

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

(Continued from page 8.)

of the bank with regard to that account?

MR. HOWLEY—Before proceeding with the examination of Mr. Fraser, I ask that cheque stub marked I. R. C. be put in evidence. I think perhaps it may turn out to be very material cheque stub, and I would like to have it put in.

COMMISSIONER—Hand it to the officer of the Court. Do you want to ask Mr. Fraser any questions? If there is anything you want to ask him I shall give you an opportunity of doing so.

MR. HOWLEY—There was just one point. When you took charge of the office I think you found that the insurance returns had not been forwarded to the insurance companies?

WITNESS (Donald Fraser)—Yes.

Q—How did you find the question of the relation of the agency to the principal office of the companies with regard to the payment of cash premiums?

A—The return transfers had not been prepared.

Q—The payment of cash premiums was accordingly behind. Did you also find that various adjusted losses had not been forwarded?

A—Yes.

Q—I think you told us that you forwarded some of these adjusted losses.

A—Yes.

Q—And that a cheque in payment came back in due course?

A—Yes.

Q—Up to the time that you forwarded these had you forwarded returns and cash premiums?

A—No.

Q—Then the question of the non-remission of cash premiums was in no way associated with the payment of the loss?

A—Head office did not show it to be at all.

Q—And the cheque for these adjusted losses came back before the premiums had been remitted to the company?

A—Yes.

COMMISSIONER—Will you take the three cases separately. In the Golden case, just show me when you got the cheque?

A—It is credited to him on July 25th 1921.

Q—That is when the cheque came?

A—That is when the cheque went through my books.

Q—That is after it had been cashed by the insured?

A—Yes.

Q—Have you anything to show on that date it was transmitted to your office?

A—The cheque was sent on July 8, 1921.

Q—Now then, when were the adjustment papers sent to the office in due course?

A—There is no covering letter but the adjustment papers would show that. They would be dated on the date of the loss. They were received in Montreal on June 13th.

Q—From you?

A—Yes.

Q—Now, the payments that were made presumably by Miss Miller, what are the dates of those?

A—There is no reference at all to the Golden payments. In the case of Tucker there is.

Q—The books do not show when the amounts were paid?

A—No.

Q—How often did you send the returns with premiums?

A—I had to render sixteen back books and since then they have been sent regularly every month.

Q—Then they were monthly returns?

A—At the end of every month.

Q—At that time can you tell me along the returns were in arrears?

A—In July, 1921.

Q—They had not been rendered up March of 1920, that was the last?

COMMISSIONER—That makes it clear that really the payment of the insurance company was not getting to do with the rendering of these returns. That makes me more puzzled as to say a cheque was not obtained in the Brown case, do you know?

A—I do not know.

Q—The adjustment papers having been sent in January and the cheque not received until July and August?

A—The Brown papers were not rendered until June. The adjustment was in January, but the papers were not sent until June.

Q—What papers were there?

A—Proof of loss, cause of fire, amount of policy and amount claimed.

Q—They were sent in June?

A—No.

Q—Then the whole delay was in the up the adjustment papers by the adjustment itself having been made in January?

A—The adjustment papers were forwarded in January, all my proof of loss form.

Q—The adjustment papers were ready in January and it was simply that they had not been posted?

A—As far as I can tell.

Q—So, instead of taking the simple process of posting these, somebody went to the trouble of borrowing money for the purpose of prematurely paying the amounts. I should have thought there would be some reason for that. Can you suggest what that reason could have been?

A—I can see no reason.

Q—You can't help me then?

A—No.

MR. HOWLEY—When you stated that the Golden cheque had been sent from head office on July 8th, was there a letter from head office covering that cheque?

A—Yes. This is the letter. (Letter put in.)

Q—In July the adjustment papers in the Tucker and Golden claims were forwarded?

A—Yes.

Q—By whom?

A—My writing appears on the proof of loss form, which I think I forwarded. They had all been ready or forwarded.

COMMISSIONER—But I thought you had nothing to do with them? Why did you not forward them?

A—I did not comment on insurance until I had finished with the rent rolls. That took me two months. I put in all my time on the rent rolls.

Q—Did you know that Brown was being paid prematurely?

A—No. I had no knowledge of the transaction at all.

Q—Prior to the time you took up the forwarding of these papers, who was the person who had to do with them. Who was the person responsible for the return, and the cash premiums, and the forwarding of these adjustment papers?

A—Miss Miller.

Q—What I want to know is this, when you went through these books you found a number of things which you did not understand, and you made a list of them?

A—Yes.

Q—And you told Sir Richard Squires that you had that list, but you did not give him any items?

A—Yes.

Q—What did he say?

A—He gave me to understand that he was afraid that he could not help me much, and that Miss Miller was the only person who could help me.

Q—And you told him that you had already asked Miss Miller, and she told you that you should go to him. Did he tell you to go back to her?

A—I do not remember.

Q—You go to Sir Richard Squires and he refers you to Miss Miller, did you go to her and say that you had been referred to her by Sir Richard?

A—I do not remember having done so, but it is very probable that I did.

Q—Did she give you any information?

A—No.

Q—Are you sure you asked her. I should have thought you would have pursued it, and when you went to find out these things you would not have been content in being put off in this way. You went to Sir Richard Squires, and he says "go back to Miss Miller and find out from her, and you find out nothing from her."

A—I am not sure that I asked her. I would not like to say I did not.

Q—Cross-examined by Mr. Winter.

Q—In what account were these insurance premiums kept?

A—Apparently there was just the one account, R. A. Squires.

Q—Was that so when you went there first in 1921?

A—Yes.

Q—Did that continue?

A—Till I took over the cash.

Q—I think that was in July 1921?

A—June.

Q—What account were they kept in then?

A—In R. A. Squires' account.

Q—In the Bank of Nova Scotia?

A—Yes.

Q—When a premium came into the office, that is where it would go, into the Bank of Nova Scotia account?

A—Yes.

Q—All these premiums?

A—Yes.

Q—That was a general account?

A—That was the only account.

Q—Would the rents also go into that?

A—Yes.

Q—And you tell us that when you took charge of the cash in June, 1921, was paid to Mr. Curtis?

A—On June 18th I opened another account, a trust account.

Q—On whose instructions?

A—It was at my request.

Q—Whom did you request?

A—I think I referred the matter to Mr. Curtis. I am not quite sure.

Q—This was what you called a trust account?

A—Yes.

Q—Why did you give it that name?

A—Probably to distinguish it from the other account.

Q—What was the nature of that trust account?

A—General office funds.

Q—But funds belonging to the firm

would not go into that trust account?

A—I had a system under which I kept a separate sheet representing office funds.

Q—Would receipts for professional services go into that account?

A—I just used that account. I used it for all purposes.

Q—And if you used that for all purposes what became of the other account?

A—It is still open.

Q—What monies went into that?

A—At present it is used by Sir Richard Squires alone. During 1921 and part of 1922 it was used in connection with notes outstanding of his.

Q—It is almost entirely a personal account of Sir Richard Squires?

A—Yes.

Q—Then all the firm's transactions went into this trust account?

A—With the exception of these note transactions.

Q—What was the name of that account?

A—Squires and Curtis Trust Account.

Q—Who used to draw cheques on that account?

A—Mr. Curtis signed them, and I had a power of Attorney myself.

Q—I think you told us that you did not know that Curtis had made these payments to Brown?

A—No.

Q—I think a cheque came in July for \$4,085.00, which was credited in August. Do you remember that coming in?

A—Yes.

Q—What was done with it?

A—It was forwarded to Magistrate Thompson, and Brown's indorsement was obtained, and when it was returned it was credited.

Q—Where did the cheque go then?

A—I presume it was deposited in the trust account. The ledger will show. (Looks up ledger). I deposited it on August 29th in the Bank of Nova Scotia.

Q—Now then, when you deposited it, were any payments made out against it at that time? What ledger account did you have representing insurance monies?

A—I kept several sheets under the name of Globe and Rutgers.

Q—How did you enter premiums?

A—In the Globe and Rutgers account. Premium account.

Q—Did you credit that account with every premium paid?

A—Yes.

Q—And debited cash?

A—If it was received in cash.

Q—And any cash you received would eventually go to the Bank?

A—Yes.

Q—Did you make any entry in the ledger account of this \$4,085.00?

A—I made an entry in the cash book, and I also credited the fire loss account.

Q—Did you not credit Globe and Rutgers?

A—I credited the fire loss account because payments were debited previously. I had written them up from the entries in the cash book.

Q—Then that \$4,085.00 balanced those payments?

A—Yes, that wrote the account off.

Q—Did you ever receive any entries for payments to Brown?

A—No.

Q—When you got that cheque what happened to it?

A—I went through my books and was credited in the Bank of Nova Scotia. I do not know which account. Reference to the Bank book would show that.

Q—Have you got the Bank book?

A—No.

Q—I thought you had got a copy?

A—That was the R. A. Squires account.

Q—And if it was credited in that you could tell?

A—Yes. If it was in any of the old statements. But I do not know where the R. A. Squires pass book is.

Q—You got a copy of the Bank ledger, but the Bank book runs regularly then?

A—I have a copy of some old statements. From March 1921 there is a regular Bank book.

COMMISSIONER—Try and direct your attention to the question that is asked you?

A—This statement merely goes to March 1921.

COMMISSIONER—That is the answer to the question.

MR. WINTER—I want you to explain how you could have adjusted this cheque in your books, when it went into the Bank account, and you had already written up payments against it. According to the records it had been received in cash. Did you ever balance your cash?

A—I had never been balanced prior to June 1st.

Q—Was there any record that that was paid to Mr. Curtis?

A—None.

Q—You say that you received this cheque in July?

A—Yes.

Q—Can you explain why it was as late as August when it was deposited?

A—It had to be forwarded to Magistrate Thompson to get Brown's indorsement, and returned to us.

Q—You said that you had not rendered accounts since March 1920?

A—They had not been rendered.

Q—Was there any money sent up?

A—No.

Q—You also told us that you had to make sixteen back payments?

A—I am not sure of the amount,

since March 1920 to July 1921.

Q—You made up those returns and sent them forward?

A—Yes. Miss Miller helped me.

Q—Was there any remittance sent at that time?

A—No. It was forwarded later.

Q—Do you, of your own knowledge, know of any of these premiums being deposited or put to any other account?

A—There might be some put to the R. A. Squires account.

Q—Into this old account?

A—Yes.

Q—What accounts were there in the office altogether?

A—The R. A. Squires account and the Squires and Curtis Trust account.

Q—Did Mr. Curtis have a private account?

A—In the Bank of Montreal.

Q—Any in the Bank of Nova Scotia?

A—Just these two accounts.

Q—Did you know of any monies being sent into Mr. Curtis' account at the Bank of Montreal?

A—No.

Q—Do you know of any monies going into his account at the Bank of Nova Scotia?

A—He had none.

COMMISSIONER—Of what time are you speaking?

A—When I went into the office.

Q—Has he any account now?

A—He has none now.

Q—All this time that you had been in arrears in remitting payments was there any request for a remittance?

A—There had been a lot of correspondence prior to my going to the office.

Q—Did you receive any demand or request after you went there?

A—No.

Q—But was there any demand for payment before that?

A—No.

Q—Then during all this period from 1920 to the middle of 1921 the companies were content to go on without receiving remittances of premiums?

A—There was correspondence prior to my going there.

Q—Was that correspondence in the form of claims to have premiums sent?

A—Mostly.

COMMISSIONER—Were there any demands for payment before that?

A—Not that I know of.

Q—During all the period of March 1920 to 1921 these companies would go on writing in for claims?

A—There was some correspondence there when I went there.

Q—Were these claims to have any premiums sent?

A—Yes, the letters were principally of a dissatisfied nature. They were asking for remittances.

MR. WINTER—An amount was sent on August 26th?

A—Yes.

Q—Did that represent the amount stated to the Globe and Rutgers account?

A—That settled the account to December 1920. That would be all the accounts I had been able to settle to that date. It would probably take me 10 or 14 days to get an account.

Q—That did not cover all?

A—I covered all the returns I had sent to date.

Q—You had only sent returns to December 1920?

A—No.

Q—In December 1920 I had completed the returns from August to December and then I started on 1921.

Q—That covered the amount of the returns up to the end of the year 1920?

A—Yes.

Q—It did not include 1921?

A—No.

COMMISSIONER—Did you get them out afterwards?

A—Yes.

Q—When did you get them out for 1921?

A—I began to work on them immediately and in the meantime we had come to different arrangements with head office about depositing money here instead of sending it. The next payment was December 1921.

Q—What did that cover?

A—A payment on account. There was another payment in February 1922.

Q—Did that bring things up to date?

A—That was a further payment on account.

Q—The next?

A—In March and April there were several other payments and the account was cleared out after April 1922.

Q—You got level with them after April 1922?

A—Yes, I was square.

MR. WINTER—Take this amount you paid in August 1921. On what bank, by way of draft or cheque?

A—I cashed the money to the Bank of Nova Scotia.

Q—Does that apply to subsequent payments?

A—No the other payments were credited to the new account opened in the Bank of Canada. This represented back payments.

Q—Why was it necessary to send a telegram?

A—Because we wanted to have it straightened up.

Q—Wasn't it because the Globe & Rutgers Company wanted to have it straightened up?

A—I don't remember anything about that.

Q—Quite sure?

A—Yes, sir.

Q—There was massive correspondence, I presume, asking you for settlement of accounts?

A—It would be presented to the office for payment.

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A—Yes, and I worked on them with that in view.

Q—Did they ever ask for money in other ways than letters?

A—Yes, telegrams.

Q—Did they ever draw on the firm?

A—I have never known of it.

Q—You had complete control of the financial side of the books of the firm in June 1921, if after that date, anyone drew on the firm, wouldn't it come through your policy?

A—Yes, unless they drew on Sir Richard.

Q—Suppose they drew on Squires and Curtis?

A—I would see it.

Q—I put the case to you this way, suppose a draft was drawn on the firm and you did not see it; what would be the implication there?

A—I don't know.

Q—What would be done in the case of that draft?

A—It would be presented to the office for payment.

Q—How would it be presented to the office?

A—By a bank clerk.

Q—Did you have visits from bank clerks while you were there?

A—Very few.

Q—Can you say to whom that bank clerk would go?

A—To whomsoever the draft was drawn on.

Q—If it was drawn on Squires and Curtis where would they go?

A—To the office.

Q—Whom would they go to?

A—To Mr. Curtis.

Q—You could not say?

A—No.

Q—He could go to Mr. Curtis?

A—Yes.

Q—Wouldn't Mr. Curtis refer him back to you if he did?

A—Yes.

Q—No draft to your knowledge was drawn on the firm on Globe and Rutgers account?

A—No.

Q—Just one more question, Mr. Fraser, I think you told us just now that there were two accounts in the Bank of Nova Scotia and Mr. Curtis in the Bank of Montreal; did Mr. Curtis have any account in the Bank of Nova Scotia?

A—None that I know of.

Q—Can you explain that at all, Mr. Fraser?

A—It is a deposit slip dated August 1921.

Q—You need not read it out, show it to your counsel.

COMMISSIONER—Do you know anything about it?

A—I cannot recollect anything about it.

MR. WINTER—Just one last question. Do you recognise the handwriting?

A—Yes, it is Miss Miller's.

Q—What is the date?

A—August 26th 1921.

Q—You were in charge of the books then?

A—Yes.

Q—I won't ask you to say what is in it. Does it recollect anything to your mind? It was August 26th that you sent the telegram; you called them a certain amount; what amount did you cable them?

A—\$785.23.

Q—Did you ever ask Mr. Curtis for any money to finance the firm?

A—No.

Q—Was the bank account always in funds then?

A—The account I had charge of was always in funds.

COMMISSIONER—That is the Trust account?

A—Yes, sir.

MR. WINTER—You don't see any connection with that and the payment that you made?

A—The date is practically the same.

(Continued on page 10.)