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The Enquiry Conducted By T. Hollis Walker, K.C.

(Continued from page 10.)

A.—I am not sure he used the word "memo."

Q.—I know it is hard to recollect the exact words. You were prepared to say the $46,000?

A.—If they had been misappropriated.

Q.—When Mr. Kempton came and told you he had given Mr. Miller a memo was that all the conversation?

A.—Yes.

Q.—That is all Kempton said to you?

A.—He merely left me under the impression that it was a company contribution and the company would treat it.

Q.—That is a different story than you told us before.

A.—That is the idea that I always had in my mind.

Q.—He told you on the second visit that he had satisfied himself that it was a company contribution?

A.—He said he had satisfied himself that it or a greater part of it had gone into the Star.

Q.—But you didn't know that yourself?

A.—I knew at that time.

Q.—You mean to say that Mr. Kempton satisfied himself that a greater portion of that money went to the Star?

A.—I think the notes.....

Q.—Never mind what you thought. What did Mr. Kempton say to you on the second visit when this conversation took place?

A.—I cannot begin to give you the details of the conversation.

Q.—It was not so long ago?

A.—A year ago.

Q.—Surely you can remember the circumstances under which you were relieved from paying up $46,000.00?

A.—I have already told you two or three times; I am sorry if I cannot put it into your mind clearly. Mr. Kempton told me he had given Mr. Miller some memo in connection with the matter and the matter was disposed of.

Q.—What matter? Didn't he say what matter?

A.—The matter we were talking about.

Q.—What was the matter you were talking about?

A.—The matter of the $46,000.00 that we have been talking about for two days.

Q.—You and Mr. Kempton were talking about the $46,000.00 and he told you that he had given Mr. Miller some memorandum in connection with it in that the indefinite way in which you described the memorandum that he had given him?

A.—The impression that he left on my mind was that he gave him a memorandum something similar to this one here; he did not show it to me.

Q.—Did you know what the paper was?

A.—Something like that he had not misappropriated any moneys.

Q.—Who did you show it to?

A.—Mr. Kempton. I don't remember seeing Mr. Tasmain at all.

Q.—Mr. Kempton, you say, went to you and told you that he had given to Mr. Miller, a memorandum such you think was something like the one being put in here.

A.—My recollection of his conversation would indicate a document like the one which has eenb put in here. If you let me see the document.....

A.—But Mr. Kempton did not give that document at all. It was Mr. Tasmain.

(Letter or document shown to witness and read.

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DOMINION IRON & STEEL CO.,
(Sgd.) A. S. Tasmain,
Ch. Accountant.

Q.—You say that from what Mr. Kempton told you you gathered that he had given to Mr. Miller a document something like this. He must have described it?

A.—He did not describe it.

Q.—How did you know it was a document like this?

A.—It was a document to satisfy Mr. Miller that he had not embezzled money.

Q.—How does it lead you to say it was a document something like this?

A.—Something similar to that.

Q.—Mr. Kempton must have told you something that was in it?

A.—He said he had given some memo to Mr. Miller making it clear to Mr. Miller that he would not be prosecuted.

Q.—Is there anything about not being prosecuted in this?

A.—No, that was the general idea.

Q.—I am only trying to refresh your memory as to what took place between you and Mr. Kempton the second day?

A.—And I have told you all I remember.

Q.—Then I must press you a little more. What did Mr. Kempton say to you to convey to you that the memo he had given Mr. Miller corresponded or was like this?

A.—He did not say it corresponded, he said it was like it, he gave the details I have already given to you, the exact words I cannot give you.

Q.—I did not expect you to give me the exact words.

COMMISSIONER—He led you to suppose that some document excusing Mr. Miller and now you have seen that document you think it is the same?

A.—Yes.

MR. WARREN—That Mr. Miller had correctly accounted for all cash under his control?

A.—He did not say that.

Q.—It carried out the impression that he left? He gave you to understand it?

A.—He did not say there was nothing wrong so far as Mr. Miller was concerned.

Q.—He has written it in black and white?

A.—He says he had "accounted."

Q.—"Correctly accounted."

COMMISSIONER—I should have thought it would have been a useful testimonial and would convey to anybody that there was nothing wrong with Mr. Miller, that he had left with the good will of his associates. It would not leave in the minds of anyone reading it a suggestion that there was anything wrong. It goes as far as it can.

MR. WARREN—Mr. Tasmain in his evidence said he was satisfied that all the money had gone to you and he gave Mr. Miller this clearance statement, that he has "correctly accounted" for all cash under his control, after Mr. Tasmain was satisfied that you had it under your control?

A.—Yes.

MR. WARREN—Now then, Sir Richard, just one other question. Mr. Curtis stated that you had told him that you would not see Mr. Miller, because he was a witness for the other side and it was improper?

A.—I refused to see him, yes.

Q.—Mr. Miller was endeavouring to see you and you refused to see him?

A.—That is correct.

Q.—When was that?

COMMISSIONER — In December, 1923.

MR. WARREN—That, I take it, was after the announcement of this Enquiry?

A.—After the announcement of the Enquiry and before the Commission was issued.

COMMISSIONER—The 20th of December was the date Mr. Curtis gave.

MR. WARREN—About three weeks before the Commission started. Did you know that Mr. Curtis was communicating with Mr. Miller from time to time?

A.—At that time, no. What happened was: I was going into the office about noon, and as I was going into my private office Mr. Miller was passing out the corridor from Mr. Curtis's office. That is how I came to know that he was in Mr. Curtis's office.

COMMISSIONER—Up to that time you did not know of communications between the two?

A.—No.

MR. WARREN—There was no attempt by you, or by anybody else, to bring it about?

A.—No, not to my knowledge.

Q.—Had anybody else up to the time Miller tried to see you?

A.—Well, I had received a telegraph message, which I presume came from him while I was in Paris.

COMMISSIONER—I think you will find that is R.A.S. 17.

MR. WARREN—I was not here when that telegram was put in. Is this the one you refer to?

(Produces document to witness.)

A.—Yes, this is the one I referred to.

Q.—Was that telegram sent by Mr. Miller when you were in Paris?

A.—I don't know I am sure.

Q.—I must ask your counsel then. Before, there was a telegram put in here, from Halifax, to Mr. Miller when he was in the box, and he says it was never sent by him.

MR. LEWIS—This is the one that was offered—R.A.S. 17. It was put in in Sir Richard's evidence. It is signed "Miller," but it was put to Miller and he repudiated it.

COMMISSIONER—Sir Richard gave evidence that he received it, and it purports to be a message from Miller.

MR. WARREN—Do you mean that Miller did not admit he sent it? I wish to identify it as the telegram which Miller repudiated.

WITNESS—This is the one which I received, which purports to have come from Miller.

COMMISSIONER—Was it put to Miller in cross-examination?

MR. LEWIS—Yes, if your Honour pleases, it was, and Mr. Miller denied the sending of it. If your Honour can recall it, Miller said that some telegram was sent, that he had authorized Mr. Collishaw to sign his name to some telegram.

MR. WARREN—That is my recollection that he said he had authorized Mr. Collishaw to send some message.

COMMISSIONER—At any rate, you got that telegram, and it purported to have been from Miller?

A.—Yes.

MR. WARREN—Mr. Miller stated in his evidence when offered it that he did not send it. Mr. Lewis says it is the same telegram he put to Mr. Miller, and that Mr. Miller denied. Miller stated he had authorized Mr. Collishaw to sign some other message.

COMMISSIONER — Then somebody else sent it in his name, if he did not send it himself. You received it, Sir Richard?

A.—Yes.

COMMISSIONER—And it purports to have come from Miller. Its real importance is as to how you treated it in view of certain statements we have had. You told us what you did with it. That is its real importance; how you treated it. When you received it, whether it was sent by Miller, or was not, you took it to be a bona fide communication from him?

A.—Yes, I thought it came from Miller.

MR. WARREN—Yes, I don't suggest that you knew that Mr. Collishaw was authorized to send one.

WITNESS—I had no idea that Mr. Collishaw was in Mr. Miller's confidence at that particular moment.

Q.—Well, you did not get anything more from Mr. Miller until Mr. Curtis approached you with a request from Mr. Miller for an interview, which you refused. According to Mr. Curtis' evidence, you refused to see Mr. Miller because he was a witness on the other side, and it would be improper. That was some time in December. Sir Richard, what did you say to Mr. Curtis about communicating with Miller?

A.—I told Curtis he had no authority to talk over the business with Miller as far as I was concerned. I do not remember the exact words I used.

Q.—We don't ask you to remember the exact words. Eventually, Mr. Curtis came back to you, and said that he had seen Miller a second time?

A.—He did.

Q.—Did he tell you what Mr. Miller said to him?

A.—He started to tell me, and I told him to make a memo of the conversation, as I was busy.

Q.—How much had he told you?

A.—He said that Miller had been in to see him, at noon or lunch hour, and I told him to make a note of the conversation.

Q.—Well, I must bring you back again. He stated that Miller had been to see him. How much did Curtis tell you of what Miller said to him?

A.—He may have uttered about half a dozen words, and I was not paying much attention to him, and I told him to go and make a note of what transpired and let me have it. I don't even know that I told him to let me have it.

Q.—Well, what would be the object in his making a note and burning it or putting it in the safe. Why did you tell him to make a note of what Miller had said to him?

A.—It is part of the business if a man comes in to make a note of the conversation.

Q.—Was Mr. Curtis in the habit of taking down question and answer—in fact a dialogue—of every person who came into the office on a matter of business?

A.—Probably not, nor do I do that myself.

Q.—Now I know, Sir Richard, that you were not here when Mr. Curtis gave his evidence, but have you read it or discussed it with him since?

A.—I have not discussed it with him but I think I read it, or at any rate portions of it.

Q.—Do you remember in one part of his answer he said he had to close down the office and se no other clients until he had written out this memo?

A.—I don't know whether he did that or not.

Q.—But did you see it in his evidence?

A.—I don't remember. If you will hand me a copy of the evidence, I shall look through it.

COMMISSIONER—Did you read that document as soon as he prepared it?

A.—My recollection is that he brought it to me some time during the afternoon, and handed it to me. I was busy, and I put it in my pocket and read it after I got home.

Q.—But you read it the same day?

A.—Yes.

Q.—Did it not strike you as a curious conversation?

A.—Yes, it was a curious conversation.

Q.—Did it not strike you as a strange conversation, in which it was asked if this, that and the other could be arranged?

A.—Yes, it was an unusual conversation.

Q.—And not a very proper one?

A.—My view was that Mr. Curtis would have been very much better advised if he had not had the interview.

Q.—Yes, or not to have the conversation: Could this be arranged, could that be done, etc. Do you remember those expressions?

A.—Yes, I think they are in the memo.

MR. WARREN—If you think that was improper, what steps did you take to prevent repetition of it?

A.—I took no steps at all, beyond telling him that he had no business to deal with Miller.

Q.—After Curtis had written down what Miller's conversation with him was, which you say you thought was improper, did you tell Curtis not to have anything further to do with Miller?

A.—I don't think I gave any specific orders.

Q.—I am not asking if you gave orders. Did you talk to him at all about it?

A.—The next thing I remember was that some days later——

Q.—Excust me, I shall come to that later. I wish you to answer my question: After you got this written statement of the dialogue between Curtis and Miller, which you thought improper, what steps did you take to prevent repetition?

A.—I don't remember any particular steps I took in the matter.

Q.—I am not asking you about particular steps, I am asking you did you take any steps in the matter? Will you please answer my question.

A.—I am trying to answer your question.

COMMISSIONER — Did you take any steps immediately after?

A.—No.

COMMISSIONER—How long after?

WITNESS—Probably the next day, or the day after. I got that memo in the night.

Q.—If you did something about it the first thing next morning, I should have called that "immediately." We wish to see whether you did on the first opportunity, or allowed some time to elapse. I should have called it "immediately" if you did so the next day or the day after. (Making note) "Soon after I did see Curtis, may be the next day or the day after." Is that right?

A.—Yes.

MR. WARREN—And what did you tell him then?

A.—Well, I told him that he had no authority whatever to deal with Mr. Miller on my behalf.

Q.—"On your behalf." Di you tell him not to deal with him on his own? You see he did not pretend that he was dealing on your behalf. He told Mr. Miller he had no authority to deal with him on your behalf. But what I want to know is: did you tell him not to deal with him on his own?

A.—I don't know that I forbade him to do any business with Miller.

Q.—But after reading the contents of this memo, written by Mr. Curtis, would it not be right for you to have prohibited Mr. Curtis from having any further dealings with Miller on your account or on his?

A.—Possibly. I could not have told Mr. Curtis not to allow Mr. Miller to come to the office, or not to handle any business for him.

Q.—I don't say that if Miller came to the office to ask you to collect a debt for him you would have refused him? Before this enquiry, you made it quite clear to Mr. Curtis.

A.—That he had no authority on my behalf to directly or indirectly communicate with Mr. Miller.

COMMISSIONER—But what about communicating with him on his own? He seems to have done it. He seems to have gone on seeing Mr. Miller. (Making note) Very well. "I only told him not to deal with him on my account."

MR. WARREN—To come back a little bit. This interview between Mr. Miller and Mr. Curtis was taken down on your instructions?

COMMISSIONER—Your suggestion at any rate? You told Mr. Curtis to make a note of it?

A.—Yes.

Q.—Which he did?

A.—Yes.

Q.—Which you said he gave to you immediately?

A.—Which he gave to me during the afternoon.

MR. WARREN—And they have been in your possession ever since?

A.—Yes, after I took them home with me and read them through, I tossed them into one of the drawers of my desk.

Q.—You saw these phrases?—"Curtis: "Well, how can it be done?" "Curtis: But can that be arranged?" "Would Meaney agree?" Curtis: Is that one of the conditions of settlement?" You read all that, and I take it merely told him he had no authority to act for you?

A.—Yes, I told him that.

Q.—Well, you got that much from Mr. Miller. The next thing he got from Miller was the statement of what he was going to swear to before this Commission, and submitted it to you?

A.—A statement of what he was going to swear to, did you say?

COMMISSIONER—Well at any rate the statement he was going to submit to the counsel on that side of the table.

MR. WARREN—A statement of what he as going to submit to the Crown?

A.—Yes.

Q.—In other words a brief of his evidence. And Curtis submitted that to you?

A.—Yes.

Q.—What interest had that to you in view of the fact that Miller was on the other side?

A.—Oh, then there are two sides to this enquiry?

Q.—I take it, you yourself said so.

A.—I read the memo through and, I remember, handed it back to Mr. Curtis.

Q.—And is that all?

A.—I called his attention to some statements in it which were palpably untrue.

Q.—You called his attention to some statements in that statement which were palpably untrue. Now, Sir Richard, if it was improper for you even to meet Miller, what did you consider or how did you consider the reading of the brief of his evidence? Did you consider the reading of the brief of his evidence that he meant to submit to the Crown, improper?

A.—Mr. Miller brought in the memoandum and gave it to Mr. Curtis.

Q.—Yes, but Mr. Miller brought in himself, and asked to meet you, and you turned him down because you thought it was improper. Did you consider it proper or improper to have this evidence brought in through a third party? Did you think it improper for you to look at it?

A.—No, I did not regard it as improper to look through the memo Mr. Miller brought in and gave to Curtis. I refused to have any interview with him under the circumstances.

Q.—Mr. Miller offered to meet you, and you did not think it proper, and you don't think it was improper when your law partner brought you in a copy of his statement and you read it?

A.—Well, my understanding was that Mr. Miller.....

Q.—My question was did you regard it as proper or improper?

COMMISSIONER—He did not think it improper, he said. You are asking him for his opinion, and I think you must take it all.

WITNESS—My understanding was that Mr. Miller brought it to Mr. Curtis and authorized Mr. Curtis to show it to me.

MR. WARREN—Do you remember if Curtis told you why he brought it to you?

A.—I don't know that he did.

Q.—Will you tell us of the conversation that took place when Mr. Curtis brought in to you the brief of evidence from a witness of the other side?

A.—I can't tell you what was said when Mr. Curtis brought it in and handed me the paper.

Q.—Without saying what it was?

A.—He probably said it was a memo given him by Mr. Miller for me.

Q.—Given to him for you?

A.—Yes. That is my impression, anyway. I could not give you his words.

Q.—I know that you could not repeat the exact words, but in a matter of this seriousness it really.....

A.—The trouble is you look upon this thing much more seriously than I do.

COMMISSIONER—And don't you look upon it seriously?

A.—No. Mr. Miller gave this memo to Mr. Curtis who brought it in and handed it to me——

(To be continued.)

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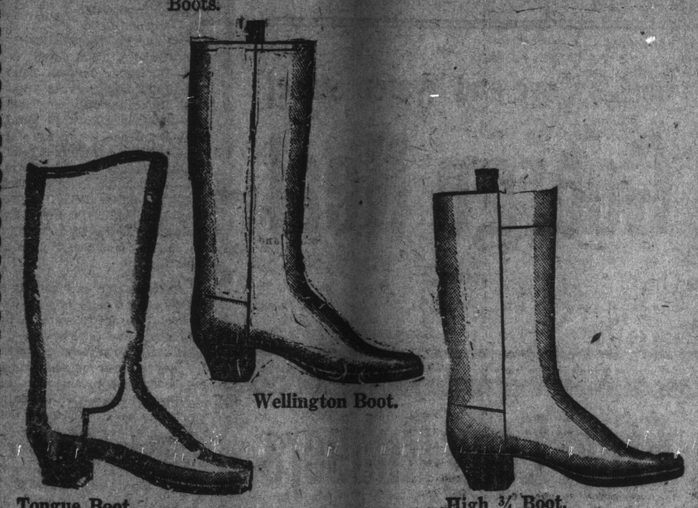

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