

FAWCETT'S NEMESIS.

[Continued from 1st Page.]

He remembered receiving the applications of Mrs. Miner and Mrs. Kelly and of them calling on him a month or so later. I had found from the records that there were two other applicants for the claim they wanted to record, one of whom was Donald McDonald. Alex McDonald had told me he had a claim of \$2000 against Mr. Britt and he wanted to know if he could not get a grant to the land, as it was all the security he had. He also offered me the fee for a grant, but I would not take it. I finally advised him that the only way was by entry by another person. I assumed that he had a mortgage against the ground because of the way he spoke of his security. When the ladies called on me, on my part, I simply said there was a contest. I knew nothing of the settlement and none was made in my court. Alex McDonald's agent, who was there, also told me the contest had been withdrawn and I followed the ladies to record.

Mr. George: You gave a note to Craig to be taken upstairs by the ladies. What induced you to allow them to record?
Mr. Fawcett: McDonald's agent told me the contest had been withdrawn.

Mr. George: Have you any record to show that the contest was withdrawn?
Mr. Fawcett: No, but I had confidence in Mr. Doherty and believed that he represented his principal fully.

Mr. George: As a matter of fact is the possible contest of Donald McDonald withdrawn at this present moment?
Mr. Fawcett: It will never be pushed.

Mr. George: Because of the signing of a mortgage to Alex McDonald? Is that the reason?
Mr. Fawcett: I don't know what the arrangement was.

[Note—Read the note from Fawcett to Craig and see if he knew what the arrangement was.]
Mr. George: Then you don't know that Donald McDonald won't come up to-morrow to press his contest?
Mr. Fawcett: Well, it is a question if it is not too late.

Mr. George: When Craig left the others upstairs and called on you in your office, did he not tell you there was no mortgage on the claim?
Mr. Fawcett: I don't think he saw that morning.

Mr. George: Didn't you know there was no mortgage?
Mr. Fawcett: No, it was only when I went to get the documents for this court today that Craig told me there was never a mortgage against the claims.

[Note—He testified he never mentioned the mortgage to the ladies. Does it appear at all probable in the light of the last answer?
Mr. George: When were these contests against the claims to be heard?
Mr. Fawcett: There had been no dates fixed then.

Mr. George: Alex McDonald was a particular friend of yours, was he not? He used to go to you with his troubles, didn't he?
Mr. Fawcett: Mr. McDonald used to ask my advice about many matters. I am friendly with people generally; excepting a few.

Mr. George: I suppose excepting the Nugger?
[Much laughter.]
Mr. Fawcett indulged in a tirade of abuse against the Nugger which is not worth repeating though it provoked much amusement in court.

Mr. George: Didn't McDonald go to you and ask if he hadn't better represent the claim, and didn't you advise him "No, let the claim go, and stake it?"
Mr. Fawcett: No, it was his own suggestion.

[Note—It will be observed that in his last answer, Mr. Fawcett flatly contradicts a statement made a few moments before in his direct evidence.]
Mr. Ogilvie here reminded Mr. Fawcett that he had called upon him some time ago relative to the question put to him by the ladies and, substituting other names, asked the gold commissioner if, by reason of neglect to represent, the right of a mortgagee would lapse, and that Mr. Fawcett said it would.

Mr. George: Mr. Fawcett, you contend that you were holding out all the time for Donald McDonald's contest. Now, did it not occur to you as queer that the satisfying of Alex McDonald's supposed mortgage would settle Donald McDonald's contest.

Mr. Fawcett: No, they were working together and I had talked with Alex about it.
CLERK CRAIG NOT COMMUNICATIVE.

Clerk Craig was next put on the stand, but not much of importance in the way of evidence was squeezed out of him, so scrupulous(?) was he in his choice of answers to the many questions put him. Sometimes his memory failed him, at others it was something else just as effective, until the Nugger representative gave up in despair after failing to get definite responses and said: "Well, Mr. Commissioner, under these circumstances, I will have to leave it as a self-evident fact." However, Mr. Craig was induced to admit that a contest against the lower half of the claim did not involve the other half, and that Donald McDonald really had no contest with Mrs. Miner.

DONALD McDONALD'S KEEPER.
James Doherty, Alex McDonald's secretary and one of his agents, followed as the next witness and told of Mr. Kelly going to him with the proposition to settle. Donald, he said, was sick on Eldorado at the time, and as his superior agent, he, with Mr. Calder, closed the deal. He didn't know why Mr. Fawcett had given him the note to Craig, except that he had told Mr. Fawcett that he had withdrawn Donald McDonald's application to the claim. Both he and Mr. Calder could speak for Donald.

Mr. George: When you went to Fawcett and told him you had withdrawn Donald's application to the claim, what was it on, 500 feet?
Mr. Doherty: I can't say as to that; I don't know what he applied for.

Mr. George: As Donald's superior agent, what right, claim or mortgage had you on the upper half of this claim?
Mr. Doherty: I don't know what he applied for.

Mr. George: Then when you asked Mr. Fawcett not to let Mrs. Miner record you thought you had a claim on it?
Mr. Doherty: We had Donald's application.

Mr. George: I will have to have some help here, Mr. Commissioner. Either I'm off or somebody else is. I am trying to find out what right or claim Donald McDonald had to the upper half of this claim. I will have to ask you again.
The witness was shown Donald's application, which now reads 253 feet.

Mr. Doherty: Well, he applied for the lower half of the claim.
Mr. George: Then, he not having a contest with Mrs. Miner for her half, why did Mr. Fawcett refuse to let her record?

Mr. Doherty [apparently helplessly confused through his efforts to be non-communicative]: Mr. Fawcett and I knew the ground was not there.
Mr. George, sitting down: We'll have to let this go, Mr. Commissioner. [More laughter.]

Mr. Doherty, in answer to a question by Mr. Ogilvie: I didn't know till a few minutes ago when I saw the application that Donald had no right or claim to the upper half.
Mr. Ogilvie: That's all Mr. George wanted to know.

Mr. George: Now, if Donald hadn't any claim on the upper half, how can he have a claim on the lower half, as his stakes show he staked 500 feet, though there is in reality 450 feet between the stakes.

DONALD'S HEAD KEEPER.
Answer to this went by default and Alex Calder, who said he was Alex McDonald's chief agent and held his power of attorney in some things, took the stand. Like Mr. Doherty he was also found to be afflicted with some sort of affliction which prevented him from giving unequivocal answers. He had talked with Mr. Kelly about the plan of compromise and had given his consent to the withdrawal of Donald's application. He had no strings on Mr. Fawcett, he admitted, and didn't know he was waiting for his consent to the arrangement.

Neither could he tell what, if any interest, Alex McDonald had on the claim.
Mr. George: Now, Mr. Calder, isn't it a fact that this man Britt, while owing Alex \$2,000, left the country, hadn't Britt's claim reverted to the crown when the ladies and Donald staked it and that Alex had no claim on it whatever?

Silence on Mr. Calder's part.
Mr. George: Now, what right, if any, did Alex have to the claim?
Mr. Calder: He had no legal right.

Mr. Ogilvie: Well that's what Mr. George wanted to know.
Mr. George: As he has at last answered that question, I feel like asking another. You said a while ago that when you were present at Mr. Fawcett's office and consented to letting the ladies record, that you were there representing Alex McDonald's interests and was not there representing Donald McDonald.

Mr. Ogilvie, [indignantly]: He said no such thing.
Mr. George: I beg your pardon, sir; but he did show that he had said so.

Q. You say it again, don't you?
A. [Hesitatingly]. Say what?
Q. That you were in Mr. Fawcett's office when the ladies signed those mortgages and when you gave your consent, and you were there representing Alex McDonald, not Donald?
A. [Very low]. Yes, I have power of attorney from Alex McDonald.

Q. But not from Donald?
A. No.
Mr. George: Then, as you were only representing Alex McDonald why was your consent necessary?
A. No [slowly].

Q. Then why was your consent necessary before the gold commissioner would let these ladies record a claim which Alex McDonald had no claim on?
A. [Very slowly]. I don't know. I was looking after Alex McDonald's interests.

Q. What interest did he have on the claim?
A. No answer.
Q. Did he have a contest on it?
A. No.
Q. Did he have a mortgage on it?
A. No.

Q. Is it not a fact that Alex McDonald and Mr. Fawcett were great friends?
A. [Dead don't know].
Mr. Ogilvie: Has that anything to do with the case?
Mr. George: Yes, sir; it is very important. It is part of the charge. I don't think any portion of that \$2,000 found its way to the pockets of Mr. Fawcett; but what he did was for friendship.

The ended the hearing for the day and the session was closed.

ALEX'S LITTLE BROTHER DONALD.
Monday saw the closing of the interesting case with the recall of Mr. Fawcett and the introduction of Donald McDonald and Mr. Landrekin for the first time. The last named gentleman, a clerk in the gold commissioner's office, proved almost valueless as a witness, his inability to answer a question being so pronounced as to be painful to the audience. Not less than a hundred questions were put to him by the Nugger representative, but to all not more than three straight answers were given. If the semblance of deusness was simulated, it was cleverly thought too thoroughly done, and in any event its effect was far no wise to the advantage of Mr. Fawcett's cause. Mr. Landrekin and Mrs. Miner were instructed by the Nugger representative to prove that said that they had seen on Craig's desk a list of applications, among which was that of Donald McDonald, wherein he applied for 500 feet. Witness said there was no such list as they had seen, as his list which no feet were specified) after three-quarters of an hour had been wasted in his evasions that Landrekin was forced by attention was also called to the fact that the list of applications he had prepared showed Alex McDonald and W. G. Gates prior to its staking by the ladies. This, he said, was due to an error on his part, but he wouldn't attempt to even guess whether he had put it on the document before or after the event. Absolutely notwithstanding his familiarity with the case, and if anybody present acquired the belief that his conduct was due to a call which he couldn't receive from Mr. Fawcett that morning, no one could be blamed but himself.

Mr. Fawcett's cross-examination didn't bring out much that was new either. He denied that Alex's alleged mortgage had influenced him to set towards the ladies as he did, and that he

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had ever promised Alex, he would protect his note against Britt through the claim. The substance of his evidence was that "as soon as Alex lifted his bar" he consented to the ladies recording.

Donald McDonald's testimony was exceedingly interesting, as evidence on his part, a devotion to his brother Alex. That is only seen elsewhere in that of a dog to its master. He had gone out to stake on orders from Alex, he said, and for the purpose of securing Alex's \$2,000 for him. He didn't know a thing about the arrangement made by Doherty to withdraw his claim to the party upon the payment of \$2,000, but as such had been done in Alex's interests it was acceptable to him. He never was consulted about it and never signed any papers in the transaction.

Mr. Fawcett did not get his \$2,000 out of the deal you would put your protest even now, wouldn't you?" Mr. George asked.
"I would, most likely, if I could," was the answer.

"Then, as a matter of fact, the contest is still pending," observed Mr. George.
Witness also dropped the interesting and unexpected information that he had taken the precaution, while at the claim on the morning of September 1st, to stake the whole 500 feet with large stakes (a tree, in one instance) and 250 feet, with small stakes, the latter being only about a foot long and about an inch and a half wide, he would be permitted to stake the whole or a half of the claim. Witness didn't remember telling Mrs. Kelly it was no use to stake that Alex would get the claim anyhow; though, "perhaps," he did.

At the conclusion of the evidence Mr. George had other witnesses, but didn't know whether they would come voluntarily. Mr. Tabor remarked that he thought they had gone far enough; to which Mr. George retorted: "I know there is enough evidence in already, Mr. Commissioner," addressing Mr. Ogilvie, "and when you come to read it a cold type, it will surprise you."

He should prepare addresses on the case and present them in writing to the commissioner, after which the session adjourned.

INTERESTING INCIDENT OF THE FORENOON SESSION developed in the appearance of an attorney who said he was there in behalf of Danny Pullford, the young man who was sent to jail for contempt on Saturday. He said that Pullford was perfectly willing to testify on matters occurring prior to August 25, and that he thought the commissioner's action was unjustified, in that the question be put to Pullford, and to which the latter refused to reply, were general questions, whereas in law it is held that questions shall be specific. Besides that, he contended, Pullford might have become confused under the circumstances and answered hurriedly.

Mr. Ogilvie, after a short parley, agreed to put Pullford on the stand and give him a chance. Accordingly, Pullford was placed on the stand. "I asked you the other day," said Mr. Ogilvie, "if you knew a clerk in the gold commissioner's office who had acquired an interest in twenty-one claims, presumably improperly. What is your answer?"

Pullford: I heard it on rumor only.
Mr. Ogilvie: Would you give the name of the clerk the rumor is associated with?
Pullford: Yes, it was not a clerk in the gold commissioner's office; it was an official though.
Mr. Ogilvie: Well, who was it?
Pullford: It was Dr. Thompson.
Mr. Tabor: Mr. Thompson is not an official.
Mr. Ogilvie: Have you positive knowledge of any official acquiring an interest in twenty-one claims?
Pullford: No, sir.

Mr. Ogilvie reminded him that on Friday he had claimed that he did and asked him if he knew of any wrong doing on the part of the officials at all.
Pullford replied that he had, but only as a rumor. He said to tell what he had heard, he said he had been told that Mr. Willison, the timber agent, had sent a crew of men up the Klondike to confiscate all the logs and timber cut by men without permits, which were to be sold and the proceeds divided with Willison. This explanation and Pullford's statement that he knew of nothing else, seemed satisfactory to Commissioner Ogilvie and he ordered him liberated, with the remark that if Pullford had been frank on Friday, it would not have occurred.

Dr. Isidore McM. Bourke, who has more charges in against Fawcett, complained to Commissioner Ogilvie that his examination of necessary documents was being impeded and asked for more latitude. He was advised that whatever documents were pertinent to the case would be produced in court.

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