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

A.—Yes. Brown asked us to act for him to defend the claim. The claim was finally adjusted and paid. Q.—When it was finally adjusted, how much was paid? A.—I think between six and seven hundred dollars. Q.—But that was not paid until the receipt of the cheque? A.—Not till after. Q.—And there was another dispute? A.—Yes. One by the British Store, about \$48.00; that was paid also. Q.—Before or after? A.—I think it would have been paid. Q.—All these amounts except those of the British Store and the British Store were paid before the receipt of the cheque? A.—Yes. Q.—Why did you pay them before receipt of the cheque? A.—Archibald Brown had his first December of 1920, and the adjusted papers were, I think, completed at the middle of January. Short after they were completed these began to come against him, so we issued the cheques to help him. He asked us to let him have the money. Q.—If the adjustment papers were completed in the middle of January, what was the cause of the delay in getting the cheques? A.—I find that the insurance papers had never been forwarded to the office. Q.—By whom ought to have been forwarded? Somebody. Q.—Miss Miller was the Accountant? A.—Yes. Q.—And if these papers had been forwarded in due course the cheques would have been in time to pay these? A.—Lots of time. Q.—And all these accounts that you were paid with the exception of \$700.00 or \$800 were paid out before receipt of the cheque? A.—Yes. Q.—And paid by you? A.—Yes. Q.—Do you know if any payments were made to Mr. Brown by Miss Miller? A.—Practically all the payments were made by me. Q.—The payments by you in the aggregate would amount to almost the full amount of the cheque, is that what you mean? A.—Yes. Q.—COMMISSIONER—But there was a small balance left in favor of Brown? A.—Nearly two hundred dollars and that amount was credited to Brown's regular account. Q.—COMMISSIONER—We were told yesterday that Mr. Brown wanted \$1000 on account and that he threatened to sue your firm for it. Did you ever hear of that before till yesterday? A.—I did not. Q.—COMMISSIONER—Would he have any right to sue your firm? A.—Of course not. Q.—COMMISSIONER—The only basis upon which he could sue your firm was if you had received the money from the Insurance Company? A.—That is it. Q.—COMMISSIONER—If that evidence is true it seems extraordinary to me that Mr. Brown should have threatened an action against your firm, except your firm had not received the money and had not done with it as they should have done. But you say that the threat of Brown's was not known to you. A.—No, it was not known to me. Q.—Mr. Curtis cross-examined by Mr. Hunt: Q.—Mr. Curtis you say this cheque for \$4085 was payable to Brown and not McNamara? A.—No, Brown and McNamara. Q.—Was it endorsed by McNamara? A.—We sent the cheque to Magistrate Thompson to have it signed by Brown and then for it to be returned and signed by McNamara. Q.—So that this cheque came to the order of McNamara and Brown, but that Brown did not personally get a cent of it? A.—No. Q.—No, we gave instructions to Magistrate Thompson to have it endorsed by Brown and sent back to our office and it came back. Q.—And out of this cheque for \$4085 you paid these several sums? A.—Yes. Q.—Did you reimburse yourself out of this cheque? A.—Yes. Q.—Did Brown have an open account with you? A.—Yes. Q.—Do you know if his account was in debt or in credit at the time of the fire? A.—It was in debt. Q.—Are you sure of that? A.—Yes. Q.—Clear of that payment? A.—Yes. Q.—How much did Brown owe you? A.—\$30.00 or \$35.00 for professional services. Q.—Did he have any other account with you clear of professional services? A.—No, but he asked us to attend to other certain items of business for him. Q.—MR. HUNT (Continued.) Q.—So that this cheque came to the order of McNamara and Brown; but that Brown did not personally get a cent of it? A.—Yes. Q.—We gave instructions to Magistrate Thompson to have it endorsed by Brown and sent back to our office and it came back. Q.—And out of this cheque for \$4085 you paid these several sums? A.—Yes. Q.—Did you reimburse yourself out of this cheque? A.—Yes. Q.—Did Brown have an open account with you? A.—Yes. Q.—Do you know if his account was in debt or in credit at the time of the fire? A.—It was in debt. Q.—Are you sure of that? A.—Yes. Q.—Clear of that payment? A.—Yes. Q.—How much did Brown owe you? A.—\$30.00 or \$35.00 for professional services. Q.—Did he have any other account with you clear of professional services? A.—No, but he asked us to attend to other certain items of business for him. Q.—What were they? A.—For instance he owed me for services when I entered the firm. Q.—But did you ever receive any amounts for Brown? A.—We had been doing some collection work for him. Q.—COMMISSIONER—Have you got your ledger here? A.—No. Q.—COMMISSIONER—That should show Brown's account and should show these payments. I should like to see that ledger very much. MR. HOWLEY—We have not got the ledger here at the moment, Sir, but we can get it and produce it. We have a statement of fire losses on the desk. I thought that Mr. Curtis had it with him, not for the purpose of evidence but for the purpose of verifying certain matters. MR. HUNT—You say that the firm did some collecting and professional work for Mr. Brown and all the entries were transferred to one general account? A.—Yes. Q.—Did your general account show that it was in credit at time of closing? A.—Yes. Q.—When did you close it? A.—When we received the money from the Insurance Company. Q.—Was McNamara paid by cheque? A.—Yes. Q.—Were all the other payments made by cheque? A.—Yes. Q.—Did Brown come to your office at all? A.—Yes, he came several times asking for his insurance money. Q.—Well it is correct that Brown made repeated demands for his insurance money? A.—Yes. Q.—And you paid it in so far as Miss Miller made demands upon you on behalf of Brown; that is correct also, is it? A.—Yes. Q.—Have you McNamara's cheque with you now? A.—No, I was not able to get it this morning. Q.—Was it a personal cheque? A.—Yes. Q.—COMMISSIONER—Were you paying this out of your own pocket? A.—Yes. Q.—Why? A.—It was not the practice to pay out insurance money until the money came from the Head Office; but I did it to help out Brown who was in destitute circumstances. Q.—COMMISSIONER—Solicitors here are greater philanthropists than they are on the other side. I cannot understand it. I could understand it if it was a matter of ordinary business in which you would get a rebate out of the firm's account. MR. HUNT—I suppose the firm's

pass book would show these payments?

A.—It should.

Q.—Have you got it with you?

A.—No.

COMMISSIONER—This is getting complicated and still more freshly complicated. We are told now that cheques were always going out, and yesterday we had the suggestion that cheques were always coming in through the instrumentality of Miss Miller.

WITNESS—They went out through the regular channels.

COMMISSIONER—Was her a regular channel?

A.—It was a channel I knew nothing about.

Q.—It appears then that the amounts mentioned were not paid out by the firm but by you personally?

A.—The firm did not have the money at the time and I was to be reimbursed later.

Q.—These two cheques are dated the 7th and 17th of May, 1921. On May 7th, the very same day your cheque for \$735.00 was given, there was an I.O.U. Miss Miller said, and that the I.O.U. was paid by Mr. Meaney. Do you know anything about that?

A.—No, it may have come in to me a day or two after.

COMMISSIONER—I just want to know witness how you were reimbursed. Have you your own pass book or your personal account?

A.—I have not got it with me now on account of the Bank of Montreal having changed their system, but I will be able to show it when I get it. It may show an overdraft.

COMMISSIONER—That may be due to a variety of causes.

MR. HUNT—You stated that the amounts were not paid by the firm but by you personally?

A.—Except in so far as I was reimbursed by the firm.

Q.—You told Mr. Howley that the firm paid the amounts. Why were they not paid by the firm?

A.—The firm did not have the money until they got it back from the Company.

Q.—But Miss Miller said that the firm's account was overdrawn at the time?

A.—I don't know. I had nothing to do with the account. She was in charge of it.

COMMISSIONER—I suppose fires happen very often in this country.

A.—Yes, we had a number of insurance claims to meet as a result of fires at that time. We had to wait a considerable while for monies to come from Head Office then; but now arrangements have been made by the Insurance Underwriter here whereby we can get the cheque from Head Office and make a payment of a claim in a week.

COMMISSIONER—Was it the common practice to pay the insured his money without waiting for the money to be received from the Company. This is certainly an exceptional case, don't you think so?

A.—Yes.

Q.—Generally you would not pay money until you got it from Head Office. Now why the exception in this case?

A.—Brown was destitute and I gave him the \$100 immediately to help him out.

COMMISSIONER—But why did you give McNamara \$1082? Did he share in Brown's destitution? Was McNamara destitute also? Surely the plea of destitution did not apply to him? Why give \$1082 to McNamara out of somebody else's destitution?

A.—I understood the adjustment papers went off about the middle of January and we were expecting the cheque to arrive from Head Office in the course of a few days so as I could be reimbursed. I undertook to give

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Owing to alterations and changes to new management, The English - American Clothing Company's Stores

Will Be Closed
Monday, January 14th, 1924,
Until Further Notice

Particulars of re-opening will be advertised later

The English-American Clothing Co.,

312-314 Water Street

a cheque expecting the money by

every mail that came. Then I found

COMMISSIONER—Then in May

1921 you gave your own cheques for

\$735 and \$538. Still the money had

not come from Head Office?

A.—These payments would have

been made at the request of Miss Miller.

COMMISSIONER—There seems to

be a great deal of mystery about this

affair yet.

MR. HUNT—Was McNamara's

cheque your own or the firm's?

A.—My own.

Q.—Was Howley & Fox's cheque

your own or the firm's?

A.—My own.

Q.—Was the Imperial Tobacco Com-

pany's cheque your own or the firm's?

A.—My own.

Q.—Was Ayre & Sons cheque your

own or the firm's?

A.—My own.

Q.—Every cheque paid prior to the

receipt of the cheque from Head Office

was my own.

Q.—May I ask you again was Ayre

& Sons cheque your own?

A.—Yes.

Q.—Are you sure?

A.—I am pretty sure.

Q.—Well then at the time this

cheque for \$4085 came from Head

Office to the firm that firm had not

paid out a cent, but that you had made

several payments out of your personal

account.

A.—Except in so far as they reimbursed me.

Q.—But the money would come in

to the firm from Head Office?

A.—Yes.

Q.—How were you reimbursed?

A.—Any time I needed money I

would ask for it?

Q.—Why were not these amounts

paid out of the firm's bank account?

A.—Because the firm could not pay

a loss until they got the money from

the company.

COMMISSIONER—Your private finances showed a bigger margin and

were more helpful than the firm's?

A.—Apparently.

Q.—I cannot see that it was to help

Brown that you paid him the \$100.

Don't you think it was more helpful

to McNamara?

A.—It was made to save the extra

costs of successful attachments

against Brown and there were two

attachments already in. By paying this

amount we saved three others from

coming in.

MR. HUNT—Did you have a meeting

of Brown's creditors?

A.—No, he paid a hundred cents to

the dollar.

Q.—But these amounts were out-

standing against him?

A.—Yes.

MR. HUNT—And you admit that

Brown was making repeated enquiries

at your office for his money?

A.—Yes.

Q.—Was he annoyed?

A.—Yes.

Q.—Did he threaten proceedings?

A.—Not against me.

Q.—Did he threaten against the

Company?

A.—Yes.

COMMISSIONER—Did he say

against whom he was threatening the

proceedings?

A.—I knew it would be against the

Company.

Q.—He might have been quite

wrong but at any rate he was threat-

ening proceedings against somebody.

MR. HUNT—Was it after or before

his cheque was endorsed that he made

the threat?

A.—Before.

Q.—Well did he come after?

A.—I am not sure whether he did

remember Miss Miller asking you to

pay out of your personal account?

A.—Yes.

Q.—You paid on May 7th \$735 and

on that day \$1000 was got from Mr.

Meaney and all this was paid out of

your own account and not out of the

firm's account?

A.—Yes.

COMMISSIONER—I would really

like to see that ledger. I take it that

it is in the town of St. John's.

MR. HOWLEY—I shall try and get

it this afternoon.

COMMISSIONER—Where is the

office, Water Street. Could a messenger

be sent to fetch it along. Its

pages would certainly be very illuminating. I do not like to go back-

wards and forwards into things and

I would like to finish this point up

before proceeding much further.

MR. HOWLEY—I shall have a mes-

senger go for it right away.

COMMISSIONER—Perhaps it can be

sent for while you are re-examining

the witness, Mr. Howley. I would

also like to see Mr. Curtis' pass book.

WITNESS—I can get it to-morrow

morning.

ATTORNEY GENERAL—I would

like, Sir, to ask the witness a few

questions. These amounts you paid

by your personal cheques was done

on the Bank of Montreal, were they

not?

A.—Yes.

Q.—Your firm's account is with the

Bank of Nova Scotia?

A.—Yes.

Q.—Apparently you paid out \$4085

less \$194.83 paid to Brown?

A.—Yes.

Q.—Everything else, that is, over

\$3000 was paid by you personally?

A.—All amounts were paid by me

personally prior to the receipt of the

cheque from Head Office when I

the office for mortgages, rentals and

insurance monies.

COMMISSIONER—Would that ap-

pear in your cash books or ledger?

A.—I don't think the books were

written up in those days.

COMMISSIONER—That sounds

strange. He gave cheques on his own

personal account and reimbursed him-

self out of the till and no record of it

in the firm's books?

A.—There may be a record, but I

really had not gone into the books

at all myself. If I wanted the money

I would get it from Miss Miller who

looked after the cash.

COMMISSIONER—That system

would make things rather confusing

at the end of the year.

A.—There are entries somewhere, I

expect.

ATTORNEY GENERAL—Who was

keeping the books at that time?

A.—Miss Miller was until I wired

to the Bank of Nova Scotia in Halifax

and engaged Mr. Fraser and from

that time on Miss Miller and Mr.

Fraser handled them together. Fraser

came here early in April.

Mr. Leslie Curtis (Examination by

Mr. Warren, Continued.)

Q.—It was suggested to you that

when that happened it was about

March? When the authority for Miss

Miller to draw cheques was rescind-

ed?

A.—That was about when Mr.

Fraser came.

MR. WALKER—I think that would

be about the 21st of March?