. Who do you mean by “we” when you say “we don’t” or “we do?” When you say “we acknowledge,” who do you mean?’

‘Non-Indians,’ Megan said, somewhat confused by his question. ‘You and me, My Lord.’

‘You are speaking for all of white society now, are you?’

‘I was generalizing about things that I thought were uncontentious and I—’

‘Please, Miss Striclan, don’t generalize about “us.” Theodore saw that she was taken aback. ‘You seem surprised by my request.’

‘I am, My Lord. As you may know from the file, we brought on certain pre-trial motions to try to obtain rulings that would assist all parties in structuring the case.’

‘Yes, I saw them.’

‘There have been no rulings, and I’m afraid that unless— The plaintiffs’ case has already been organized on the basis that there is certain evidence that it will be absolutely necessary for you to hear.’

‘Such as?’

‘What I was just referring to, My Lord: the world-views of two different societies. We have opinion evidence to lead that shows that some of—most of us in our society are bound into an erroneous evolutionist assumption. The assumption is that tribal peoples, the hunters and gatherers called primitive by some—that they will, stage by stage, arrive at where we are. That they will evolve from a people who hunt and fish. That they must eventually live in small villages that will grow into towns. They will become like us. And, if that is so, then it follows these people must be helped with that progress, hurried along as it were, by the Crown. In the case before you, the Crown officials, to be most charitable, tried to settle my clients in one place so the Indian agents would know where to find them. That’s much more organized, to have them in one place, in one village. It’s in keeping with the way we do things. And so this evolutionist approach says these native people are at an earlier stage of development, and they will pass through the stages of our development to get to us. They are behind us and we are superior to—’

‘This is all very interesting, Miss Striclan, to hear your views of—’

‘This is in the evidence, My Lord, which will be led by the plaintiffs when we—’

‘Evidence? This is not evidence.’ The Judge leaned forward and almost shouted at her. And then he stopped, as though he had hit something.

Megan realized that he was trying to calm himself by breathing deeply.

And then he leaned back; he started again, quietly. 'I am sure that any witness you might call to say these things would give very interesting evidence. I don't doubt that. And if you want to lead evidence about the Indians and their culture, that's fine. You should do so. But don't, don't call evidence about "us". Don't call evidence about "me". I am not, as it were, relevant.'

'My Lord, I'm sure—'

'You see—' he interrupted her, and said intently, 'as a Judge I leave my assumptions at the door. I don't come in here with any societal point of view. I leave those things entirely outside of this arena. And so I would be embarrassed by the evidence that you intend to call. All of us would be embarrassed, wouldn't we?'

Megan felt herself pushed and pulled. 'In order to understand the place at which the native and non-native cultures meet, in order to understand the discourse which underlies the evidence before you, we need to examine both sides of that divide, My Lord.'

'Do we? Sure not. We'll be here for ever, then, won't we? It's not the function of this trial to hold a mirror to our society. That's not a function of any court in Canada of which I am aware. It never has been. Not so far. And I don't expect that to change.' His anger, which started to roll, suddenly turned to a request, almost a plea. 'Miss Striclan, you are taking me into areas which are so foreign and so far removed from Canadian and British law that I have a terrible feeling you are really asking me to go beyond any reasonable bounds of restraint. You are asking me to go way beyond, aren't you? I have a sense that I'll be hearing things that a judge shouldn't be asked to hear. What is before me, what I must consider, is the law as it stood when your clients came to this court, the law uninfluenced by the unusual characteristics of your clients—and I remind you that the tradition of the common law is a long tradition, going back at least one hundred years.'

'Out of forty thousand,' Megan said, looking straight at him but speaking quietly.

'I beg your pardon?' He was alert, as though something was as yet unbanished. 'What did you say?'

'I said out of forty thousand.'

'And what do you mean by that?' he demanded.

Megan drew up her shoulders, gathering a mantle which seemed threadbare. 'My Lord, the plaintiffs who come before you have lived in their territory in British Columbia, as the archaeological record reveals, for over ten thousand years. When the scientific methods develop adequately, we will probably have evidence proving their occupation going back forty thousand years. We have marshalled those facts to put

before you. Their territory has only been shared—and I use that term loosely, out of forty thousand years is what I was referring to.’

‘Well, you should continue, just continue, but let me say that I find your comments to be almost in the nature of an *in terrorem* argument. But you go on, go on.’

4.

By the time court adjourned after the first day, Megan was in tatters. The Judge had transformed from a kindly old man into a bigot who was intent on her destruction.

How strange it was. When she first saw him, she had childish fantasy that she could make him understand the Indian people, almost as if she could explain her own self to him. The way he smiled; the way he looked at everyone, curious and anxious to know. But instead, he was a nightmare. He had interrupted her so often that her opening address was taking even longer than necessary; she was only a quarter of the way through.

She slumped in her office chair. Mark was still pulled back and unavailable to her, and Steven seemed as out of place as she felt, even though the courtroom was her forum, it was where she had trained herself to survive. When the other members of the Bank arrived the next evening, she wouldn’t be able to shield them from the horror of the process into which she had led them.

‘What do we do now?’ she asked. ‘Mark, what do we do about the Judge? What’s the matter with him?’ He didn’t answer.

‘I guess he don’t like us,’ Steven Akwaw said simply.

Megan stood up and started to pace. ‘He doesn’t understand what I’m trying to tell him—what am I doing wrong?’ She stopped near the window and leaned with her back against the glass. ‘Can you imagine seven weeks of this? He looks crazy up there. Is he mad?’

She sat down again and put her head in her hands. The fatigue and terror of the day were frozen in her face. She felt like a snowman, with burning coals for eyes. ‘It’s not you he doesn’t like, Steven, it’s me. For some reason he doesn’t like me. This is unbelievable. He’s a monster.’ She looked up. ‘I could kill him for this.’

She rose again, her hands clenched behind her back, and she stood beside Steven, trying to acquire his simplicity, as though by looking in the same direction, she could annex his calm. But she was too jangled and had to move away.

‘What do we know about him? Where did he come from? When I told him the Band had a society without any leaders, I thought he was going to jump right out of his skin. He doesn’t know anything about these

people. He thinks a non-hierarchical society couldn't exist because he isn't part of one. I can't get him to listen to what I'm saying.'

'The clerk told me he's from the east,' Mark said, his voice tight, insubstantial. 'He comes here every year to sit for a few months. She seemed to like him.'

'Did you see his eyes and how bloodshot they were? And he was worse this afternoon. He must be a drinker, don't you think? I bet he drinks. How old is he? Oh God, can't we get him to retire?'

Mark rubbed his hands over his face and didn't smile. 'We'd better get some rest.'

That night Megan slept in the back room. She felt as lonely as a star, but she couldn't be near Glen: she was all at attention, bristling with energy and confusion, and if he came too close she would consume him.

She slipped into sleep as into a violence, and she dreamed she was in her living-room, sitting on the couch, looking up. The Judge was in the doorway. He stared at her, threatening and ugly, with rivers of red for eyes. He was smiling and his teeth showed, crooked, as he came towards her. She had to protect herself from him; she had to defend herself against his eyes. On the table was a pen. As he gained ground, she reached for it and stabbed the pen into his neck and stabbed again and again until he fell, collapsed against her legs. There was a pool of blood on the carpet, coming from his neck, but his eyes were still staring at her. She watched him as his eyelids opened and closed more slowly. If she didn't call the doctor, he would die. She watched him. Self-defence turned into murder as she watched him die.

5.

'Miss Striclan, overnight I took the opportunity of reading the rest of your opening submission. You can skip right along. I've grasped what you have to say.'

'Yes, My Lord. Thank you. I believe I ended last day on page eighteen.' She continued paraphrasing her submission.

After a time, the Judge stopped her again. 'Miss Striclan, I'm sorry to interrupt, but do you intend to take me through this page by page? The avalanche was starting again. 'You surely don't have to drag me through all these details—you're smothering me with details. I'm not stupid, Miss Striclan. None of this is evidence. I want to hear what your witnesses have to say, not what you have to say, for heaven's sake,' and he threw the binder down in front of him and swivelled his chair towards the window. Then, without looking at her, he said, 'You told me

these people rely on facts. Well, so do I. I want to hear evidence, not your opinions, or anyone else's. Please, please, Miss Striclan.'

Megan picked up her pen, held it in check, and then dropped her hand at her side. She waited, and then said, 'In my view, My Lord, the facts, which you say you want, may be different from the facts you need.'

'How? Why? Tell me.'

'You want something familiar that you can quickly and easily describe as a fact, so that you can dismiss all else as non-fact.'

'But isn't that my job, to be a—like a triage officer deciding what evidence, facts, information—call it what you will—isn't it for me to decide what evidence will survive and what will not? Isn't that my job, for heaven's sake?'

'But if there is important evidence that you discount, then we may go astray . . .'

'As I fear we are now. We are going astray. Exactly. You've said it exactly.'

'Well, even the difference between your perception of your function and my clients' understanding of—'

'Come, come. Don't do this.'

'I am trying to explain that the members of Akwaw's Band, they need information in order to survive. They not only have to be able to find something, but they also have to be able to tell someone else how to find it. Everyone, always, has to do both. And so they don't disregard sources of information, because otherwise they might miss important facts that they need. And this isn't abstract, what I am saying. The people's lives depend on the reliability of all those facts. They are not judging facts then letting them go and moving on to another set of facts that don't really concern them, facts with which they don't have to live.'

'And is that what you say I am doing?'

'That is what I am asking you not to do, My Lord. I am asking you to take this trial personally.'

'I don't accept that, not for one minute.' He was shocked, almost repelled by her statement. 'Miss Striclan, I am a judge. The object of this whole trial is to get at the truth of the matter through me, as a judge, and not as anything else. I am to decide the truth.' He narrowed his eyes as if she were out of focus.

'To decide the facts, My Lord, as seen from all points of view.'

'Miss Striclan, facts are facts,' he said in a caged shout. 'The facts are out there, somewhere. They don't have a point of view.' He waved his hand towards the window. 'We have agreed on the question, and we can continue to argue, but it all comes to this: what facts—real facts—are relevant. Isn't that correct? Take an example. Take the issue of the new reserve. I need to know what land was established for the Indians, when

that was, under what legislation, how large it was, how many people there were, when they started living there. But what other facts about that particular point do I need—does anybody need? You want me to consider and hear evidence as to how the Indians felt about being confined to their reserve and having to get a day pass from the Indian agent to go to town. I read that last night in your opening submission. I read it, all the way through. You want me to consider what the Indians felt when their children were gradually taken from them. But I don't need to know those things. How anyone felt is beyond the scope of this trial. That is not the inquiry. No doubt, graduate students in many disciplines would be interested, perhaps the school of psychology or sociology would take up the question. But for me such an inquiry would be speculative in the extreme. I note that courts of law are being troubled on a daily basis with this question of feelings. Feelings are not something that laws and judges can manage very well. Even the word itself, the sound of it, is inappropriate.'

In the expanse of the courtroom, the air seemed to swirl in waves around Megan. She felt cool, almost cold. 'You are saying that what the Indians experienced in all of this has no relevance, and I do not believe that now, My Lord. With all due respect.'

'Listen—I'll tell you once more—belief has nothing to do with this. Unless you accept my ruling, I can't accommodate your clients' case within the common law. Why don't you understand?' He removed his glasses so abruptly that Megan thought he was going to throw them at her. But instead he placed them carefully on top of his notes. 'If someone wants to tell me what someone else's feelings are, I have to discount that evidence because those feelings may not be rationally founded. The Indians, they are asking for certain relief. I can deal with that. But surely it doesn't matter how they have been treated since contact—since, what is it, about 1800. Do I need to consider all of that? I feel imposed upon by such evidence and by your asking me to hear it.'

'The defence, My Lord, has raised the issue of acquiescence. Their theory, I assume, is that the Indians can't make their claim because they acquiesced in—they passively consented to what the Crown did to them when they moved to the new reserve land.'

'Where they live now,' interposed counsel for the Crown, who raised up and down quickly, like a flasher, as though wanting to take a position but fearful of committing himself to the illicit.

The Judge looked at him and then back at Megan. 'What the early settlers felt about the Indians, and the Indians about the settlers, that's not relevant. Don't you understand that how they felt isn't a fact? Frankly, in my view, you don't know what facts are. I'll give you another example. My age is a fact. It's not relevant to these proceedings, but it

is a fact. My age is a fact. It's not relevant to these proceedings, but it is a fact. It could, I suppose, be relevant to some proceedings, or something, somewhere. Another fact: I am a judge. That might be a relevant fact to something. But what could never be relevant—not to anything I can imagine—is what I feel about my age, or about being a judge. Feelings are simply not relevant in this case.'

The Judge's statement wedged the entire proceedings and everyone in the court into a narrow slit of space or time—like something caged. As the Judge continued speaking, Megan felt the enormity of the restriction. 'From what you are telling me about your clients, they would believe that if they knew facts about me, about my past, let's say, then they would understand me. But that's not true. And anyway, what difference could any of it make? The past is always being rewritten, isn't it? Isn't *that* a fact? And the reason that happens is because it can never be known, not the distant past. I mean we can know about things if they were written down, contemporaneous documents from a long time ago, but not much else. You see, you are weaving all these things together, how people felt, what they think happened, why they happened—but these are only theories based on events that are gone. We can't rely on theories as if they were facts. Theories don't work. Things have just happened, more or less by accident. There isn't a conspiracy here. There isn't a singular intention, about ourselves or history, or the Indians, is there?'

'My own views are, My Lord, that—'

'No, no, I'm not asking about your own views but about what you are promoting in this court of law.'

'I am not promoting anything, My Lord. I am advancing a case for my clients.'

'Yes, that's what I mean.'

'The plaintiffs' case doesn't rely on a conspiracy theory but on ideas which—'

'But that's the problem I'm having, Miss Striclan. These things, this "evolutionist assumption" you told me about yesterday—it's an idea you say "we" have. But your clients don't like ideas—that's what you told me— and neither do I. We like facts.'

The Judge leaned back in his chair and then swung forward. 'I have a question for you on firmer ground. Maybe you can answer it, or perhaps Mr Chambers will help. These events, when you say the land was taken from the Indians, these events took place just after the Second World War. I read that. I know that. But what I want you to tell me is if any of your Indians fought in the war. Did they enlist?'

Meagan's amazement was so thorough, she felt her mouth drop open in a caricature of astonishment. 'No, My Lord, I'm sure they didn't enlist. I'm sure they didn't even know that there was a war going on.'

'They didn't know?' The Judge stretched himself out, spread-eagled towards her. 'But how can that be? The whole country knew. The whole country was at war. The whole world.'

Megan spoke slowly. 'As I hope Your Lordship will come to appreciate during the course of this trial, these people lived virtually in isolation. They didn't speak English; most of them still don't. They had no experience in the larger world, and they—'

'All right, all right. You're saying they are children. They are ignorant, is that what you mean?'

'Children in our world, not in theirs. Not ignorant in their own world, My Lord.'

'They would have to be—they would have to be like cave men not to know there was a war going on. Highways were being constructed in the north, where they lived. What about that?' He flared at Megan. 'What do you say about that, Miss Striclan?'

Megan shook her head and looked down at her papers. How could she tell him that it was the highways that covered over their dreams—how could she tell him he was an ignorant old man . . .

'Never mind, then. Never mind, Miss Striclan. If they didn't even know there was a war going on—if they didn't even fight for their country—what did they do? Retreat? Go into hiding? Live in caves?'

'My Lord, they didn't—' Megan stopped, and then she started slowly again. 'Let's assume they did know of the war, just for argument's sake. And let's assume that they withdrew—'

'Is that your evidence?'

'No, but even if they did, that doesn't mean they gave up. That doesn't mean they—'

'Oh no, Miss Striclan, if that's not your evidence—'

'That doesn't mean they consented to everything that—'

'Oh no, you don't Miss Striclan. No you don't.' And then louder, as though he were delivering a physical blow, 'That's quite enough.'

The courtroom hushed with the cold shock of the exchange.

As if trying to salvage something wrecked, the Judge finally said, 'Mr Chambers, do you have anything to add that might be helpful?'

Mark looked up at Megan. It was improper for the Judge to ask him a question when Megan was on her feet and leading the case. 'Mr. Chambers and I, My Lord, are co-counsel,' she said. 'We do not have differing views of this litigation.'

'Yes, I understand,' the Judge said almost sadly. 'But I just wanted to know what you might have to say about this, Mr Chambers.'

Megan took one step to the side. ‘Go ahead, Mark.’ She swept her hand in front of her in a mocking flourish, which diminished only her.

Mark stood beside Megan as he spoke. ‘My Lord, will you hear evidence from the elders that they certainly were aware of the physical effects of the war on their lives—the considerable impact from the building of highways through the north, as you say—but these people are, and were, hunters and trappers. They were living in the bush. They’ll tell you about that, and how they came back to the old reserve land for summer and winter gatherings as part of their seasonal round. It will be your job to evaluate what they say and to consider how they were living. It will be your job to assess their understanding of the world, and to determine whether the Crown obtained their consent when it moved these people away from land that was so important to them, and make them live in a new place with which they had no connection. You’ll hear that evidence.’

‘Good, I look forward to that. Soon, I hope.’

‘Yes, My Lord.’

‘Fine, thank you. You’re too young, of course, to know very much about the war yourself.’

‘Yes, that’s correct, My Lord. Although I have heard about it.’

The Judge smiled, an honest smile this time. ‘I rather hoped you had. Now, let’s take the morning break. Ten minutes?’

Everyone rose and bowed. Megan bowed the deepest, and kept her head down, holding her breath in an airless state. When she rose, Mark was looking at her. The courtroom had emptied.

‘He’s just strange,’ Mark said. ‘I wish I didn’t feel so murderous and small.’

At the end of the badgering day, the Judge told Megan that, although she hadn’t completed her opening, he expected to hear from a witness first thing the next morning. In particular, he wanted to hear evidence as to why the native people didn’t protest immediately when their old reserve was taken away. Then he said, ‘Thank you, gentlemen, we’ll adjourn now until nine-thirty tomorrow.’

Megan slammed her book closed, loud enough to startle Mark who stood beside her. The Judge didn’t turn around.

‘Let’s go have a drink,’ she said.

Megan arranged for the elders of the Bank to be picked up from the depot. She assumed they would be upset because the trip was a break in their connection to almost everything they knew.

As they sat in a lounge once familiar to Megan, she noticed a man standing near the bar. ‘I haven’t been in this place for a long time,’ she said. ‘I pursued someone in here once, it seems like years ago now.’ Mark

looked away as though embarrassed. 'It was about as much fun as this trial,' she added.

But her tone was ironic and it splintered in too many directions, leaving self-pity. She must avoid the ironic.

'Mark, the Judge and I don't get along, and unless we deal with that we don't have a hope of winning this case. We have to decide what to do.' She held her head between her hands. On her wrists she could still smell the perfume she'd put on that morning.

Mark leaned back at an awkward angle in his chair. He watched her as if she were drawing a picture and he couldn't tell what it was going to be. And so he waited according to his habit: uncommitted, almost lifeless. She knew that he often seemed aloof when he was most alarmed or upset, and she was patient. But a zone of pressure in her face was gradually centering; as the pressure released tears, came to her eyes.

Like the scent of perfume on her wrists, she was extended now, more conscious of herself and more available. She was only afraid that once started she might never stop crying; but she also felt relieved, almost grateful.

But she had to keep talking.

'He needs you to lead the evidence.' She took the handkerchief Mark gave her. 'It's as though he needs a son. Otherwise he's going to destroy this case. I'll have to become your wife.' She wasn't ironical now; she was quizzical, confused.

A sketch was there but the relationships drawn were so unexpected and formidable they had to be discerned slowly.

'I don't know what you mean,' Mark said, frowning and starting to lean forward. As he did his shoulders rose—to protect his neck, Megan thought.

'What would I be to him then, if you were a son . . .? And then she hesitated. Her eyes were stinging as though cut. 'What a mess we're in, Mark.'

He let go of the table and put his hand on her arm.

There was a thought in her mind—it was almost a memory of a time when everything started to slow down: voices, movements, everything became slower and slower until they almost stopped; and then they turned so cold.

It held an allure for her, that slowing down. Not caring. It began as an easy, absent drift and it ended at another side.

She had to be careful now.

'Sorry, I still don't have it yet,' said Mark.

Megan shook her head as if to break the hold of the memory. 'We can't win this case if I lead. I've disappeared for him. He needs someone

he can talk to.’ As she said the words, she looked away. The man who had been standing at the bar wasn’t there any more.

‘But can’t you fight him?’

‘You’re in there with me, Mark, you’ve seen what happens. The case won’t survive.’

‘But I don’t know if I can do it.’

‘I’ll help you—’ Her voice trailed away. She felt bereft and there seemed no one in the world to whom she could explain herself.

And so it was agreed.

It was dark outside. The other people on the road seemed purposive, almost festive, compared to her, as though driving home after a long celebration. Megan felt the way a sliver looks.

Caught in a slipstream, tracking an old memory, she drove past the courthouse without stopping and followed a route she had abandoned, to the office she once had. A few hours later and the traffic would have pressed her on; now she pulled over to the curb, trying to see through the windshield to the twenty-third floor. She had come to hate that place; but like an idiot she was craning her neck, staring up at the building but unwilling to get out of her car and really look at it, really remember what had happened. She felt strange, as though furtively watching the house of an old and now despised lover, wondering if he was still there.

As with other events in her life, the time she had spent there was discarded; she had thrown it away. And it alarmed her that the building looked unkillable and ugly; the geography of the place still laid an old claim on her.

She put her forehead against the top of the steering-wheel and closed her eyes. Most often she felt like she had no body at all, only wide eyes looking out. But now she felt as if she were made of ribbons, streaming inside, all different colours. She coursed on the red, angry ribbon turning yellow and tangled in her chest. Then she traced the blue ribbon—

And she felt as if she were in the moment after the world had ended, and the last thing alive had just stopped moving.

She despaired. She was in parts.

It was only the thought of Judge Selbie and her clients that drew her together at any centre.

She put her car in gear and drove to the courthouse.

THE TRIAL: STARTING DAY THREE

1.

When the trial resumed on the morning of the third day, Megan remained standing at the podium as the Judge positioned himself in his chair. She breathed against the ribbons of pressure in her chest, remembering her insistence the evening before that Mark had to be the son and lead the case. As she waited for the Judge to settle, she tried to second the pressure she felt and not give in to a sense of failure. By force of will, and like drowning a human body, she controlled herself.

'My Lord, Mr Chambers will lead the first witness for the plaintiffs,' Megan said, her voice spiked and smooth, like the stem of a rose.

'Thank you, Miss Striclan. Mr Chambers?'

'My Lord, call Chief Steven Akwaw to the stand.'

Steven walked to the witness box. He wore his red shirt done up to the neck; he looked strangulated. One button was still missing.

'My Lord, this witness speaks English, but there is a translator available if required.'

'Yes, that's fine, Mr Chambers. Chief A-caw, you may sit down if you like. If there are words you don't understand they will be translated for you.' Steven looked at the Judge but didn't move. 'Do you want to sit down, Chief?'

'Sure.'

'Then go ahead. Sit down.'

Megan moved over to the witness box and pointed to the small bench.

'Sure, OK. That's good,' said Steven.

The Judge smiled into the courtroom and Megan smiled back at him.

Mark led Steven through his evidence as he described his Band, the reserve land they once had, and the way the people lived now. Steven seemed confident and unafraid.

Megan, voiceless and subdued, watched and took notes. She felt like a eunuch. But she assured herself that the Judge was listening. Every time he looked up and smiled, Megan smiled as well. Her face felt cracked.

Mark produced a large map, which the clerk fixed to the courtroom wall. He handed a copy of the map up to the Judge, who spread it out in front of him.

Mark asked Steven to point out the locations where he had hunted and trapped as a boy.

'We don't use this map before, but I learn. This map don't tell how it is. Better to there.'

'Yes,' said the Judge, patronizing, smiling. 'But you see, we can't go there, so you do the best you can to tell us about it, please.'

Steven said the names of places in the Indian language, describing in detail the geography of each area. With Mark's help, he pointed out the hunting grounds, the rivers and streams, and the trapping cabins. 'Lots of places locked up in farms. They don't like it now. This map don't show good how it was.'

When Megan looked over, she saw that the Judge was engrossed in the map in front of him, not watching Steven or listening to his evidence. She tried to attract Mark's attention.

Steven was pointing to the location of the land they had lost. 'When they went to that old place, the people have lots of fun. Lots of prophets that time. They dance all the time then. It sure was good.'

The Judge seemed to be looking for something. He removed his glasses, and put his face close to the map on his desk.

'And when you say prophets, what do you mean by that?' asked Mark.

'You want to know about prophets?' asked Steven.

'Yes, what are they?'

The Judge scoured the map, his arms spidered on top of it. He was completely removed from the proceedings now. Megan got up and walked over to Mark.

'Prophet is like dreamers,' said Steven. 'He make some maps when he sleep, but not like this one. He dream the animal, then he find him when he wake up and he take the people on the hunt. Nobody can make a dream-map except him.'

As Megan approached Mark, she nodded her head towards the Judge. Steven stopped talking and the courtroom became silent. The Judge was unaware that everyone was watching him now.

The clock bit and jumped ahead. It took three bites out of time and no one moved except Theodore who beamed back and forth across his map, looking for something.

'Mr Chambers,' he finally said into the hush of the courtroom that was intent on him alone. 'Tell me, which province is this reserve in? Are you in the right province?' He looked up. 'Do I have jurisdiction in this case?'

'Excuse me, My Lord?'

'I've been studying this exhibit. Follow me, will you? You see this line? Come up here and look at this.'

Mark climbed the steps, walked behind the court clerk and hunched over the Judge's map, his cloaked back towards the courtroom.

'You see this line, isn't that a provincial boundary line? Aren't you in the wrong province? What do you think?'

Megan went to the map on the wall and looked for the line the Judge was referring to.

'If that's the provincial line, we're over it, aren't we? In effect we're next door, in the wrong place,' said the Judge almost in confidential tones.

'My Lord,' Megan said, and both Mark and the Judge looked at her as though surprised by the interruption. 'My Lord, I believe that that's a railway line, not a boundary line.'

'Railway line? Is that true, Mr Chambers?'

Mark looked back at the Judge's map. 'It seems so, My Lord. You can see the letters there, r-l-w-y. It does seem to be a railway line.'

'Right, good.' The Judge smiled. 'Thanks. I thought for a moment we were in the wrong province. Go ahead. Thank you.'

'Yes. Thank you, My Lord.' Mark walked down to the witness box. 'Now, Chief Akwaw, you were telling His Lordship—the Judge—about prophets.'

'I'm sorry, I missed that,' said Theodore. 'Profits? Are we into damages already?'

'No, My Lord. It's p-r-o-p-h-e-t-s, prophets.'

'Prophets? But what does that have to do with this case?'

'Well, Chief Akwaw, can you explain to the Judge, about prophets and your people?'

'Excuse me, My Lord.' T.G. Smythe for the Crown stood up and spoke almost apologetically, he had had such little presence in the proceedings so far.

'Yes, Mr Smythe?' said the Judge.

'I agree with Your Lordship. I would like my learned friend to explain the relevance of this evidence.'

'He wants to know the relevance, Mr Chambers. You'd better tell him.'

Mark looked at Megan as at a lifeline.

'Come, come Mr Chambers, surely you don't need your assistant. Can't you tell me the relevance?'

Megan flushed. Despite her agreement with Mark the night before, the Judge should not be referring to her that way.

'Your Lordship will decide in this case exactly what the Band understood about the Crown's proposal to sell the reserve land,' said Mark.

'Yes.' The Judge's voice was a scoop, taking belief out of the air.

'And in order to do that you must understand the nature of the Band's society, how it was organized, what its system of—'

'Do you mean, Mr Chambers, this business Miss Striclan was telling me on the first day, this so called "leaderless society"? Is that what you're getting at?'

The Judge started to raise his voice for the first time that day. He raked his hands through his dishevelled head so that his hair stuck out at the sides. Megan thought he looked quite mad.

The Judge continued. 'I am not a sponge, you know, Mr Chambers, not a sponge to—to just sop up anything you want to shove my way, just any old thing. Let me tell you once—let me tell you all for the last time—there is no such thing as a society without leaders, without a hierarchy, without discipline, otherwise there would be chaos. There would be anarchy.' The Judge flapped his arms up and then splashed them on to the map in front of him.

He had yelled now and would stay spent until he worked himself up again, like a farm animal, thought Megan, like an ugly chicken.

'Well, My Lord, surely this evidence isn't relevant,' said the lawyer for the Crown, licking his lips and looking hungry for the first time during the trial.

'Sit down, Mr Smythe, I'm talking to Mr Chambers.' The Judge paused and then softened his voice. 'I've heard your objection. I understand your objection. We're having the same problem, you and I, Mr Smythe. Now, Mr Chambers, can't you help me?'

'Yes, My Lord. First of all, we're not talking about anarchy, we're talking about a different kind of organization than we are familiar with. Theirs is a highly spiritual, egalitarian society of hunters, where each individual is responsible for himself and—'

'Now, listen—'

'With respect, My Lord, let me finish. That kind of individual responsibility is necessary in order for their society to survive. But let's leave all of that for the moment. Dr Cleveland will assist us with that evidence.'

'Who is he?'

'He's a professor of anthropology at the university. We'll be calling his evidence.'

'Yes.'

'Now, as to prophets.'

'Tell me about profits, with an "f", not with a "ph".'

'No, My Lord, you need to hear about the other kind of prophets.'

'Why?' That's what I'm asking you. Why? Tell me why? Does it help explain these people just retreating in the face of the war, in the face of their land being taken away? Does it? That's what I want to know about. Why didn't they fight back?'

Megan wrote a note on a piece of paper and handed it to Mark.

‘First, Mark said, ‘this evidence goes to damages, to the way the Crown, through its conduct, has systematically tried to break down the fibre and way of life of these people. Secondly, anyone taking the least bit of care could have understood that this Band operated in a way fundamentally different from the way our society operates now. The Crown, the defendant in this case, didn’t want to know how the Band worked, what its needs were, what the consequences of taking this land were for these people. The Crown only wanted to have the land—’

As Mark spoke, Megan heard a scraping sound coming from outside the courtroom. She looked up. A platform was just visible above the top of the bank of windows that formed the wall of the courtroom on the barristers’ left. The scraping grew louder. Megan could see feet.

Workmen were washing the windows. No one in the court seemed to notice, although Mark was starting to raise his voice above the clatter, which was so loud Megan put down her pen and stopped writing.

The platform descended on ropes which clashed against the windows, the workmen’s legs visible, and now their chests. The men had on yellow vinyl suites, and earphones haloed around their heads. Water was streaming down the windows.

Megan tugged at Mark’s sleeve and pointed.

‘We seem to have an interruption, My Lord,’ Mark announced.

The Judge leaned back in his chair and rested his chin on the sling of his fingers. The banging was now so loud he almost had to yell. ‘Were the windows dirty? Anyone? Did anyone notice dirty windows?’

The men swung their blades across the glass and knocked the platform against the windows, lost in space.

‘Madam Clerk.’ But Mary couldn’t hear. ‘Madam Clerk? Hello. Can you find out what’s going on? Tell them to go up.’

‘Beg your pardon, My Lord,’ Mary said.

‘Tell them to go up,’ the Judge yelled. ‘Oh, never mind.’ He rose from his leather chair, descended the stairs, and went to the window. The workmen were oblivious to the Judge, circling their wands in front of him, casting a spell which made him disappear.

‘Knock, knock, who knocks?’ said Megan as she walked over to Steven who was still standing at the map.

‘We can stop now?’ Steven asked her, but she didn’t answer.

‘Up. Up,’ the Judge yelled, his arms waving. The workman didn’t respond. ‘Get me some paper, Mary. Mary, some paper.’ He scribbled a note, pounded hard on the window with his fist, and held up the sheet. Slowly, in a big face, he said the words, ‘Go. Up.’ He pointed to the paper and lifted it to the sky: ‘Go. Up.’

The two workmen leaned over to read the sign. They looked at each other, and one said something inaudible, lifting the earphones from his head.

Megan heard the sound of laughter coming from the body of the courtroom. Yanno was laughing, spreading the sound like a fan opening, until all the elders were laughing and then the young people; Steven was laughing. They watched the Judge, his arms moving up and down, the paper in his hand.

'Maybe he can be our swan,' Steven said to Megan.

The Judge turned to face them. 'Stop it. Stop it right now.' His eyes widened as he stepped forward. 'Stop it, do you hear? Adjourn. Adjourn the court. Call order in court.' Mary and the Sergeant at Arms rushed to the door and opened it just in time for the Judge to disappear out of the room.

Megan was both amused and horrified at once. She took Steven's arm.

'He's mad, I guess,' said Steve, perplexed and disappointed.

The two of them walked back to the rows of benches in the body of the courtroom. The old people looked confused because they had been scolded and didn't know why.

'The Judge is upset. He thought you were laughing at him, and his feelings are hurt,' Megan said. The elders looked at her and then at Steven, their faces like cups. 'Translate, Steven. Say we have to be careful with him. Say it's not their fault, that's just the way he is. We have to be careful.'

Steven spoke in Indian, and the elders squirmed in their places.

'What did you say to them?' Megan asked.

'I told them that the Judge won't be our swan,' answered Steven.

'No, Steven, this is serious.' Mark was standing there, and his low voice was dark, almost cavernous. 'You must not laugh in court.'

He carried the Judge's reproach, and Megan was annoyed. 'For heaven's sake, how could they keep from laughing? He did look like a bird; but they weren't ridiculing him.' Mark was too tall and his voice too deep. 'Steven, tell them it's OK. You're correct, he's not your swan. We just have to be careful,' she said.

Professor Cleveland walked up to Megan. 'May I speak to you for a moment?'

'Now? Can't it wait?'

'It's rather important, if you don't mind.' He was very intent. He took Megan's arm and ushered her to the back of the courtroom.

'A colleague of mine at the university is an acquaintance of the researchers for the Crown in this case. This information is given to you

in confidence, of course. I understand your Mr Frank, Carl Frank, I believe his name is, will be giving evidence for the Crown.'

Megan felt her face blanch. 'How can that be? You mean he's gone to the other side?'

'Apparently. Apparently, that's the case.'

'That's why he disappeared?'

'My source is reliable, I can assure you. Unfortunately, quite reliable.'

'I'll kill him if he steps into this courtroom.'

The clerk called the lawyers to the front. 'Judge Selbie is going to adjourn until after lunch. Then he wants to speak to counsel in his chambers at ten minutes to two.' Mary was subdued.

'He's still annoyed, is he?' asked Megan.

'Yes,' the clerk said. 'I thought he was going to have a heart attack, his face was so red.'

'I think that what he has to say to counsel should be said in open court from now on. Will you tell the Judge that, Mary?'

'I'll tell him, but—'

'What are you up to, Megan?' said Smythe. 'I really think that if the Judge wants to see us outside of court we should comply.'

Megan looked at the killable space just above his shirt collar, on his white skin. She turned and walked away from him.

'Megan, I was talking to you,' he said, his voice tight with anger.

She stopped but didn't turn around. 'I will speak to you when you adhere to conduct befitting the professionalism of this court,' she said.

'What are you talking about?' then Smythe said, 'I think you're becoming too emotionally involved in this case, dear.'

Megan wheeled around. 'Don't you ever say that again, do you hear me?' And she walked from the courtroom.

## 2.

When court resumed after lunch, Megan was on her feet. 'My Lord, for the record, you asked counsel to come into chambers. I requested that the discussion be held in open court, a request with which you have complied.'

The Judge spoke slowly, obviously trying to control himself. 'Miss Striclan, I have never had the pleasure of counsel refusing to see me in my chambers. But that's fine. For the record, as you say, I was simply going to give you certain hints as to the decorum which I expect your clients to follow in this courtroom.'

'I have spoken to my clients, My Lord.'

'Yes, well, let me pass on directly to them my little hints.'

‘That’s not necessary, My Lord, thank you.’ She stood between the Judge and the Indians, as a wall. She would clearly take control of this man, and if he raged she would put the event on the record for the Court of Appeal.

He smiled. ‘Not necessary, Miss Striclan?’

‘No, My Lord, thank you.’

‘Not necessary?’

‘There’s no reason to raise your voice, My Lord. The people didn’t mean any harm to you. Nevertheless I have told them to control their laughter, no matter what happens in here.’

‘And one of the things which will not happen in this courtroom—Miss Striclan—is evidence about prophets. I will not hear that evidence.’

‘You continue to raise your voice, My Lord. Is that your ruling?’

‘You have just yelled again. And you choose not to hear evidence of the dream hunters of these people, and how they get to heaven?’

‘Get to heaven? Heaven?’ and he lurched towards her.

‘And the attempt by the Crown to efface these people? Their maps, evidence of their dream-maps, you refuse to hear that? It’s all in Dr Cleveland’s expert report which I am now handing to Madam Clerk to pass up to Your Lordship.’ The clerk took the document and put it in front of the Judge, who ignored it. ‘Chief Akwaw can also give this evidence, to assist you in understanding his people. But you refuse to hear that testimony.’

The Judge had his eyes closed. ‘Miss Striclan, please. I’m sure you have your clients’ best interests at heart. I’m sure you care very much about this case. But please, please, this is a court of law. These people, obviously, don’t understand that.’ He opened his eyes. He was on a roll, and Megan watched as he worked himself up. ‘Obviously, you don’t understand that.’

‘I take exception to your comments and to your threatening tone of voice.’

‘Then conduct yourself like a lawyer.’

‘For the record you have just pounded your fist on the table.’

The Judge closed his eyes against her.

Megan supposed that she had done enough damage. She didn’t feel victorious but defeated and ugly, playing an ugly game. She looked at Mark. He stood. Megan, tipped off the see-saw, sat down.

‘My Lord, before you make a final ruling on these points,’ Mark said, ‘we would ask that you study Dr Cleveland’s report overnight. In that way you can better determine issues of relevancy.’

‘I object, My lord.’ T.G. Smythe was on his feet, his neck craning towards the Judge so that his head seemed to loom. ‘The Crown objects to the introduction of that report.’

‘On what grounds, Mr Smythe?’ said the Judge, his eyebrows arched: cynical, dismissive, shifting the attack like a machine gun levelling whatever moved.

‘Well, on the grounds of relevancy.’

‘Is that so?’

‘And on the expertise of the witness. I say he isn’t qualified, My Lord, to give the evidence contained in his report.’ As Smythe spoke, he massaged the end of the silk ribbon pannelled down the front of his gown. The movement seemed to calm and please him. ‘This report of Mr Cleveland’s is not based on field work with the Indians.’

The Judge sighed as though it was suddenly all too much for him. He looked old and tired, his shoulders bowed. ‘I will read the report overnight. Then, tomorrow, I will hear argument—again—on this whole question. If I rule in your favour, Mr Smythe, I can disabuse my mind of the report. Judges are able to do that, you see.’ He tried to smile. ‘Well, what shall we do now? Go home? Mr Chambers, shall we all go home?’

‘Until Your Lordship rules on the plaintiffs’ societal evidence, I suggest it’s best to move to another area and have this witness stood down.’

‘Yes, that’s a good idea.’ The Judge seemed genuinely pleased, although Megan couldn’t really tell.

‘We propose to call the evidence of the geologist, Dr Leddy.’

‘Yes, now hopefully we can make some progress. This evidence, if I can recall from your assistant’s opening, concerns the minerals found under the old reserve, is that correct? The oil? I suppose this goes to damages, with an ‘f—I mean profits with an “f,” does it?’ The Judge laughed at his inadvertent humour, and his crooked teeth showed, but the people in the courtroom remained stone faced.

‘And the knowledge of the Crown, when it asked the plaintiffs to give up their reserve, as to its value,’ said Mark.

‘Yes, I see. Go ahead then. You don’t have any objection, Mr Smythe?’

‘No, my Lord, not to this evidence.’

### 3.

Theodore removed his shoes and put his feet on the coffee table as he waited for Claudia to bring him his tea. He was bone tired and wouldn’t be able to sleep again tonight. His muscles quaked, a shiver moving through him, and he pulled the blanket from the back of the couch over his shoulders. Claudia was leaving tomorrow to go back east, back to her house and her garden, but he was too tired to care. The trial was taking

years off his life, just years—time which he couldn't afford to have taken away.

He flipped through his notes of the evidence. His handwriting was so uneven, big and small, the letters malformed and the slant irregular. No one must see these notes.

If only he could control his temper. Striclan was peppering the record with her observations, treating him like a fool, like a child, twisting him around like a string she held. She was betraying him in his own courtroom, prodding him, getting him to sound ridiculous, making him look like an imbecile. For the record. It was all for the record—

He found it hard to catch his breath.

He wanted Claudia to bring him his tea. He wanted some tea.

There were so many interruptions in court, so many adjournments. If Mary had been told to keep a log for the Chief Justice, he would conclude that Theodore had taken the breaks in order to rest, to avoid getting on with the case, sleeping over the noon hour, too old, too tired. And those window cleaners—someone had put them up to it—the Chief Justice had arranged it all. Or Striclan. He would ask Mary how that had happened. She would have to explain to the Chief Justice that the adjournments weren't his fault, they weren't because he was tired.

His notes of the geologist's evidence were barely legible: 'Rocks that have been warped, distorted, making structures to capture the hydro carbons . . . Mapping the attitude of the distortion in large areas beneath the Indian reservation . . . The hunt for oil.'

Unfortunate about that map. Of course she'd notice, standing at the side of the courtroom like a gutter sparrow, swooping down on his mistake. Like a black-winged bird, waiting for him to err.

'Rocks that have been warped, distorted, making structures . . .' He didn't know what the structures were, but Mark Chambers seemed to know. They were traps, something to capture the oil. 'There must be closure . . . Some staining at the core . . . The drape of one rock over the other. The closed areas as vulvas.'

He had written vulvas, but the witness wouldn't have said that. Valves, perhaps. Values? It looked like the word vulvas in his notes. He'd ask Chambers what the witness had meant.

'The fossils from an underground river gone dry. Fossils made the oil. The oil trapped beneath the surface by the rocks. The oil is in the fossils, after the river has dried.'

The witness couldn't have said vulvas. Sure it was valves. Or values. Ah, he was too tired.

As he read, he wondered if he had fallen asleep in court. He would have to order a transcript of the proceedings. But then the Chief Justice

would find out, would say he couldn't keep a proper record, had to order a transcript, fell asleep during the proceedings. Incompetent. Not fit. Too old . . .

If he had fallen asleep, Striclan would have stood up and reported it on the record. 'My Lord's eyes are closed. My Lord's head is falling forward.' He must have been awake. Knock, knock, who knocks? The viper. The window viper. He could have made that joke if they hadn't laughed at him. Ugly old people, sitting in court like birds on a fence, just looking at him with no expression on their faces, and then laughing. Laughing at him. They were probably all senile. There was no way they could remember forty years ago. My God, even he couldn't remember that long ago. They were lying.

Fossils in a dry river bed, becoming the oil under the ground, the seepage staining the earth's surface—

'Here's your tea, darling.' Claudia handed him his cup.

Tea? How was it that he had come to be drinking tea; didn't he hate tea? But perhaps not. Perhaps he always had tea.

'You look tired, dear,' she said.

She sat beside him, and he held her hand.

'How long has it been?' he asked. It was as though at time, long buried, loomed in front of him. He was remembering Lieutenant Bone and being in London during the war. Her name was Margaret, his bread lady from the cave. It had been decades since he'd make love to Claudia. Twenty years? He was seventy-four and childless, but his sperm was still good, swimming, waiting, biding time; it was Claudia who was long past it. It was she who couldn't conceive.

'How long has what been? Are your fingers stiff from writing?'

Claudia massaged his hand as though it were a piece of dough. A bread lady. Her name was Margaret, and she had red hair.

He couldn't remember what he had asked her, or why.

'Since the war,' he said, covering his lapse.

'You know when the war was, Theodore.' She looked at him as if he were all wrong. As if he were fundamentally wrong.

'One of the lawyers said she had witnesses to an event forty years ago. And her clients didn't even know there was a war on. Unbelievable, just unbelievable.'

'I remember the war very well.'

'Of course, of course you do. So do I. But they don't. They didn't even hear about it. The lawyer for the Indians is too involved with her clients, she's too identified with them. The case never should have been brought to court. It's old, it all happened too long ago.' He wouldn't tell her that they had laughed at him.

He looked at her face and at the skin on her neck; it was loose fitting now, not tight against the bone. He didn't want her to go back east. 'They're trying to take me under the ground,' he finally said.

'What do you mean?'

'Structures. There's no order to this case. It's a hodge-podge, a mess. First an opening—ah, never mind. Geology. Now I have to learn about geology and rocks, about fossils under ground—caves, that will be next—evidence of caves. Come to court, you'll see. Come to court. It's madness what they're doing. They gave me a map so badly marked that I thought we were in the wrong province. It should have been properly marked.' But she wasn't listening to him any more. She'd gone into her garde thoughts because he was complaining, because he never really understood where he was on any map. If only the boundaries were clear and orderly. If these lawyers only knew how to run a case. His father wouldn't stand for this nonsense if he'd been a judge. Theodore was too lenient. It was all chaos in his court. He didn't need a transcript—but she did; Striclan would order one, and then she would feed his mistakes back to him, word by word. He had to stop her from telling the record about his angry, bloated face, the veins in his neck throbbing, his eyes sore and red. He was his father's man. He wanted order in his court.

And in the midst of the almost impenetrable pace of his thoughts, he said aloud, quietly, 'I wonder if it is that they still fish.'

'Who?' asked Claudia.

'The Indians. I haven't heard anything about that. I've heard everything else. But they haven't told me about fishing.'

'Have you asked them?'

'She'd lost patience with him now, he was certain.

'Maybe I will come to court tomorrow,' she said.

'No, you should stay with your plan; you should go home.' His words sounded punishing.

'All right, that's fine, if that's what you want.'

He didn't care if she left him now. So what. Let her go.

He picked up the report of Professor T. Cleveland, doctor of anthropology, pages of credentials and publications, an expert:

One of the unique aspects of the world-view of the plaintiffs, in particular, and other aborigines in the same sub-group, is their feeling of belonging. They believe that they belong in their world. And, interestingly enough, they always know where they are in their own territory, although the use of maps is unfamiliar to them, except insofar as the Crown has required that they accommodate to a registered trapline scheme. They also have dream-maps which guide them in the hunt . . .

Allegiance, that was the pass word. Duty to your country, to the cause, to—to your own kind. To Canada. These people didn't even speak English; they were mixed up on the map, almost in the wrong province. And they shouldn't laugh at him. Striclan loved them—oh, yes, she had lost herself to them—and they didn't even know there was a war going on, bridges being bombed, men killing themselves. These people were all asleep. They were dreaming. Dreaming, for heaven's sake. Dream-maps. He was being contaminated, smothered, just choking on this evidence. And who was feeding it to him? A young woman giving ammunition to the Chief Justice, giving evidence against Theodore Leeland Selbie. She was—fighting for the wrong side, almost a traitor. She and Mr Chambers—she was trying to take Chambers with her; but he wasn't gone yet. Theodore could still bring him back. But she was the same as they were. She had betrayed her allegiance . . .

If only he could have spoken without yelling. If only he could keep his temper.

'I'm going to bed, dear,' said Claudia.

She kissed him on the side of his face. Never on his mouth any more. Never on the lips, except quickly, as acquaintances do.

It suddenly occurred to him that he didn't know how Claudia spent her time when she was alone. He didn't have a clue. He knew the obvious things, he knew what she did; of course he knew that. And it wasn't that he lacked curiosity—but for over forty years, he hadn't asked her anything about what she felt when alone, because she might tell him something irrational, something he could only understand by opening a door which he had closed. The door wasn't closed on anything in particular. It was simply closed. And he was intent on it staying that way.

On the coffee table was a typewritten page, which Theodore picked up. It seemed to be a letter of sorts. He read:

Once I had a father. But I said something foolish to him, something I didn't mean to say. He turned. A hit would have been kinder; if he had struck me, touched me, kept me with him. But he turned away from me, against his son, as though I had cheated him. Even a fallen angel falls from some thing, has a downward flight to some place, has left somewhere. I was ashamed. He didn't kill me. He didn't touch me. He rolled me out of his sight because there was something bad in the air.

When I had most need of him not to turn away, he turned. I needed him to know me, look at me, invite me back into his house. But I could not ask. I see now that I am proud. I would not say please touch me, either embrace me or strike me. Please do not leave me so alone.

I wasn't an angel falling down. I drifted. You let me go. And I drifted up.

I can't love you, drifting as I do above the world. I am hiding from you, but surrounding you like a sickness. Like a light. Like a darkness. Like a light.

How do you bear it, down there on the ground? The ground trying to pull you into earth.

Father, forgive me, as I have forgiven you. Father, bless me, and I will kneel before you and bless you.

Emerge me from the lake I have not dropped within.

Father, where is my mother? Where am I?"

Margaret, where did this come from?" Theodore stood at the door. She was lying in bed, reading.

'Margaret?' she asked. 'Who is Margaret?'

'Claudia, I said. I said Claudia. Where did this come from?'

'What is it?' He showed her the paper and took it back. 'I've never seen it before,' she said. 'Where did you get it?'

'Did it come in the mail?'

'No, dear. I still don't know what it is.'

'It's a letter.' He looked down, embarrassed. 'Sorry, it's nothing.' He backed out of the room. 'Sorry. It didn't come in the mail.'

'Theodore, please, you should be in bed. You're overtired.'

It didn't come in the mail. It wasn't addressed to him. It was to someone's father. It was from a child, and he didn't have a child. His wife was barren. Her name was Claudia. Claudia Selbie.

How did it get to him?

She'd looked pleased with herself as she handed up Cleveland's report. It must have been Striclan who put it inside the document. She was trying to make him think he had a child, a son, someone to remember him, remember all his stories about—Claudia was barren, but his seed was still good; it had always been good. With another woman he would have had children; he could have had a big family—Mark Chambers was too young probably born in Canada, born after the war, his father still alive. It wouldn't be Chambers. He was too young.

How old was Mark Chambers? He knew about the war. But he wasn't born in England during the war.

If he'd had children, the first-born would have been a son.

But it wasn't a letter from his child.

Was he going mad? They were scaring him, that's all, these Indians and their lawyer. He didn't have a child. His sperm was dead, dead all along.

Why did they want him? What did they have to tell him?

The didn't belong. He did. It was his court. He was the Judge. This—this geologist, Dr Cleveland, what did he know about history, about rocks, about the piling up of the past?

Theodore was kneeling at her side. 'Margaret . . .'

She turned on the light. 'Theodore, what is it? I'm Claudia. I'm your wife.'

'I'm all mixed up.' His head was against her breast, her skin beneath her nightgown soft on his face.

'It's all right, now. It's all right.'

'I can't hold it all in.'

'What is it?'

'All the memories. All the nightmare, I'm scared, Margaret.' He looked at his wife. Then he said simply, 'I don't know who you are.'

'Yes, of course you do. Or at least I know you. I have known you for forty years.'

'It was like a cave.'

'What was? Theodore, what is it?'

'During the war.'

'Oh, please, now you're scaring me. Tell me what you're talking about.'

'I'm all mixed up.'

'Yes, of course you are.'

'Who wrote a letter to me?'

'You won't let me see it. Is it a letter?'

'Why don't we have children?' She raised him up and he lay beside her, his head on the pillow. 'Do you think I'm going mad? Do I have a child?'

'No, you've never had a child. You didn't want any children, don't you remember?' she said.

'No, I never wanted a child.' He was afraid, as though he had done something unforgivable. 'I won't let them talk about their dreams. I won't let them tell me. They're foreigners. They're strangers. Their way of life is gone.'

'Go to sleep, Theodore. Go to sleep.'

#### 4.

When Theodore woke, he felt as if he had collided with something. He was ashamed at having lost control of himself the night before, and although Claudia said she would stay with him, he insisted she leave on the morning plane.

'Theodore, are you sure you're all right? I would prefer to stay.'

'No, you go. Go home. Spend the weekend with your sister.'

‘Why are you so angry? I haven’t done anything wrong.’

He did feel strange, both childlike and ancient at once. He was sending her away and blaming her for leaving; yet he wanted her to go. Someone had to go home.

Even though he should have spent the time finishing Dr. Cleveland’s report, he walked to court. He hadn’t recovered from the evening before, and as he walked he checked behind him, as if he were being followed. When Mary came to get him, he asked her to sit down for a moment.

‘I’m afraid I had a rather sleepless night, Mary. There’s a possibility I will want to adjourn early today.’ He was standing beside his desk, looking at her feet. Her shoes were black, with high-heels, and they seemed to be too small for her. The creases of her toes came out from under the leather, pressed together above the line of the shoe. Her feet looked bound.

Mary uncrossed her legs.

‘I’m sorry,’ Theodore said. He had to clear his head. ‘We won’t have any washing of windows today, I trust.’ Smile, that’s it, and breathe.

‘No, My Lord.’

Theodore’s eyes felt hollowed out. ‘That’s what I wanted to tell you about the adjournment. Thank you, Mary. Bring me in at nine-thirty.’

‘It is nine-thirty, My Lord.’

‘Yes, of course, thank you.’

When Theodore went in to court, Chief Akwaw was re-called to the stand. Theodore nodded to the Chief as he entered the box.

‘Miss Striclan, Mr Chambers, Mr Smythe and—sorry, I’ve forgotten—yes, and Mr Fraser—I’ve skimmed over Dr Cleveland’s report, not thoroughly, by any means. But I am prepared to hear the social evidence. It may be relevant, it may not be. But I’ll hear it without further argument. I will decide at the end of the case whether to accept it. That seems only fair, I suppose. In any event, that is my ruling. Thank you. You may proceed with the Chief on that basis.’

When Theodore looked into the courtroom he saw his wife sitting there behind Akwaw’s people, her white skin gleaming amidst their dark faces. But it wasn’t her. It was another woman who wasn’t his wife.

He ought to have asked Claudia to stay with him.

Although he tried to concentrate, the evidence was incomprehensible, and every now and then the young Chief seemed to slip away, drift like smoke inside the courtroom and almost disappear. Akwaw talked of a dream-map, but no one produced it. Most of their prophets were dead. Everything was already past.

‘We can’t say too much about those dreams,’ said the Chief, ‘or the people mix up and dreams don’t come right no more. Have to be real

quiet about those dreams. Some of the old guys know, but they don't say too much.'

'That's fine,' Mark said, 'just tell us what you can. I'm sure the Judge will respect—'

'Excuse me, Chief Akwaw,' Theodore interrupted. 'I have a question for you, if you don't mind. Do your people fish?'

'Sometime we fish. Not now it's good.'

'No, I'm asking about now. Do they fish now?'

'Sometime.'

'Sometimes.'

'Sometime they used to fish.'

Theodore felt himself about to lose his temper. 'Mr Chambers, with this witness I often have trouble because of the tense he uses. I don't know if he means present, past, future, pluperfect, or what?' Calm now, calm. 'Do you know what I mean? It is only me?'

'Well, My Lord, often I think it's all three tenses, or four, perhaps.'

'Yes, well, that doesn't help me much, does it? Miss Striclan, can you assist?'

Megan stood, surprised at being called upon. 'My Lord, I believe that the people do fish now, as they are able, but that laws restrict the fishing much more than in the past. Perhaps the witness could simply be asked if he eats fish.'

Theodore was annoyed. 'Miss Striclan, everyone—everyone eats fish, for heaven's sake. I want to know if they fish for fish.'

'Chief Akwaw, do you fish now, today?' asked Mark. The Chief looked confused. 'Do you eat fish?'

'When we get it.'

'And are you able to get very much?'

'Fish is sick. Cut them open and they have bugs. Not good inside.'

'You say they have bugs?' asked Theodore. 'Why do they have bugs?'

'Like worms. Too many bad things in the water. At the old place, it's good, but grease get in there.'

'Grease? You mean oil?'

'Call it grease.'

'Well, no, it is called oil. And I wanted to ask you about that as well,' said Theodore. 'This oil and gas we heard about yesterday. Did your people know about that, a long time ago?'

'Call it grease.'

'Yes, I understand, but they knew about it, and called it grease, is that it?'

'It's from the ground. He's there, like black, under the ground.'

Theodore nodded. 'Do you believe, then, that there's a person there, under the ground?'

'Not a person. Elders say grease.'

'All right, that's fine, that's fine, let's leave that. Now there's another thing which I've wanted to know since the beginning.' Theodore turned again to Chief Akwaw. 'Tell me, why didn't your people complain earlier about losing this land, if it was taken away without their consent?' He looked intently at the Chief, but the witness seemed confused. 'Consent, you understand the word, consent? That's saying yes or no—agreeing—you understand that. If you say yes, you agree.'

'I understand,' said Steven tentatively.

'So you agree?'

Steven looked down, then over to Megan. 'What does he mean?' he asked her.

'No, Mr Akwaw, look at me. You agree with what I said? Yes or no?'

'I don't know.' Steven seemed ashamed, and the fibre had gone from his voice.

'Why don't you know? Your lawyer, she says—she says your people didn't agree—'

'You mean about that land?'

'Of course, that's what we're talking about.'

'Nobody ask them. Victoria say they have to move. So we go away. We have to get food. We can't go back to that land so we go where they built those houses for the people.'

'Victoria?' But that's absurd. Victoria is the capital of British Columbia and not—' Theodore stopped.

'We find out what we didn't know before. We learn things now,' said Steven.

'And the fish, in your new place, it's not good any more?' asked the Judge.

'Fish have bugs now.'

## 5.

At the end of the day, Megan stood. 'My Lord, there is one matter before we close. Tomorrow the plaintiffs intended to call Dr Cleveland. I would ask Your Lordship to ascertain from Mr Smythe whether the Crown will call rebuttal testimony to that evidence.'

'Mr Smythe?' said the Judge.

'My Lord, surely I can't advise my learned friend whether I will call rebuttal until I've heard the evidence-in-chief. Come, come.'

'Miss Striclan?' said the Judge.

'My friend is deceiving us. Let him say who his witness is, if rebuttal evidence becomes necessary.'

‘I’m a judge at a tennis match, and I don’t play tennis, you see. But let’s keep going. Mr Smythe?’

‘I do not intend to reveal the Crown’s case until I am required to do so.’

‘Miss Striclan, the ball is in your court.’

‘My Lord, I’m afraid that is not a trifling matter—Let me put it to my friend. Do you intend to call Carl Frank to the stand?’ She turned and, for the first time during the exchange, looked at Smythe.

‘I am not under oath. I will not answer these questions.’ He was shaking as he fired his words at Megan five feet away.

She turned back to the Judge. ‘Then I must seek an anticipatory injunction to prevent my friend from calling that person to the stand.’

Theodore frowned. ‘I’m surprised at this, Ms Striclan. What are the grounds for your request?’

‘On the grounds, My Lord, that until the trial of this action, Mr Frank had been retained on behalf of the plaintiffs. My information is that he has crossed over, and that Mr Smythe intends to call him as his witness. He has been bought out. I request that Your Lordship prohibit such grotesque—that you prohibit such conduct, My Lord.’

Theodore felt a chill on the back of his neck and he sat up straight. ‘Let me understand. Mr—what’s his name—Frank—he was your witness? And is he—he’s a white man?’

‘Yes, My Lord.’

‘There is no property in a witness,’ Smythe repeated.

Theodore raised his voice against the chill which gripped his neck. ‘Answer my question, sir.’

My Smythe dropped his ribbon. ‘No, My Lord, although I challenge her use of the phrase “crossed over”. Mr Frank is not a traitor. He wasn’t retained by the plaintiffs. He was not being paid by them,’ Smythe said emphatically.

‘And is he being paid by you now, at present, in the present tense?’

‘By the Crown, yes.’

There was barren ground on which a man stood, watching another man coming closer out of the night. Theodore couldn’t see their faces. Striclan was talking now, but none of the words she used illuminated the barren ground. Something was terribly wrong.

Theodore remembered Claudia and looked into the courtroom. But she wasn’t there. Had he really called her Margaret? How could he have done that? Everything was mixed up. He had told her about Margaret’s child? Surely he had kept that to himself.

The fish were contaminated now; the people couldn’t eat them.

Was it vulvas? Valves? Values? Why was he so confused? His wife—Claudia—surely he would never forget her. The old woman sitting

in the courtroom was pale, and her face looked shocked. Had he told Claudia about his clerk, the way the crease of her toes came out of her shoes, the way her feet seemed bound?

Miss Striclan was talking about a miscarriage of justice. She was hot with anger, fierce rather than powerful, and the air staccatoed with the movement of her pen pointed at him.

Mr Frank had been living with the Indians. Why would he want to do that? Didn't they live by themselves, in tepees or in caves, making fires, hunting and fishing—why would he want to live with them? Theodore couldn't remember if they still live in tents. The Chief had talked about cabins. They did have homes.

This man—Frank—it wasn't right what he had done—he shouldn't be a mercenary and cross over to the side that paid him the most.

'Miss Striclan, please, let me stop you. I have a question for Mr Smythe, if you don't mind. Mr Smythe, if what your learned friend says is correct, it's a very serious matter, and I should tell you now that I am troubled by it. You do know the whereabouts of this man Frank, I assume. Could you bring him to court? I'd like to examine him myself, in order to decide on your friend's application. Thank you, we'll adjourn. It will take you, what, half an hour? We'll adjourn for half an hour. Thank you.'

6.

Theodore was surprised at how thin and insubstantial Mr Frank was. He had expected a larger man.

Theodore, being delivery calm and speaking slowly, asked him to get into the witness box.

'I object to this manner of proceeding, My Lord,' said T.G. Smythe.

'Well, that's fine, but I am overruling your objection.' Theodore was in charge and he spoke intently. 'Mr Frank, why did you agree to be a witness for the Crown when you had previously agreed to be a witness for the Indians?'

This was the moment Theodore knew so well: it was the moment of tension when neither side could get away. And it was filled with sickness—or—darkness—he didn't know which it was, or whether it made a difference. He knew that the axe was stuck in the wood; the handle, vibrating in the air, might break off, the metal split, or the wood. But something had to give. No one could quit now.

'In the interests of justice, sir,' Carl Frank said.

'And you understand what the interests of justice are, do you?' asked Theodore.

'Yes, and—may I explain?'

'Please do, I'd be very interested.'

'Sir, I have worked with these Indians for many years, and no one has paid me a penny for what I have done. Not that I wanted it. However, the Indians, you see, never offered. They are, nonetheless, paying Ms Striclan and—'

'Yes, but why did you do that? Why did you work with them—with—why did you do that?' Theodore was suddenly confused as to which side the witness was supposed to have betrayed.

'It is my business to study their language, which I know very well. I know their language better than many of them.'

His voice was unlit and cold, thought Megan, like liquefied metal. It bore down, fluid and indomitable. Something had let it spine into the courtroom, into the now uncollapsible body of Carl Frank.

'Their culture is dead, and I have taken it upon myself to study them, so that everyone may read about a way of life that used to exist. It is important for us to read about them. Their culture now is really only a faded memory in a people who are dying, and—'

Theodore was half mesmerized by the voice which machined through the courtroom. 'That's fine, Mr Frank, you are studying history. I understand what you are saying. I understand that these people only have memories now. But explain to me about the interest of justice.'

'Sir, I was coming to that. Megan Striclan became involved with these Indians as a result of my assistance and encouragement. Afterwards it was apparent to me that I was in error, and I regretted what I had done. Ms Striclan appeared to have misconceptions about these people, misconceptions which she was not prepared to have me correct. Quite fanciful ideas, really.'

Megan wasn't taking notes any more. She stared in disbelief at Carl Frank and her face was hollowed out by the hatred she now felt; the killing range had shifted from the Judge to this witness.

It occurred to her that she should be objecting to his evidence, but she didn't object. Instead she felt herself retreat. Her only thought became that the words 'Megan Striclan' should not be said out loud by this man.

'Mr Smythe's assistant, Mr Fraser, who is sitting there beside Mr Smythe, he telephoned me,' Carl Frank continued. 'He asked me about my work, in which he was very interested. He was curious about my studies and my opinions. I was fearful that, under the direction of Megan Striclan, I would not be free to express my real views of these people, views that Mr Fraser, and then Mr Smythe wanted to know. As a result I decided to become a witness for the Crown. I don't take sides,

you see. All the information I have is neutral. I'll give it to anyone—It's completely neutral and unbiased.'

'And those are the interests of justice to which you refer?' asked Theodore.

'Yes, sir. That you should know the truth.'

'And that you should be allowed to sell the information about these people to anyone?' When the witness looked uncomfortable, Theodore added, 'Because that's your work, that's how you survive—financially?'

'Well, yes,' said Carl Frank. 'And, of course, I want the truth to be known.'

'Yes, of course.'

Again, as on the first day, Megan heard the clock bite into the silence created by the Judge. Then she seemed to drift, not waiting for another bite to be taken from the air.

'Yes, well, Miss Striclan or Mr Chambers, do you have questions of this man?' the Judge asked.

She was thinking of Rebecca then, remembering her sister sitting on the lawn and watching Megan about to jump into the ropes. She had to skip, Double Dutch, with the winter stones spitting against her legs.

She stood when she heard the Judge's voice, but she felt dispirited, thinking of her sister who looked at her so hopefully.

'Ms Striclan, would you like a moment to consider your line of attack?' I'm sorry, My Lord?'

Theodore repeated his question.

'No, thank you, My Lord. Thank you.' It was important to say thank you; Megan knew that, but then she just stood there looking at the Judge, as though for the first time. She hadn't really noticed before that he wore glasses, and she wondered if he really needed them.

'Mr Frank,' she began, 'how much did the Crown pay you to leave your apartment and go into hiding?' She had another voice now that wasn't rooted anywhere. As she heard it, she realized she wasn't fond of that voice, but she had to speak into a fire which was coming from her chest.

Carl Frank addressed the space behind her. 'Ms Striclan, I do not agree with the way you have asked me the question.'

'You are in hiding now. Why are you hiding?'

'I am not "in hiding", Ms Striclan.'

'Where do you live now? Just before the trial you moved away from the address where you had been living for five years. I couldn't contact you any more. What is your current address?'

'I thought he lived with the Indians,' interposed Theodore.

'Yes, My Lord, but he has a residence in the city as well.' Megan continued. 'What is your address, please, Mr Frank?'

‘Sir, do I have to tell her?’ Carl Frank looked at the Judge.  
‘Why wouldn’t you tell her?’ asked Theodore.  
‘In case she pursues me there.’  
‘I see. Miss Striclan, are you going to pursue him where he lives?’  
‘Only in the witness box, My Lord.’  
‘Answer the question, Mr Carl.’  
‘Sir, I don’t want to.’  
‘Answer,’ yelled Theodore, and the witness blurted out his address, as though coughing up a coin he had swallowed.  
‘Who is paying your rent?’ asked Megan.  
‘That’s none of your business.’  
‘Answer,’ repeated the Judge.  
‘Mr Smythe sends me a creature for my work. Not for my rent—for the work I do.’  
‘How much?’  
‘Three hundred dollars a day.’  
‘Are you doing work for the Crown, every day?’  
‘Yes, in a way.’  
‘I put it to you that you are not working on your evidence, Mr Frank, and nevertheless you are being paid by the Crown.’ The witness didn’t respond. ‘To stay away, not to give evidence, isn’t that correct? That’s what you are being paid for.’  
‘I have been advising the Crown on the Indians’ case. I am on retainer. Every day I am writing about them. I am told Mr Smythe may call me to testify, and I am testifying now. Isn’t that so?’  
‘What was the Crown going to have to say, Mr Frank?’  
‘I object, My Lord,’ said Smythe.  
‘On what grounds?’ Megan flashed at him.  
‘You are not to deal with the evidence of this witness. You’re making an application for an injunction.’ Mr Smythe had again picked up his long silk panel and was smoothing it over his hand.  
‘All right,’ Megan continued, turning to Carl Frank, ‘then let me put it this way. I suggest to you that I asked for your opinion concerning this Band, and you gave it to me, in written form.’  
‘Yes, and I—’  
‘And it was your opinion that these people were cheated by the Crown, that the Crown did not obtain their consent to dispose of their old reserve—did not inform them as to what was happening and that the Crown wanted their land for its own purposes. You arrived at that opinion from interviewing the elders, from developing an understanding of these people and their culture. Yes or no?’  
‘I object,’ said Smythe.

'And, called as a witness for the plaintiffs, that's what you would say, and do say now.'

'I am making an objection, My Lord.' Smythe had dropped his silk ribbon.

'Mr Smythe, sit down,' said Theodore.

'For the record, My Lord—'

'Oh yes, it's all on the record, Mr Smythe, it's all for the record. Sit down,' said Theodore.

'Answer me, Carl Frank,' Megan said. She was standing very close to him now, as though by her physical presence she could expel him, she could wipe him out.

'I want to say something—'

'Yes or no, Mr Frank?' Megan pressed her voice against him, like a vice.

'Yes.'

'And what part—'

'But I remind you that they never thanked me, not once—they were not thankful for what I had done. They don't appreciate—'

'And you say I wanted you to express views that were not your own? What views? What do you say were my "fanciful ideas" about Akwaw's Band?' Megan was so close to him now she could smell his body odor. It was the smell of something caged.

'That these people are not finished, as a people. That is your idea, Ms Striclan.'

'Is that the evidence?' asked Theodore. 'If it is, why didn't your clients protest right from the beginning, about their land being taken away? Why didn't they fight, as a people?'

'For heaven's sake, because they had to survive, My Lord,' Megan said, and as she turned back to the witness, she realized the Judge didn't understand what she meant. But she couldn't stop for him any more. 'You don't think for one minute they are finished people, not for one minute, Carl Frank.'

'Yes, I do.'

'No, you believe they have a secret that they won't tell you. It's lost to you, and knowing that makes you angry. Angry enough to cross over to the other side because you don't have that secret, you can't get it, and you're trying your best to steal it, isn't that correct? Answer me, witness. You are like a double agent to both societies, aren't you?'

'No, I'm not.'

'You've tried to get the secret that you've lost, haven't you? You've tried to dance their fire, the way they do, but you can't, isn't that correct? You have always been prepared to sell.' Her voice slowed and then she felt it start to worm into him. 'You sold out a long time ago.'

'I have danced. They have let me dance.'

'But not in their way, and that upsets you, that just eats you up.'

'Miss Striclan, what are you talking about?' asked Theodore. 'What kind of dance?'

'A prophet dance, My Lord.' Megan looked back at Carl Frank. 'Isn't that true?'

'I know what you're trying to say, Ms Striclan, but I am not bothered by you.'

'You are bothered by them. They have a fire you've tried to steal, because you have none, and that is pitiable.'

'Miss Striclan, that's not a question,' said Theodore, 'and besides, I don't know what fire you're talking about.'

'Carl Frank does, don't you, Mr Frank? You've taken the stories from these people. You've absconded with their stories.'

'No, I've recorded their stories, because otherwise the stories would be lost. And that information is mine now.'

As Theodore listened, the man's voice sounded so cold to him, like an officer; someone in uniform at a gate; someone who was there to deny possibilities.

'Without me the stories would have been forgotten,' Carl Frank said. 'I have a copyright that belongs exclusively to me. They were wasted on them, all their stories. The people are losing their language. It is impossible for them to express what they know without their own language. They don't know it any more, and I do. I have acquired it.'

'You've written down their stories and you are going to publish them, isn't that right? And later, if they ever tried to get them back or publish the stories themselves, you would prevent it.'

'They'd never get organized enough to publish their own stories.'

'And if they did—'

'I have the copyright.'

'You intend to publish the stories without their consent, and you would do that because you believe these stories represent something you've lost, if indeed you ever had it, isn't that right? You're not answering me.' Megan went back to counsel table. 'Let me put this to you, then. You say the culture of these people is almost gone?'

'Yes. Even the prophet dance—the whole idea of prophets is from the Christian tradition. It is not Indian,' he said with contempt.

'But prophets to these people, their dreaming, their stories, are particular to them, isn't that correct? It's one of the means by which they have survived.'

'This is fanciful. We have the same thing. It's not unique. There is nothing original in their stories, not any more.'

Megan reached for her briefcase. 'Let me show you something that you gave me. You called it a modern dream-story.' But the paper wasn't inside her case. She looked on the counsel table and rifled through the documents. Megan flushed. 'What I was looking for, Mr Frank, was the transcript of a story which Chief Akwaw told you.'

'It wasn't a transcript.'

She continued to search the papers on the table. Underneath the red binder which contained her opening address, she found the document. But part of it seemed to be missing.

'No, it isn't a transcript,' Megan said, still flustered, holding the pages in her hand, 'but this is a translated version of what Chief Akwaw said, which you wrote down and gave to me, correct?'

'Incorrect.'

'What is incorrect in what I have just said?'

'It's my own writing.'

'I beg your pardon?'

'I wrote it myself.'

'From what the Chief told you.'

'No. I just told you, I wrote it myself. It's my story.'

Megan looked away. Outside the window was the face of the moon, fuller now in the clear daylight sky. It mocked her presence, as though it were she who was out of place.

'I don't believe you,' Megan said quietly. What he was saying seemed crooked and unforgivable.

'Miss Striclan, I'm still not sure what you're talking about, of course,' said Theodore, 'but perhaps you'd like a few minutes, to organize your thoughts.'

'Thank you, My Lord.'

'Ten minutes, would that be enough time?' said Theodore.

'Thank you, My Lord.'

'Order in court, all rise,' said the Sergeant at Arms.

The Judge left the courtroom.

Megan walked over to Carl Frank. 'You are a lying son of a bitch.'

'And you are a lying bitch.'

Megan lunged at him. Mark grabbed her gown, trying to hold her down, but she slipped out of the sleeve and raised her arm into the face of Carl Frank who had backed against the wall.

But she didn't know what to do.

His hands covered his face as he cowered against the map.

She didn't know what to do.

With a knife she could stab his chest; she could puncture his heart; but she didn't have a knife. Her fist, near his face, seemed too small to hurt him.

She could hear a woman's long wail, almost a song—someone was singing, or crying, against the clawing in her chest. Unless it was a sound that couldn't be heard outside of herself.

The law was made to determine what is true, what is exact, what can be relied upon for certain, like right and wrong. The rabbits cowering away from her gleaming father who knew which way to turn, and who to save. But he couldn't save anyone, not even himself. His tiny death took up all the room in her life, and his death had never stopped.

How lost she was without him, even now.

She could strangle this man with her fingers.

She dropped her hand.

Carl Frank still covered his face, unaware that she was retreating.

What a nightmare it had been, from beginning to end. What a sweet, sad nightmare, with no one to love. She was marooned with her hatred and didn't know how to throw it away.

She took another step back. Mark straightened her gown over her shoulders and took her arm. It seemed she was a fighter who had lost every round. She wanted to go home.

As they walked through the courtroom, she imagined that the elders withdrew from her, and even Steven turned his head to the side. None of them approached.

'What have I done?' she asked Mark as they went into the barristers' room. 'What do I do know?'

'Go back into court,' Mark said. 'Continue with the cross-examination.'

'Even our clients seem to be ashamed of me.'

'You'll just have to explain it to them, that's all.'

'That no one dies without everyone's consent—but still there are murderers—I wanted to kill him. I could have killed him.'

'I don't know what you mean.'

Mary knocked on the door and opened it. 'Excuse me. The Judge wants to get started.'

When court resumed, Carl Frank was absent. Mr Smythe stood.

'My Lord—'

'Where is Mr Frank?'

'I think my learned friend can explain his absence,' said Smythe.

Megan got to her feet. 'My Lord, I'm afraid that after you left the court, I lost my temper with the witness.'

'Miss Striclan, to be honest—and I'm saying this in my personal capacity and it is not meant to reflect my judicial view of the witness—but I do understand why you might have lost your temper with him.'

'I suppose Mr Frank has had enough, as have I. But otherwise, I don't know where he went.'

'Well, here we are again, it seems. What do you propose, counsel?'

'My Lord, my friend's apology is not sufficient,' said Smythe. 'She used physical intimidation against the witness, and I submit that her conduct shows very clearly the reasons why I—why Mr Frank had to move from his apartment, and why he came over to the Crown—'

Theodore stopped him. 'Mr Smythe, frankly I don't want to hear this. As I've said, right or wrong, I understand Ms Striclan's frustration. It seems to me this trial has come to a difficult place, and I am very tired. For the record, all of you look as tired as I feel. Today is Friday. I propose to adjourn the case until Tuesday of next week. That will allow all of us some time to consider our positions. Is that agreeable?'

'My Lord, there is one thing before we close.' Megan leaned on the podium, and her hands were shaking. 'I want to tell you about the nature of the consent which I believe is at issue in this case.'

Theodore interrupted her. 'Miss Striclan, if you don't mind, let's not go into it right now. You can tell me on Tuesday, all right? That's all. Thank you.'

## 7.

When Theodore returned to his hotel, he telephoned Claudia, but either she wasn't home or she didn't want to answer.

He took off his glasses and pressed his fingers into his temples, stretching the skin tight against his eyes. God, he was tired. Carl Frank, so certain of himself and his opinions, had run away again. And for some reason Striclan had given the case over to Mark Chambers, and then had wanted to discuss the nature of consent.

But if the people couldn't eat the fish there was no sense in catching them. They'd go hungry if the fish were bad.

He tried Claudia again. She should be sleeping. Unless something had happened; unless she had had an accident.

He called the front desk.

'It's Judge Selbie here. Are there any messages for me?'

But Claudia had not called.

He didn't understand why she hadn't telephoned to say she had arrived safely, to tell him where she was, instead of leaving him high and dry, worrying about her, wanting her to be home.

She was probably with her women friends.

She was with her sister.

She'd gone to her sister's for the weekend, as he'd told her to do.

If the fish were bad, the people couldn't eat them. They would have to catch them and throw them back into water, which was brown with debris, unfit to drink. What did they eat now, if they couldn't eat the fish?

It suddenly seemed to Theodore that he had lived such a long life, and it was nearly used up without anyone to keep all the memories that, once vanished, were again seared into his brain. A bright light, almost a spotlight, illuminated what was marked there, right in front of him, like a map on the wall of a cave. How was it that then colors hadn't faded, that all the brilliance of those hours were as yesterday, except that darkness was pressing in front of him now, and not behind. The arch of a trout just above the surface of the water disappearing from his sight. The shape of his sister's back, his father's back, his mother's lime-green slacks; a blue gravel truck, and something back at the centre.

Had it always been that people turned away from him just as he almost touched them, and they turned, going back down—it seemed like down—with the space between them becoming vast with indifference.

Almost. That almost trailed, unanchored, like a red balloon in the sky. Almost. Half. There was something he needed to know. He only knew half.

If he could do it over, he would . . .

There was no end to the sentence. There was going to the telephone, almost dialing Claudia, and hanging up. There was packing, just a few things, he didn't need much. There was driving.

## 8.

On Saturday, Megan flew north, rented a car, and drove to the reserve.

The place looked abandoned. Smoke was coming from only two of the cabins, and it hung in the air around the roofs, as though the buildings were smoldering, about to ignite.

She entered Steven's cabin without knocking. He was sitting on the bed, holding Kaya in his arms.

'You left without telling me, without even saying goodbye. Why did you do that, Steven?' Coming out of the barristers' room after changing her robes, she found that Steven and his people had gone, without any explanation to her at all. But her concern had slowly gathered into anger.

'People have to hunt now,' Steven said.

'We're in the midst of your trial. People can't go hunting now. They have to continue with the case. You can't just quit.'

He shook his head. 'You had to fix it right away. Too long now. We have to get food.'

Megan looked around, wanting to sit down; the only place was on the bed near Steven and Kaya. 'What do you intend to do? Are you quitting because of Carl—because I went after Carl?'

'That Judge don't understand us yet. Even Carl makes lies over us now. Not good for us down there.'

Kaya slipped off Steven's knee. 'Your swan's OK,' he said as he looked back, then opened the door and went outside.

Coming to the reserve, Megan had passed through the place on the road where she had hit the swan. She sat on the bed, bewildered, not speaking. Finally Steven said, 'You get up warm and come with me.'

'Where are we going? Steven, we have to finish this discussion, and decide what we're going to do.'

He left the cabin. Reluctantly she followed.

Steven had a horse on a lead. 'You can ride?'

'No, I can't. Of course I can't ride.'

'I can help you,' he said as he mounted. He held out his hand, pulling her behind him. 'Hold on. Your legs forward.'

'Where are we going?' she asked, but Steven didn't answer.

They took a narrow path through the snow, up the hill which basined the village, and on to a plateau, a stretch of sparsely treed land.

Megan's anger placed itself on the snow, like a flung pebble, sinking and covered over.

Her body pressed against Steven's, closer to him than she had ever been, but their familiarity was as before: it was the intimacy of hands or a flame. She continued in him, as though his well-being were her own. He wasn't foreign; she joined him without forfeiting. And he seemed almost female.

It was such a strange thought, because he was so masculine, small but strong, his body taut but not over-ready or over-extended. He was self-contained and competent. He was innocent. And, being so close to him, so was she.

She wondered if it was sexual, this feeling she had for him. If it was, it was like nothing she had know before. There was no urgency to it, no desire, except that she wanted to protect him, to wing round him and keep him safe. But it shed him, her protection.

When they reached open ground, Steven pressed his boots into the flanks of the horse and they galloped.

She put her arms around his waist. His muscles were tight against his bones. The rough and horrid movement on the surface caught some deep rhythm. And they flew.

Megan started to laugh because their motion became so smooth, as she leaned forward when Steven leaned, synchronized, in perfect harmony.

They rode for hours, it seemed, without speaking. Finally Steven slowed the horse, dismounted, and helped Megan down. Her body was loose and sore. They walked towards a grove of trees.

9.

On Saturday evening as Theodore drove in his car, he saw a sign that said: 'Hillcrest Cabins, 500 yds.' He turned right at the words chiseled into the board at the side of the road. He had been driving without a map and wasn't quite sure where he was.

He didn't really look at the woman who handed him the key and said, 'It's number twenty-four, keep going around to your left, to the end of the road.' He must have seen her face, but he only remembered her turquoise-blue sweater with a piece of the yarn pulled out and knotted near her elbow as though it had caught on something and pulled. If he saw her again, he wouldn't recognize her except for the sweater and the disembodied arms, her thick fingers holding out a key for him to take.

Which he put into a lock that didn't turn.

He grasped the door handle and pulled it towards him, trying to move the key, then he pushed the door and it opened.

The door hadn't been locked at all, and the key he examined had the number three scratched with a penknife, or a nail, into the surface.

He flicked off the porch light, sending the moths away to the moon.

Inside the cabin he saw that there was a white sheet over one of two armchairs near the brick fireplace. It was as though the woman in the turquoise sweater had started to close the cabin for the winter and had been interrupted—something half remembered made her pause and linger in the confusion of winter coming or going, distracted, absorbed in herself, putting a sheet only on one chair, like an abandoned thought. Perhaps, it was then that Theodore had turned off the road into the trees; and she had looked up, expecting someone—the season suspended in the room, something not yet departed.

She had meant to send him to number three, but the cabin with the sheet draped over the chair had stayed in her mind, as a forbearance, as a confusion of departure, and he was sent to this place that couldn't decide which way to turn, which darkness to enter.

Like a sickness. Like a light. Or like a darkness.

Theodore turned off the overhead lamp and lit a candle. As he made a fire he thought of limbs that had once touched windows, burning.

Landlocked. There was no river. Or water, even muddy water.

Why did Striclan say that man had failed when he tried to dance? And why did he run away again from the court? Striclan had been upset by him.

He wouldn't let Claudia sell his house. He wouldn't consent to it.

He looked at the white sheet covering the chair. It was winter that was coming, and in the north, the Indian people put their hands into a river which teemed with plump fish, so many you could catch them in your arms even without a proper rod, scooping them out in handfuls on to the snow. Blood on the snow.

An animal had left its blood, vivid against the white frozen world, had left a trail so that if you could dream, if you could ever sleep, you would find the way.

Theodore was fingering the corner of the sheet covering the chair, trying to understand why there was blood at the edge of the white cloth that smelled of snow.

A wire clothesline had rusted on to the sheet as it dried. Not blood, but rust in the corner of the cloth.

No blood from a fish mouth or a dream-hunt, and never any starts. Or not enough. When the clouds dipped back into the lake, slipping under the surface of the water to wait, then there would be stars.

Sharing a root dream that surfaces here and then feeds under the earth, surfacing there, way over there. How hard it is to connect the two, being so far apart, unless there is a bridge; and if one could jump there is also falling, sinking like a shirt.

And how would you know they are connected, even if someone tells you that they are? How do you know, except by digging up the root, for proof? And the proof kills the thing that surfaces, destroying what it might learn through a leap or bridge, or letting things be.

But you can't grow anything on a bridge because there's no soil there. The roof of a bridge is air. But its heart is water, cold enough to stop the bleeding in a hand, the cut not a separation but a memory of almost . . .

Where is the key, Ted? Ted, where is the key?

It's all right, now. Wash up. Wash up and go to sleep.

Half. Half a lie.

He had participated in so many deaths, he couldn't count them all.

As he dropped the rust-stained corner of the white sheet, he was contained within a small boy who stood in sorrow in the midst of a place become pretend, everything real burnt out hollow to the edge, to the very corner of the world, which was the charred remains of something—what was it?—something announces by his mother's lime-green slacks and rust on a silver fender that had dumped his dog into death, that had thrown him away into dust.

Theodore leaned against the railing of the balcony at the front of the cabin. There were stars, haphazard, strewn across the sky, the debris from an explosion long passed coming to him as light that had already

gone out. How sorry he was that it had gone. And, if that light tried to turn, to go back to its source, it would wander aimlessly, having itself become what remained of home.

Once he had believed in stars. But forgetfulness had overtaken him; what a cutting off of limbs there had been.

And all his maps had come from ideas about the world and not the world, not from his dreams.

He couldn't give them what they wanted—anything that they wanted. It was too late. He could only confirm the emptiness of stars; it seemed he had committed himself to the emptiness of night. How strange that it was so late. They had brought their lost land to him for a remedy, but it had all happened too long ago.

He was cold; he ought to have brought a warmer coat. And he should have brought some food.

What could he say to them? Would he pick over the facts, pull out half-truths, declare life and death—call death into being—because the people took too long to realize what had happened to them? Would he try to tell them something gloved in the language of the law, all the words declaring what had gone, the expired possibility—not a hopefulness but a regret—could he tell them that he was sorry?

God, he was cold.

He walked around the balcony, found the woodpile, and loaded his arms with the dry, grey logs, which had been cut years ago so that they would burn quickly with only one match, not green and full of sap taking a season to burn, but quickly now, winter coming on.

He placed a log on the dwindling fire; the bard crackled and flared.

He wanted to believe in their dream-maps, in everything they said and did and thought. Even if they were dying, he wanted to believe in their effort not to die. But he couldn't. He didn't.

If only he'd had a son, he would have . . .

But he must not do any more damage than he had already done. He couldn't help them now. It was too long ago.

He got up from the chair, his shape outlined in the white sheet, and he sat in the other chair, almost able to see where his hand had curved to touch the cloth, where his back had pressed against the sheet.

A deer on the ground beside a tree, looking up. A deer on a cloud looking down at a tree.

It shocked him that he didn't really know who Claudia was, and she had been his best friend.

The early days lasted so long, and the recent ones were short and bloated, hardly worth anything at all.

What was in between? What had he ever been trying to connect?

As though he were talking in his sleep, he said aloud, 'There are so many dreams I'm having now, but they are all too late.'

10.

Megan could see her breath in the air as they walked. The trees deep in the woods were still, and those near by shifted and swung beside her. It was quiet as she stepped into the footprints left by Steven in the snow. The trees seemed on the alert, active and watching.

A child and a woman became a child and a man as they walked carefully, making no sound. Everything expected them: waiting, but not giving—holding in now, but not holding back. As Megan moved, she began to expect what the trees expected. She was walking towards a swan.

And when Steven stopped, she came beside him; he pointed and she looked in that direction for a bird. But she couldn't see it. She had gone too far forward into the particulars. She was immersed in snow. She couldn't see it.

She looked at Steven and he pointed again, without speaking. There was nothing there.

He took her hand, leaned close to her, and marked it in the air.

In front of her inside the trees was a silver-grey shape of wood, like a cross suspended in the branches.

11.

There was a lag in time, and he was falling behind. The hour was three in the morning, lagging behind, as though the present was only forecast from a time stood still and was never now.

Three hundred hours. More hours than he needed, now that spending was gone. There was a quiet havoc in the air. More hours than were needed for a childless man, time not moving either forward or back.

Something was lagging behind, and it had his name on it.

He had to get out of the way.

Something fell out of a pocket: a coin, flattened by train, or a ticket. Someone waited at a gate.

Was Claudia future, was she forward in the day—or was she past?

He felt like a confused old man who hadn't fathered anything.

I've taken up a killing space, he thought, and I didn't mean to. I must choose to get out of the way now. But where will I go? How will they find me if I'm needed?

The fire had gone out, and there was a blue light in the room. As he looked through his widow, above the trees, he saw the sun moving just above the horizon.

Its beauty smothered him because he couldn't use it; he didn't know how to judge it.

The sun was further above the horizon now, and it hadn't journeyed. It had leapt to another place.

What could he say to his son? I walked out into the dark, during a war; I broke into a cave and touched your mother.

But he hadn't touched anything. Not really.

The night scatters its debris to become the stars which mount and assemble into this sun which makes a day.

He could give it all up, except that the light was starting to shine so beautifully in the sky.

But he was occupying someone else's place.

A different language was required now; all the old words were used up. There was no one from whom to ask forgiveness.

He wondered if Striclan understood.

If only it were night again and someone would whisper to him, not waiting for him to answer. But it was too late for that. He wanted to get out of the way now.

He lay on the deck outside his cabin, watching the sky grow pale.

Everything was simple again. The white sheet had been put on the chair so that the winter sun wouldn't fade the colors of the fabric. The rod had been taken apart, cleaned, put back into its case, and the hooks dried off so that they wouldn't rust. The blinds could be drawn.

And he wondered, for an instant, what color Claudia's hair was, underneath the grey.

If they are correct about the dreams, he thought, then now I pray for a dream.

He imagined he was getting up to close the door; and it was his heart, not functioning, that closed his eyes.

## 12.

There was a greening and separation of light. And through that parting, an obstacle moved out of her path.

For the second time in her life, Megan knew someone was about to die.

She felt weightless and abandoned, disconnected from what had long held her hands, and held them behind her back.

The air seemed thin.

Someone had gone.

The long end of the cross suspended in the trees tipped like a magnetic north. Megan rocked. She brushed against the cloth of Steven's jacket, but she didn't fall.

It was behind her this time.

The grey cross, which was traced in the branches, shimmered the way light does on water, and tipped.

Everything was suspended in the air; she felt afraid. Something had to touch the ground.

She realized she had been searching for what was final. She had wanted to stare it in the face, that certain death: the line that marked the end of the world and not its change. She had yearned for that moment when there was one beat, and not another—to see the last breath, knowing that nothing would follow, and a cross could mark the spot, that very point of treasure when she knew she was absolutely alone. But it hadn't come.

She had played with life and death, like a god tossing a child in the air. She toyed with grace.

And now, swaying, she wondered if something would always and forever have to hit against the window of her speeding car; if she would always have to wound something in order to survive.

But there was a difference that she felt in her limbs now. She wanted to bend down, to bow lower, become small in the wake of some newly departed thing, to feel the ground against her. And as she started—not to fall but to bend—it was the way a feather might drift to weave towards the earth. With darkness. Or with light.

Steven touched her, and he sectioned her slow drift into parceled movements, which hung still, moved, hung still, moved, like a shift of knowing and a consideration, a shift of flight and a waiting. Not headlong tumbling to the earth, but the way an angel might descend if an angel fell—cared for and elected. Not an accident or the ending of a long decline, but a continuation.

Her knee touched the ground, and she saw in front of her, beneath the tipped majesty of the wood, a shape that was curved instead of crossed. It was like the shell of an egg; and at the bottom, blasted in the centre, was a hole made to let out the perfection of that shape, to let it roam.

And the perfection became, not the curve, but that ripped and exploded centre.

She had lost her taste for death.

She let him go.

And as her other knee touched the snow, she rose.

She looked. Her swan, its birth and death, had blasted through the world, and she smiled.

#### POSTSCRIPT

Judge Theodore Leeland Selbie was buried on Tuesday. Megan sent flowers to the funeral, which was held in the east. Two months later, Claudia Selbie sold the house.

The case of Akwaw and Others v. Her Majesty the Queen in Right of Canada was re-scheduled for trial before another judge of the Federal Court of Canada. Seven days before the case was to be heard again, the Crown offered a settlement which the Band accepted. With the settlement money the Band purchased the grove of trees, and 13,295 acres of the old reserve. There was a river flowing through one corner of the land.

Although Megan and Glen had decided to live apart for a while, she was pregnant with his child when she visited Steven Akwaw and Kaya in June.

Carl Frank returned to the north, and he lived in the cabin where Steven had once lived. Some Band members visited him there, including Steven, but he was unwelcome at the old reserve with the river flowing through it.