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LEGISLATIVE ASSEMBLY.

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Inquiry Under the Police Inquiry Act, 1918.

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# REPORT

OF

MR. JUSTICE STREET,

THE COMMISSIONER APPOINTED BY THE ACT.

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## INQUIRY UNDER THE POLICE INQUIRY ACT, 1918.

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### REPORT.

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To The Honourable WILLIAM ARTHUR HOLMAN, M.L.A., Premier of the State of New South Wales.

Sir,

I have the honour to present herewith my report in respect of the matters which I was directed to inquire into by the Police Inquiry Act, 1918.

The Act does not indicate to whom my report is to be presented, but, as I received my instructions from Parliament, I presume that my proper course is to report to that body. I, accordingly, present my report to you, Sir, for transmission to Parliament.

#### THE SCOPE OF THE INQUIRY.

The Act directed me to inquire into certain charges made against members of the police force in respect of their conduct in connection with the case of *The King v. Reeve and others*, heard at the Central Criminal Court before Mr. Justice Pring and a jury in November, 1916; but, during the course of the inquiry, suggestions were made that its scope should be widened, and, on the 1st October, the Attorney-General wrote to me saying that it was the wish of the Government—

1. That, if, in the course of my inquiry, any facts should be established raising a doubt in my mind as to the guilt of any of the persons convicted in the above mentioned case; I should so report; and
2. that, in that event, I should report whether any further extension of my Commission might, in my opinion, result in the obtaining of additional evidence, which would serve to resolve any doubt so raised.

I undertook this additional responsibility, and, in the course of my report, I shall, hereafter, deal with this aspect of the matter.

The case of *The King v. Reeve and others* is a case in which twelve men, named Charles Reeve, Thomas Glynn, Peter Larkin, John Hamilton, Bernard Bob Besant, Thomas Moore, Donald McPherson, William Teen, William Beatty, Morris Joseph Fagin, Donald Grant, and John Benjamin King, who were all members of the organisation known as The Industrial Workers of the World (or the I.W.W. as it is generally called), were charged with conspiring—

1. to commit arson in Sydney, and elsewhere,
2. to procure the release of one Tom Barker (a member of the I.W.W.) from gaol by unlawful means before the proper termination of his sentence,
3. to stir up sedition in the community.

They were all convicted, either of one or more of these crimes, and they all appealed to the Court of Criminal Appeal against their conviction. In the case of Glynn and McPherson the conviction on the second count was quashed. In other respects the conviction and sentences were confirmed, and the men are now all serving long terms of imprisonment, varying from five to fifteen years.

To discover the guilty parties, in cases of crime, it is often necessary for the police to fish in muddy waters, and this case formed no exception to the rule. The charge of conspiring to commit arson depended for its proof very largely upon the evidence of four informers—Scully, McAlister, and the two Goldsteins. McAlister was presented to the jury as a police agent, or spy; Scully was presented as an accomplice, whose evidence required corroboration before it could safely be acted upon; and, in respect of the Goldsteins, it was contended that they were acting with the police against the accused, in order to prevent further proceedings being taken against them on a charge of being concerned in the forgery of £5 notes,

McAlister  
position.

In giving evidence at the trial, McAlister said that he became a member of the I.W.W. early in September, 1916. In addressing me Mr. Windeyer said that this statement was deliberately misleading, and that the fact that he joined the I.W.W. because he was told to do so by the police was concealed; and he commented with some severity upon the omission on the part of those responsible for the Crown case to present the facts, in this respect, in their true light to the jury (p. 738). The facts do not justify this criticism. In giving evidence at the Police Court McAlister stated distinctly that at the time he joined the I.W.W. he was in communication with the police, and that he did so on the instructions of Detective Fergusson. The counsel who defended the accused persons at the trial had, of course, a copy of McAlister's deposition before them, and, if they had thought it material that the fact should be elicited, they would have asked Fergusson about it on cross-examination. I do not, of course, know what was said by counsel in putting the case to the jury, but, in summing up, Mr. Justice Pring, referring to a suggestion that McAlister was an accomplice, said that a much more feasible suggestion to make was that he was in the employment of the police; and in the report of the hearing of the case on appeal (17 S.R., 81), I observe that Mr. Lamb, in his argument to the Court, stated that it was suggested at the trial that McAlister was a police spy. Mr. Lamb was called as a witness before me, but he was not asked any questions about this. The Counsel for the defence at the trial evidently took up the attitude that McAlister was a police spy, and if for this purpose it was material to prove the circumstances in which he joined the I.W.W., the fact was known and could have been put before the jury. There is nothing to justify the comment made by Mr. Windeyer that a statement, which was deliberately misleading to the knowledge of the police, was put before the jury for the purpose of influencing them in determining whether he was a reliable witness or not.

Position of  
the  
Goldsteins.

I shall have something more to say at a later stage about the connection of the Goldsteins with the forgery case. All that I need say at present is that when they first approached the police with information about the fires that were taking place, they had been arrested on a charge of forgery, and were out on bail. Louis Goldstein was afterwards discharged at the police court, but Davis Goldstein was committed for trial and was still under committal when the case of *The King v. Reeve* and others came on for hearing at the Police Court. A *nolle prosequi* was, however, filed by the Attorney-General when the forgery case came on for trial at the Quarter Sessions, and Davis Goldstein was a free man when giving evidence at the Central Criminal Court in the case of *The King v. Reeve* and others. Mr. Windeyer said that, at the trial, the Goldsteins were treated as if they were high-minded patriots, who were in the witness box solely from a sense of duty (p. 741), and he spoke of himself as struggling hard to establish before me that they came into the I.W.W. case to "save their own skins," or at all events to save Davis Goldstein's skin (p. 754). I do not think that any struggle was needed, and I do not think that the counsel appearing for the defence of the men against whom the Goldsteins gave evidence were under any misapprehension as to the motives which induced them to give evidence. They were cross-examined as to their connection with the forgery case, and Mr. Justice Pring, in summing up to the jury, referred to this. Dealing with Davis Goldstein, he said, "As I understand it what Mr. Mack suggests is this: that he was a forger, but that the police, in consideration of his consenting to be made their tool with regard to discovering evidence against the accused, took no further proceedings against him in respect of the forgery."

Informers, or people who turn King's evidence, serve a useful purpose, no doubt, and without their assistance it would often be difficult to sheet home crime to the guilty; but they are seldom animated by disinterested motives, and, in the natural order of things, it cannot be expected that they will be popular members of society, or looked upon with any particular favour by their fellows. I think that it is not improbable that much of the attention which has been concentrated on the case of *The King v. Reeve* and others, and much of the criticism that has been bestowed upon the conviction of the men charged, had its origin in the circumstance that the police were compelled to rely so largely upon evidence of this character to prove the conspiracy to commit arson.

#### THE NATURE OF THE CHARGES.

The charges against members of the police force, referred to in the Act, are contained, partly, in speeches made in the Legislative Assembly by Mr. Brookfield and Mr. Mutch, and partly, in a statutory declaration made by Mr. Judd, and in certain documents,

documents referred to in that declaration. At my request, Mr. Windeyer was good enough to summarise these charges for me, and, in his opinion, they amounted to this :—

1. That the police arranged to deport Scully to prevent him from divulging the circumstances of the case.
2. That Scully was promised £2,000 to procure sufficient evidence to secure a conviction.
3. That Pauling and Turbet asked Davis Goldstein to place dope in the pockets of I.W.W. men.
4. That the police supplied dope for the purpose of making evidence.
5. That the police put the bottle and cotton waste in Teen's pocket.
6. That statements were prepared by the police of evidence concocted by them to be given by Scully.
7. That Detective Leary suggested that Scully should manufacture evidence against Grant.
8. That the whole case was, in great part, made up of fictitious evidence, concocted at the instance of, or with the knowledge of, the police—McAlister's evidence in particular.
9. That members of the police force procured Scully's loss of employment.

I think that this is a fairly comprehensive analysis, and the only additions I can suggest are :—

10. An insinuation that McAlister's death was due to foul play, to which the police were parties or of which they were cognisant.
11. That the Crown withdrew the charge of forgery against the Goldsteins on the understanding that they were to give evidence in the case of incendiarism, and that they have to-day to do whatever the police wish.

The gravamen of the charges is, of course, contained in the allegation that the whole case was, in great part, made up of fictitious evidence concocted at the instance, or with the knowledge, of the police. Mr. Mutch, speaking in the Legislative Assembly on the 10th July last, said : " Personally I think it was a ' frame up,' and that a Royal Commission would be able to get a number of the persons who were responsible to admit that it was a ' frame up '—because of certain things which have transpired since in connection with the promotion of men who took an active part in the case." Mr. Brookfield, speaking on the same occasion, said : " It is the most despicable and outrageous case that there has ever been in this country, and the sooner the wrong is rectified the better it will be for all concerned."

#### THE ANTECEDENT HISTORY OF THE CASE.

It will probably assist in a clear understanding of the matter if, before proceeding to deal with the charges against the police, I state shortly something of the antecedent history and of the facts of the case. The story is somewhat complicated, and I think that it will be of assistance if I show how, and at what stage McAlister, the Goldsteins, and Scully first came into the case and gave information to the police. The facts, as I propose to state them—and I shall endeavour to do so as briefly as is consistent with lucidity—are based upon the evidence, either oral or documentary, elicited in the course of my inquiries.

On the 14th September, 1915, Tom Barker was convicted (1) of making statements likely to prejudice recruiting, and (2) of publishing a printed paper without having the printer's name on it. He appealed against both convictions. The conviction in the first case was quashed on a technical ground. In the second case it was confirmed, but His Excellency the Governor approved of the remission of the fine and the costs, including the costs of the appeal. I believe that Barker is an Englishman, and that he came to this State in 1914. I do not know whether in 1915 he was a member of the executive of the Sydney branch of the I.W.W., but information obtained by Detective Moore in August 1916, showed that, at that time, the executive in Sydney consisted of six members, three of whom were paid officers, and three of whom gave their services gratuitously. The paid officers were said to be King, Glynn, and Barker, and the unpaid officers were Grant, Reeve, and Larkin. It is apparent that exception was taken by some members of the I.W.W. to Barker's conviction. Reeve wrote to Morgan—a fellow member, to whom I shall have occasion to refer in dealing with the forgery case—on the 17th September, 1915, and, in the course of his letter, he said : " It is to be hoped that now there are plenty of speakers in Sydney and the insidious attempt of

Tom Barker's convictions. Exception taken to them.

of the powers that be to down the I.W.W. *Re* Barker's case, that all Locals will make an organised effort to gain Barker's release and prove in no unmistakeable manner that the I.W.W. is a fighting factor and its members are not to be gaoled with impunity. Supposing we institute a Sab. Cat Campaign in a highly scientific manner and uphold the traditions of the movement . . . . Let us see to it that the kittens travel and Bryant and Mays is not ded yet. Tell all rebels to put on the shoe and kick like Hell, it's high time something was done and now's the time to do it. Motions and philosophising is not much good, it's action that counts." Again, writing from Perth on the 29th September, apparently to the secretary of another branch of the I.W.W., he said "I have been instructed to write Sydney Local *re* Barker's case . . . . We intend to circularise the Unions here asking for protests to be sent to the N.S.W. Government in connection with the case to show that the N.S.W. Government cannot gaol one member of the working class with such impunity . . . . Until Barker is released kittens will be born in big batches." Reading between the lines there is not much doubt that what was intended by the reference to Bryant and May's, a Sab. Cat Campaign, and the birth of kittens in large batches, was that pressure should be brought to bear on the Government, and the owners of property, by means of incendiarism.

On the 29th March, 1916, Barker was convicted of publishing in a newspaper called *Direct Action*, statements likely to prejudice recruiting, and he was sentenced to a fine of £100 and costs, or in default twelve months imprisonment with hard labour. He was, however, allowed out on bail pending an appeal. This conviction was also resented by the members of the I.W.W. According to the evidence given at the trial by Scully, Fagin used frequently to speak to him about methods to obtain Barker's release. Political action was to be tried first, and, if that failed, "they were to use sabotage in all its forms, mainly to attack Commonwealth Government property, and to create fires so that it would not pay the Government to keep Barker in gaol." I may mention, too, that when King was arrested at a later date on a charge of participation in the forgery case "stickers" were found in his room dealing with Barker. I need not refer to all of them, but one said "Sabotage silently and jesuitically applied will release Barker. Sink the boot"; another said "Barker is still in gaol. What are you doing to get him out? Sabotage will do it"; a third said "The only language which talks with the boss is PROFIT. Show him that Barker in gaol does not PAY." On the 2nd April, Grant, addressing a meeting in the Domain, said "Barker has been sentenced and is going to prison for telling the truth . . . . For every day that Tom Barker is incarcerated in Long Bay it will cost the capitalist classes £10,000."

Outbreak of  
fires in  
Sydney  
begins.

On the 4th May, 1916, Barker's appeal was dismissed, and he went to gaol. On the 1st June a fire took place at Simpson's Free Stores. At the trial Scully said that Fagin told him that that was the start of the fires to get Barker out. On the 16th June a fire took place at the business premises of Mark Foy's, Limited, and on the 17th June there was a fire at the same company's bulk store. On the 23rd June there was a fire at Winn's, Limited, in Oxford-street. Scully said, at the trial, that Fagin told him that this was another fire to get Barker out. He said that he was told this early in July, and that, in the course of the same conversation, while discussing the proposal to introduce conscription in Australia, Fagin said that, "in the event of conscription being forced on us they would break shop windows, create rioting, and, if necessary, burn Sydney down." On the 23rd July, King, speaking in the Domain, said "It is the mission of the working class to make this world a hell for the capitalist class and every shirker that belongs to it. I do not mind seeing them roasting and toasting on a gridiron." On the 27th July fires broke out on the premises of James Stedman, Limited, and at the Grand Central Hotel, an adjoining building. Louis Goldstein gave evidence at the trial to the effect that Teen afterwards told him that it was he who set fire to the premises of James Stedman, Limited, and that he afterwards rang up the police headquarters, and said, "This is another of Barker's fires. Are you going to release him?"

Barker's  
release from  
gaol.

On the 3rd August Barker was released from gaol. The explanation of this appears to be that his sentence was reduced by His Excellency the Governor-General to a fine of £25, or imprisonment for three months in default of payment. It will thus be seen that on two occasions Barker received leniency—once at the hands of the State Government, and once at the hands of the Commonwealth Government. I do not know—and I am not concerned to inquire—what the reasons were which justified, in either case, this considerate treatment.

With

With Barker's release it might have been expected that there would be a cessation of the fires, if they were being deliberately caused to effect his release, but, in point of fact, although there was a lull until about the end of August, fires continued to take place in the city until about the 11th September, and it was not till then that the outbreak of incendiarism, which had alarmed the community, ceased. It will be remembered that at this time the community was very much agitated over the question of conscription, which was about to be referred to the people for decision on a vote to be taken by way of referendum on the 28th October, 1916. The members of the I.W.W. were bitterly opposed to conscription. I have already referred to Scully's conversation on this topic with Fagin early in July. During August and September members of the I.W.W., speaking in the Domain, continued to make threats of reprisals if conscription were forced upon the people. On the 27th August Glynn said, "We say, if the capitalists are going to sabotage our lives, you sabotage their property." Grant spoke to the same effect on the same occasion. He said, "If they take our carcasses it is up to us to sabotage their property." Reeve also spoke about the capitalist's dread of sabotage, and the use that might be made of this in blocking conscription. On the 3rd September Larkin said, "Far better to see Sydney melted to the ground than to see the men of Sydney taken away to be butchered for any body of infidels."

Fires continue in the City.

It was not suggested at the trial that evidence of incendiarism was forthcoming in the case of every fire that occurred during the period to which I have been referring, and it must be borne in mind that the charge against the accused persons was not that they had actually set fire to the premises which were burnt, but that they had conspired, or, in other words, agreed among themselves, to commit arson. In some cases material was recovered, and submitted to analysis, and this, and other evidence in the case, indicated that the method adopted for causing the fires was to place in a suitable position some cotton waste, or similar material, saturated with a mixture of phosphorus in solution, bi-sulphide of carbon, and possibly, in some cases, some other ingredient. As the other ingredients evaporated, and the phosphorus on the cotton waste became exposed to the air it ignited.

Method of causing fires.

Scully, who is a pharmaceutical chemist by calling, admitted to the police that, in 1914, soon after the outbreak of the war, he delivered two lectures to members of the I.W.W. on elementary chemistry and the manufacture of explosives. He admitted too, that at these lectures, he explained the action of benzine, turpentine, bi-sulphide of carbon, and phosphorus, in bringing about spontaneous combustion. In his evidence, at the trial, he spoke of a discussion in Fagin's room, at the end of July or early in August, 1916, about a preparation for causing fires, and he said that some experiments were made. Subsequently to this, he obtained bi-sulphide of carbon and phosphorus through Cole, the chemist in whose employment he was at the time. In dealing with the evidence of a man like Scully it is, of course, impossible to know how far he may have altered dates to suit what he regarded as his own interests, but there is no evidence to show that any of these materials were ordered through Cole earlier than August. Apparently two lots of bi-sulphide of carbon were ordered in August, and phosphorus was ordered about the 8th September. There is nothing to show that Scully ordered any phosphorus earlier than that date, and he asserts—truly or untruly—that he did not supply any to Fagin until after the outbreak of fires had ceased. Wherever they came from, phosphorus and bi-sulphide of carbon were being used in June. Cotton waste saturated with this mixture was found on the premises of Mark Foy's Limited after one of the fires in that month. Scully is anxious to make it appear that he did not realise what was on foot until a very late stage of the proceedings, but I have little doubt but that he was far more deeply implicated than he admits in any criminal conspiracy that there may have been to cause incendiarism.

Help given by Scully.

For some little time previously to September, 1916, Detective Moore had been making inquiries into the organisation and inner working of the I.W.W. He was assisted in this work by Detective Fergusson, a comparatively young man, and a junior officer in the service. I think, however, that it is quite clear that before the 4th September, the police did not seriously suspect the existence of a conspiracy to commit arson, nor did they associate the outbreak of fires in the city with the I.W.W. Acting-Superintendent Walker says that before that date there was nothing to connect them, so far as he knew, and that it was not till after that date that he first began to get anxious about them (14,513-14,517). To explain what aroused Mr. Walker's suspicions it is necessary to go back a little.

Suspicions of police aroused.

## MCALISTER'S APPEARANCE ON THE SCENE.

Fergusson had been acquainted for some two years or so with McAlister, and McAlister was in the habit of visiting him at his house. There was a connection by marriage—though not a close one—between them. One of Fergusson's cousins married a daughter of McAlister. McAlister's calling was that of a wharf-labourer. On the evening of the 3rd September he went to Fergusson, and told him that he was in sympathy with the aims of the I.W.W., and was regarded by its members as one of themselves. He said that a man, whose name he would not divulge, had told him that the members of the I.W.W. were burning down places in Sydney, and that for this purpose chemicals were being mixed and distributed by a Russian named Androvitch. He went on to say that a man, whom he called Andrew, had told him that the I.W.W. had a method by which they could bring the master-class down, and had asked him if he would use it. McAlister said that he had promised to do so, and had promised to meet Andrew on the 2nd September, but that he had thought over the matter and, though he did not want to play the part of an informer, he had come to the conclusion that his duty as a citizen required that he should give information to the police. At McAlister's request Fergusson promised to treat the matter as confidential—except that Mr. Walker was to be told—and he asked McAlister to get as much information as he could and bring it to him. Next morning Fergusson went to Moore, and at his suggestion told Mr. Walker what had occurred. I do not think that Mr. Walker was quite satisfied at first of the real significance of Fergusson's story, but he told him to keep in touch with his informant, and to get what further information he could. This was on Monday, the 4th September, and on that same night McAlister came again to Fergusson, and gave him a parcel containing a bottle of liquid and a bundle of cotton waste. He told him that they had been given to him that day by Andrew, who had told him that they were used for burning down buildings; and he said that the method adopted was to pour the liquid on the cotton waste, which, when exposed to the air for some few hours, would burst into flame. McAlister said that Andrew told him that so long as the I.W.W. men were being persecuted, or were in gaol, it would cost the capitalists some £10,000 or £12,000 a day, and he referred to some fires that had already taken place as the work of the I.W.W. Winn's Limited was mentioned, and Fergusson thinks that James Stedman Limited was also mentioned. McAlister said that the stuff had been given to him to be used, and he asked that it might be given back to him, if necessary, in order that he might be able to produce it, if called upon to do so by members of the I.W.W. On that occasion Fergusson told him to become a financial member of the I.W.W. On the following morning, the 5th, Fergusson again saw Moore, and they went together to Mr. Walker. Fergusson told his story, and, while Mr. Walker was examining the bottle, a small portion of the cork broke away, and fell upon his blotting pad. It remained there unobserved, and, during the course of the conversation, it burst into flame. Mr. Walker then sent the bottle to the Government Analyst to have its contents examined, but asked that it should be returned to him. This was done, and the bottle then remained in his custody. Moore, who took the bottle to Dr. Cooksey, the Government Analyst, says that, after examining the contents, Dr. Cooksey said, "There is phosphorus in it with some solvent, and its action is that when the solvent evaporates it bursts into flame." Moore asked him if it would cause fires, and he said, "Yes, it is a most dangerous thing, and a well-known agent for that sort of thing" (25,209).

McAlister gives fire dope to Fergusson.

Loss of Fergusson's report.

At about this time Fergusson made out a full report in writing of all that had occurred, and Moore appended a short covering report. Those reports cannot now be found. They have been searched for independently of this inquiry, and, again, for the purposes of this inquiry, but they cannot be traced. Some doubt has been sought to be cast upon the *bona fides* of the story told as to the accidental loss of Fergusson's report, but there is nothing to warrant any such suggestion. The report was indexed in the ordinary course, and I have no doubt that its loss is purely accidental. Moore's evidence satisfies me that he made a very thorough search for it (25,212), and there is nothing to justify the suggestion that it was deliberately extracted from the file of documents. I may say, at this stage, that one or two other reports asked for were also found to be missing, but there is nothing to suggest that any of them have been intentionally removed, nor has anything been elicited which justifies Mr. Windeyer's comment that it is a slur on the police that they are missing.

Fergusson saw McAlister again, either on the 5th or the 6th September, and McAlister told him that he was to meet Andrew at the tramway waiting shed in Elizabeth-street,

street, near Liverpool-street, on the 7th, and to go with him to the I.W.W. rooms. Fergusson said that he would like him to meet some more experienced detectives, and, after some little consideration, he agreed. Fergusson then went to Mr. Walker again, and detective Leary and Lynch were detailed to assist him in his investigations. Fergusson says—and I accept his statement—that he had not met either Leary or Lynch before this. On the afternoon of Thursday, the 7th, Leary, Lynch, and Fergusson, took up positions from which they could observe the meeting between McAlister and Andrew. Andrew did not appear, but they followed McAlister down to the I.W.W. rooms. After some little time he left the rooms with Moore, and Leary followed them up to Mark Foy's corner, at the junction of Liverpool and Elizabeth streets. He says that they stood talking together near a telegraph post, and that he was able to get close enough to hear one of them say "I lost what I had over a pony called Miss Joey." He also heard the same speaker say "Twelve of the b—— should be let go together. This one must go." He then went and told Mr. Walker what he had overheard, and Mr. Walker at once instructed Moore to warn some of the shopkeepers. Moore says that he did so.

On that same night Leary and Lynch visited Fergusson's house, and met McAlister. McAlister told them that his instructions were that if Andrew did not turn up in the afternoon, he was to go down to the I.W.W. rooms and see Mahony, who, he said, was a man whom he knew in connection with the I.W.W., and whom he described as a Russian. He said that when he went down to the rooms he was taken into a room with Mahony and two others, and was told that they were to draw lots to see who was to start a fire. Mahony got a box and three discs,—one red and two black—and held them over his head, and said "The one that draws the red disc has to start the fire." One man drew a black disc, and then McAlister drew the red one. The two men who had participated in the drawing then left the room, and left him alone with Mahony. Mahony then spoke to him about having the stuff to use, and told him that Way's, in Pitt-street, was the place that he was to set fire to. He was to go there on Friday night in the busy time, and place the stuff as near the centre of the building as he could, where there was plenty of inflammable material. The detectives told McAlister that he must go to Way's on Friday night at about the time named and go into the shop, so that if any of the members of the I.W.W. were watching they might not suspect him. On Friday morning they told Mr. Walker what had occurred, and he communicated with the Fire Brigades. In addition to this, arrangements were made, with Mr. Way's permission, for the insertion of a paragraph in the next morning's papers saying that a fire had occurred on his premises.

McAlister  
draws the  
red disc.

McAlister was unwilling at first to consent to give evidence, but the detectives continued to keep in touch with him, and to get what information they could from him. He gave them descriptions of Andrew, Mahony, Androvitch, and Teen, but, notwithstanding this, and notwithstanding their efforts, they did not succeed in finding either Androvitch or Mahony, and it was not until after his arrest on another charge that McPherson was identified by McAlister as Andrew.

As soon as Mr. Walker became convinced of the seriousness of the information brought to him by Fergusson, and by the detectives deputed to act with him, he consulted the Crown Solicitor, and, on his advice, the numerous fires which occurred about this time—on the 8th or 9th September there were twelve fires or attempts at fires in various places about the city—were not reported to the City Coroner. It was feared that his inquiries might hamper the police in their investigations. The Crown Solicitor was also concerned about the seriousness of the disclosures, and he asked for advice from the Attorney-General as to how he should act. The Attorney-General directed him to consult Mr. Lamb, K.C. Accordingly, a consultation was held at Mr. Lamb's chambers on the 12th September, at which Mr. Walker and the three detectives were present, and the detectives repeated to Mr. Lamb the information which they had obtained through McAlister. Mr. Lamb advised that there was not sufficient information to warrant any arrests, and that the only thing to do was to go on and see what further information McAlister could give, and whether any independent evidence could be got in support of it. On about the 14th McAlister came to see Mr. Walker, who endeavoured without success to prevail upon him to give evidence. Mr. Walker saw him again a few days later, and he still refused to become a witness, but, eventually, on or about the 22nd, he expressed his readiness to give evidence if the police could not manage without him. Mr. Walker informed the Crown Solicitor of this, and he thereupon prepared an information and handed it to the police. The names mentioned in it were Marney,

McAlister  
consents to  
give evidence  
and a warrant  
is issued.

Androvitch,



Androvitch, Moore, Larkin, Glynn, Reeves, Grant, Morgan, and Hamilton, and a warrant to apprehend those persons was issued on the 22nd. It is to be observed that, though the name of Androvitch was included in the information, the name Andrew was omitted. Mr. Tillet's recollection is that Mr. Walker told him that Androvitch was the man who had obtained and given the "fire dope" to McAlister, but Mr. Walker says that this is an error.

The I.W.W. premises are raided.

The premises of the I.W.W. were raided on the 23rd, and Larkin, Glynn, Reeve, Hamilton, Besant, and McPherson, were arrested. McPherson was charged with having stolen flannel in his possession, and was allowed out on bail. He was remanded, first to the 25th and then to the 28th, and McAlister saw him at the Police Court on one or the other of these two days, and identified him as Andrew. He told Fergusson, and Fergusson told Mr. Walker, with the result that McPherson was re-arrested on the 30th. In his statement to the police, and in his evidence at the trial, McAlister said that he saw McPherson, or Andrew as he called him, at the police station on the 25th, but Fergusson and Mr. Walker fixed the day as the 28th. A good deal of criticism was directed to this discrepancy, but I think that Mr. Walker and Fergusson are probably right in their recollection, and that it was the 28th.

I may also mention here that some comment was made upon the fact that in McAlister's signed statement, dated the 2nd October, and made at a time when, according to the evidence, he undoubtedly knew that Andrew was McPherson, he spoke of him as Andrew, and added "I do not know his other name." To a copy of the statement prepared in the police office a foot-note was appended by somebody saying that Andrew was identical with McPherson. These circumstances are among those relied upon in support of the charge that McAlister's evidence was manufactured for him by the police.

Before the case came on for hearing at the police court, McAlister expressed a desire for protection, and with Mr. Walker's concurrence he went to live at Fergusson's house. He remained under his protection—either at his house or in the country—until after the trial at the Central Criminal Court, and then he apparently went to live with his sister at Randwick, though he continued to be a frequent visitor at Fergusson's house. During the whole of this period he received money for his maintenance from the police, and he paid for his board and lodging out of this.

The evidence which he gave at the trial implicated McPherson, Moore, Teen, and Mahony.

#### THE GOLDSTEINS.

I turn now to the connection of the Goldsteins with the case, and, in order to explain how they came into it, it will again be necessary to go back a little. They are both young men. Davis Goldstein is now 25 years of age, and Louis is two or three years older. They were born in London, of Russian parentage, and they belong to the Jewish Faith. They were brought up to the tailoring trade, but they left England as youths and emigrated to South Africa, where they were employed at their trade for a time. While there Davis Goldstein, apparently earned the reputation of being a hot-headed socialist and a great agitator. They came to this country about five years ago, and, except for a short visit to South Africa on the part of Davis—and perhaps also of Louis, though I am not clear about this—they have been here ever since. They engaged in the tailoring trade here, and on the outbreak of war, they succeeded in getting some contracts from the Commonwealth Government for the supply of military uniforms. These were very profitable, and, but for the events which brought about their downfall, they were in a fair way of becoming prosperous men. Davis Goldstein joined the I.W.W. soon after coming here. For a time he acted as secretary, and he occasionally lectured to the members, but he says that he retired from membership in November, 1914, after tendering for a Government contract for the supply of military clothing. I understand that, according to the rules of the organisation, he became ineligible for membership on becoming an employer of labour. Although, however, he ceased to belong to the I.W.W., he appears to have kept up his intimacy with its members. Louis Goldstein says that he was never a member, but he says that he used occasionally to go with his brother to hear lectures and through him he got to know a good many of the I.W.W. men.

Davis Goldstein is evidently a man of not much education, but he has considerable natural ability, he is fluent of speech, very vain, probably very arrogant and overbearing among his associates, reckless, and unprincipled, and he has a front of brass. I can quite understand that, until he was on the road to achieve material prosperity for himself,

himself, he played a prominent part amongst his fellows, and exercised a good deal of influence, in inveighing against the present social system and in agitating for reform. Like the communist in the story, however, who was prepared to give away half of what he had not got to his neighbour, but drew the line at parting with half of what he had, I have no doubt that Davis Goldstein's principles (if they may be so called) underwent a change as his financial conditions improved, and I have no doubt that he would have been glad to be rid of the friendship and the attention of some of his former associates. He and Louis both speak of the blackmail which was levied upon them by members of the I.W.W. Louis Goldstein is cast in a different mould. He is not more educated than his brother, and probably just as unprincipled, but he is colder blooded and more cautious, and less liable to be carried away by vanity. He says that he never approved of his brother's membership with the I.W.W., and I can quite believe that this is true. His dominant idea probably was to make as much money as he could, while keeping on the windy side of the law, and he would naturally deprecate anything in the shape of an unevitable notoriety which would interfere with this.

In August, 1916, information was conveyed to the police that forged £5 notes were in circulation in the city. I think that the first intimation was received on the 11th August, and between the 16th of that month and the 9th September, they arrested seven persons, and succeeded in discovering the existence of a scheme on a large scale for forging and uttering £5 notes. Of the seven persons so arrested five lost no time in making statements, in the hope, no doubt (in some cases, at all events), that they would be accepted as King's evidence, and might secure their own freedom at the expense of their associates in crime. The remaining two were King, who was one of those afterwards convicted for conspiring to stir up sedition, and Morgan, who was said to be the ringleader in the forgery scheme.

The £5 note forgery case.

Morgan was allowed bail on his arrest, but, in order that he should be able to take advantage of it, it was necessary for him to find a surety in the sum of £400. There was a difficulty in doing this, and an arrangement was made by which Morris a clerk in the office of Mr. P. K. White, Morgan's solicitor, became surety, and the sum of £400 was provided by Davis Goldstein for his indemnification. Sergeant Pauling says that a cash deposit was lodged with the Court by Morris, and that the police were not consulted as to his sufficiency as a bondsman.

Morgan's bail.

I am told that the acceptance of a cash deposit by the bail authorities is not an uncommon occurrence, and that it is not the practice, in such cases, to consult the police about the proposed surety. Such a deposit is, no doubt, at least as good a guarantee of the financial sufficiency of the bail as an affidavit of justification, but ability to answer for the sum in which he is bound is not the only matter which the bail magistrate has to take into consideration in exercising his discretion as to the sufficiency of the bail. The object of taking bail is to ensure the appearance for trial of an accused person, who is released from custody pending his trial. It is taken for the protection of the public, and, for this purpose, it is essential that the security taken should be that of a person whose interest it is to produce the accused for trial. In the case of the Consolidated Exploration and Finance Company *v.* Musgrave (1900, 1 Ch. 37) Mr. Justice North said, "It is essential that the person giving bail should be interested in looking after, and, if necessary, exercising the legal powers he has to prevent the accused from disappearing. This is essential for the protection of the public, and anything that tends to prevent or hinder his so doing is illegal." That is why an indemnity given through the bail, whether by the prisoner bailed or by another, is illegal, and that is why a person in custody is not accepted as bail. That, too, is why it is recognised as inexpedient that the solicitor of the accused should be accepted, and why it will be recognised in future, I hope, that it is equally inexpedient that the clerk of the accused's solicitor should be accepted. The fact that a cash deposit is offered by the proposed bail is no reason for omitting to consult the police as to his fitness in other respects, and I am emphatically of opinion that, in the public interest, the police should be consulted in every case, not only as to the financial ability of the surety offered, but as to his sufficiency in other respects. It is possible that, if that course had been taken in dealing with Morgan's bail, a man of straw, indemnified by one of Morgan's fellow-accused, would not have been accepted, and Morgan might have been compelled to remain here to stand his trial.

Acceptance of a cash deposit from his surety.

On the 15th September Davis Goldstein informed Detectives Turbet and Pauling—Pauling was not then a sergeant—that he thought that Morgan was about to abscond. They spoke to Mr. Walker, and he thought that he should be re-arrested. It is evident,

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I think, that on hearing that the Goldsteins had provided the money for Morgan's bail, and knowing that they had been arrested and charged, he thought it likely that they would want their money for their own defence and would withdraw the bail, and that this would lead to flight on Morgan's part. He says that he wished the detectives to re-arrest him, and if he took a strong view as to the improbability of Morgan answering to his bail I do not understand why he did not insist on this being done; but apparently they doubted the advisableness of this, and they contented themselves with telling Morris what Davis Goldstein had said. Morris ridiculed the idea, and said that he had an appointment with Morgan for the following day, the 16th. Morris afterwards said that Morgan kept his appointment, but, be that as it may, he did not answer to his bail on the 18th, and he has never since been found. The sum deposited by Morris was forfeited by the Crown, and all attempts by Davis Goldstein to recover it have been unsuccessful. He is loud in his complaint of the injustice of this confiscation, as he calls it; but, on the other hand, it is suggested that as Morgan was the man who could give evidence incriminating him it was worth his while to pay that price for Morgan's disappearance. I may say here that Mr. Walker opposed the refund of the money upon the ground that the Goldsteins were believed to have financed the forgery scheme, and that, through Davis Goldstein's action in finding bail for him, Morgan the arch-criminal in the matter, had been enabled to escape.

Arrest of the Goldsteins.

Some of the statements made by the persons arrested implicated the Goldsteins. It was said that they had been present while the notes were being printed, and that, through Morgan, they had been financing the scheme. Davis Goldstein was thereupon arrested on the 8th September, and Louis Goldstein on the 9th. On their arrest the statements implicating them were read over to them, and they made no reply. A note-book was found in Davis Goldstein's possession, with a note in it of a number, and some letters corresponding to those on one of the forged notes, and, when asked to explain them, he said that he could not do so.

The case came on for hearing at the police court on the 18th and 19th September, and Mr. Bathgate, who was then on the Crown Solicitor's staff, prosecuted for the Crown. Tighe was used as an informer, but he was unable, or he professed to be unable, to identify the Goldsteins. Louis Goldstein was discharged, and Davis Goldstein was committed for trial. Turbet prepared a summary of the evidence against the different accused persons for Mr. Bathgate's use. In respect of Louis Goldstein the case against him was stated to be evidence of identification, and his silence when statements implicating him were read to him. In Davis Goldstein's case the evidence was similar, and there was in addition the evidence of the note-book. When asked why he did not include in his summary any reference to the charge of having financed the matter, he said that this was unnecessary as Mr. Bathgate would find it out on reading the statements referred to in the summary. No attempt was made at the police court to show that the Goldsteins had financed the scheme. Turbet says that Mr. Bathgate saw the cheque butts and the books, and that he instructed him not to subpoena the bank manager as he would not go into the matter at the lower court. Mr. Bathgate's recollection is that he only looked at one cheque butt, and that his mind was never on the question whether the Goldsteins financed the scheme. He says that he had instructions from the Crown Solicitor not to make any reference to Goldstein's connection with Morgan's bail—the reason for this will appear presently—and that, after receiving those instructions, he did not make any investigation of the Goldstein's financial affairs.

Investigation of the Goldsteins financial affairs.

This explanation is not very satisfactory, and the attention bestowed upon this aspect of the case does not reflect very much credit upon any of those concerned. Detective Turbet, Pauling, and Mitchell were in charge of the Goldsteins, and they say that, on arresting them, they took possession of their cheque-books and pass-books, and questioned them about the entries, checking the answers with the books of the business. Turbet says that he noticed that there were a number of cheques drawn in favour of cash, and that Louis Goldstein said that some of the money was spent on racing, but he cannot remember what was said as to the rest of it. He says that he went to the bank manager in search of information, but that the manager refused to give any information unless subpoenaed. Mitchell says that he went with Turbet to the bank, but Mr. Allen, the bank manager, says that, as far as he knows, no application was ever made by the police for information concerning the Goldsteins' account. Pauling's recollection is that, as far as could be gathered from the investigations, most of the cheques represented ordinary business transactions, and that there was nothing to arouse suspicion. Mitchell says that they compared a number of cheques, which the Goldsteins stated were for wages,

wages, with the books and found that they corresponded, and he says that a number of cheques corresponding to amounts paid for wages were drawn in favour of cash. Detective Hooper, who took part with Mitchell in investigating the Goldstein's books, also says that a number of cheques drawn in favour of cash corresponded with payments for wages, and he thinks that the large amounts drawn for cash at about the time of the forgery scheme were among these (27523). His evidence on this part of the case was by no means convincing, and an examination of the cheques does not lend colour to his evidence or to that of Mitchell. The account of Goldstein Bros.—the name under which they traded—with the Union Bank was opened on the 6th October, 1915. I have gone through the cheques, the pass-book, and a copy of the account for the period from that date to 31st July, 1916. I find that from the 6th October, 1915, to the 28th February, 1916 (inclusive), a period of four months and twenty-five days, cheques were drawn in favour of "cash" amounting to £126. From the 1st March, 1916, to the 31st July, 1916 (inclusive), a period of five months—less than a week longer than the earlier period—cheques were drawn in favour of "cash" amounting to £927 9s. 6d. I took the latter period, because it practically corresponds to the period over which the operations of the note-forgers extended before the forgeries were completed. The two periods are practically co-extensive, and in the latter the amount drawn for cash is between seven and eight times as great as in the earlier. None of these payments are attributable to wages, as I find that during the whole period from the 6th October to the 31st July, 1916, cheques were drawn regularly every week for wages, except in the week ending the 31st March, 1916. These figures are significant, and though, standing alone, they do not prove anything, and though it might have been difficult to establish the use to which the money was put, I am surprised that their significance did not strike the detectives. One does not expect detectives to be admirable Crichtons, and they cannot be expected to possess any great knowledge of accountancy or book-keeping, but, if a careful analysis of the figures had been made, no technical knowledge would have been necessary to see that further efforts should be made to obtain additional information. These efforts might, in the result, and perhaps would, have proved fruitless, but I cannot avoid coming to the conclusion that the detectives accepted too readily what the Goldsteins told them, and that their investigation of the figures was of a very perfunctory character. Mr. Walker, when shown the cheques from the 26th April to the 17th July, 1916, and when reminded of the dates when the forgeries were supposed to have taken place, saw the significance of the matter at once. He said the detectives should not have accepted the Goldstein's story, but that they should have gone right into the matter and satisfied themselves. Davis Goldstein, at his own request, went back into the witness-box shortly before the evidence closed and gave an explanation. He produced the pass-book—which, by the bye, was supposed to have been burnt in a fire at Wyong—and, taking the cheques one by one, he said that he remembered that most of them were drawn for racing expenses. I do not believe him, and I have very little doubt but that that explanation was deliberately concocted. Whether the money was drawn to finance the note-forgery scheme, or whether it was paid away, in large measure, in the shape of blackmail levied on the Goldsteins by members of the I.W.W., I cannot say. The matter is left in obscurity. Some of it, I daresay, may have gone in racing.

Before passing away from this part of the case, there is one more matter to which I think I should call attention. I have mentioned that Turbet said that when he went to the bank he was accompanied by Mitchell. He said that he discussed the matter with him a few days before giving evidence, and that Mitchell said that he thought that he went with him and waited outside, but that he was not sure about it. Mitchell said that he remembered going to the bank with Turbet and waiting for him outside, but he said that the matter had never been mentioned between them since the day it occurred. Now, either Turbet or Mitchell is not speaking the truth. The matter asked about was of such recent occurrence that the discrepancy between the two statements cannot be attributed to failure of memory. One knows that witnesses very often untruthfully deny that they have talked over their evidence before coming into court, and the question is very often put for the purpose of testing veracity; but one does not expect to find a detective officer resorting to a clumsy lie of this kind. No useful object was served by the denial, but I am forced to the conclusion that for some reason Mitchell did not tell the truth in this respect. It does not seem to me likely that Turbet would have invented the story of a conversation with him about it, and the manner in which his evidence as to the discussion was elicited gave it an appearance of truth.

The Goldstein's approach the police about the fires.

I have mentioned that Davis Goldstein was arrested on the 8th September, and Louis on the 9th. On the 11th Louis Goldstein went to the detective office and saw Turbet and Pauling. He told them that, if it were possible, he would like his name left out of the forgery case to avoid injury to his business, and that, if that could be done, he would be able to get valuable information from his brother about the I.W.W. and the fires that were taking place. Turbet and Pauling told Mr. Walker of this and he instructed them to get whatever information they could, but on no account to make any promises to the Goldsteins. They afterwards saw the Goldsteins on the same day at the Central Police Court, and Davis Goldstein told them that he had information that the I.W.W. people were the persons who were causing the fires in Sydney, and that they were doing so through the use of phosphorus and other chemicals. He said that, being in the confidence of members of the I.W.W., he was in a position to find out what was being done. He gave them other information at the same time which I need not go into, and both he and his brother requested that any information which they might supply should be treated as confidential. The detectives promised that the information would not go outside the office, and, in point of fact, the knowledge that the Goldsteins were going to supply information was not communicated at this time, I think, to anyone outside the detectives concerned, except Mr. Walker. Mitchell was collaborating with Turbet and Pauling in this part of the case, and, though I do not think that he was present on every occasion when the Goldsteins gave information, he was probably kept informed of what was being done. To test Davis Goldstein's credibility the detectives suggested that he should obtain some of the chemicals and cotton waste used, and on the evening of the 15th he handed them a small bottle of fire dope and some cotton waste, which he said he had obtained from Hamilton at the I.W.W. rooms on the pretence that he was going to set fire to Nat Lewis' premises in Liverpool-street that night. When giving evidence at the trial he said that he met Hamilton outside the I.W.W. rooms that day, and that Hamilton, after speaking to him of his arrest in connection with the forgery case, suggested that, as he was in trouble, he might get back at the authorities by means of sabotage. Hamilton said "You know all the fires that have been taking place recently. We did them, and if you are game enough I will give you some of the stuff and you will be able to do some of them yourself. There is no risk attached to doing them and it is easy enough. Just wait a minute. I will go into the hall and get some of the stuff for you, but before going in there I will just illustrate to you how it is to be done." Hamilton then explained to him how to use the stuff and afterwards went inside, and returned in a few minutes with a newspaper parcel which he gave to him. On opening the parcel he found some cotton waste and a bottle containing some liquid, and Hamilton told him all that he had to do was to throw the cotton waste, after it had been saturated with the liquid, into a shop and combustion would take place about six or seven hours afterwards. He added that after leaving Hamilton he went to his brother and told him something, after which they both went to the detective office and gave the parcel to Pauling. Davis Goldstein's evidence as to receiving a newspaper parcel from Hamilton outside the I.W.W. rooms was corroborated at the trial by Detective Lynch, who was watching the premises from a room in a building on the opposite side of the street and who said that he saw Hamilton come out of the room with a man named Goldstein and hand him a piece of newspaper which looked like a small parcel. At that time he did not know one Goldstein from the other, and, apparently, he was rather uncertain as to which of the Goldsteins it was that he saw.

Davis Goldstein hands fire dope to the police.

The information given to Pauling and Turbet was at once communicated to Mr. Walker, who sent for Mr. Lewis, and, after explaining the situation to him, arranged for the insertion of a paragraph in next morning's newspapers saying that a fire had occurred on his premises the previous night.

Louis Goldstein gives information to Mr. Cohen.

It will be remembered that at this time the Goldsteins were still on bail awaiting the preliminary proceedings at the Police Court in respect of the note forgery case. Louis Goldstein's anxiety did not only manifest itself by his visit to the detectives on the 11th, and by what followed from that. Mr. E. R. Cohen, the solicitor retained for their defence, says that on the 14th Louis came to him and said that he was very much worried. Mr. Cohen replied that he could understand that he would be, and Louis Goldstein said, "But the trouble is this. You have heard of Stedman's fire. Well, a man named Teen confessed to me that he set fire to Stedman's. I talked the matter over with my brother Davis, and we came to the conclusion that as loyal citizens the best thing we could do was to inform the police." (17,176-17,177.) Mr. Cohen says that he told him to send for his brother Davis, and that he took them both to see their counsel,

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Mr. Gannon, K.C., and Mr. Boyce. Mr. Boyce says that Davis Goldstein, who, according to his recollection, was the chief spokesman, said, "We know how all these fires are being caused. We know how the fires originate and how it is done. The I.W.W., or a body of them, have banded together to burn down places that have been burnt, and other places in the near future" (18426). Mr. Boyce says that some place was mentioned (he thinks it was Mark Foys', but he is not sure) which was to be burnt down the following night, and he remembers Davis Goldstein saying that he could get a bottle of the stuff used if he were given the opportunity. Mr. Gannon said to Davis Goldstein, "You have a plain duty as a citizen to perform, whatever may happen to you. It is your duty to go to the police at once and give them the fullest and freest information"; and he and Mr. Boyce advised that Davis Goldstein was to afford the police any further assistance that he could (18427-18429). Davis Goldstein had previously told his legal advisers—erroneously as the fact is—that he had deposited £400 in trust with Mr. White in connection with Morgan's bail, and it had been determined to write to Mr. White demanding the money back, in order that the defence might not be prejudiced by the fact that this had been done. After the disclosures on the 14th it was decided not to send this letter. Mr. Boyce thinks that this determination was come to later than the 14th, and was based on a request by some authorities, possibly the police. Mr. Cohen's recollection is that at the interview on the 14th Mr. Gannon said that the letter must not be sent, as if Davis Goldstein withdrew his bail his influence with the I.W.W. would be gone, and he would be unable to obtain information. I think that Mr. Cohen is probably right in his recollection. The Crown Solicitor says that on the 15th or 16th he came to him, and told him that Goldstein had given information about the fires, and might be able to get further information if Morgan's bail were not withdrawn; and he asked that, in those circumstances, no reference should be made at the proceedings in the Police Court to the fact that Davis Goldstein had found bail for Morgan.

Mr. Cohen, though not absolutely positive about it, believes that it was on the 14th that Louis Goldstein told him of Teen's confession about the fire at Stedman's, and, in his account of the interview in Mr. Gannon's chambers on that day, he says that he began the conversation by repeating what Louis Goldstein had said to him. Mr. Boyce, on the other hand, cannot remember when he was told about this. He is not prepared to swear that it was not on the 14th, but, to the best of his recollection, the conversation at Mr. Gannon's chambers did not begin in the way described by Mr. Cohen. Turbet says that Louis Goldstein met him in the street on the 23rd, and said something about having seen Teen the night before and having had a conversation with him, but he says that as he was just going off on his holidays he told Goldstein to see Pauling. Pauling says that Louis Goldstein told him about it on the 25th. Leary, giving evidence at the trial, swore that he saw Louis Goldstein and Teen together in conversation on the night of the 22nd, and Teen admitted that they were together that night, and that he saw Leary following them, but he denied that any such conversation as Louis Goldstein deposed to took place. Louis Goldstein swore at the trial that the conversation took place on the 22nd, and he added that at the time of Teen's arrest on the 30th it had not been revealed to the police, and that he believed that he told Pauling of it on about the 5th October. I think that Mr. Cohen is wrong in his recollection. The entries in his diary suggest that it was Davis Goldstein who had information to give, and there is no mention of any information having been given by Louis. This accords, too, with Mr. Boyce's statement that Davis Goldstein was the spokesman at Mr. Gannon's chambers. Mr. Windeyer said that Pauling, either with or without Turbet, manufactured the evidence as to the conversation with Teen in the form in which it was first put before the Court. He went on to say: "Pauling has used the influence which he held over those two men to compel them to say their poor part in this drama—to speak the words which were dictated by him, Pauling, with or without the assistance of Turbet." (p. 742.) This is a severe stricture, and I cannot agree with it. It is not likely that Louis Goldstein invented his story as to his conversation with Teen. He told Mr. Cohen about it as well as telling Turbet and Pauling, and, assuming that such a conversation took place, or that the detectives were told that such a conversation had taken place, the only motive they could have in post-dating it would be that Leary might be able to give corroborative evidence of having seen Louis Goldstein and Teen in company with one another. I do not believe for one moment that any such fraudulent scheme was entered into by the detectives. I am satisfied that Louis Goldstein told them of this conversation with Teen, and that they are right in saying that he told them that it took place on the 22nd. It is possible, of course, that he told Mr. Cohen of it at an earlier

earlier date, but I think that it is more probable that Mr. Cohen is mistaken in his recollection. Turbet and Pauling both say that they have some recollection of Teen's name being mentioned by Davis Goldstein at an early interview. It was suggested by Mr. Windeyer that this was false evidence given with knowledge of Mr. Cohen's evidence, but I do not think so. The evidence indicates that Teen's name was mentioned on more than one occasion as one of those who were responsible for the fires. Mr. Boyce remembers that his name was mentioned, and Pauling says that at one conversation Davis Goldstein told them that Teen was an intermediary between Hamilton, who had the fire dope, and the members of the I.W.W., who used it.

On the 16th September, Turbet, Pauling, and Mitchell made a joint report, in which they referred to Louis Goldstein's statement that he was very anxious that he should be kept out of the forgery case, and that, if such a course could be adopted he was in a position to supply information received through his brother about the fires. Louis Goldstein said that he did not remember any such conversation, and he and his brother both asserted before me that the first occasion on which they went to the police was when they took the bottle of "fire dope" to Pauling on the 15th. At the trial Pauling swore that the first time he saw Davis Goldstein in connection with the case was on the 15th. Louis Goldstein swore on the same occasion that he first notified the police that he knew something of the matter "during the first week in October, and on the 15th September previous to that." These statements were relied upon before me as evidence showing that Pauling and the Goldsteins were concocting evidence in collaboration, but I do not view them in that light. I do not know what motive animated the Goldsteins in swearing falsely, but I see no reason for supposing that Pauling's mis-statement at the trial as to the date on which he first saw Davis Goldstein in connection with the case was made deliberately with a sinister motive.

From the 15th September onwards the Goldsteins kept in touch with the police, and continued to supply them with information, but they remained unwilling to give evidence unless the Crown would consent to abandon the charge against Davis Goldstein of participation in the forgeries. Pauling also saw Mr. Cohen on several occasions, but I have no reason to suppose that there was anything improper in connection with these visits or that they were in any way associated with a conspiracy to procure false evidence. To suggest that Mr. Cohen would lend himself in any way to such a conspiracy is absurd, and, if he were not a party to it, then Pauling, in acting as he did, was running a great risk of exposure all the time. He was anxious, no doubt, to get a statement from Davis Goldstein, and anxious to succeed in inducing him to give evidence. Davis Goldstein, on the other hand, was holding back in the hope that he might purchase his freedom, and I have no doubt that Mr. Cohen, as his solicitor, helped him, as far as he legitimately could, in endeavouring to get a promise from the Crown that he would not be prosecuted in the forgery case if he gave evidence in the other.

On the 22nd September, the Goldsteins sent a message to Turbet and Pauling that they wanted to see them. Turbet and Pauling saw them at Lazarus's Hotel, and Davis Goldstein then told them that he had had a conversation with Fagin, who had told him that the I.W.W. were responsible for the fires in Sydney, but that the stuff they were using was not very satisfactory, and that they were going to adopt some new method. He also said that Fagin had told him that a man named Scully, a chemist employed by Cole in Market street, was supplying the chemicals, and that they were being mixed by Fagin. This was reported to Mr. Walker that night, and the matter was discussed with him then, and again next morning. Mr. Walker then decided that Pauling was to keep in touch with the Goldsteins, and that Scully was to be looked after by Surridge—who knew him—and Robertson. Pauling says that he took a statement from Davis Goldstein, but that he did so under a promise that he was not to be used as a witness without his consent. In addition to this statement (*Exhibit 30*), another, very similar to it as far as it went, but containing much less information, was produced. No information was forthcoming at first as to how it came to be prepared, but ultimately Pauling was recalled, at his own request, and he said that, after getting the longer statement he prepared the shorter one, thinking that if Davis Goldstein would not tell everything that he knew, he might, perhaps, give evidence about Hamilton. He says that Louis Goldstein told him that his brother was frightened of the others, and, particularly, of Glynn. I see no reason to doubt the truthfulness of this explanation.

At about the same time as he took the earlier statement he went to Mr. Cohen's office at his request, and told him of the information that Davis Goldstein had supplied to the police in connection with the I.W.W., and of the evidence that he would be able

to

The Goldsteins tell Turbet and Pauling about Scully and Fagin.

to give, if he decided to give evidence. He says that the whole of the facts that were then in his possession were detailed to Mr. Cohen. Some comment was made upon this, as suggestive of an improper alliance between Mr. Cohen and Pauling, and some criticism was directed to the use of the word "verification" in Mr. Cohen's diary and in Pauling's evidence. I think, however, that it is apparent that what Mr. Cohen sent for Pauling for was to ascertain from him whether Goldstein really was helping the police and giving them all the information that he could. Mr. Cohen's object, in desiring to know this, obviously was that his hand might be strengthened in approaching the Crown Solicitor, to get a promise, if he could, that Davis Goldstein would not be prosecuted in the forgery case if he gave evidence in the other; and, if Pauling knew, as I have no doubt he did, what Mr. Cohen's object was, he would naturally be anxious to give him what help he could, in the hope that Davis Goldstein might be secured as a witness.

On the 30th September, Mr. Gannon and Mr. Cohen went to see the Crown Solicitor. Mr. Gannon said that from conversations that he had had with Davis Goldstein he had learnt that there was a plot to burn down the whole of Sydney, that he thought it his duty to let the Crown Solicitor know this, and that he thought that the matter should be laid before the Attorney-General, in order that Davis Goldstein might be used as a witness in the I.W.W. case, and might not be proceeded against in the forgery case. Mr. Cohen also urged that consideration ought to be given to Davis Goldstein as he had given information about Scully. The Crown Solicitor refused to make any promise. On the 3rd October, Louis Goldstein decided to give evidence irrespective of what his brother might do, but Davis Goldstein still held out until the 13th October, after the proceedings at the police court in the I.W.W. case had been in progress for some days. On that day he went to the Crown Solicitor, who had with him a copy of the first statement prepared by Pauling. The Crown Solicitor went through it with Goldstein, who made one or two alterations in it, and then made some further statements. He still declared that he would not give evidence, but later in the day he decided to do so, and he was put into the witness box that day. The Crown Solicitor and the police still, however, withheld any promise that he would not be prosecuted on the note forgery case, and, in point of fact, as I have already stated, it was not until the 23rd October, when the case came on for trial, that a *nolle prosequi* was filed by the Attorney-General on the advice of Mr. Lamb.

Mr. Gannon and Mr. Cohen see the Crown Solicitor.

The Goldsteins decide to give evidence.

The evidence given by Davis Goldstein at the trial implicated Fagin, Teen, Glynn, and Hamilton. Louis Goldstein's evidence implicated Teen.

#### SCULLY'S CONNECTION WITH THE CASE.

I pass now to Scully and his connection with the case. I have already referred to his membership of the I.W.W., and his statements as to the extent of his participation in the conspiracy to commit incendiarism. Detective Robertson appears to have got upon his track towards the end of September, but the first information brought into the detective office about him was that obtained by Pauling from the Goldsteins on the evening of the 22nd. Mr. Walker then detailed Robertson and Surrige, as I have already stated, to watch his movements. They began to watch Cole's shop on Monday the 25th, and I have no doubt that during the week Scully became aware that he was being watched. He became alarmed, and he consulted Mr. Daley, a solicitor, who, he says, advised him to go to the police. Be that as it may, Robertson and Surrige accosted him on the morning of Saturday the 30th, and said that they had been informed that he had been supplying the I.W.W. men with the chemicals for setting fire to shops, and that he must go to the detective office with them. He was nervous and agitated, and he asked if he would be charged if he made a statement. On being assured that he would not, but that he would probably be used as a witness, he said that he would make a statement. He was taken to a room in the detective office, and he wrote out a long statement implicating Fagin, Beatty, Hamilton, and Teen. During the afternoon he went with Surrige to Burton-street, and pointed out the house where Fagin and some others lived, after which he returned to the detective office and drew a sketch of the building, and of the rooms occupied by Fagin, Beatty, and Teen. Mr. Walker gave instructions that if any of these three men were seen in the street, they were to be arrested quietly, and that the house was to be raided late that night or early the following morning. During that evening Teen was arrested and taken to the Central Police Station, where he was searched. He was wearing an overcoat and in the pocket of it, or in the lining,

Arrest of Teen.



Raid in  
Burton-st.  
Arrest of  
Fagin and  
others.

a bottle wrapped in brown paper, some cotton waste, and an old towel were found. Hooper asked Teen what the parcel was, and Teen replied, "An old towel." Hooper said, "Something more than an old towel," and Teen answered, "I suppose, soap." Hooper opened out the parcel and displayed the contents, and Teen then said that the coat did not belong to him, but that he had borrowed it from a man named Pope at the I.W.W. rooms that night. The contents of the bottle when subsequently analysed were found to be "fire dope" of a similar character to that previously described. A latch key of the house in Burton-street was found in Teen's pocket, and this was used in opening the door when the house was raided at about 1.30 a.m. on the following morning. Fagin, Beatty, and Pope were all found in the house, and were all arrested. A gladstone bag found in Fagin's room, and belonging to him, was searched by Leary and Robson. Robson took a small paper parcel from it, and asked Fagin what it was. Fagin said, "You know. You put it there." Robson asked him if he made that statement seriously, and he made an abusive reply. The parcel contained a bottle and some waste, and the contents of the bottle when analysed were also found to be "fire dope." Pope was taken to the police station with Fagin and Beatty, and while there he admitted that the overcoat which Teen was wearing when arrested belonged to him, but he denied that the things found in it were there when he lent it to Teen.

Scully's  
movements  
before the  
trial.

Scully was kept at the detective office that night, and on the following day he was sent away to the Mountains in charge of Surridge. He was brought down one day to Mr. Lamb's chambers, and Mr. Lamb went through his statement with him in detail, but, with this exception, he remained on the Mountains until the case came on for hearing at the Police Court on the 10th October. Robertson says that, after writing out his statement on the 30th, he made a fair copy and kept the original draft himself. While on the Mountains he wrote out a further short statement of something which, on reading his former statement, he found that he had omitted. Evidently, therefore, he had the original draft still with him, and was considering it. This added matter was sent by Surridge either to Mr. Walker or to Robertson. In addition to this, a statement was sent up to him by Robertson with a request that he would show it to Scully and ask him to read it, and then post it back, if correct. Surridge says that he did so, and that Scully added something to the statement, which was then sent back to Robertson. This document was a statement of additional information given by Scully at Mr. Lamb's chambers, including his statement as to the removal of the tattoo marks from the German escapee, Miller. After the Police Court proceedings he was again sent away to the country, Robertson being in charge on this occasion, and he remained away until the case came on for hearing at the Central Criminal Court.

Scully's  
character.

He impressed me as a criminally-minded man of a dangerous type. He has a smooth and plausible manner, he is possessed of an excellent memory, and he exhibited considerable restraint until aroused, which was not often. He is, I have no doubt, a man of cold and calculating temperament, treacherous, and quite unscrupulous. He is possessed of more ability, and considerably more education, than the Goldsteins. I dare say that he tells the truth, if he thinks it suits his purpose to do so, but I am equally certain that he departs from the truth without the slightest hesitation, if he thinks that the occasion requires it, and his ability and his resourcefulness enable him to produce a blend of truth and falsehood in which it is very often hard to distinguish the false from the true. It is not without justification that it has been said that :—

A lie which is all a lie may be met and fought with outright,  
But a lie which is part a truth is a harder matter to fight.

Whether or not he looks upon words as given to him to conceal the truth, he certainly uses them as weapons to evade difficulties or inconvenient questions; and Mr. Windeyer aptly described him as a man of subtle, glib tongue who, unless he was pressed very hard, would try to get out under a cloud of words. He would like to make it appear that he came into the case from a sense of duty, and because he was horrified at the calamity with which the city was threatened: In giving evidence on this inquiry he said, "When I found out what they were doing it was not, as it had been repeatedly said, with a view of protecting myself that I went and got into communication with the police. What I did was to stop it . . . . My idea was, through my solicitor, to explain just how I had got to know what I did know and to give them all the information possible." (874-875). I do not believe this. I dare say that Scully became frightened at the lengths to which his associates were prepared to go, and I dare say that he made up his mind to anticipate his own arrest and to "save his own skin" by becoming an informer, but I do not believe for one moment that he was the simple unsuspecting creature whom he

describes himself to be, who was unaware of what was afoot, and who woke up at the eleventh hour in startled and horrified surprise. He had instructed the members of the I.W.W. in 1914 in the use of fire-raising materials, and, in August, 1916, he supplied Hamilton with a considerable quantity of bisulphide of carbon; he was acquainted with many members of the I.W.W.; he was on intimate terms with Fagin; and he had been told about some of the fires. He said that bisulphide of carbon is used by bootmakers, and he attempted faintly to suggest that Hamilton was a bootmaker, but it was palpable that he was fencing with the truth, and I altogether refuse to accept his story that he supplied it innocently, and that, though he was alive to what was going on when he subsequently supplied the phosphorus, he let them have it, in order that he might, in the performance of his duty as a citizen, be able to use that fact in proving the case against them.

#### DISTRIBUTION OF THE REWARDS.

I think that the foregoing is a sufficiently full statement of the connection of these four witnesses—*i.e.*, McAlister, the two Goldsteins and Scully, with the case of *The King v. Reeve* and others up to the conclusion of the legal proceedings, and it may be convenient to state at this stage what reward they received for their services. The insurance offices belonging to the Fire Underwriters' Association of New South Wales agreed to contribute a sum of £250 as a reward for information leading to the arrest and conviction (within three months from the date of the offer) of the persons guilty of the attempts to cause the fires in the city, and the Government contributed an equal amount. In addition, Saxton and Binns, Ltd., contributed £100, so that there was a sum of £600 in all to be distributed. This was allotted as follows:—McAlister was given £250, Scully was given £200, the Goldsteins were given £60 each, and the balance was divided between two other men who had assisted the police. In addition to this, Scully received other sums from the Government for maintenance and other allowances, and the total amount received by him, including his share of the reward, was £370 10s. McAlister also received a considerable sum for maintenance, in addition to his share of the reward.

Before passing away from the matter of rewards, I also wish to say a few words as to the recognition of their services received by the various police officers engaged in the I.W.W. case. It will be remembered that the Goldsteins first approached Pauling on the 11th September, and that he received a bottle of "fire dope" from Davis Goldstein on the 15th September. The first entry in his diary in respect of his inquiries into the suspicious fires in the city is on the 15th, and his first written report in connection with information received from the Goldsteins is dated the 16th. As far as I know, the first intimation to the public of the reward offered by the Government and the Fire Underwriters' Association was contained in a paragraph in the *Sun* on the 15th. Mr. Windeyer said that this was significant, and he suggested that Pauling's conduct was governed by his knowledge of the reward (p. 776). I doubt whether this reward was meant to apply to services rendered by police officers in the ordinary course of their duty; but, in any event, I do not think that there is any reasonable foundation for this suggestion. As a matter of fact, too, Mr. Walker knew before the 15th that Turbet and Pauling were in touch with Davis Goldstein, and in December, 1916, before the distribution of the reward of £600, when called upon with other detectives for a report of his work in connection with the case, in order that it might be determined what should be done in the way of special reward or promotion, Pauling stated that he was approached by Davis Goldstein on the 11th September. The recommendations made by the Metropolitan Superintendent for the recognition of the services rendered by the detectives and other police officers in the I.W.W. case were put in evidence (*Exhibit 60*), but the extent to which they were given effect to was left in doubt. It seemed to me undesirable that there should be any room for speculation or uncertainty in the matter, and I communicated with Mr. Mitchell, the Inspector-General of Police, and asked for precise information. From the information which he supplied to me (by letter dated the 20th November, 1918), and from my perusal of the papers, I have ascertained that the position is as follows:—The only recommendations of the Metropolitan Superintendent to which effect was given were his recommendations for the promotion of Constable Mackay and Detective-constable Fergusson to the rank of third-class sergeant. Mr. Mitchell says that these promotions were part of a general scheme of promotion which took effect in January, 1917, and that it cannot be said that either of the men was promoted exclusively because of his connection with the I.W.W. case. In addition to this, gratuities were granted in January, 1917, to various members of the police force for satisfactory service during the year 1916, which was looked upon as one of exceptional activity

activity in regard to cases of serious crime. These gratuities varied in amount from £50 to £12 10s., and I think that all the detectives whom I have had, or shall have, occasion to mention, participated in them. I may add that the papers show that between July, 1917, and July last some of these detectives received special allowances in addition to their daily pay, but these were for services and work in no way connected with the I.W.W. case. In July, 1917, and again in January, 1918, Detectives Leary and Moore received special allowances of 1s. a day each, and in July, 1918, eight other detectives received a special allowance of 1s. a day each. This last-mentioned allowance was expressed to be for the purpose of recouping them in some measure for expenses incurred in the performance of their duty.

#### ACTION OF THE TRADES AND LABOUR COUNCIL.

I think that this will be a convenient stage at which to explain the appearance of the Trades and Labour Council upon the scene. It is evident that considerable interest was taken in Labour circles in the prosecution of these men, both before and after the trial. Mr. Judd says that his interest in the matter was first aroused by reason of the fact that documents, discovered by the police when raiding the rooms of the I.W.W., had by some means got into the possession of politicians, and were being unfairly used against the anti-conscriptionists in the conscription campaign. His active interest began before the trial took place, and it was on his motion that, after its conclusion, a committee was appointed by the Trades and Labour Council to collect evidence for the purpose of securing a fresh investigation, if possible, and to raise funds for that purpose. The proposal was rejected at first, but he enlisted Mr. Boote's aid, and, with his assistance, he succeeded in carrying his motion. A committee of five, called, I believe, The Defence and Release Committee, was appointed, and a fund, called The Defence and Release Fund, was established. Mr. Judd was one of the committee, and it was determined that he should devote his time to the investigation of the matter and the collection of evidence, and that he should act in conjunction with Mr. Boote, who was to do the journalistic work. Mr. Boote is the editor of *The Worker*, and he says that his reason for pressing for a fresh investigation was the conviction that arose in his mind, after a careful study of the evidence, that some of the men were innocent, and that the evidence was insufficient for the conviction of any of them (9408). Mr. Judd takes much the same view. He says that, in his opinion, the men did not get a fair trial, and should not have been convicted on the evidence; and he thinks that the majority at all events were innocent (7966). In speaking of the innocence of the men, I think that he and Mr. Boote refer more particularly to the charge of conspiring to commit arson. Mr. Boote does not say so in express terms, and I cannot, therefore, speak with certainty as to him; but Mr. Judd said "Knowing several of the men, I did not believe, and I do not now believe, that they were guilty of arson. I knew Glynn. I had met Glynn, and I had met Grant. The other men I did not know, but I did not believe, from what little I did know of those men, that they would be guilty of arson, but I have never made any statement as to the innocence of the whole of the men. I would like, your Honor, to add this, that the innocence or otherwise of the men, the whole of them may have been guilty of what Judge Pring referred to as stirring up disaffection between employer and employee—I would not say that that could not be said against them. When I say the men were innocent, I mean innocent of any conspiracy or incendiarism." (7966). Mr. Judd, is, I gather, opposed to the present system of society, which he and others, who think like him, speak of as the "capitalist system" (8584); and he says that the flag above others that his class should honour is the red flag of the revolutionary movement (8497). He says, however, that he has never associated himself with the I.W.W., and that he has been denounced by that body for denouncing sabotage. Mr. Boote says that he is entirely opposed to the doctrines of the I.W.W., and that he has never been associated with them in any shape or form. He said "I have not been animated by any other motive except that of a wish to see that justice should be done to these members of the working class; I have not got any political motives in view of any kind at all." (9408). I am not, of course, concerned in this inquiry with the political opinions, however extreme, entertained by the different witnesses. However subversive of the present order of affairs a man's political views may be, he may be quite honest in his belief that there are circumstances requiring that the I.W.W. case should be further investigated; and I should not have considered it necessary to touch on the political views held, or said to be held, either by Mr. Boote or Mr. Judd, if it were not that Mr. Shand said that he wished to elicit the motives animating those who were taking an interest

Appointment  
of the Defence  
and Release  
Committee  
to collect  
evidence.

interest in the re-opening of the case. Mr. Judd's suspicion and distrust of the good faith and sound judgment of constituted authority, and his confidence in his own judgment, are curiously illustrated by some of his evidence. He only met King twice, he thinks (8508), and, though he has no knowledge of his character or of the characters of some of the other men, except what he derived from their utterances when speaking at public meetings at which he was present, he regards them as innocent of the offence of which they were convicted (8508-8514). He said that the knowledge that King had been convicted of participation in the note forgery case would only raise a suspicion in his mind, and that he would not alter his opinion of his character unless he went through the evidence and weighed it for himself (8590-8596). This refusal to accept anybody's judgment but his own is a conceivable, if rather an impracticable, position to take up, but I should have thought that it would carry with it an obligation to study the facts of a case carefully before expressing, and acting upon, an opinion, and it is rather surprising to find that, though Mr. Judd thinks that the majority of the men were innocent (of the crime of arson at all events) and that none of them should have been convicted on the evidence, and though he was one of the first to move in the matter of obtaining a fresh investigation, he has not yet—two years after the event—had time to read the whole of the evidence against the men whom he believes to be innocent (8514-8516). I do not mean to suggest that he cannot be serious in his belief. As far as I can see he is, but it shows that his opinions are not based, like Mr. Boote's, on a careful study of the evidence, and of necessity it deprives them of any substantial value.

Some of the examination of the witnesses on this inquiry was aimed at ascertaining whether the police had been parties, in any improper way, to the unfair use said by Mr. Judd to have been made for political purposes of documents discovered by them in the performance of their duties. I do not think that any blame attaches to them in this respect, but, as the matter has been referred to, I think that it is desirable that I should state shortly what light has been thrown upon the circumstances. One of the documents referred to was a list of members of the I.W.W., which was said to have been unfairly made use of by Mr. Hall, the Attorney-General of the State—the suggestion being, as I understand the evidence, that it was sought to identify the opponents of conscription with the I.W.W., and then to show, by means of the names on the list, that the members of the I.W.W. were enemy subjects, and Germans in particular. Apparently a book, containing the names of the members of the I.W.W., was seized in the raid made on the 23rd September. The Crown Solicitor says that the military authorities copied the list at the Central Police Court while the case was being heard, and that, at his request, they supplied him with a copy. That copy was placed among the papers in his office, and it is quite likely that, in that way, it came to the knowledge of the Attorney-General. I am not, of course, concerned to express any opinion as to any use that he may have made of it while the criminal proceedings against these men were still pending; and my only reason for referring to the matter is to say that the evidence does not suggest that the police were in any way responsible for the use made of it, and to express my belief that they did not lend themselves to the supply of information to be made use of for political party purposes. The other document referred to by Mr. Judd was an undated letter written by Mr. Anstey, a member of the House of Representatives of the Commonwealth, to Tom Barker, in which he said, "I am with you to the hilt. I wish you could send me a couple of those posters. Good luck to you." Detective Moore says that he reported the discovery of this letter to Mr. Walker, and that he considered it sufficiently important to have some photographs taken of it. Whether one of these photographs was supplied to the military authorities or not, I do not know, but, in any event, if they went through the documents at the Central Police Court, as apparently they did, they would discover the existence of the letter, as it was put in evidence; and I think that it was probably in some such way as this that the knowledge of its contents came to Mr. Hughes, the Prime Minister of the Commonwealth. However that may be, there is nothing to suggest that the police acted improperly in the matter, and I see no reason for believing that they did. Some criticism was directed to the fact that a facsimile of the letter appeared in *The Sun*. Any suggestion that the police lent it for reproduction is got rid of by a letter written to me by Mr. Delamore McCay, the Associate Editor of *The Sun*, in which he said that evidence could be given by the reporter of that newspaper who was engaged on the case at the police court that he saw a photographic copy of the letter in Mr. Lamb's possession, and asked for and obtained it. I did not think it necessary to call the reporter of the newspaper to state this on oath, but I showed the letter to Mr. Windeyer in order that, if he wished to ask any further questions about it, he might be able to do so.

Documents  
used for  
political  
purposes.

MOVEMENTS

## MOVEMENTS OF THE FOUR INFORMERS AFTER THE TRIAL.

I pass now to consider the parts played by the four informers in the case, after the conclusion of the legal proceedings and before the opening of this inquiry.

Scully's  
movements.

Scully was the central figure I think during this period, and it will be convenient to begin with him. The appeal by the convicted men was dismissed on the 5th March, 1917, and he received his share of the reward in the latter end of May. He and McAlister were frequently together at about this time, and he says that they were both dissatisfied with the remuneration received for their services. Within a very short period after being paid they both consulted a solicitor for the purpose of taking proceedings, but whether in point of fact McAlister actually began any proceedings I cannot say. He died on the 26th July, 1917, and it may be that he had not taken any steps to give effect to his intention. Scully presented his petition for the appointment of a nominal defendant on the 28th June, he issued his writ on the 16th August, and the pleadings were completed and issue joined on the 5th October. After that the proceedings languished, probably for lack of funds. Apparently his solicitor made some attempt to compromise the claim, but the Government only offered a nominal amount. In his declaration he sued

His action  
at law.

(1) on an alleged agreement with the Government by which it was agreed that, if he would supply information leading to the conviction of members of the I.W.W., and would hold himself in readiness at all times to attend on the police and the legal advisers of the Government, and to give evidence at the trial, the Government would compensate him for any loss or damage sustained thereby and would, in addition, pay him a sum of money by way of reward for his services; and

(2) to recover for work and services rendered by him to the Government as its hired servant.

He alleged that the sum of £200 which he had received was insufficient to satisfy his claim under his agreement, and he claimed the sum of £2000. The Government denied the alleged agreement, and, in respect of the claim for work done and services rendered, it said that that had been satisfied by the payment of a sum of £370 10s. The allegation of an agreement between Scully and the Government was not based on any foundation of fact. No such agreement was ever made. Scully admitted that on this inquiry. He said that his claim was for compensation for services rendered, but that no promise was made to him by the Government that if he procured information leading to a conviction he would get compensation. (670-672). His claim, if any, could only be based on the implied promise contained in the acceptance of his services, and the Crown took up the attitude that the amount which he had received was adequate in the circumstances. Either voluntarily or involuntarily, he remained idle until after the strike of railway employees which took place in the beginning of August. That strike quickly spread to the waterside workers. Coal was declared "black," and the coal lumpers, who had formed themselves into what was known as the "coaling-battalion," refused to load transports and came out on strike. Volunteer labour was obtained in their place, and these volunteers, or "loyalist workers," as they were called, formed themselves into an industrial union known as the Port Jackson Coalworkers' Union. Scully was one of those who volunteered, and he worked on transports, either at Dawes Point or Garden Island, until about the end of February, 1918. He became one of the Vice-Presidents of the Union. I do not know exactly when the Defence and Release Committee came into existence, and I do not know how Mr. Judd fared in the earlier stages of his investigations, but I do not think that very much headway had been made in the discovery of fresh facts up to the end of January, 1918. I do not think that the Committee had been in existence very long then, and I do not think that it was known what had become of Scully or the Goldsteins. Mr. King, a journalist on the staff of *The Daily Telegraph*, says that he met Surridge at the Victoria Park races on the afternoon of Saturday, the 2nd February. He says that he told him that he had an idea that all was not right with the I.W.W. case, and he asked him if he could give him any information. Surridge was very reticent, and said that in the event of an inquiry being held he might possibly be able to give information, but that he was a married man dependent on his job for his living, and that consequently he did not feel inclined to say anything. He suggested, however, that if King wanted to get information in connection with the case he should see Scully at the coaling battalion. He also said (I am of course quoting King's evidence) that he was very much aggrieved at the treatment that he had received from the Department in connection with the case, and that, though he had played a very prominent part in it, he had been shelved to a certain extent and had not been treated fairly. Surridge says that he was at Victoria Park racecourse on that day and that he knows King, but he denies that he had any conversation at all with him at the racecourse. He says that before

Formation  
of the  
Port Jackson  
Coalworkers'  
Union. Scully  
becomes  
vice-pre-  
sident.

King meets  
Surridge at  
Victoria Park  
races.

before this King had on more than one occasion asked him to divulge Scully's address, but that he refused to do so as Scully feared that he might be molested if it became known where he was. King denies this. King says that he wrote to Mr. Mutch that night telling him that he knew where Scully was, but that he got no reply. Mr. Mutch says that he first heard something as to Scully's whereabouts two or three days before the 5th; and he thinks that King was his informant. On Tuesday, the 5th, a question was asked in Parliament about Scully's employment in the coaling battalion. King heard of this, and sent a message to Mr. Mutch through Connolly, another journalist also at that time on the staff of *The Daily Telegraph*, and the three of them decided that it was advisable that they should see Scully as soon as possible. They feared that, if the information conveyed in the question was correct, official inquiries might be made, and Scully might lose his employment and disappear. King had to return to *The Daily Telegraph* office, but the other two went off, there and then, to try and find Scully. They found him at Dawes' Point, and had a conversation with him, and they say that, immediately afterwards they went to *The Daily Telegraph* office and typed out a statement of what he had told them concerning the I.W.W. case. Two copies of the statement were made, and one of them (Appendix "A") was produced to me by Mr. Mutch. Scully told them that in his opinion Grant, King, Larkin, Moore, Reeve, and Glynn knew nothing about the affair, and that there was no such person as Mahony. He also expressed the opinion that McAlister's death was due to foul play, and he said that when Mr. Walker heard of it he remarked, "Thank God, that's one of them gone!" I do not propose to go through the statement in detail, but, amongst other things, he told them that Fergusson, Leary, Lynch, and Robson did "the dirty work for the police," that "Pauling fixed the Goldsteins," and that the evidence as to the drawing of the discs was arranged by Leary. This conversation, which lasted until after midnight, appears to have been regarded as in the nature of a preliminary discussion, and an arrangement was made that Scully should visit Mr. Boote at the office of *The Worker* on Thursday, the 7th. King and Connolly, who were evidently taking an interest in the matter from the point of view of journalists anxious to secure news of interest to the public, regarded the information given to them by Scully as of value, and, before going to see Mr. Boote, they went on the 6th—that is the day after the meeting with Scully—to Mr. Braham, the editor of *The Daily Telegraph*, and to Mr. Peters, the *News* editor. They told their story to Mr. Braham, and, after considering the matter for some days, he finally decided not to take it up in the columns of *The Daily Telegraph*. He thinks that the interview with King and Connolly took place at about the beginning of March, but he was speaking from recollection, and I see no reason to doubt the truth of the statement made by King and Connolly that they went to him immediately after Scully had been seen. They told him that various things had led them to suspect that the evidence given at the I.W.W. trial was not genuine, and that they had seen Scully, who had told them in effect that, though he himself had not committed perjury, he had left out evidence that would have told on the other side, and that the evidence given by other witnesses was not genuine evidence, but was arranged for by the police. He asked how Scully justified his connection with the case, if, to his knowledge, false evidence was put before the Court, and Connolly replied that Scully had said that he was in the power of the police, and that he could not help himself—the suggestion being, apparently, that his past career was such that he was obliged to do whatever the police wished. Mr. Braham also says that King's suspicions, so he gathered, seemed to have been aroused by various things which he had heard and seen in his intercourse with the police on his duty, and, though he cannot remember who the detective was or where the conversation took place, he remembers that King told him that in the course of conversation one of the detectives had said something to the effect that a lot of dirty work had been done in connection with the trial, and that he was sick of his whole connection with the detective force and would be glad to get out of it. Connolly has since been dismissed from the staff of *The Daily Telegraph* because his work was not satisfactory, but King is still on the staff, and Mr. Braham says that he has always found him perfectly truthful and straight in all his dealings in the office, and that as far as he knows he is a conscientious journalist. Now Surridge, as I have already pointed out, not only denies that he told King the things which King says he told him, but he denies that he had any conversation at all with King on the racecourse on Saturday, the 3rd February. It is not, therefore, a case of differing recollections of a conversation admitted by both to have taken place. If Surridge is right, King is inventing something which never happened. Why should he do so? It may be suggested that the keenness of his enthusiasm as a journalist led him

Mr. Mutch  
and Connolly  
visit Scully at  
Dawes' Point.

to

to overstep the boundary between truth and falsehood, but Mr. Braham describes him as a truthful man, straight in his dealings, and a conscientious journalist, and, if he invented the story, he must have invented it at a time when there was no object to be served by doing so. Mr. Braham's recollection of what took place is not accurate, but it is evident that, on the first occasion on which King saw him about this matter, he told him of a conversation with a detective, and I have no doubt that the conversation referred to was that with Surrige which has been deposed to. I have to choose between King and Surrige, and I do not believe that Surrige is telling the truth in denying the existence of any such conversation as King speaks of. King may not be accurate in his recollection of all the details of the conversation, but I believe that he is speaking the truth in saying that he had a conversation with Surrige, and I believe that he is telling the truth in saying that Surrige told him where Scully was to be found.

Scully and others visit Mr. Boote's house.

Scully, King, Connolly, and Mutch went to the office of *The Worker* on the 7th February, but Mr. Boote was not there, so they all went out to his house at Rose Bay. A long discussion took place between Mr. Boote and Scully, in which Scully went over a good deal of the ground which he had covered in his conversation on the Tuesday night, and in which he urged that the best method of eliciting all the matters going to show that a false case had been made against the imprisoned men would be for the Defence and Release Committee to assist him in his action against the Government. Mr. Boote says that he did not agree with that, and that his contention was that the best thing to do was to procure a Royal Commission, if possible. He says that he remembers that he asked Scully if the evidence that he could give would be of such a nature as to break down the case against the I.W.W. men, and that Scully replied that it would be of that nature. Asked if he remembered anything else about Scully's evidence, he replied "I only remember that anything that Mr. Scully told us did not in any way reflect on the evidence that he had given at the trial. He was very reticent about his own evidence; while he was very willing and ready to speak about the evidence given by McAlister and others, he said nothing about the evidence that was given by himself. I noticed that particularly" (9224-9225). I gather from his account of the interview that Scully pressed very hard all the time for financial assistance in working up his case against the Government. King says "Right through he gave the impression that he was to a certain extent trying to find how he stood with us, and whether he had any possibility of getting anything from us" (11175); and Mr. Boote says that the idea that he formed in his mind was that Scully was keeping something back, because he said nothing about his own evidence (9228). Evidently Scully did not give those who saw and talked with him that day the impression of being altogether candid and straightforward. No decision was come to. It was understood that he was to communicate with Mr. Boote, or some of the others, later on, but no appointment was made. He went back to his work at Dawes' Point, but shortly afterwards his association with the I.W.W. and the part which he had played in the criminal proceedings became known, and, after obtaining a copy of the depositions and after hearing what he had to say, a resolution was carried at a meeting of the executive on the 26th February declaring that he had been found guilty of not being a fit and proper person to be a member of the union, and directing that he be expelled. A copy of the minutes of the meeting was produced, and it appears from them that Scully said that he had supplied the chemicals with the knowledge and consent of the police, and that he had been instructed to ask Fagin to return them to him to enable the police to catch him. He also said among other things that he was taken to the heads of the police, and that they asked him to work along independent lines to get information, and he said that the detectives gave him authority to remove the tattoo marks from Miller, the German. Scully denies that he said any of these things, but they are recorded in the minutes of the proceedings; and, though of course it is possible that what took place was not accurately or fully reported, it is not likely that the entries were invented. If he *did* say what he is reported to have said, it shows how ready he was to lie, and to twist the truth, in an emergency. He is inclined to suggest that the police had something to do with bringing about his expulsion from the union and his loss of employment, but there is no evidence to show that they interfered in any way to prevent him from getting employment. On the contrary, all the evidence indicates that they did what they could to help him. I am not surprised, however, that the members of the union, knowing who he was, did not wish to have him amongst them, and, on the other hand, I was surprised to be told by Mr. McKell, the manager of the Shipping Labour Bureau, that the members of the Bureau were quite prepared to allow him to continue to be a coal worker. If this means that, knowing his antecedents

Scully is dismissed from the Port Jackson Coalworkers' Union.

antecedents, they were prepared to take the risk of continuing to allow him to have anything to do with the coaling of transports, their action surprises me, unless the explanation is that they looked upon him as a trustworthy spy upon the movements of others.

After the meeting at Mr. Boote's house, Mr. Mutch, Mr. King, and Mr. Connolly appeared to have dropped out and matters were left in Mr. Boote's hands. He heard nothing more of Scully until the 4th March, when he met him in town and made an appointment with him to meet Judd at the office of *The Worker* on Friday the 8th. Scully was reluctant at first, but afterwards consented, and a meeting took place on Friday morning. He was still very anxious that they should take up his case (I am quoting from Mr. Boote's account of what took place), but they were opposed to that course and were anxious for the appointment of a Royal Commission. They suggested that he should write a statement, but he objected to this, as it would lay him open to a prosecution for perjury. He suggested that, if he made one, he should be given sufficient money and sufficient time to get away to America before any use was made of it, but it was pointed out to him that a statement in those circumstances would be valueless, as he could not be produced for cross-examination. Mr. Boote says that no conclusion was arrived at then, but that Scully agreed to meet Judd again and discuss the matter further with him. Mr. Judd's account of what took place agrees substantially with Mr. Boote's, and he says that Scully was so persistent in asserting that a statement made by him would be of value, even though he might be in another country when it was desired to use it, that he consulted a solicitor in the matter, and obtained an opinion, which he showed to Scully next day. Scully considered that this was not sufficiently encouraging to lead him to take any risk in the matter, but, according to Mr. Judd, he said that he was prepared to give him a statement of all that he knew regarding the case, with the exception of such portions as in his opinion would render him liable for perjury. He said that as he was looking for work at the time it might be some weeks before he could write out a statement in full, but he was unwilling at that time to accept any payment for his services, and preferred to look for employment. From that time till about the 26th or 27th March, he visited Judd two or three times a week, and on the 26th March he brought him a written statement. When brought it was incomplete, but he finished it in Judd's presence. Judd says that he called his attention to the fact that certain specific statements which had been made to him and Boote were omitted from the written statement, and that he supplemented it by adding them. He also called his attention to the fact that there were certain other matters, which he had referred to in general terms, and which were not included in the statement, and Scully indicated that to give a full statement of all that he knew would render him liable to a prosecution for perjury, and said that he would not do this except upon condition that he was given sufficient money to get to America, and to start life anew in another country before his statement was made public (8777, &c.) A copy of the statement is appended hereto (Appendix "B"). It consists in part of statements said to have been made to Scully by McAlister, by Goldstein, and by different detectives, all going to throw doubt upon the *bona fides* of the case put forward by the Crown at the trial; and it bears signs of having been carefully prepared so as not to expose Scully to any charge of having himself given perjured evidence. Amongst other things, he said that Surridge told him that Robson put the "fire dope" in Fagin's bag; that Robertson told him that in his opinion most of the police evidence in the case was "rigged," and that Robson was getting into the habit of finding "fire dope" with the men when they were arrested; that McAlister told him that he held the career of three of the detectives in the hollow of his hand; that the detectives supporting his evidence had all sworn lies; and that Leary had fixed up the evidence about the drawing of the discs to see who would start a fire; that Davis Goldstein had told him that he knew that there was a lot of crooked work in the case, and that he knew about some of it; and that there was a good deal of dissatisfaction amongst the detectives over promotions and the distribution of rewards. One of the statements made in this connection was that Robson told him that he was disappointed about not getting promotion, and was going to fight Walker for it, and that Robson afterwards told him that he had had "a go with Walker, and had got fixed up, and that he was going out to Long Bay as chief accountant." Another was that Pauling, on being told that Walker had suggested that the Goldstein's share of the reward had been handed over to him, said that "he would be in no more of Walker's dirty cases, that he was trying to get out of the Criminal Investigation Branch, and that if Walker did not take care he would find himself in serious trouble." Scully evidently experienced a difficulty in earning a livelihood after leaving

Scully agrees to meet Judd

Scully meets Judd

Scully's written statement.



leaving the Coal-workers' Union. He says that he had saved a little money, and that he got a little work in wool stores and at book-keeping, but he continued to see Judd at intervals after their first meeting on the 8th March until a few days before his departure from Australia on the 26th June, and during that period he received about £44 in all from him. In addition to the statement already referred to, he gave Judd a series of notes or commentaries upon the evidence in the case containing direct statements as to the falsity of some of the evidence, as well as suggestions of untruthfulness; and he also supplied him with a good deal of information about the formation of the Port Jackson Coal-workers' Union.

Up to the time when Scully made his written statement, Judd had not met Davis Goldstein; but, through Scully's instrumentality, they were brought into contact with one another about this time, and Judd obtained a written statement from Goldstein. I shall have something more to say about this when tracing the movements of the Goldsteins after the conclusion of the trial.

Meeting  
between Judd  
and Surridge.

In addition to arranging a meeting between Judd and Davis Goldstein, Scully also brought about a meeting between Judd and Surridge. This took place in Hyde Park, shortly after Judd's meeting with Goldstein. Judd says that he told Surridge that he was investigating the case on behalf of the Labour Council, and that he had come to the conclusion that while Surridge's hands were clean in the matter he knew where the weak spots were in the case. He went on to say that he was under the impression that, if Surridge could be safeguarded or guaranteed against loss in telling what he knew about the case, he would perhaps be prepared to make a statement. Surridge said that he had a good position, that his home and interests were "here," and that he was not prepared either to make a statement or to discuss the case at all, but that, if a Commission were appointed he would tell the truth. Judd says that he asked him if he could give him any indication where to look to secure evidence, and that he said, "Have you seen Goldstein?" Judd replied that he had not, and Surridge then said something to the effect that it would be wise to get in touch with him (7772-7775). Surridge admits that a meeting with Judd was brought about by Scully, but he gives a different account of what took place. He says that Judd said, "With Mr. Boote and Kavanagh I have been selected by the Labour Council to make inquiries into the I.W.W. case . . . . The gaoling of these men was a political move on the part of the National Government to crush Labour and to enforce conscription. We Labour men will have to do something, or else they will bring on the conscription issue again. I have been advised to see you, as you were one of the arresting officers in the I.W.W. case, and might be able to tell me something." Surridge replied, "I have got nothing to tell you." Judd then said that he was going to see other Crown witnesses, and Surridge replied that he might please himself as to whom he saw. He denies that any mention was made of the Goldsteins (29485-29491). Judd admits that, in telling Surridge, as he says he did, that he had not seen Goldstein, he was not speaking the truth, and was deliberately deceiving him. Again I have to choose between Surridge and another witness, and I think that it is more probable that Judd is speaking the truth in saying that Surridge asked him if he had seen Goldstein than that he invented this. His admission that he did not speak the truth in answer to Surridge's question affords to my mind some evidence that he was speaking the truth in the witness-box. If he had been inventing the evidence, there would have been no necessity to invent a story which would compel him to admit that he had told an untruth. He admits that he told an untruth on that occasion to Surridge, and, according to Davis Goldstein's evidence, he allowed statements to be made in Parliament purporting to emanate from Scully which, in fact, came from Goldstein. Goldstein's statement, which was uncontradicted, is this: "After that I saw Judd—made an appointment with him and saw him. I said, 'I understand that parts of my statement that you maintain are Scully's have been given to Parliament, and have been brought before Parliament by Messrs. Mutch and Brookfield as Mr. Scully's statements.' He said, 'Yes.' He said, 'We thought it better not to mention your name.' I said, 'That is all right'" (2858). It may be that Judd thought that the circumstances justified a departure from the strict truth on the two occasions referred to, and that no injury could be done to anyone by that departure, but they have to be taken into consideration in determining the credit to be given to his testimony. I am bound to say, however, that, except for these two instances in which he did not adhere scrupulously to the truth, and except that, when asked whether he advocated "go-slow" tactics, he appeared to me to evade the question in preference to answering it candidly (8527-8529), he impressed me as a witness who was not only possessed

possessed of a very retentive memory, but who was anxious to be accurate in his statements. I have already referred to his suspicion of anyone in authority. An additional instance of this was afforded by his statement, when his counsel suggested that I might like to look at a document during an adjournment, that he wished to have it photographed before it passed out of his possession. He said, "I do not wish to reflect in any way upon your Honor, but documents have got out of possession of the Crown Law Department before now, and in case we want it in future, and perhaps for some wider investigation, it may disappear" (564). I do not suggest, nor do I think, that any personal disrespect was intended, and I merely refer to this episode as illustrating the attitude of suspicion of, and disbelief in, the honesty of those in authority which manifested itself throughout the inquiry, and because I think it right to emphasise the fact that people who are ready to impute want of good faith to others should be more than usually careful to see that their own conduct is not open to unfavourable comment. I think, for instance, that there was an obligation to be perfectly candid with Parliament, and Mr. Judd's admission that, with his concurrence, Parliament was not treated with perfect candour does not reflect creditably upon him. Notwithstanding this criticism, however, I believe, as I say, that in giving evidence on this inquiry he was animated by a desire to depose accurately to such facts as he knew, and, as I say, I am prepared to accept his statement in preference to that of Surridge in reference to the mention of Goldstein's name.

Although, however, Scully continued to keep in touch with Judd until shortly before his departure from Australia, and continued to get what money he could from him, he had evidently made up his mind some little time beforehand that he was not likely to get any assistance from that quarter in prosecuting his claim against the Government, and that, if he wished to secure any large sum of money, he must look elsewhere. It is evident, too, that he realised, or was beginning to realise that, after all that had happened, it would probably be difficult for him to earn a livelihood in this country. Evidently, too, he had lost confidence in his action at law as a means of raising money. In the latter end of April he went to see the Crown Solicitor about the grievances that he was labouring under, and he was sent from his office to Mr. Mitchell, the Inspector-General of Police. Mr. Mitchell saw him, and told him to put what he wished to say in writing. Scully thereupon wrote a letter, which was undated, but which was received by Mr. Mitchell on the 26th April. In that letter (Appendix "C") he referred to the fact that he had been expelled from the union owing to questions asked in Parliament, and he said that since February he had been unable to find employment of any kind, although he had had the aid of many influential friends. He added that it was apparent that he had no other course but to leave Australia and live under another name, and he said that he considered that a thousand pounds would hardly be sufficient to place him in a similar status in society to that which he was in prior to the case. It is interesting to observe that, though prior to writing this letter he had been to Judd and had made his statements accusing the police of having perverted the course of justice by deliberately putting forward a false case, he nevertheless said that he thought that the Government should grant him adequate funds for a fresh start in another country, in view of the great assistance he had rendered to the police department in its service to the country. The police had rendered no service to the country if they had been guilty of the perjury, and the subornation of perjury, with which they were charged in his statement to Judd. Mr. Walker reported that, in view of all the circumstances, he considered that Scully had been well paid for any service he might have rendered the State, but Mr. Mitchell was of opinion that an additional amount might be recommended to enable him to leave Australia. The matter was then referred back to Mr. Walker, who reported that Scully was willing to leave the country, if he could get sufficient to pay his debts and his passage money, and to provide himself with an outfit and a sum in hand for his needs on reaching his destination. He said that £150 would be necessary for this purpose. Mr. Mitchell recommended to the Chief Secretary the payment of a sum of £150 for this purpose, and the Chief Secretary approved. A passage was secured for him in the s.s. "Ventura," which sailed on the 26th June. His debts were paid; he carried a few pounds with him for his needs on the way, and he took the balance of the money in the form of a draft on London. He told Judd that he was negotiating with the Crown for a settlement of his claim, but it is needless to say that he did not tell him that he had any intention of leaving Australia, or that he was endeavouring to get money from the Government for that purpose. In fact, he left behind him a letter to be given to Judd, purporting to bear date as of Friday, the 28th June, in which he said, "Just

Scully's  
desire to leave  
Australia.

Scully leaves  
Australia on  
26 June, 1912.

a line to let you know I have run up North for a week or so. I received word on Wednesday to go up and fix things. I don't think I will be longer than a week. If delayed further, will let you know." He made a number of contradictory statements in connection with this letter. He said that it was written before he was absolutely certain that he was going to America, that his directions were that it was to be delivered to Judd after he had gone to Queensland, and that he countermanded those directions before sailing. When shown the date on it, he expressed a doubt whether that part was in his handwriting, but it was perfectly obvious to anyone watching his demeanour at the time that he was lying as best he might to try and get out of a difficult situation. I have not the shadow of a doubt but that the letter was intended to deceive, and was intended to be given to Judd after his departure for America, in order that he might be well away from Australia, and from all reasonable possibility of pursuit, before the fact of his departure became known. Judd was unaware of his departure until the night of the 3rd July. He was then told of it, just as he was stepping into the train for Melbourne, and he was so much disturbed by the news that he left the train at Picton and took a car back to Sydney. He saw Mr. Daley, Scully's solicitor, next day, and Mr. Daley told him that he was wrong in thinking that Scully had been deported. I doubt whether he was satisfied with Mr. Daley's denial, but he could not get any further information in the matter, and felt himself obliged to accept it. So well, in fact, was the secret of Scully's departure kept that the Attorney-General, and apparently other members of the Ministry, were ignorant of the fact when a discussion as to the appointment of a Commission took place in Parliament. The Attorney-General was asked to promise that Scully would be allowed to remain unmolested until all that he could tell of the case had been told, and he gave an assurance that he would communicate with the Federal authorities and ask them not to take any steps to remove Scully from the country while the Government's consideration of the case was pending; but the next day he informed the Members of the Legislative Assembly that, when taking steps that morning to see that his undertaking was given effect to, he learnt to his surprise that Scully had left Australia during the previous month. The police authorities at San Francisco were thereupon communicated with by cable, requesting them to ask Scully to return to Sydney, and to inform him that the Government would guarantee his passage money and reasonable expenses during the whole period until he reached his destination in England. These communications reached San Francisco in time, and Scully returned to Australia. He reached Sydney on the 20th August, and was brought directly from the steamer to give evidence on this inquiry. I do not think that any credit is due to him for his willingness to return. From what he says it is apparent that news of his association with the I.W.W. had reached the authorities in the United States, and on his arrival he was arrested by the Immigration authorities for a breach of the Immigration laws. His choice, no doubt, lay between returning comfortably at the expense of the Government of this State; and being deported by the Government of the United States at his own expense, and, in all probability, with scant ceremony and little comfort.

I have pointed out more than once that he is a man who tells the truth or not just as he thinks that the exigencies of the case, or his own material interests, require. Pepper, whose evidence I see no reason to doubt, says that he told him that he had got money to put the men into gaol, and that he would get more to get them out, and that he asked him to back him up in making false statements (30372-30381). Mr. Weaver says that, though in conversation with him Scully denied that he was "out for sale," he added, "but one does not know what a man is compelled to do when he is up against it" (26860); and Surridge says that when he saw him on the "Ventura," on the day of his departure, he said, "Judd and his mob have been worrying me and I told them some tales. I got a few quid out of Judd, and I am going away (29479)." It suited him to tell lies to Judd, and so he told lies. No doubt, as Mr. Shand said, he wished to enlist his sympathy, and that of those associated with him, and he thought that this would take some practical form which would help him to put money in his purse. For this purpose he was prepared to say whatever he thought would be most acceptable to those who sought him out, and would be most likely to assist him in gaining his end. I have no doubt that, at that time, this seemed to him the most likely way of getting money. His intention was that his statement should not be made public until he had left Australia, but as time wore on, and he saw that there was no prospect of making anything substantial out of his law suit or out of Judd, and that publicity might at any time be given to his statement, he realized that the situation was becoming awkward, and so he shaped his plans to steal away silently without letting Judd know that he was leaving the country.

MOVEMENTS

Arrangement for Scully's return.

## MOVEMENTS OF THE GOLDSTEINS AFTER THE TRIAL.

The unenviable notoriety obtained by the Goldsteins through their connection with the bank-note forgery case led to the termination of their career as clothing manufacturers, and they found themselves obliged to seek some other means of livelihood. In January, 1917, Louis Goldstein became the licensee of the Grand Hotel at Wyong, and he and his brother carried on a publican's business at that hotel in partnership. To obtain a publican's license, it was necessary for him to furnish satisfactory evidence of good character to the licensing authorities, and he submitted the names of Turbet and Pauling, and of his solicitor, Mr. Cohen, as those of people who might be referred to in that behalf. Application was made through the local police officers at Gosford for a report from either Turbet or Pauling as to Louis Goldstein's character and his fitness to conduct an hotel, and a report in writing was obtained. In its terms it purports to be a joint report by Turbet and Pauling, but it is only signed by Turbet. It is as follows:—

Louis Goldstein becomes licensee of the Grand Hotel at Wyong.

He refers to Turbet and Pauling for evidence of character.

We beg to report that on the 8th September last, the applicant was arrested on suspicion of being concerned in the forgery of £5 notes, but it was found that there was no evidence against him and he was discharged. The suspicion arose through his brother being associated at one time with certain members of the I.W.W., who were concerned in the forgeries, and he was being blackmailed by them for being an employer of labour, contrary to their rules, and having been at one time a member of their association. Applicant has for the past two years been the proprietor of a clothing factory in Sydney, and had contracts from the Military Authorities. He gave valuable evidence for the Crown in the recent I.W.W. conspiracy charges.

We are of the opinion that he is a fit person to hold a hotel license.

In the circumstances of the case, Louis Goldstein's selection of Turbet and Pauling as people who might be referred to for evidence of good character strikes me as savouring of considerable impudence, or surprising confidence; and, knowing what Turbet did of the extent to which he was said to be implicated in the forgery scheme, and knowing how important it is that men who hold publicans' licenses should be men of good character and respectable associations, I am surprised that he should have looked upon him as a fit and proper person to hold a license, or that he considered that he was furnishing such a complete statement of the facts as to his past career, so far as he knew them, to enable the licensing authorities to form a proper judgment in the matter. There was no legal evidence, it is true, that the Goldsteins had financed the forgery scheme, and the allegation that they were present when the notes were being printed could not be proved after Tighe's failure—honestly or otherwise—to identify them, but there is no doubt that, among the police officers and others engaged in the case, the belief prevailed that they had assisted in financing the scheme; and I am surprised that, in these circumstances, Turbet should not have referred to any ground of suspicion against Louis Goldstein except that which arose through his brother's association at one time with the I.W.W. Turbet still retains the belief that the Goldsteins were mixed up in the forgeries, though he says that he never formed the impression that Louis Goldstein was implicated to the same extent as his brother. He believes, however, that they both had a criminal intent, and that they were both concerned in the forgeries, more or less (25818-25834). Pauling held a somewhat similar view. He thinks that, looking at the matter as a policeman, he must consider that the Goldsteins were connected with the case, and he has no doubt that Davis Goldstein was a criminal, but he is a little bit doubtful about Louis Goldstein by reason of the fact that he was never connected with the I.W.W., and because, in his opinion, the note forgery scheme emanated from members of that body (24404-24413). He says, however, that Louis Goldstein is not a business man whom he could respect, that he would not say that he was not connected with anything dishonest, and that he thought, and still thinks, that he was a little bit connected with the note case (24655-24662). Mr. Walker, speaking as a senior police officer, but without having had any particular experience in reporting upon applications for publicans' licenses, expressed the opinion that the character of an applicant should be thoroughly gone into, and that a report recommending him should show the inns and outs of his career. He said that, knowing what he does of Louis Goldstein, he does not think that he would recommend him as a proper person to have a license. I repeat that, knowing what Turbet did and holding the opinions that he does, it is difficult to understand how it was that he considered Louis Goldstein a fit person to hold a license, or why he did not, in any event, supply full information to the licensing authorities. The application followed so hard upon the heels of the criminal proceedings that it is not likely that he could have forgotten the facts, and in any event it was his duty before reporting to refresh his memory. The circumstances suggest a misconception of

of his duty or an indifference to the proper performance of it, either of which calls for strong condemnation. However, the report was forwarded, through Mr. Walker and the Inspector-General, and without comment by them, to the licensing authorities at Gosford, and Louis Goldstein's application was granted. The Goldsteins remained in the Grand Hotel at Wyong from January, 1917, until November of that year. They then sold out, and apparently they sustained a considerable loss in so doing. They are inclined to blame the police, or at all events Davis Goldstein is, for the fact that they had to abandon the hotel, but, as far as I know, there is no justification for this. The owner of the premises appears to have taken action in order to get rid of them, and there is nothing to show that he was instigated in this by the police. Another reason which they put forward for their failure at Wyong was that the assistance which they had given to the police in the I.W.W. case had become known, but, in a report made by Mr. Walker in January, 1918, in connection with an application by Davis Goldstein for the refund of Morgan's forfeited bail, he says "The fact that they had to dispose of their hotel at a considerable loss was in no way due to any assistance they had rendered the police in connection with the I.W.W., but substantially to their own misconduct after taking the hotel over." I can quite understand that, on their identity becoming known, people might be disinclined to enter into business or other relations with them. After leaving Wyong, they went to Mudgee, and joined forces with an uncle who keeps an hotel there.

Davis Goldstein's attempts to recover Morgan's forfeited bail.

Davis Goldstein did not remain idle in respect of the forfeiture of his good money, which had been furnished in order to obtain bail for Morgan. On the 15th January, 1917, Morris, the dummy in the matter, wrote to the Minister of Justice making an application for a refund on his behalf. On the 16th, the Clerk of the Peace reported against the application, and subsequently, acting apparently under verbal instructions from the Crown Solicitor, Turbet obtained a statement from Davis Goldstein explaining the circumstances in which he provided the money. The application was refused, and was again refused in June of the same year on a fresh application by Davis Goldstein's solicitor. Not satisfied with these refusals, Davis Goldstein applied himself in December, 1917, and was again unsuccessful. I have pointed out that, notwithstanding that he intimated to the police that he thought that Morgan was likely to abscond, no action was taken to prevent this. His application for a refund appears to have been based partly on the fact of his services to the Crown as a witness in the I.W.W. case, and partly upon an allegation that, through persecution, by reason of having turned King's evidence, and unfair treatment on the part of the landlord of the premises at Wyong, he and his brother were compelled to sell out at a loss. I have very little doubt that his inability to recover the money deposited as bail for Morgan, and the loss sustained in connection with the hotel at Wyong, were grievances which rankled in his mind, and I dare say that his actions in 1918 were materially influenced by these real or imaginary grievances.

Meeting of Davis Goldstein with Judd.

I have already pointed out that he and Judd had not met up to the time that Scully gave a written statement to Judd in March. He and Scully had, however, met on more than one occasion, and, both being rather at odds with fortune, and resentful of the disfavour into which they had fallen, they discussed their troubles with one another. Goldstein told Scully of his dissatisfaction with the Government over the forfeiture of Morgan's bail, and of his treatment at Wyong, and he discussed the question of taking similar proceedings against the Government to those taken by Scully. He was advised against this by his solicitor, and nothing came of the suggestion. He and Scully met again at a later date, when they were both full of grievances against the police for hindering them rather than helping them in their efforts to earn a living, and Scully told Goldstein that Judd was moving in the matter, and suggested a meeting between them. Scully told Judd that Goldstein was uneasy about the men who were in gaol, and that they contemplated writing out a joint statement of what they knew about the case, but that he did not see Goldstein for some two months or so. I think that Judd was distrustful of Goldstein, and was not very anxious to see him at first, but he told Scully to find out if Goldstein would see him, and a few days afterwards an appointment was made. Scully and Davis Goldstein went to Judd's house one morning at about the end of March. Scully told Goldstein that he had made a statement (I am quoting from Judd's account of what took place), and asked him if he was prepared to make one too. Goldstein asked for a copy of his evidence, and the next morning Judd supplied him with a copy of part of it. A conversation took place, in the course of which Goldstein said that it was not true that Hamilton had given him "fire dope"

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in front of the I.W.W. hall. He said that it was given to him at the back of the building, and that Pauling and Turbet had suggested to him that he should say that it was given to him in front of the building in order that they might be able to bring corroborative evidence. He also said that on the night of the 30th he met Pauling, and that Pauling told him that Hooper had placed the bottle and the towel in Teen's pocket while they were taking his overcoat off. Other things were said to which it is unnecessary to refer, and the upshot was that Goldstein took the copy of the evidence away, saying that he would go through it and prepare a statement. They did not meet again until the 16th April. On that day, Judd, Scully and Davis Goldstein met by arrangement, and went to a room in Roslyn-street, occupied by Davis Goldstein. Davis Goldstein then wrote out a statement (Appendix "D"), and, after some demur, handed it over to Judd for safe custody. He repeated in it the statements that he had already made to Judd, and, he added, amongst other things, that he was asked, apparently by Turbet and Pauling, if he could place some "fire dope" in the pockets of some of the prominent members of the I.W.W. before the proposed raid on the 23rd September, and that, when he asked how he was to get the "dope," they replied that he need not worry about that as they could get plenty. He also expressed his belief that King, Grant, Besant, Moore, McPherson, Larkin, Reeve, and Beatty were innocent of the crimes of which they were convicted. These men were not implicated by his evidence at the trial.

After this, Judd neither saw nor heard anything of him until the 13th July, when he received an unsigned letter from him saying that he was over two hundred miles from Sydney; that, though he would very much like to see Judd, he was not "too financial," and that it would be impossible for him to come to Sydney unless he received £10. Judd's communications with him were carried on through an intermediary, and through this third party he supplied a portion of the money asked for, with the result that Goldstein came to town and a meeting took place on the 16th. Goldstein then told Judd that he had only told part of what he knew in the statement which he had already made; and he said, "I will tell you all of it now, and I will swear to it." (7828). He also said that he was going to expose the whole thing—police and all—and that, in order to do so, it would be necessary to go back to the note forgery case, and to what happened in connection with it (7900). He then gave Judd additional information, and the whole of the information received was embodied in a statutory declaration, which he signed on the 18th. I append a copy of it (Appendix "E"). In addition to referring to matters in the earlier statement, with some additional details, it goes into certain matters connected with the note forgery case, and in addition it contains statements to the effect that, through a messenger, he had been told that it would be advisable for him to give the detectives concerned in the note case some money to make things run smoothly, and that, though £1,000 was asked for at first, the messenger finally agreed to accept £750, which was paid to him, and which Davis Goldstein was told was afterwards handed to the detectives. It also contains this statement: "After the note cases finished, the whole of the detectives concerned in the cases put it on me for a suit of clothes each. The whole of them went to my tailor (Mr. Pura), and each selected their cloth and had a suit made by him. My brother and I paid the whole account."

On the 22nd July, Davis Goldstein rang up *The Worker* office on the telephone, saying that he wished to see Judd, and at Mr. Boote's request he went down to the office of *The Worker*. He told Mr. Boote that he was going to Mudgee that night, and that he had been warned to take care lest something might happen. He asked to be provided with an escort. Mr. Boote says that he thought the story a curious one, but at all events, when Judd came along, Goldstein was supplied with a sufficient amount to pay the train fare of a companion to Mudgee; and, having obtained the money, I daresay that his fears vanished. My only reason for mentioning this episode is that I think that it shows that he was imposing upon Judd's credulity in order to obtain money from him. While in conversation with Mr. Boote, he spoke of the I.W.W. case and of the note forgery case, and, while protesting his innocence and that of his brother in respect of the latter case, he said, "The police had a 'drop' on us, and because they had a 'drop' on us we had to go into the I.W.W. case to save ourselves" (9292). He also spoke about the clothes said to have been made by Pura, and he said that, though he paid the whole of the amounts, Pura gave receipts to the detectives making it appear that each had paid him (9297). Davis Goldstein and Judd did not meet again until the 12th of August. Judd then expressed a desire that Goldstein should make an appearance at a meeting to be held that night for the purpose of considering the case for the appointment of a

Davis Goldstein's statutory declaration.

Subsequent Meetings between Davis Goldstein and Judd.

Royal

Royal Commission, He had heard that he was talking of going away to America and he was anxious that he should make his statement publicly before leaving the country, in order that in the event of his departure, it might not be suggested that those agitating for an inquiry had been instrumental in getting him away. However, Goldstein was not agreeable to play the part proposed for him. Judd asked him during the conversation whether he thought it would be wise to see his brother, but Davis Goldstein advised against it, and told him that, at Mr. Walker's request, his brother had been to see him and had told him that his attitude at the Commission would be the same as it was at the trial. On Saturday the 17th, Judd and Davis Goldstein met again, and Goldstein's statement was discussed again. Goldstein said that Lazarus was the man to whom the sum of £750 had been handed for the detectives, and, on being asked what proof he had that Lazarus ever gave any of it to the detectives, he replied, "Well, I have got no absolute proof, but I learnt afterwards that Lazarus kept the £150 and cut up the £600 among the detectives." (7881).

Davis Goldstein goes to Mr. Windeyer's chambers.

Herepudiates the truth of his statement to Judd.

An arrangement was made for Davis Goldstein to attend at Mr. Windeyer's chambers next morning, but, when Sunday arrived, he gave various excuses for delay, and he did not arrive until after 5 o'clock in the afternoon. On entering the room, he said "I have come to tell you, Mr. Windeyer, that all I have told Mr. Judd is false" (7695), and he then sat down and read out a written statement which he had brought with him (Appendix "F"), and which contained a recantation of the statements of fact contained in his previous statements. He asserted that, in his evidence on behalf of the Crown in the I.W.W. case, he told the whole truth as far as his investigations went, and he then went on to refer to the persecution which, since that case, he said he had been exposed to. After going into a number of details, he said "The sole reason that prompted me in giving the said statement to Judd was a hope that being practically ruined financially I would have to earn my living as a journeyman tailor, and it would be practically impossible for me to hold a billet unless I secured a union ticket, and, in view of the persecution I had undergone, I did not care what I stated or what may arise out of any statement I made as long as it cleared me one way or the other," and he concluded by saying "I wish to state that I was perfectly prepared to perjure myself up till last night, when I reflected and determined that I was not going to ruin the lives of honourable men by committing perjury. I wish to state that my statement given at the Upper Court was a true one, and that that given to Judd, which contradicts my evidence at the Upper Court, is not true. Also that part that reflects on the police officers and the Crown Solicitor in any way whatever is not true. I herewith state that I made the statements to Judd without coercion, and that I have done same with one desire, thinking that it would put an end to the persecution and ostracism I have gone through." After the statement had been read, Judd turned to Goldstein, and said that he had placed him in a false position by giving him statements, which he had led him to believe were true, and upon the faith of which he had made statements to others, and he said "In fairness to me and to us, you should answer a few questions" (7695). Mr. Windeyer then asked him some questions for the purpose of ascertaining what communication he had had recently with the police, and in particular with Pauling, and, although Goldstein was apparently anxious to evade questions and did not always answer truthfully, he admitted that he had had a casual meeting with Pauling the night before. He also admitted that Judd had acted fairly in the matter. Mr. Windeyer said "As you admit that Mr. Judd's conduct has been honest throughout, will you write this on the end of that statement for me?" (7698). Mr. Windeyer told him what he wanted, and Goldstein then added these words "All the matter contained in the two statements made by me since giving evidence and handed by me to Mr. Judd came entirely from my own mind and was not suggested to me by anybody else." The sittings of the Commission opened next day, the 19th.

Communications of the Goldsteins with Pauling

For some little time previously to the 18th August, Louis Goldstein had been in communication with Pauling. He says that his brother told him in Mudjee of the statements that he had made to Judd, and after that he, apparently, made it his business to see Pauling. He fixes the first occasion on which he saw him in the matter as Monday the 12th, but he is obviously wrong in his dates, because Pauling reported on the 31st July that Louis Goldstein had come to him at the Paddington Police Station the day previously, and had told him that his brother had made a statement to Judd. Between that date and the 17th August, Louis Goldstein visited him four times altogether. On the third visit Pauling took him to Mr. Walker, and he then referred to his brother's statement

statement and said, "I want to tell you, Mr. Walker, that anything that Pauling or Turbet did while I was there was perfectly right; and any evidence I gave in that I.W.W. case was true" (103). On Saturday, the 17th, both of the Goldsteins called at the police station about 10 o'clock in the evening, and Davis Goldstein told Pauling that he was sorry that he had made any statement in connection with the case, and that he was going to tell Mr. Windeyer next day that his statement was a pack of lies. Pauling said, "What you do does not concern me. I am not going to discuss the matter" (24043). On the next night the Goldsteins again went to the police station, and, after some difficulty, and with the assistance of Constable Jones, they succeeded in finding a Justice of the Peace before whom a copy of the statement which had been read that afternoon by Davis Goldstein in Mr. Windeyer's chambers was executed as a statutory declaration. They then returned to the police station, and Jones supplied Davis Goldstein with writing materials. Davis Goldstein wrote a covering letter, and enclosed it and the statutory declaration in an envelope addressed to Mr. Walker, and these were delivered to Mr. Walker by Louis Goldstein the following day. Mr. Windeyer submitted that the facts established that Davis Goldstein's recantation was made under the influence and at the dictation of the police (p. 750), and that Louis Goldstein acted as a go-between between him and Pauling (p. 754). I do not agree. There is not a shred of evidence to support the submission, and it rests entirely on suspicion and suggestion. I cannot see any foundation for the suspicion. Davis Goldstein's determination to recant was not come to until Saturday the 17th, so that, if Louis was acting as an intermediary before that, he must have been acting on Pauling's behalf. If that were the case, and if as must be assumed, Pauling feared the exposure of some improper conduct on his part, it is unlikely that he would have kept Mr. Walker posted as to what was happening, unless it is to be assumed that Mr. Walker was a party to the wrongdoing. The suggestion carries improbability upon its face. It is far more probable, in my opinion, that Louis Goldstein, knowing that his brother had made untrue statements, was afraid and was anxious to avert trouble by inducing him to retract. It is not unlikely that they told lies about the matter. They probably cannot help doing that, but the police are not to be convicted of wrongdoing because the Goldsteins tell lies. If Constable Jones' evidence is true, what took place is inconsistent with anything in the shape of police dictation. I think that his evidence is attacked, but, assuming that he was willing to depart from the truth, why should he do so for Pauling, with whom his relations were purely official? He had no interest in the matter, and I see no reason to disbelieve him. I took him to be a straightforward witness. Some curious evidence was given by Miss Knyvett and Hill about a visit said to have been made by Pauling to Louis Goldstein late one night at about the beginning of August. I was far from favourably impressed by Miss Knyvett, and, assuming that Hill is correct in his recollection—though this is open to doubt—I do not believe that the mysterious visitor was Pauling. Goldstein may have lied for some reason to Miss Knyvett, or, if Hill has antedated the episode, Miss Knyvett may have lied to him.

#### McALISTER'S MOVEMENTS AFTER THE TRIAL.

In respect of McAlister's movements after the trial was over, there is not very much to be said. It is evident that he and Scully were in communication with one another and talked matters over, and I have very little doubt that Scully's was the master mind in preparing a plan of campaign, the operations of which were not likely to be hampered by too close an adherence to truth. McAlister's death, however, on the 26th July, put an end to any proceedings he might have had in contemplation. Scully has attempted to create an atmosphere of suspicion in connection with his death and has suggested that it was due to foul play of some kind. He has succeeded in conveying that impression to others. Speaking in the Legislative Assembly on the 10th July last, Mr. Mutch said, "The circumstances surrounding the death of McAlister ought to be brought to light. Certain information given us by Scully concerning that matter is of a most startling character." Mr. Brookfield, speaking on the following night, said, "Another man—who was supposed to have supplied the 'fire dope'—also died. Nearly all the material witnesses for the Crown have either died or mysteriously disappeared." I do not know what the information of a startling character, which Scully supplied in reference to McAlister's death, was, but I can quite believe that he succeeded in creating an atmosphere of suspicion and mystery about a matter in respect of which no mystery need have existed at all. Dr. Clifford, a medical practitioner, who was called in to see him at Randwick, and who ordered his immediate removal to the hospital, says that he was suffering from double pneumonia. His condition was so bad

His death on  
26th July,  
1917.

that



Evidence of  
McAlister's  
daughter.

that immediate removal to the hospital afforded the only chance of recovery, but he says that it was quite consistent with the condition in which he found him that he might have been out and about the day previously. He says, too, that an attack of pneumonia may come on quite suddenly, though, in this case, he was told by McAlister's sister that there was reason to believe that there was preliminary bronchial trouble. I asked him if he noticed anything to suggest that McAlister's illness was due to anything but natural causes, and he replied that he did not. One of Scully's statements was that Mr. Walker, on being told of McAlister's death, remarked, "It's a good job; he might have squeaked." I do not believe this for a moment. It is one of the numerous instances of Scully's untruthfulness and unscrupulousness. McAlister's daughter was called as a witness on this inquiry. She gave evidence of a number of things said to her by her father, some of which I have no doubt were true, and others of which, if told to her by her father, he must have known to be untrue. She says that, though he and she had been in the habit of visiting at Fergusson's house, he told her one day, when the case was all over, that Fergusson and his wife were no friends of his, and asked her not to go to their house. When asked for a reason, he said, "Well, Fergusson did not give us a square go." She also said that he told her that he and Fergusson and Mr. Lamb fixed up the statement of his evidence, and that he had to learn it off by heart. Another statement which he made was that he told her that he took Fergusson, Leary, and Lynch to Anthony Hordern's, and that he bought hats for Lynch and for Leary, and gave £5 to Mrs. Fergusson. Fergusson admits that McAlister wanted to give him a present, and that, though he did not know of it until afterwards, he made a present to Mrs. Fergusson of £5. Leary and Lynch both deny that they received a hat or any other present from McAlister, and I have no hesitation in accepting their denial.

#### THE EVIDENCE OF SCULLY AND THE GOLDSTEINS ON THIS INQUIRY.

I proceed now to say something about the evidence of these three men—that is, Scully and the two Goldsteins, upon this inquiry.

#### SCULLY'S EVIDENCE.

Scully persisted throughout that his evidence at the trial was absolutely true, and endeavoured to explain away, or deny, or qualify, statements made verbally at Dawes Point, or at Mr. Boote's house, or contained in the written statement and commentaries which he gave to Judd. Some of his answers are interesting as exhibiting how utterly untrustworthy he is, and how plausible and subtle and ingenious he can be in endeavouring to evade difficulties, or to convey suggestions that things are not as they should be, without coming into the open and making definite statements to which he can be pinned down. He denied that he told Connolly and Mutch that the case was "rigged," or that Fergusson, Leary, Lynch, and Robertson did the dirty work for the police. He also denied, at one stage of his evidence, that he said that Pauling "fixed" the Goldsteins, though afterwards he said that he might have used those words, and that he supposed that he did. He further denied that he said that Surridge, Robertson, and Pauling were prepared to tell what they knew. He denied, too, that he said, at Mr. Boote's house, that a great part of the evidence against the convicted men was "framed up" by some of the detectives engaged in the case. He said, however, that, in the course of conversation with Surridge on the Mountains, there was a suggestion by Surridge that everything was not right in connection with the discovery by Robson of a bottle of "fire dope" in Fagin's bag when he was arrested, and he said that what Surridge said was, "Well, it is very funny to me, I do not like it at all, that Robson found it, and—well, practically there is no telling—it might have been put there" (964). He said that at Mr. Boote's house he spent quite a lot of time proving that a large number of the convicted men were guilty; and that the attitude which he adopted was that the best thing their friends could do was to leave them alone, and that, in that event, they would have a chance of getting out after the war was over. He said that what he wanted to do was to show that there had not been a fair thing done in convicting some of the men, and that he thought that the only way of doing that would be through his law suit, and that he went there that afternoon for the purpose of explaining his attitude. In his statement to Judd he said that McAlister told him that the detectives supporting his evidence had all sworn lies, and that Leary fixed up the evidence about drawing the discs. Giving evidence on this inquiry, he said that McAlister did not tell him these things, and, referring to his lying statement about Leary, he said, "I evidently was careless in writing it in that way" (1620). It will be remembered that his statement to

to Judd was a carefully-prepared document, over which he spent some time, and, if anything in this world is clear, it is clear that it was meant to be almost entirely, if not quite entirely, a statement of facts. He persisted, however, in referring to it as a series of notes, prepared for the purpose of supporting his case against the Government, although he admitted that it was given to Judd partly for the purpose of assisting him on an inquiry, if he succeeded in getting one. He asserted that it was not intended for publicity, and was not a statement of facts to which he was prepared to swear, but was merely a series of notes containing suggestions of lines of inquiry which might be usefully followed. The following questions and answers illustrate this :—

And am I to understand, in writing those notes you had no intention to deceive or mislead at all? Oh no, there was no misleading about it. He was taking up the case on behalf of the Trades and Labour Council, and I gave him those notes for what they were worth for him to go and get evidence on. That was, you might say, a plan for him to work on.

Did you believe them, at the time you gave them, to be true? I would not say that.

Did you intend them all to be untrue? No, but he was to prove the truth of them or not before he brought them out. Those were notes that I gave him. They were written down there, and they were purely lines for him to follow out. There is a lot of stuff there which I know now is not true (1147-1149).

When questioned as to his written statement that Leary told him that they had not got enough evidence against Grant, and added that he could easily fix something up, he said, "Oh, no, it was not put that way. The purport of what he said was, 'We haven't got enough against Grant; you could easily help us,' or something to that effect. He wanted evidence from me about Grant. I suppose Leary now believes I could talk about Grant" (1369). In his statement he said that he met Davis Goldstein at the races. They discussed the case, and Goldstein told him that he knew that there was a lot of "crook" work in it. He said also, that he asked Goldstein to help him re-open the case. He now says that he would not swear that Goldstein said that, and that he did not ask him to help him to re-open the case. Referring to the statement he had made that Robertson had told him that in his opinion most of the police evidence in the case was "rigged," he denied that Robertson had used those words, but he said that Robertson had used words to the effect that some of the police evidence in the case was not right. When asked how it was that he used the word "most" when he meant "some," he said that he was not a skilled literary man. Notwithstanding, too, that in his statement he had said that Robertson had remarked that Robson was getting into the habit of finding "fire dope" with men when they were arrested, he swore that Robertson did not use those words (1548-1550). This is an instance of a case in which he has, in my opinion, deliberately distorted something actually said so as to give it a false colour and a false meaning. Robertson said that what took place was that, when discussing the evidence in the case as reported in the newspapers, he said, "It appears that Robson is producing all the exhibits, including the 'dope'" (28,937-28,943). Another thing which Scully said in his statement to Judd was that Robson was very despondent at not getting promotion, and was going to fight Walker for it, and that, if he did not get it, there would be "something doing, as he knew too much." He went on to say that Robson told him afterwards that he had had a "go" with Walker, that it had been fixed up, and that he was going out to Long Bay as chief accountant. He admitted that some of that was not true, but he persisted in saying that Robson told him that he thought that he was badly treated over the case, and that he was going to seek redress. When asked if he believed his statement to be true when he wrote it, he replied, "Well, yes, but it is another question of writing a thing down wrongly" (1694). He also said in his statement that Mr. Walker spoke to him about Pauling getting a "cut" from the Goldsteins, and he said that he repeated this to Pauling. He now denies that Mr. Walker ever mentioned Pauling's name, and he says that what Mr. Walker actually said to him was that he had an idea that the Goldsteins were only claiming a share of the reward in order to hand it over to someone else. When asked if his statement to Judd was a lie, he replied, "No, but it is carelessness" (1712).

I may perhaps, at this stage, conveniently refer to another statement made by him at the interview with Mutch and Connolly, and repeated by him when giving evidence on this inquiry. He told Mutch that Walker said that it would be worth something to help him to work up his case against the Government. Giving evidence on this inquiry, he said that he would not swear to the exact words, but that something to that effect was said, and that the interpretation which he put on what was said by Walker was that he wanted money to help him to work up his case against the Government. He added that Mr. Walker always took the view that he had been very badly  
done

done by. This is inconsistent with the opinion expressed by Mr. Walker on his application for further remuneration, and, as for the suggestion that he offered to help Scully in working up his case, if paid for his services, I have no hesitation in describing it as a deliberate and a reckless lie.

I do not wish to go into any further detail in order to point out the inconsistencies in the statements made by Scully after the case was over and before he left Australia, and the statements which he swore to in the witness-box on this inquiry. I think that I have said sufficient about this, but I think that the instances which I have given of contradictory and inconsistent statements are instructive and illuminating. They show how he built up a fabric of mixed truth and falsehood, based entirely, or almost entirely, on statements said to have been made by others, and in no way impugning his own evidence, but so cunningly woven together as to deceive and delude a suspicious mind on the alert for wrongdoing. They show, too, how, when confronted in the witness-box with his earlier statements he shifted and shuffled, and denied, qualified, or explained, as he thought the emergency of the case required, and they show with what ready glibness and dexterity he told lie after lie, in his endeavour to twist and turn and contrive, in order to evade difficulties with which he found himself confronted. Before passing away from his evidence, there is one other matter to which I wish to refer, and that is the statement that Davis Goldstein told him that he gave Turbet £100 to try and get King out of the note forgery case. The evidence as to that came out in this way:—

HIS HONOR: What Mr. Windeyer is trying to elicit is anything that Goldstein told you about his connection with the forged notes case.

WITNESS: I was trying to arrive at that. You see I do not want to say anything that I cannot remember, but I really am under the impression that Goldstein has told me that he paid money to get King out.

HIS HONOR: Did he say to whom he paid it? Yes.

Well, what did he say? He told me that he gave Inspector Turbet an extra £100—that is the only time he has ever mentioned money—where he had given him the extra £100 to try and get King out of it.

MR. WINDEYER: Did he use that expression “extra £100” without ever having told you about any other money? Yes, of course, that was understood. Goldstein had told me that the note cases had broken him, that it had cost him thousands.

When did he tell you that—that is what I want? Oh, repeatedly. Of course we know it had broken him. It was common knowledge. (12,039–12,044.)

Turbet denies absolutely that he ever received this or any other sum of money from Goldstein; and Goldstein denies having made any such payment to him. Scully's evidence, as will be seen, came out in a curious way, and he said, in answer to Mr. Shand, that he did not remember whether he told Judd about it or not. I think that it is perfectly evident that he did not tell Judd. If he had done so, Judd, with his retentive memory, would not have forgotten the fact, and the fact that he did not tell Judd about it, is an indication, in my opinion, that it never happened. I do not believe his statement.

#### DAVIS GOLDSTEIN'S EVIDENCE.

I turn now to Davis Goldstein. I have already referred to his written statement to Judd and to his recantation. He explained his meeting with Judd in this way. He said that he met Scully in Martin-place, and that they got into conversation over their grievances. Scully said that he was seeing Judd three times a week, and that he was going to make it as hot as he could for the police; and Davis Goldstein said, “I am prepared to do likewise, the way I have been treated. I am even prepared to go so far as to perjure myself against the Government and the police, the way the Government has treated me” (3295). He added that he thought that he was perfectly justified in doing so, in view of the treatment he had received over Morgan's bail, and that the only way in which he could do anything was to perjure himself against the police. He then described his meetings with Judd, and he gave the following account of the meeting in Röslyn-street when he wrote his statement:—

Tell me all about what happened in that room, will you? Yes. Mr. Judd, Mr. Scully, and myself were there seated around a table, and I told Mr. Judd at that time I was perfectly prepared to perjure myself. Mr. Scully was there, and I wrote out a statement. After I had read the depositions of the evidence I had got the previous day, and thought how I would make it look pretty black against the police, I wrote the evidence in front of Mr. Judd and Mr. Scully. After Scully reading over the evidence, he stated, in that part where I stated that the evidence of Hamilton was true, “Now, what we have got to do is to break up the corroboration of the police.” I said, “Yes.” I then wrote out another statement in which—

There and then? Yes, there and then.

Wrote

Wrote out a second statement? Yes—tore the original up—in which I stated that I got the dope from Hamilton at the back of the hall, and not at the front of the hall, for the purpose of breaking up the corroboration of the police. I gave him that statement. He went away. I also returned to him the depositions of that case that he had given to me to read over (3315-3317).

I do not propose to go through his statement in detail. He swore, quite unblushingly, that all the accusations of wrongdoing against the police which were contained in it were untrue, and he said, "I was prepared to perjure myself up till last Saturday night" (2769). He said that his statement that Pauling suggested that he should say that Hamilton gave the "fire dope" to him in front of the hall; his statement that he was asked if he could place "fire dope" in the pockets of the prominent I.W.W. men before the raid took place; and his statement as to a conversation with Pauling in which Pauling told him that Hooper placed the things in Teen's pocket, were all untrue and were invented by him; and that, though none of these men had done him an injury or treated him unfairly, his venom against the Government, because of its retention of the sum of £400 which he had provided for Morgan's bail, was so great that he was prepared to wreak his vengeance by making a vicarious sacrifice of these men's careers and reputations. It will probably be impossible ever to get at the whole of the motives which animated him in making these statements to Judd, but I believe that his two written statements were for the most part a tissue of falsehoods. I think that there is a good deal of substance in Mr. Shand's contention that Scully's was the master mind which suggested this diabolical scheme for ruining men whose reputations and whose good names are peculiarly open to attack, and, though it is impossible to fathom the workings of a mind like Scully's, and though I do not profess to understand precisely how he expected his plans to work out, I am convinced that the dominant motive in his mind was to get money, and, probably, by means of blackmail. One can only speculate as to matters in respect of which it is hopeless to expect to discover the real facts, but Scully was unquestionably the ablest and the most unscrupulous man of the lot. He and McAlister put their heads together before launching their actions against the Government for compensation, and he and Goldstein were in communication with one another and were discussing their grievances before Goldstein ever made any suggestion that a false case had been put forward on behalf of the Crown on the trial of the I.W.W. men. I daresay that Scully artfully inflamed Goldstein's mind, and played upon his vindictiveness and his desire to wreak vengeance upon somebody; and I think that the scheme for asserting that the police had given false evidence in corroboration of the story told by these informers emanated from Scully's brain. It will be remembered that, according to Goldstein, Scully said, when his statement was being made, "What we have got to do is to break up the corroboration of the police" (2843). Mr. Shand commented upon the internal evidence of collaboration in the statements given to Judd by Scully, and by Davis Goldstein, and I think that a careful comparison of them supports this comment. The statements as to the jury, and as to the supply of a copy of the *Evening News*, may be referred to in this connection. In Scully's statement to Judd, he said that McAlister told him that the detectives supporting his evidence had all sworn lies, and that he held the careers of three of them in the hollow of his hand. Of course, in a sense, he did. If he were wicked enough to do so, he might have trumped up a case against Leary, Lynch, and Fergusson, which it would have been difficult for them to meet, except by a denial, and which would have invariably left behind it a doubt, to say the least of it, in the minds of some people as to their honesty. In Goldstein's recantation, he refers to the persecution that he met with, and the additional and unenviable publicity which was given to his name by a series of articles published in *The Worker*. I have no doubt that when he met Scully he was in a very bitter and vindictive frame of mind, and, being in addition quite unscrupulous, he probably fell in readily with Scully's suggestions; and I daresay that he was prepared to go to almost any length in order to ingratiate himself with Judd, and those associated with him, in seeking to re-open the case, and in order to injure the Government, as he probably thought he would, by alleging that a false case had been presented to the jury with the concurrence of the police and others concerned in the prosecution.

#### THE PAYMENT TO LAZARUS.

I wish now to say a few words about the allegation that a sum of £750 was given to Lazarus to be distributed by him among the police. Lazarus, as I have said, is a publican and a friend of the Goldsteins. When Davis Goldstein was arrested on the 8th September, on a charge of being concerned in the forgery of the notes, Lazarus went bail  
for

for him in the sum of £400, and he performed the same office for Louis Goldstein, on his arrest next day. He continued to be Louis Goldstein's bondsman until he was discharged on the 19th. In respect of Davis Goldstein, a man named Crooks took the place of Lazarus, as bondsman, on the 10th, and remained bound in the sum of £400 until Davis Goldstein's committal on the 19th, when Lazarus and Crooks became bound for him as bail in the sum of £400 each. On the 12th September, the Goldsteins drew a sum of £550 from their account, and they say that they added to this sum of £50 which they had in hand, and that the sum of £600 made up in this way was paid to Lazarus. Lazarus admits the receipt of it, and it forms part of a sum of £623 10s. which he paid into his banking account on the 14th September. On the 16th September, a sum of £200 was drawn from the account of the Goldsteins and given to Crooks. This was repaid by Crooks on the 11th October. The Goldsteins say that these moneys were paid to Lazarus and to Crooks by way of indemnification in respect of the liability which they incurred in becoming bondsmen, and Lazarus tells the same story in respect of the sum of money paid to him. He said that the reason for leaving the money with him was "to give guarantee for their bail," and he added "I was not going guarantee for their bail when I did not know them too well" (506). The sums paid, however, do not correspond with the amount of the liability undertaken in either case; and it is an extraordinary thing, if this was the reason for the deposit of this money, that Crooks should have returned the whole of what he received before his liability came to an end, while Lazarus paid away £250 on the same day as that on which he received the money, and paid away a further sum of £250 on the 19th October, while still liable on his bond. Lazarus' explanation as to the payment of these two separate sums of £250 each was that Louis Goldstein said that he and his brother wanted the money for law expenses, or "something to that effect." The Goldsteins, on the other hand, asserted that the money was lost in backing horses at the races, and they professed to give the names of horses backed. I do not for a moment suppose that either they or Lazarus are telling the truth, and the purpose for which the money was given to Lazarus remains shrouded in mystery. I have no doubt that all three of them deliberately endeavoured to conceal the real facts, and deliberately lied. I have not been able to discover what became of the money paid to Lazarus, but the circumstances, and his associations with the Goldsteins, are matters which it may be well worth while for the licensing authorities to consider on any application for the renewal of his license. Mr. Windeyer suggested that the money found its way into the pockets of some members of the police force, while Mr. Shand suggested that it was probably paid to Tighe as an inducement to him to lose his memory, when, on being used as an informer by the Crown at the police court, he professed his inability to identify the Goldsteins. There is no evidence fit to be acted upon in support of either suggestion. Davis Goldstein's statement to Judd that £750 was given to Lazarus for payment to the detectives, and that only £600 of it reached them—£150 having stuck to Lazarus' palm on the way—even if it carried any weight, is, of course, no evidence against the detective officers; nor is there anything else before me which would be accepted in a Court of law as any evidence of the acceptance of money from the Goldsteins or from anyone acting on their behalf.

Lachter told a story of a conversation with Davis Goldstein in which he told him that he was going to get money for giving evidence, and that if Lachter liked he could do the same, and he also said that, on a later occasion, after the trial, Davis Goldstein told him that if he had known that the men would get so much imprisonment he would not have done what he did. Statements of this kind by Davis Goldstein are, of course, no evidence against anybody but himself, even if made, but Lachter, who was formerly in the employment of the Goldsteins, showed no such animus against Davis Goldstein, that, in my opinion, great caution should be exercised in accepting any statement made to his detriment. It is not impossible, of course, that Davis Goldstein told him that he would not have given evidence if he had known that the men would be so severely punished. Lachter says that he told a man named Lefcovitch, another tailor formerly employed by the Goldsteins, of the earlier conversation with Davis Goldstein, but, according to Lefcovitch's evidence, all that Lachter told him was that he thought that the Goldsteins were going to give evidence "to save their skins," and this, as we know, is precisely what they did, or at all events what Davis Goldstein did. Thompson, who is a cutter by trade and the secretary of the Cutters and Trimmers' Union, and who worked for the Goldsteins for about a year, says that after the trial of the note forgery case in the lower Court, Louis Goldstein came back to the factory and said that he had been discharged and that Davis Goldstein had been committed for trial, but that he could

could get out of it also if he would do what the police wanted him to do; and he added that Davis Goldstein said that he would see them in hell first. I see no reason to suppose that Thompson is not telling the truth according to the best of his recollection, but I do not think that there is any significance in what he says. Probably, what Louis Goldstein had in his mind was that his brother could escape from prosecution by giving evidence in the I.W.W. case. His committal for trial in the note forgery case was on the 19th September, after he and Louis had gone to the police in the I.W.W. case but before the police had succeeded in prevailing upon him to promise to give evidence at the trial, and I have very little doubt that what Louis referred to was the fact that in his opinion the prosecution against his brother, in the note forgery case, would not be proceeded with if he gave evidence at the other.

The two Karpinskys and Green say that on the occasion of the Day of Atonement, in 1916, a Jewish fast day, which, in that year, fell between the proceedings at the police court in respect of the note forgery case and the trial at the Quarter Sessions, they were at Lazarus' hotel, and that, in the course of conversation, Davis Goldstein remarked that he had to face a jury. They say that Lazarus replied that he would never face a jury, and that, on being asked afterwards if Lazarus could be relied upon, Davis Goldstein said that he was working for them and that it had cost them £750 already. These witnesses are of humble origin, and they are evidently in poor circumstances, but, so far as I know, nothing is known against them. They did not impress me however as men of a very high level of intelligence, and I do not think that their recollection of a conversation that took place, over a drink, in a public house two years ago can be relied upon with safety. Whatever was said, I think that it is improbable that Davis Goldstein and Lazarus would talk so freely as they are reported to have done, and in any event this evidence carries the case no further against the police. Obviously, it is not evidence on which they can be convicted of accepting bribes. Simon Karpinsky also spoke of a conversation at the Sydney Hospital with Louis Goldstein, during the course of this inquiry, in which Louis Goldstein expressed the opinion that justice did not exist, and said that, though the pangs of conscience might have forced Davis Goldstein to make a statement to Judd, he would get ten years for perjury if he went into the witness box and swore to it. Louis Goldstein denies that he said this, and, in the face of his denial and on the probabilities of the case, I am not prepared to accept Simon Karpinsky's recollection of what was said as accurate. There were three or four visitors to the hospital, and a general conversation was taking place round Abraham Karpinsky, the patient whom they were visiting, and, without imputing any intentional departure from the truth to Simon Karpinsky, there is plenty of room for misunderstanding and misconception. I think, from what I have seen of him, and from the attitude which he has taken up, that it is improbable that Louis Goldstein would have said anything suggesting that the statements made by Davis Goldstein to Judd were true.

Mrs. Druker says that she remembers hearing Davis Goldstein say that he and Scully were going to clear the men in gaol, and that Judd was collecting the evidence. She says that she also heard him say that while one detective was taking Teen's overcoat off another put some stuff in the pocket of it, and she says that when shown the articles in *The Worker* he used to remark that they knew nothing. I see no reason to disbelieve this evidence, and it shows that while Davis Goldstein was associating with Scully and, as I think, conspiring with him to trump up a series of false charges against the police, he was talking freely and boastfully amongst his associates to impress them with an idea of his cleverness and his power. This is entirely in keeping with his character as I understand it. His associates amongst his co-religionists and fellow workers were evidently, for the most part, men of inferior intelligence and inferior education to himself, and I have no doubt that he lorded it over them considerably, and that he displayed considerable arrogance towards them and towards what he looked upon as their lower degree of intelligence and astuteness.

Davis Goldstein asserts that Judd knew that he and Scully were putting their heads together to concoct a false story. I have already referred to his statement that Scully said, in Judd's presence and hearing, that the corroborative evidence given by the police must be broken up. Judd denies this. Davis Goldstein says, too, that when he saw Judd in July he told him that he wanted to make if "pretty hot" against the police. He said "I saw Judd, and I told him I was going to make it pretty crook against the police and pretty crook, as far as I could, against the Government. I said they had turned me down every time; they had absolutely ruined me; they had turned me out of an hotel for which I had to pay £2,500, and had practically made me a bankrupt to-day."

Mrs. Druker's evidence.

Davis Goldstein's assertion that Judd acted in bad faith.

to-day. I then said, "Now I am going to try and break up the corroboration of the police. I am going to make out that the statement I made was dictated to me by the police." He said, "All right." I then made an appointment with Mr. Judd to a place where I was staying at the time, namely, Whitehall, and there we met in a room, and I stated that I had two things which will be more like circumstantial evidence; it will be very hard for the police to prove against, that is with reference to some suits and with reference to some £700." (2865-2871.) He says now that the statement that he paid a sum of £750 to be handed over to the detectives and that after the note case was finished the detectives "put it on him" for a suit of clothes each were all lies and that Judd knew it. Scully says that Judd acted honestly in the matter. What Scully and Davis Goldstein may say as to Judd's honesty carries no weight, but I think it fair to say that I do not believe that Judd knew that the statements made to him were false, though, notwithstanding what he says as to the demeanour of Scully and Davis Goldstein, and their apparently genuine desire to remedy the wrong which they had done, I cannot help thinking that he must have been alive to the fact that they were unscrupulous men of bad character, whose statements would require corroboration before they could safely be accepted. I have pointed out his attitude of suspicion towards those in authority, and his proneness to distrust them and to think ill of them, but I should be sorry to think, and I do not think, that he lent himself to a conspiracy to procure false evidence on which to charge the police with misconduct. He is ready enough to think evil of them—over-ready I think—and this attitude, and his zeal as an investigator of the facts, combined with want of experience in sifting evidence, made him an easy victim to the specious lies and plausible insinuations of Scully and Davis Goldstein. Davis Goldstein also says that in conversation with Mr. Boote he told him that he had given evidence in the I.W.W. case because he thought it a public duty to do so. He says that Mr. Boote then said to him, "Well, look, can you not make out that you did that because you were afraid of the £5 note case?" and that he replied, "No, absolutely no" (2978). This virtuous and emphatic refusal to be a party to a false statement would have done him credit, if true, but I do not believe that Mr. Boote made any such request to him.

#### THE SUITS OF CLOTHES OBTAINED THROUGH THE GOLDSTEINS.

Before passing away from the facts, and proceeding to state my conclusions, there is one more matter with which I wish to deal, and that is the evidence as to the suits of clothes obtained by certain detectives through the Goldsteins. It is a matter which, to a certain extent, stands outside the charges of misconduct made against the police in connection with the I.W.W. case, but it will be remembered that it was referred to by Davis Goldstein in his statutory declaration for the purpose of showing that the police had some hold over him in connection with the note forgery case; and, as some of the detectives concerned are involved in the allegations of misconduct in connection with the I.W.W. case, it is important to consider whether there is any foundation for a charge of improper conduct in connection with the earlier case. If they were shown to be corrupt or dishonest in one, it would be necessary to scrutinise their conduct in the other very closely and with more than ordinary care.

Shortly after the conclusion of the note forgery case, six of the detectives engaged in it each obtained a suit of clothes from a tailor named Lazarus Pura. The detectives in question are Turbet, Pauling, Surr ridge, Mitchell, Hooper, and Miller. None of them had had any previous dealings with Pura, but he was in the habit of making clothes for the Goldsteins, and they paid him for the clothes made for the detectives. The arrangement is said to have been made with Louis Goldstein, and the story told by him is that in conversation with either Pauling or Surr ridge the question of clothing cropped up, and he was asked if he could make up a good suit. He replied that he did not bother about that kind of trade, but that he could introduce them to a man who would make a good suit. He asked how many there would be who would require suits, and was told that there would be about six or seven. He says that he and his brother were each thinking of having two suits made at the time, and that he went to Pura and asked him if he would make ten suits for £50. Pura replied that he would. According to his own statement, Louis Goldstein was not above turning a dishonest penny, for he says that, having arranged with Pura for £5 a suit, he charged the detectives £5 5s. and pocketed the difference himself. He was asked, "Did you go to Surr ridge and tell him about it?" and he replied, "Yes, I went to either Surr ridge or Pauling. Surr ridge was there at the time I told him the price, which was £5 5s., and he agreed, and they all came

Louis Gold-  
stein's  
explanation.

came along afterwards and had the suit made" (6859). This story does not accord with Pura's evidence. He says that the Goldsteins came to him and told him to make some clothes for a few people in the police force, and said that they would pay for them. He made eight suits in all, six for the detectives and two for the Goldsteins, and he received three cheques from the Goldsteins in payment. The dates and amounts of these cheques, and the entries in Pura's cash book, in receipt of them, are as follow:—

CHEQUES GIVEN BY GOLDSTEIN BROTHERS.			ENTERED IN CASH BOOK.	
Date.	Amount.	Page.	Amount.	Date.
1916.	£ s. d.		£ s. d.	1916.
November 20 ...	19 0 0	97	19 0 0	November 20.
December 15 ...	19 0 0	97	19 0 0	December 15.
1917.				1917.
January 15 ...	12 10 0	99	12 12 0	January 12.
	£50 10 0		£50 12 0	

His books show the following payments:—

PAYMENTS TO ACCOUNTS ENTERED IN PURA'S LEDGER.				
Name of Account.	Page.	Date.	Amount.	
		1916.	£ s. d.	
Goldstein, L. ... ..	171	November 20...	6	10 0
SurrIDGE ... ..	169	" 20...	6	0 0
Pauling ... ..	170	" 20...	6	10 9
			£19 0 0	
Goldstein, D. ... ..	117	December 15...	6	10 0
Turbet ... ..	172	" 15...	6	10 0
Hooper ... ..	174	" 15...	6	0 0
			£19 0 0	
		1917.		
Mitchell ... ..	180	January 12...	6	10 0
Miller ... ..	176	" 12...	6	5 0
			£12 15 0	

One or two discrepancies will be noted. The cheque for £12 10s., though dated the 15th January, was entered in the cash book as of the 12th, and the amount was entered as £12 12s. Pura explained this by saying that the cheque was drawn 2s. short of the proper amount, and that this sum was given to him in cash. This however still leaves an unexplained discrepancy of 3s. between the amount of £12 12s. entered in the cash book and the amount of £12 15s., the price of the suits supplied to Mitchell and Miller. I do not attach any importance, however, to these small discrepancies. Pura, who is a Russian by birth, and apparently in a small way of business, keeps his books himself. They are ill-kept and he had evidently no knowledge of bookkeeping. "Being in a small way," he says, "I cannot be bothered keeping books correctly" (4834). He sent a receipt to each detective, but, in each case, the amount is either 5s. or 10s. in excess of the price entered in his book. All these receipts were produced except Turbet's. The following are the amounts and dates appearing on them:—

WRITTEN RECEIPTS GIVEN BY PURA.				
Name.	Date.	Amount.		
		£ s. d.		
SurrIDGE ... ..	(1916) Nov. 22 ...	6	10	0
Pauling ... ..	" " 22 ...	6	15	0
Hooper ... ..	" Dec. 2 ...	6	10	0
Miller ... ..	" " 16 ...	6	10	0
Mitchell ... ..	(1917) Jan. 18 ...	6	10	0



Pura said that the receipt was given in each case as the clothes were taken away, and he swore positively that in each case the amount appearing on the receipt was that charged to the Goldsteins (4952-4955), but on being shown some of the receipts he said "Oh, yes, I remind myself now that when Goldstein gave me the order for those he told me 'there would be no harm if you are going to put a little extra on the receipts, so that when they come for the next order you can charge them more than I am paying now for it'" (4965). Louis Goldstein says that he told Pura that he could send receipts for the amounts that he would ordinarily charge so as not to spoil his future trade (6942), but he said that the ordinary price at that time would be about £5 15s. or £6 at the very outside (6963-6972).

Pauling's  
explanation.

The detectives tell stories, which do not agree with the story told by the Goldsteins, and which do not agree in some respects with one another. Pauling was asked about the matter on the first day of the inquiry. He said that after the note forgery case was over Louis Goldstein said that if the constables connected with the case liked to go to a man named Pura to get a suit of clothes they could do so, and that he would arrange to have them made at wholesale prices. He added, "We got a suit of clothes which would ordinarily have cost us £6 10s. or £7, and I paid him £5 5s." (126). I asked him how it was that he came to be having dealings of that kind with a man like Goldstein, and he replied, "Well, Louis Goldstein was a business man and he was not, as far as I know, connected with the note cases or with anything dishonest" (140). Giving evidence on a later occasion, he told substantially the same story except that he said that the matter was introduced by a disparaging remark made by Louis Goldstein on a coat that he (Pauling) was wearing; but, when asked about his earlier statement as to Louis Goldstein's honesty, he said that that was a mistake and that he would not say that, so far as he knew, Louis Goldstein was not connected with the note cases or with anything dishonest. He said that he found Pura's receipt waiting for him at the detective office on his return from his holidays at the end of the year, and that he spoke to Goldstein about it. Goldstein replied that that would be the usual price which a tailor would charge if he had had the clothes made in the ordinary course of business. Pauling said "I paid him the £5 5s.; and I do not think we had any more conversation about it" (24684). Surridge gave the following account:

Surridge's  
explanation.

At the end of October or the beginning of November, 1917, I was in the yard at the Central police station. I think it was with detective Pauling, and Goldstein was there. Something arose with regard to clothing. He said to me, "Who is your tailor, Mr. Surridge?" I said, "Hagon, of Pitt-street." He said, "I know a tailor who is struggling along; if you want a suit of clothes at any time, you can get one there much cheaper through me than at any other tailor's." I said, "What would it cost?" He said, "Between £5 and £5 10s." I said, "I do want a suit of clothes; I will go and see the tailor." He gave me the name of Pura, and where he was to be found. Some time after—it might be the first or second week in November—I went to see Pura. I told him who I was and that I had come for a suit of clothes. He said, "Yes, I saw Mr. Goldstein." I selected the material, and the suit was made. On the 9th December, my wife went to Pura's shop and got the suit. I could not go myself that day in consequence of having to go on duty to the Moorefield races. She brought the suit home, and on the Monday I returned the vest which was ill-fitting. He altered it, and I returned a second time to be altered. Finally, Mrs. Surridge had to alter it herself. I saw Goldstein in Market street about a week later. I told him that I had got the suit, and I asked him what it would cost. He said, "£5 5s." and I paid him. I said, "What about the receipt?" He said, "We will send you a receipt from the tailor." I received a receipt through the post at the detective office two or three days' later. That would be then about the 22nd December. The receipt I had was dated the 22nd November. There is absolutely a mistake there. I am positive I did not receive it until about the 22nd December. When I got the receipt I saw that it was for more than I had paid for the suit; and one of the detectives—I believe it was Hooper—had seen Goldstein with regard to the amount of his receipt being more than he paid. He said that Goldstein told him that was an arrangement between him and the tailor in case anyone was sent along again—the full price would have to be paid" (29539).

He was asked if he gave Goldstein the names of the other detectives who were going to get suits made, and he replied "No. I do not think I did. I may have told him that they were going to get suits. The fact still remains that I got a suit through Goldstein in a businesslike way. I paid for it, and if I could get one under similar circumstances to-morrow I should get it" (29844). Surridge also said that he was in the habit of paying about £5 10s. for a suit of clothes.

Turbet's  
explanation.

Turbet explained the matter in this way:

Some time after the notes case was finished—the notes case finished on the 25th October—some time after that Detective Mitchell and I had taken back the cheque books and things which we had, the cheque books and butts and pass-book which we had of Goldsteins after consulting Mr. Bathgate as to whether we should hand them back, and we took them back to his factory, and, during the course of conversation—I do not remember exactly what it was—we were talking about contracts and the clothing.

clothing. He said, "If you want a good suit of clothes I can get you one through my tailor much cheaper than you can get it yourself." I asked him what it would cost. As a matter of fact I was admiring the suits which he and his brother had worn, they seemed to be nice suits, and I asked him what the cost of the suits would be, and he said £5 5s. I told him that I did not think that was very cheap, as I only paid about £5 5s. for the suit which I was then wearing. He said, "He is a high-class tailor, this tailor"—mentioning his name, Mr. Pura—and he said that he would not make a suit under £6 6s., and I forget exactly what else was said, but I told him that I probably would get a suit from him and he said that if I would do so he would call and arrange with Pura about the price, and get it at his contract price or at whatever rate he was paying." (25639).

He said that a receipt was posted to him at the Detective Office and that he lost it, but that he believed the amount appearing on it was £6 10s. He met Louis Goldstein and told him that he did not understand this, and Goldstein replied that that was the price that Pura would have charged if he had gone to him in the ordinary course of business. He said that his price was £5 5s., and that that was what he was paying Pura, and Turbet said that he paid him £5 5s., there and then, in Mitchell's presence.

Mitchell gave this explanation :

It was the result of a conversation in Goldstein's factory in regard to clothing, and so on. That would be somewhere in November, as near as I can recollect, when he said that, if we wanted a suit of clothes he could recommend us the best tailor in Sydney, that, if we liked to deal through him he would have it put down to his account, and that we could pay him for the suit and go there and get it, and get it more reasonably than if we went there without going through him; so there was some discussion in regard to the price. He said that it would cost us £5 5s. by getting it through him, because he was having a number of suits made, and, if we went there by ourselves it would cost us £6 or over for a suit. In the following January I went there and got a suit of clothes. (26649). Mitchell's explanation.

He said that he remembered seeing Turbet pay Goldstein, and that it was shortly after that that he ordered a suit. He said, too, that he heard Turbet asking Goldstein about the difference between the price which he had paid and the amount shown on the receipt. Mitchell said that at Hooper's request he paid for Hooper's suit as well as for his own, and that a receipt was posted to him at the detective office.

Hooper told this story :

Louis made some remark about the ill-fitting clothing that I was wearing, and asked me if I intended to get a suit for Christmas. I said that I did, that I usually got a suit at Christmas; and he said that he had a splendid tailor, whom he could highly recommend, and who had been making his clothing, and that if I liked I could get a suit made by the same tailor; and I spoke to him about what the cost of the suit would be, and he said, "It would run you from about £5 to £5 10s." I said, "All right, I will get a suit." Well, then I did not think any more of the suit until he reminded me again—I think it was on 20th November. I know it was the day that the trial of the I.W.W. men commenced at the Criminal Court. Well, on that day, I think it was on that day that he asked me if I had got a suit. I said, "No, I have not had time to think of it." He said, "Oh, well, I have told Pura that you intend to give him an order." I said, "All right, I will go down and get it"; so I went down, and, I think, on that day detective Miller was with me. We went down and we saw Pura, and he took our order, and we picked the material, and the suit was made; and later on we got delivery of the suit. I think I called once to be fitted, and later on I got delivery of the suit." (27386). Hooper's explanation.

He was then asked, "Did you call for it yourself?" and he said :

Yes, and then, in consequence of a receipt coming from Pura, I went down and saw Goldstein and asked him what was the meaning of the receipt for £6 10s., I think it was. I said I understood that the suit was to cost us between £5 and £5 10s. He said, "Oh, do not take any notice of that receipt, that probably would have been the price that he would have charged you had you not got it through me." I said, "Well, what is it going to cost me?" He said, "It is going to cost you £5 5s." I said, "All right." Later on I was going on my holidays, and I gave detective Mitchell the money to give Goldstein; I went away on my holidays, and came back. (27387).

Miller gave this account :

He asked me who made my clothes. I said, "Principally Minty & Phelps, and sometimes I got a suit made at Hordern's, and sometimes bought one at Farmer's," and he said he had a friend a good tailor, and that other detectives were getting suits made. I said, "I do not like chopping about." He said, "Well, he is a particular friend of mine, and I would like you to give him a turn. In fact, he would like to get the whole of the detective office to get their clothes made there," and it ended at that. I did not give him any—I think I asked him about the price; what price he would make them for. He said that he was a pretty expensive tailor, but that he could get them cheaper, as he was a clothing manufacturer himself, and it would cost me between £5 and £6 if I got them through him. Well, it went on then until one day at the Quarter Sessions, a few days after, and he asked me if I had been down to see about the suit at Pura's. I said, "No." He said, "Oh, you had better give him a turn." I said, "Well, we might go down later," so I saw Hooper after, and Hooper and I went down together. I think it was that afternoon—somewhere about the 20th November, somewhere about that date. Miller's explanation.

What date? It was about the start, I think, the first or second day of the starting of the I.W.W. trial. Hooper and I went down together, and we told him who we were; and he said Mr. Goldstein had spoken to him, and he showed us a lot of different samples, and took our measure; and I asked him what the price of the suit would be.

You asked Pura? Yes. He said "Oh, that suit will cost you £6 5s. or £6 10s." or something like that; but he said "As you are getting it through Goldstein, I do not suppose it will cost you that much." So, anyhow, we got measured, and we came away, and I went back on two or three occasions after that to get a fit of it; and somewhere about the 12th, or something like that, of December, I called and got my suit. I know it was some time after, and he sent me a receipt. (27980-27983.)

He said that his receipt came by post, and that a few days afterwards he saw Goldstein and asked him about the price of the suit. He was told that it would be £5 5s., and he paid the money there and then.

In each case the money was paid in cash, and in no case was any receipt taken from the Goldsteins.

Turbet's  
second suit.

Two years afterwards, that is to say at the latter end of last July, Turbet, who said that he wanted a good suit made to wear at a wedding in his family, went again to Pura and ordered a suit which was apparently paid for on the 8th August last, and which cost £9 15s. He said that, when he went to order the suit, this conversation took place:—

Pura put the question to me this way, "Have you seen the Goldsteins lately?" and I said "No, I have not seen them for some time," and he said "I think you want to be very careful with the Goldsteins." He said "I do not think they are much good." I said "Why do you say that?" He said "Well, I saw by the newspapers there is some question of trouble about the I.W.W. case, and I was wondering if it mattered if Goldstein told anybody that he paid for your suit"—or words to that effect—and I said "I do not think so." I said "I do not see why Goldstein would say anything about it, I paid Goldstein what he charged—what he arranged." I said "I do not see why he should say anything about it." He said "Well, I think that they are men that you have to be very careful of, especially Dave Goldstein, he is a member of the I.W.W., and you can never trust him, he might talk about it." I said "If he did, I do not know what harm he could do, but in any case if they do ever ask any questions about it, you simply tell the truth about it that Goldstein paid you for my suit, or, for our suits"—I forget which I said. He said "Oh, yes, I hope they will not say anything about it, but I must tell the truth about it." (25658.)

He said that, on a later occasion, when having the suit tried on, he asked Pura whether Judd or "any of these people" had been to see him about the suits that Goldstein ordered. Pura replied that no one had been, and Turbet said that he did not think that it was likely that anyone would go. He said, too, that he said to Pura "If they ask you anything about this suit, there is no arrangement about this suit with anybody else, I am paying the cash for this myself" (25670). Pura, giving evidence on the 19th August, said that all that took place was that Turbet asked him if any of the Labour Members had been at his place, and that he asked him to say that he had paid cash for the first suit. Giving evidence ten days later, he said that he had forgotten to say that it was on the second occasion, when Turbet went in to have the suit tried on, that he asked him to say that he had paid cash for the first suit. Pura replied that he could not do that, as he might be prosecuted for perjury, to say nothing of other difficulties that he would get into, and Turbet said "Well, the only way for us to do is to say that we paid the money to Goldstein." He added "It is the honest truth that the man spoke to me in that way; that they were going to say before the Court that they paid through the Goldsteins at wholesale price of £5 5s" (4864). He then told a curious story of having been spoken to, in Pitt-street, a few days previously by Mr. Mutch, who was a complete stranger to him, except of course by name, and he said that he told Mr. Mutch that he had forgotten to say, when giving evidence, what Turbet had said about paying through the Goldsteins.

Miller's visit  
to Pura in  
1918.

Miller went to Pura again three or four days before this inquiry opened, and ordered a pair of trousers of similar material to the suit which he had previously had. Pura says that on being asked for a deposit Miller took out a £5 note and explained to him about the forgery, and he said that Miller then said that he thought that Goldstein brothers would keep quiet regarding the suit that had been made for him. Miller said that his trousers suffered in an encounter which he had with a man whom he was arresting, and that, being reimbursed by the Department for the damage done, he went to Pura to see if he could get another pair of similar material to match the coat and waistcoat. He agreed with Pura that on being asked for a deposit he had nothing but a £5 note, which Pura was unable to change, but he denied that any other conversation, such as Pura deposed to, took place, and he said that, after reading an account of Pura's evidence in the newspapers, he did not go to the shop again.

The inference  
from the  
facts.

I think that these are the material facts in connection with this episode. What is the inference to be drawn from them? Mr. Shand does not suggest that the Goldsteins are telling the truth in the matter, but he suggests that, having been properly treated by the detectives in the note forgery case, Louis Goldstein, after he had regained his

his freedom, and at a time when neither he nor his brother had anything further to fear from the police, was minded to make them a present, but was not sufficiently carried away by his generous feelings to make anything but a little one. The suggestion, as I understand it, is that he represented to the police officers concerned that, through his good offices, they could get suits of clothes at wholesale prices, whereas, in point of fact, unknown to them, he was paying retail prices for the clothes. This is not very convincing in itself, and, of course, it means throwing the Goldsteins and their story overboard. Mr. Windeyer, on the other hand, suggests that these suits of clothes were, in point of fact, accepted by the police as presents from the Goldsteins, and that afterwards, instead of honestly admitting the fact, they magnified a comparatively trifling wrongdoing into a serious offence by swearing falsely as to the facts. There are a number of very suspicious features. It is curious, in the first place, that the Goldsteins and the detectives should tell different stories about the transaction. It is manifest, on the facts, that the story told by the Goldsteins cannot be accepted, and there are difficulties in the way of accepting that told by the detectives. The price which they had to pay Goldstein was not a wholesale price, and was not so much below—if it was below at all—what they would have had to pay their own tailors at that time, in the ordinary course of business, as to make his offer a very attractive or a very tempting one, and it is curious that each should have wanted a suit of clothes at about that time, and should have been tempted away from his own tailor by Goldstein's offer. It is curious, too, that men of the world as they are, versed in the ways of criminals, and knowing the men they had to deal with, they were not more careful, if foolish enough to have any dealings at all with them, to see that they obtained written records of the transaction which would accord with the facts. As it is, the only receipts which they obtained were those given by Pura, which do not square with the facts, and which do not, in my judgment, afford any assistance to the police in the way of corroboration of their story. I do not know of any reason why these receipts should not have agreed with the amounts shown in Pura's books, unless it were that Pura lent himself to a suggestion from Louis Goldstein that the amounts should be increased to enhance the value of his gifts. He and Pura agree in saying that it was done at his suggestion, and I am willing to accept this much of what they say. Miller gave a natural explanation of his business with Pura just before the opening of this inquiry, if it is true, but it strikes one as peculiar that he should have gone there just on the eve of these proceedings; and it is, I think, still more remarkable that Turbet should have gone there just about the same time, and ordered another suit of clothes at the very high price for a man in his position—high even for these times, I think—of £9 15s. He and Pura do not agree in their recollection of what took place, but Turbet admits that there was some conversation about the payment for the suits and that he asked whether Judd or others connected with him had been to see Pura. This suggests that he was uneasy in his mind, and, in answer to Mr. Shand, he said that he thought that he had mentioned the matter to the other detectives (25678–25681). Mr. Shand was asking about a recent discussion, and I take it that Turbet misunderstood this when answering. Mr. Shand commented severely upon Pura's evidence, but my comments are based upon the entries in his books—the honesty of which I see no reason to doubt—and upon the other evidence in the case. It is remarkable, no doubt, as Mr. Shand pointed out, that Turbet, after failing to persuade Pura to agree to commit perjury, should have told him that the police intended to perjure themselves, and I think that, before accepting a statement of that kind, one would require to be absolutely certain of the veracity and accuracy of the witness deposing to it. I know nothing of Pura, and, though I accept a good deal of his evidence as true, I am not prepared to place implicit confidence in everything that he says. The question which I have to consider, however, is not whether Turbet told Pura that the police were going to give false evidence in the matter, but whether they have, in fact, given false evidence. I am not free from doubt, but I am inclined to think that they have. I hesitate to come to the conclusion that they added to the comparatively venial offence of taking a small present from the Goldsteins the more serious offence of combining to swear falsely in order to conceal what they had done, and yet, on the other hand, there are features in the case which prevent me from feeling that I can safely and satisfactorily accept their story.

I have now, I think, dealt sufficiently fully with the material facts of what is known as the I.W.W. case, and with the parts played in it by the various witnesses who are responsible for the charges of misconduct against the police. Perhaps I have done so at too great a length, but the facts are intricate and numerous and the foregoing statement of them will enable me to state my conclusions succinctly, and, at the same time,

time, I hope, unambiguously. Of necessity, I have from time to time, as it appeared expedient, expressed opinions or introduced comments in the course of the narrative, and I do not wish to deal again with phases of the case already dealt with.

#### THE SPECIFIC CHARGES MADE.

I propose now to consider the charges formulated by Mr. Windeyer, as added to by me, and as set out at an earlier stage of my report (*see pp. 8 and 9 ante*). The comprehensive charge that the whole case was in great part made up of fictitious evidence, concocted at the instance of or with the connivance of the police, really covers all the others. But I think that it will be convenient to deal first with the more specific charges.

Amongst the specific charges made are—

1. A suggestion that McAlister's death was due to foul play, and an insinuation that the police were glad to be rid of him; and
2. A charge that the police arranged to deport Scully to prevent him from divulging the circumstances of the case.

Speeches in  
Parliament.

Mr. Brookfield, speaking in the Legislative Assembly on the 10th July, before it was known that Scully had left the country, said—

One witness died in unusual circumstances that have not been explained to the public, and another witness, Scully, is to-day in danger of deportation. Why? To keep him out of the way. . . . The mysterious statements about McAlister's death are that he was alleged to have died of pneumonia, but there was some other cause to which his death could be attributed. It was said that there was foul play. I cannot give you the particulars of his death, but he is dead, and was one of the principal witnesses for the Crown. Now if Scully goes away there will be no one to prove the case against the Crown. No one will take the word of recognised criminals, such as Davis Goldstein and Louis Goldstein. (*Hansard*, 10th July, 1918, pp. 668-669.)

Mr. Mutch, speaking the same night, said—

The circumstances surrounding the death of McAlister ought to be brought to light. Certain information given us by Scully concerning that matter is of a most startling character. . . . I do not know who murdered him; but my belief is that there were some people who did express themselves as very glad when he died; and one of these men is in the detective force to-day. He said, "It is a . . . good job." (*Hansard*, 10th July, 1918, p. 673.)

Mr. Brookfield, speaking again on the 11th July, after Scully's departure was known, said—

I am not at all satisfied that McAlister died from natural causes. He died under most remarkable circumstances. . . . I do not say that he was murdered, but he died under unusual circumstances. Scully, another material witness, mysteriously disappeared. . . . Is it possible that this man has been spirited away so that that written statements shall be valueless, or what is behind all this? . . . The Attorney-General said that the police arranged for this man to be taken out of the country. Why? Here is a written statement accusing some members of the police force of conspiracy in this case. . . . I am not going to trust men who will spirit men out of the country. (*Hansard*, 11th July, 1918, pp. 692-693.)

He added that if a Royal Commission were granted it would be he who would have to prove his charges. Mr. Brookfield, as a matter of fact, did not go into the witness-box himself. I do not mean to suggest that he was unwilling to do so, but, apparently, all his information was obtained at second-hand, and he had to depend upon the evidence of others to substantiate the statements which he had made in Parliament. The suggestion that McAlister did not die of pneumonia, but that "there was some other cause to which his death could be attributed," and that there had been foul play in the matter, is quite unsupported by the facts. The only foundation for it is a suggestion to that effect by Scully, who, without committing himself to any statement of fact for which he could be called to account, contrived to instil the poison of suspicion into minds which, I am inclined to think, were unduly receptive. He said that it was his own opinion that McAlister did not die a natural death, and that that was the general opinion amongst people who were interested in the case. When asked to name the people to whom he referred, he mentioned Davis Goldstein and Mr. Daley. The medical evidence to which I have already referred, makes it abundantly clear that McAlister's death resulted from natural causes, and I have not the slightest doubt that Scully is quite aware of this. Equally without foundation is the statement that some one in the detective force said, "It's a good job." The reference is, of course, to Mr. Walker, and, in another version of the story, he is reported to have gone on to say, "He might have squeaked." The suggestion, or insinuation, is of course that Walker knew that McAlister's evidence had been concocted, and was glad to be rid of the possibility of exposure from that quarter. This suggestion also emanates from Scully. At the midnight conversation with Mutch and Connolly on the 5th February, he either said

McAlister's  
death.

said that he heard Walker say "Thank God, that is one of them gone," or he said that he was told that Walker said so. At Mr. Boote's house, he said that Surridge told him that what Walker said was "A . . . good job, he might have squeaked," or something to that effect. Mr. Walker and Surridge both deny that any such thing was said, and I have no hesitation in accepting that denial.

The suggestion that the police arranged to deport Scully to prevent him from divulging the circumstances of the case is equally without foundation. I have already stated the facts as to this, and I need not repeat them. He was sent from the Crown Solicitor's office to the Inspector-General of Police in connection with his grievance as to the amount of the reward which he had received, and he was directed to put anything he had to say in writing. He did so, and in the result he was given a sum of £150, with the concurrence of the Chief Secretary, to enable him to carry out his expressed wish to make a fresh start in another country. Mr. Mitchell, the Inspector-General of Police, stands above any suspicion that he would lend himself to any wrong-doing on the part of his officers, or that he would be a party to any attempt to cover up or condone, improperly, any wrong-doing on their part, and the suggestion that Scully should be given a further sum of money came from him. Walker and Leary both reported against it in the first instance. The suggestion that, in what they did, the police were animated by a desire to get Scully out of the country, in order to prevent him from divulging their own discreditable conduct in connection with the case, is quite unsupported by the facts. Mr. Mitchell and Mr. Walker acted on their own responsibility in the matter, and it is ridiculous to suggest that their conduct was animated by a desire to cover up any wrong-doing on the part of the police. I think that they recognised that Scully would find it increasingly difficult to earn an honest livelihood in this country, and that, as he sank in the social scale, he would become increasingly dangerous; and they considered that, if he wished to try his fortune in another country, it would be worth while to pay him something and get rid of him. I quite agree. I think that the community would be infinitely better off without him.

Scully's alleged deportation.

The next allegation is that Scully was promised £2,000 to obtain sufficient evidence to secure a conviction. I need not waste many words over this. There is not a scintilla of evidence in support of it. The evidence shows that no promise of any kind was made to him, except the promise that he would be used as King's evidence, and in that event he would, of course, secure his own safety from prosecution. For the rest, he got such share of the reward offered as it was thought his services entitled him to. He, himself, repudiates emphatically any suggestion that any promise of a reward was ever made to him by the Crown, or that he ever said that he had received any such promise.

The alleged promise of £2,000 to Scully.

Taking the allegations of misconduct specified by Mr. Windeyer, not in the order in which he specified them, but grouping together those which relate to Scully, the next is that statements were prepared by the police of evidence which they concocted for him to give. This again rests entirely upon statements or "suggestions," to use a word which he prefers, made by him. According to the note taken by Mutch of the midnight interview, he said that he was taken to Mr. Lamb's chambers, where he answered a lot of questions, that then, before he knew where he was, he was handed a typewritten statement which he signed, and which was based on the answers he had made to questions put to him; but that, when he found that the police were leaving out everything in his statement in favour of the accused, and were twisting the remainder to suit themselves, he and Surridge objected, and told them that they would have nothing to do with it. In his written statement to Judd, he said that, while on the mountains, Surridge handed him a typewritten paper, saying that it had been forwarded from Mr. Lamb's chambers, that it contained the evidence which he was to give, and that he was to learn it off. All of this is a characteristic tissue of misrepresentations. Scully signed the statement which he made at the detective office on the 30th September, and he also signed a short additional statement which he made voluntarily, while on the mountains, after reading the draft which he had with him of his earlier statement. These statements were both made before he was taken to see Mr. Lamb. Mr. Lamb asked him questions based upon them, but no statement was drawn up there for Scully's signature, nor was he asked to sign anything. In the course of the discussion, he told Mr. Lamb about the removal of the tattoo marks from Miller, the escaped German, and, subsequently, a

Other allegations of misconduct in connection with Scully. The alleged preparation of evidence by the police.

short

short statement as to the facts relating to this was drawn up and sent to him on the mountains for him to approve of, if it was correct. He approved of it, and it was returned unsigned (28,875-28,878). That is the only statement sent to him while on the mountains. In this instance, as in many others, he has interwoven an intolerable deal of fiction with a very little fact, and has succeeded in producing a statement which, however much it might impose upon the credulous or the ill-informed, falls to pieces on investigation.

Leary's alleged suggestion that he should manufacture evidence against Grant.

The next allegation is that Leary suggested that he should manufacture evidence against Grant. This suggestion was contained in Scully's written statement which he gave to Judd. Leary and Robertson both deny that anything of the kind was suggested, and Scully also now denies that Leary ever said that he could easily fix up something against Grant. All that took place, he says, is that Leary asked him if he could give evidence against Grant, and said that he must know all about him. Leary says that on one occasion he believes that he asked Scully whether he had told all that he knew about the men mentioned in his statement. This is one of the cases in which Scully refuses to repeat on oath a statement which he had made, thinking that he would be safe overseas before it was brought to light. I am satisfied that there is no truth in the suggestion.

Allegations of police interference causing loss of employment.

The next allegation is that members of the police force procured his loss of employment. This is not borne out by the facts. The police did not interfere in any way to prevent him from obtaining employment. On the contrary, so far as I can see, they appear to have been sympathetic with him in the unenviable position in which he found himself, and they did what they could to help him.

Allegations that the police asked Davis Goldstein to put "fire dope" in the pockets of the I.W.W. men.

I come now to three charges which, I think, may be conveniently grouped together. They are—

1. That Pauling and Turbet asked Davis Goldstein to place "dope" in the pockets of I.W.W. men;
2. That the police supplied "dope" for the purpose of making evidence; and
3. That they put the bottle and the cotton waste in Teen's pocket.

The allegation that Pauling and Turbet asked Goldstein to place "dope" in the pockets of I.W.W. men is contained in Davis Goldstein's statement to Judd. He now asserts that that was a lie. In the face of his denial, there is of course no evidence whatever to support the allegation, and there is not a shadow of a suggestion from the beginning to the end of the case that there ever was any foundation for so wicked a charge. I am satisfied that the statement was a barefaced and deliberate lie on the part of Davis Goldstein, aimed with reckless indifference at the reputations of men who had done him no injury, and against whom he could have had no grudge.

Allegation that Hooper put "fire dope" in Teen's pocket.

Apart from the allegation that Hooper put the bottle and the cotton waste in Teen's pocket, the only suggestion in the case, that I know of, of "fire dope" being supplied by the police for the purpose of making evidence, is contained in the suggestion that Robson put "fire dope" in Fagin's bag. The allegation that Hooper put "fire dope" in Teen's pocket rests on a statement to that effect said to have been made by Pauling to Davis Goldstein. Davis Goldstein now denies that Pauling told him anything of the kind, and Pauling denies that he ever said anything of the sort, or that he was in Davis Goldstein's company at the time at which he is reported to have said it. This charge also falls entirely to the ground. There is not only no evidence in support of it, but there is not even a shadow of a suspicion. It is another wicked and unscrupulous concoction on the part of Davis Goldstein.

Suggestion that Robson put "fire dope" in Fagin's bag.

Fagin accused Robson of having put the "fire dope" in his bag when it was found, and Scully endeavoured to give colour to this assertion by stating to Judd that Surridge told him that Robson put it there. In giving evidence he did not adhere to that statement, but he said that Surridge had suggested that everything was not right. Surridge denies that he said anything of the kind. The charge is recklessly wicked and untrue, and so palpably false is it that, when Mr. Shand referred to it in his address, and submitted that there was no evidence to support it, Mr. Windeyer interjected that he thought that he ought to admit that he had not addressed me on the point, and he added that he said that to supplement Mr. Shand's submission (p. 834). I need say no more.

Mr.

Mr. Brookfield's statement in the Legislative Assembly, on the 10th July last, that the Crown withdrew the charge of forgery against the Goldsteins on the understanding that they were to give evidence for the Crown in the I.W.W. case, and that the Goldsteins have to do to-day what the police wish or they would be "roped in," is not in accordance with the facts. The charge of forgery against Louis Goldstein was not withdrawn by the Crown, but was dismissed at the Police Court. Notwithstanding Davis Goldstein's efforts, and those of his Solicitor, the Crown absolutely refused to make any bargain with him, and it was not until after he had given evidence at the Police Court in the I.W.W. case, and until the forgery case came on for trial at the Central Criminal Court that, on the advice of Mr. Lamb, based on the improbability of securing a conviction, the Attorney-General filed a *nolle prosequi* in his case.

Suggestion that the Crown withdrew the charge of forgery against the Goldsteins on the understanding that they would give evidence in the I.W.W. case.

I come, now, to the comprehensive allegation that the whole case was, in great part, made up of fictitious evidence concocted at the instance of, or with the connivance of, the police. It is not only the jealous that trifles light as air are confirmations strong as proofs of Holy Writ. To the mind in which suspicion is aroused from any cause, either jealousy or anything else, trifles have an undue and a disproportionate significance. If this inquiry is approached from the standpoint of a conviction that the police are guilty, and that all that is to be done is to discover the evidence of their guilt, the facts are sure to be seen out of focus. The man who sets out on his inquiry convinced that the evidence of guilt is there, and that it can be discovered if the facts are scrutinised sufficiently closely, is bound to attach an undue, and a sinister, significance to innocent circumstances, and is bound to discover what he is looking for. Treatises have been written demonstrating to those who wish to be convinced that there is internal evidence in Shakespeare's works proving that he did not write them, but that Bacon did. I have not approached this inquiry with the preconceived idea that the police were guilty, and that my sole duty was to drag to the light of day the evidence proving their guilt. I have approached the matter dispassionately and with an open mind, but with every desire to give to those who alleged misconduct on the part of the police the fullest opportunity of establishing their case. I have made free use of the statutory provision that I should not be bound by the technical rules of evidence, and I have not hesitated, where I thought that any useful purpose would be served by it, to admit hearsay and other evidence, which would be inadmissible in a legal proceeding *inter partes*. I thought it desirable that as few restrictions as possible should be placed in the way of those launching the charges, so long as the police were not allowed to be prejudiced, or put at a disadvantage, by the manner in which the inquiry was conducted.

The allegation that the whole case was in great part made up of fictitious evidence to the knowledge of the police.

The charge that the whole case was in great part made up of fictitious evidence to the knowledge of the police is one which, standing alone, it is difficult to get to close quarters with. Such a charge can only be proved by specific instances of wrongdoing, the cumulative effect of which is such as to surround the whole of the case presented to the jury with an atmosphere of suspicion and distrust. I have already dealt with some of the specific instances relied upon by Mr. Windeyer, and I shall have something more to say about some others of them, but I do not think that I am doing him an injustice, or that I am misapprehending the purport of his address, in saying that he sought—not improperly, of course—to create an atmosphere of suspicion enveloping the whole of the proceedings. He spoke of the case as unique, and of the possibility of the zeal of the police having outrun their honesty, and he said, "We have shown so many discrepancies, we have shown so many departures in the evidence at the trial from the evidence where it was first given, we have shown such a remarkable similarity in the nature of the evidence in the different departments of the case, that it becomes impossible to believe that this trial was the calm, dispassionate administration of justice which we all of us believe is necessary for the continued existence of the form of civilisation which we believe to be necessary in the evolution of humanity" (p. 797). Again, in the course of his reply, he summed up what he regarded as the case made, in the following terms: "We say that an examination of the police testimony here and at the trial shows, not only evidence of artificiality, but of concoction; McAlister is seen to be a police agent actuated by a desire for easy money, and he is shown, as Mr. Shand says, very likely to be a liar. The Goldsteins have given different accounts

at



at different times. They became witnesses under compulsion, are seen to have improper relations with the police, and are shown to be liars. Scully is shown to have come into the police fold because he is afraid and under compulsion, and he is also shown to be quite unreliable in many parts of the case. We say that the prestige which naturally attaches to the police as officers of the law is woefully shaken. They have prepared and adopted for the purpose of the case an account of how the Goldsteins came into it which is untrue, and a general view of the whole of the evidence bearing on their relations with the Goldsteins show some of them to be corrupt" (p. 871). I have read the evidence with care and I listened attentively to the addresses of counsel, but the result of my inquiries has not been to create in my mind anything in the nature of a suspicion that the whole case is tainted with fraud on the part of the police. The suggestion that in order to secure the conviction of men whom they believed to be guilty of an abominable and a reckless conspiracy against the whole community they allowed their zeal to outrun their honesty, has not impressed itself upon me as one based upon any substantial foundation of fact. Human memory is uncertain and fallible at any time, and when men are most certain of the accuracy of their recollection of past events, they are very apt to be wrong. In estimating the value of the evidence given by a witness, one has to take into consideration not only his desire to tell the truth, but the accuracy of his recollection. A man may be animated by an honest and disinterested desire to tell the truth, and yet he may be at fault in his recollection of past events and may make mis-statements. Such a one is none the less a witness of truth, in the sense that he is a witness who tells the truth according to the best of his ability, and, in such a case, to call attention to discrepancies, to inaccuracies in the matter of dates, to inconsistencies, and the like, and to build on them an argument that the witness is deliberately giving false evidence and has lent himself to a conspiracy to deceive the tribunal before whom he is appearing, is to indulge in fallacious reasoning.

Circumstances going to show that the evidence of the four informers at the trial was true.

The evidence of such men as McAlister, Scully, and the Goldsteins, was, no doubt, the evidence of men who could not be relied upon to tell the truth unless to do so served the hour for them. The evidence of informers is nearly always open to criticism of this kind; but, as I pointed out in the earlier stages of my report, it is often necessary for the detection of crime to resort to evidence of this kind, and it is well settled that it is the duty of the presiding judge in such cases to call the attention of the jury to the character of the witnesses and to the danger of acting upon the testimony of an accomplice, unless it is corroborated in some material particular tending to show that the accused person committed the crime charged. Whatever may be said, however, about the danger of accepting the testimony of men like these, there are some outstanding features of their evidence which go to show that, in the essential details, they are probably speaking the truth. Scully and the Goldsteins were animated by a desire to secure their own safety, and they were quite astute enough to realise that the occasion was one in which the truth would serve them better than falsehoods. McAlister was, perhaps, not in the same category, but I think that he was frightened by the disclosures made to him; and, even if it is true that his object was, as he told Scully, to make what money he could out of the matter by going to the police, he, too, is said to have been a man of intelligence, and he, too, probably realised that the card to play was to tell the truth. In addition to that there is this very significant and very striking circumstance. McAlister, Scully, and the Goldsteins, all approached the police from different directions, without any previous consultation with one another, except in respect of any consultation which there may have been between the two Goldsteins, and (subject to the same limitation) without any knowledge on the part of any one of them that the others had it in contemplation to inform the police of what was taking place. In these circumstances, the similarity of the stories told to the police is very striking. If it were shown that they had had any opportunity of collaborating, this similarity might no doubt be regarded as an indication that they were telling a concocted story, but, in the light of the fact that they did not put their heads together before going to the police, the similarity of their stories must have gone a long way to convince the jury, as it certainly goes a long way to convince me, that in the main, at all events, they were telling the truth. McAlister brought a bottle of "fire dope" to Fergusson; Davis Goldstein brought a similar bottle to Pauling; and similar bottles were found in the possession of Teen and

and of Fagin. Teen was implicated in the matter by the story told by all these men. Fagin and Hamilton were implicated by the stories told by Scully and Davis Goldstein. It is difficult to believe that they would have hit on the same men if they were telling lies, and were not deposing to actual facts. The fires that took place were undoubted facts; and the suggestion, if it is made, that the police were in some way responsible for them is one that cannot reasonably be entertained. Scully and Davis Goldstein expressed their belief in the innocence of some of these men who were not implicated by their evidence at the trial. These expressions of opinion are, however, quite valueless. The guilt or innocence of these, or any other men, must be based upon satisfactory evidence, and not upon the opinions of discredited individuals such as Scully and Davis Goldstein, or upon the inferences which, as they think, should be drawn from the established facts.

A large part of the charge against the police was that McAlister gave false evidence, which was manufactured by them. The detectives concerned in this accusation of dishonesty are Leary, Lynch, and Fergusson, but, if there is any truth at all in it, Mr. Walker, and possibly others, must also have been a party to this conspiracy to defeat the ends of justice. It is difficult to understand clearly at what stage the suggested conspiracy began, and to what length it went in putting a mixture of the false and the true before the Court. I have told, in some detail, in the previous pages of this report, the story of how it was that McAlister went to Fergusson, of Fergusson's report to Mr. Walker, and of Mr. Walker's instructions to Leary, Lynch, Moore, and Fergusson in the matter. Is it seriously suggested that all this was solemn play-acting on the part of men building up a fictitious case with the assistance of a willing tool, who was telling lies as directed? If so, all that I need say is that, in my judgment, the suggestion is preposterous. McAlister's daughter, who, from the manner in which she gave her evidence, cannot be accused of an excessive friendliness towards the police, and who disapproved of the part which her father played in the case, says that she and her aunt both noticed that there was something troubling him, and that, when he told her that he was mixed up with the men of the I.W.W., and that he knew something about what was going on, her aunt advised him to go and see Fergusson. She says that he went down and saw Fergusson, and stated his case to him. I do not suppose that it will be suggested that this is all a fabrication, and that McAlister never had a case to state to Fergusson. It is apparent from that evidence that his relatives in whom he confided thought that what he had to say was of such a character that the police should be told, and the suggestion that he should approach Fergusson was a perfectly natural one, based on the intimacy that existed between them and the somewhat slender tie of connection by marriage. Mr. Windeyer commented upon the fact that at the trial McAlister denied that he was a relation by marriage to Fergusson. Fergusson was not asked about this, but, if the fact had been known, I cannot see that it would have been a circumstance of any particular materiality. The fact that there were ties between them, whether of intimacy or of connection by marriage, serves to explain why Fergusson was made the repository of McAlister's confidence, but it has no further significance, unless it is assumed or established that Fergusson was a man who would be prepared, either alone or with the co-operation of others, to use McAlister as a tool to serve his dishonest ends. Doubt was sought to be cast, too, upon the evidence as to the drawing of the discs; and Scully said at one stage that McAlister told him that Leary had "fixed this up." McAlister's daughter, however, says that her father explained to her how it was that he became connected with the case. He told her that he was down at the I.W.W. rooms and that others spoke about the fires, and asked him if he was not going to help them. He told her too, that, after speaking to Ferguson, Ferguson told him to go back, and that, after he went back, the drawing of the discs took place. He also told her that he had to start a fire at Way's and he told her, according to her recollection, that he handed over a bottle of "fire dope" to Fergusson at Way's. He told her all these things as facts, and as part of the facts going to make up his burden of anxiety, and it is inconceivable that, if they were not facts but were part of a concocted story, he would have spoken of them to the members of his family as he did. Fergusson is a young man, and he impressed me very favourably as a truthful, and an intelligent witness.

McAlister's  
evidence at  
the trial.

Fergusson's  
evidence

witness. Nothing was elicited before me to show that he was a person to whose statements credit should not be given, and I accepted him as an honest and straightforward witness, so far as his memory served him. He was not mixed up in any way with the Goldsteins, so that no suspicion can fall upon him of having received money from them, and though, in cross-examination, it was sought to show that there had been one or two discreditable episodes in his past career, I think that it is fair to him to say that the attempt failed and that nothing was elicited which in any way shook my confidence in him as a trustworthy and competent police officer. Leary and Lynch are also free from any suggestion of complicity with the Goldsteins, but Leary was asked a number of questions as to his past career and as to his financial condition, in order to establish, if it could be done, that he was a corrupt and dishonest police officer. I see no reason to believe anything of the kind. He gave his evidence in a way which impressed me very favourably, and I am prepared to accept him, also, as a witness of truth. I do not mean by this, of course, a witness who is never found out in an inaccuracy—that may happen to anyone—but what I mean is that I believe him to be a witness who, whether his recollection was at fault in any particular or not, spoke the truth according to the best of his ability. He was asked as to two specific instances in connection with his past career in which suggestions had been made against him of dishonesty or improper conduct, but after seeing the papers in these cases I am quite satisfied that he was honorably cleared in each case of any charge of wrongdoing. He has borrowed money from time to time from Mr. E. R. Abigail, a solicitor, who appears, I believe, very frequently as an advocate for the defence of accused persons in the Courts; but the money was borrowed at interest on the security of property, and, though I think that it would have been wiser for him to go elsewhere—if he could have obtained an advance elsewhere—I see no reason to doubt the truthfulness of his story as to his dealings. At the present time he owes Mr. Abigail the sum of £89 or thereabouts, but I am satisfied from his evidence, and after inspection of the documents, that this was a *bona fide* case of a loan on security for the purpose of completing a purchase and of effecting certain improvements to property. The loan, with interest, is being repaid by instalments. In respect of Lynch, it is not only suggested that he was a party to the manufacture of the false evidence to be given by McAlister, but it is also suggested that he deliberately swore falsely in saying that he saw Hamilton hand something to Davis Goldstein in front of the I.W.W. rooms. Goldstein, it will be remembered, said that his evidence in this respect was false, and that the “fire dope” was given to him by Hamilton at the back of the building. Lynch was not asked any questions as to his financial condition, nor was any suggestion made that there was anything in his past career suggesting that he was a man who would lend himself to a dishonest scheme, and the impression which I formed of him, after watching him under examination and under cross-examination, was that he also was an honest, straightforward witness. I believe that he told the truth to the best of his ability, and I do not believe for a moment that he swore falsely at the trial for the purpose of corroborating either Davis Goldstein or anyone else. I do not know whether it was seriously suggested that Mr. Walker and Moore were also parties to this scheme of manufacturing evidence for McAlister to give; but, if the suggestion is made, or is likely to be made, I take this opportunity of saying that there is not the slightest foundation for it, and that I do not believe that they would lend themselves to anything of the kind. The impression which I formed of them was that they were both honorable and truthful men. I do not propose to go in detail through all Mr. Windeyer’s criticism of McAlister’s evidence. He admitted that some of it was in the nature of microscopical criticism (p. 780), though he contended that there were discrepancies which would not occur in a true narrative. I am not concerned, however, so much with the question whether the jury was wise or not in acting upon McAlister’s evidence, as with the question whether it was false to the knowledge of the police. Scully says McAlister told him, amongst other things, that the detectives never saw him with Moore. I attach absolutely no weight to this statement, and Moore’s statement at the trial indicates that he and McAlister were together on the occasions when the detectives say that they saw them together. It was contended that McAlister’s statements regarding Andrew were dishonestly fastened on to McPherson. This is purely supposition. I can see no motive for the suggestion, and I do not think that there is any substance in it.

Leary's  
evidence.

Lynch's  
evidence.

Walker and  
Moore.

It

It is, of course, easy to be wise after the event, and, in the light of the fuller knowledge which everybody now possesses, it is easy to call attention to this or that surprising piece of ignorance on the part of the detectives, but it must be remembered that at that time these men were gathering their information together gradually, and were working very much in the dark. There might have been confusion at times between the identity of Andrew and Androvitch in the minds of some of them, but there is no doubt that McAlister referred to them as two different individuals. It is possible that Androvitch may have been identical with Fagin. If Ferguson's recollection is accurate, McAlister told him that Andrew was a Russian. Possibly, however, he is at fault in this respect, and it may have been Androvitch whom McAlister described as a Russian. It is possible, too, that the mysterious Mahony may have been identical with Morgan. All these are, however, matters of speculation. They may, and they do, perhaps, serve to show that the information of the police was not complete, and that they were still groping for facts, and sometimes drawing erroneous conclusions. They do not, however, in my opinion, raise any suspicion of a suggestion that they were conspiring to trump up a false case with McAlister's assistance. The accusation that they were doing so is, of course, of a most serious character. Men in their position who would do such a thing deserve the severest punishment, and, though the seriousness of the accusation against them is no reason why, if made, it should not be investigated with thoroughness, it is every reason why they should not be lightly convicted on mere suspicion and surmise unsupported by facts.

The detectives associated with the Goldsteins were Turbet, Pauling, and Mitchell. Mitchell, however, had not so much to do with them in the I.W.W. case as Turbet and Pauling, and the accusation of misconduct in respect of this part of the case have been levelled principally against Turbet and Pauling. Speaking of these three detectives, Mr. Windeyer said that their conduct in reference to the forged note case was interwoven with the I.W.W. case. He said that they neglected to prove the guilt of the Goldsteins by reason of an improper relationship with them, and that the fact that the Goldsteins gave evidence arose out of that improper relationship. I cannot find any evidence to support this charge. The episode of the suits of clothes cannot, of course, be used to show that the police neglected their duty at this time by reason of gifts made to them, for the suits were not obtained until after the proceedings in the forgery case were at an end. It is suggested, or, if not suggested, at all events, hinted, that if the truth were known, it would be found that the money given to Lazarus, or some of it, reached these men, or at all events, reached Turbet and Pauling; but there is not only no evidence to show that this was so, but I think that it is fair to say that there is no evidence sufficient to raise suspicion in the mind of a reasonable man that the money handed to Lazarus by the Goldsteins found its way into the pockets of Turbet, Pauling, or Mitchell. In cross-examination at the trial, Pauling said that the first time that he saw the Goldsteins in connection with the I.W.W. case was on the 15th September, 1916. That was on the day on which he received the "fire dope" from Davis Goldstein, but, as a matter of fact, the notification that they were preparing to give information came to him on the 11th—some four days earlier. Mr. Windeyer was, I think, referring to this evidence, to the joint report of Turbet, Pauling, and Mitchell, of the 16th September, and to Davis Goldstein's statement prepared by Pauling, when he said that the police had adopted and prepared for the purpose of the case an account of how the Goldsteins came into it. I do not agree with this. Pauling was wrong in his statement at the trial, but I see no reason to suppose that the misstatement was a deliberate lie, nor can I extract from it, when read in connection with the other facts of the case, any indication of a desire to give false evidence or improperly to shield the Goldsteins. The joint report of the 16th September was an honest report in my opinion. The question whether the Goldsteins were or were not to be prosecuted in the note forgery case, or whether any bargain was to be made with them in the matter of giving evidence in the I.W.W. case, was not a matter which rested with the police. I have had occasion to comment upon the fact, that, in my opinion, the Goldsteins' financial affairs were not sufficiently looked into, but I do not attribute any intentional neglect, based on improper motives, to the police in this respect. Seeing the case as one sees it now, it is not easy to understand

Turbet,  
Pauling,  
and Mitchell  
and their  
dealings  
with the  
Goldsteins

understand why Mr. Bathgate did not go into this matter more fully than he did, and, if he had wished that this should be done, the evidence indicates that the police had all the material ready for him. In respect of the I.W.W. case, the evidence indicates that Davis Goldstein was taking up an independent attitude in the matter of giving evidence, and that Pauling was doing his best to secure his evidence for the Crown. It is evident that Davis Goldstein was for some time unwilling to give evidence, and, if Pauling was endeavouring to induce him to give false evidence, it is unlikely that he would have approached Mr. Cohen as often as he did. Mr. Windeyer said that the Goldsteins came into the case in a discreditable manner. If he means by this that they came into it merely to serve their own ends and not out of concern for the public welfare, I quite agree with him, but if he means that they came into it in a manner which was discreditable to the police, and that the police—that is, Turbet, Pauling, and Mitchell, neglected their duty by reason of improper relations existing between them and the Goldsteins, I do not agree. Such a state of things has not been proved to exist, and the facts that have been proved do not in my judgment reasonably lend any colour to such a suggestion. In dealing with this part of the case, I have not overlooked the discredit that attaches to these three officers by reason of their connection with the acquisition—to use a neutral word—of suits of clothes through the Goldsteins. Because of this—and in the case of Turbet and Pauling because of other circumstances on which reliance was placed for the purpose of discrediting them—I have scrutinised their evidence very closely. I think that both Turbet and Pauling were led into an improper attempt to bolster up Louis Goldstein's reputation in order to justify their conduct in the matter of suits of clothes, and I have not been able to feel the same confidence in them, or in Mitchell, as in other detectives who were not connected with the Goldsteins, and who accepted no favours at their hands. The episode of the suits of clothes was, however, of comparatively late date, and it was certainly subsequent to the proceedings in the note forgery case, and to the proceedings in the I.W.W. case. It is only useful in this inquiry for the purpose of throwing light on the characters of the men concerned, and, however much their conduct may be open to criticism or condemnation in this or other respects, I do not believe that any of them acted corruptly or improperly in the I.W.W. case.

I do not think it necessary to enter into a discussion of every detail that was discussed before me during the course of the proceedings. I have considered them all, and, whatever reflections I have thought it necessary to make from time to time upon the conduct, in any respect, of any of the detectives concerned, I see no reason to suppose, and I do not believe, that they were parties to an attempt to put false evidence before the Court in the I.W.W. case, or that their conduct in connection with that case is deserving of censure.

SurrIDGE and  
Robertson,  
and their  
dealings with  
Scully.

SurrIDGE and Robertson were the detectives chiefly associated with Scully. Robertson gave evidence at the trial of his observation of Scully prior to the 30th September, and of what took place with Scully on that date. SurrIDGE gave similar evidence, and in addition gave evidence of participation in the raid at Fagin's house that night. I have had occasion to pass some criticism upon SurrIDGE in respect of other matters, and it is suggested that he and Robertson were not speaking the truth in saying that, after the trial was over, they saw Scully in conversation with Judd in King-street. It is possible that there may have been some mistake as to this, but if there was I am more disposed to think that it was an honest mistake than that there was deliberate false swearing either on their part or on Judd's. But whether they were or were not mistaken, honestly or otherwise, in saying that they saw Judd and Scully together in King-street on one occasion, their evidence at the trial was comparatively unimportant, and I see no reason to suppose that their conduct in connection with the case was not honest. I was favourably impressed with Robertson's demeanour in the witness box, and I should be slow to think that he had deliberately sworn what was false. He gave me the impression of a truthful and straightforward witness. For some reason or other, an impression appears to have been created in the minds of those responsible for the attacks upon the police force that SurrIDGE knew of something improper, and could give information if he would. Why he went out of his way, at Scully's suggestion, to meet Judd, I do not know, but it is a fact that a meeting took place between them in Hyde Park, and that there was some discussion about the matter. He may, of course, have been animated by a desire

desire to see what was in the wind. King's evidence, if true, also suggests that he created an impression that he could say something if he would, and Mr. Windeyer took the extraordinary course of suggesting to me that I should call Surridge and should ask him whether he wished to give evidence in support of the charges made. I refused to do so. If it was Surridge's wish to give evidence of that kind, it was quite competent for him to come and do so. Whatever criticism I may have had to make upon him, I am satisfied, however, that his conduct in connection with the I.W.W. case was honest. The suggestion in connection with him was not so much that he had acted dishonestly himself as that he could tell of the dishonesty of others, if he would. To what extent, if any, he assisted in creating this impression, or whether it owes its origin entirely to Scully, I cannot say, but he denied any knowledge of anything improper.

#### EVIDENCE AS TO THE FINANCIAL POSITION OF THE DETECTIVES.

In connection with the suggestion that the police had received bribes from the Goldsteins or others, some of them were cross-examined as to their financial position. Those who were so questioned, in addition to Leary, were Turbet, Pauling, Surridge, Hooper, Miller, and Mitchell. They produced their bank pass-books for inspection, and gave a good deal of information as to their affairs in answer to a pretty thorough cross-examination, evidently based upon information obtained as the result of a diligent search for something discreditable or dishonest. I think it right to say that nothing was elicited tending to create any suspicion that any of them had been improperly using their positions in any way for the purpose of feathering their nests. Pauling's pass-book, it is true, showed that in the year 1916 the payments into his account were about £100 in excess of those of the preceding year, but he explained that this result was in a measure due to some successful operations in the betting ring, based upon information supplied to him by a relative "in the know." I am prepared to accept that explanation; but I am inclined to doubt whether it is right or prudent that a man in his position should indulge so much in racecourse betting as he says that he does. Information from someone "in the know" may occasionally turn out to be accurate, but I am given to understand that it cannot always be relied upon. Mr. Windeyer admitted that he attached no significance to what was disclosed by the bank books of these detectives, but he pointed out the improbability that men receiving bribes would pass the money through a channel in which it could be followed. That, of course, is true, and it is a suggestion which cannot be met by evidence. It is fair, however, to the men concerned to say that as the result of their cross-examination no suspicion was left in my mind that any of them had been guilty of anything of that kind.

There is much truth in the old, and homely, saying that if you only throw enough mud some of it is sure to stick. Everybody who is concerned for the welfare of his home-land desires that the administration of public affairs should be above any reasonable suspicion of dishonesty or impartiality, and that those who are selected to perform public duties of any kind, from the highest to the lowest, should not only be men of experience and ability, but should also be men of good character and unquestioned integrity. Ability and cleverness are properly regarded by right-thinking people as insufficient qualifications unless accompanied by good character and proper standards of conduct, and it is for this reason that law and custom properly allow great latitude to any fair criticism, however severe, of the administration of public affairs. While no charge of misconduct or dishonesty against any public officer in the performance of his duties should be allowed to pass unnoticed, there are to be found, unfortunately, in every community, some people who take a malign pleasure in detracting from the good fame of those occupying positions in the public service, and there are those whose minds are so constituted that a charge of misconduct against a public officer, from whatever source proceeding, is assumed to be true as a matter of course. One knows, too, that where a charge of this kind is made, an atmosphere of distrust and suspicion is created which remains in the mind and creates an unfavourable impression long after the recollection of the facts brought forward by way of refutation has faded into oblivion. By reason of the duties which they are called upon to perform, and the variety of people with whom they are brought in contact, the police are peculiarly open to attacks upon their character and their honesty. It is easy for a cunning criminal

criminal to manufacture a charge, which may be extremely difficult to disprove. It is for this reason, therefore, that in every case it behoves the public, and more particularly in cases in which strong interest and strong feeling are aroused, not to be over-ready to jump to the conclusion that there has been a maladministration of justice. On the other hand, if the police wish, justly, and with merit, to retain the confidence of the public, which I believe, as a body, they enjoy, and if they wish to maintain the high standard of conduct which it is essential that men brought into frequent association with the criminal classes, as they are, should observe, it is important that they should see to it that their dealings and their actions are always upright and above suspicion. It is for that reason that, even if the most charitable view be taken of the evidence relating to the suits of clothes received by some of them through the good offices of the Goldsteins, the conduct of those members of the detective force who laid themselves under any obligation to the Goldsteins calls for condemnation. Surrige said that he got his suit through Goldstein in a business-like way, and that, if he could get one to-morrow under similar circumstances, he would do so. All that I can say is that I hope that, on serious reflection, he does not still take the same satisfied view of his conduct in the matter. If he does, his standards need adjustment.

Before concluding what I have to say on this part of the case, I wish to say a few words about something said by Mr. Windeyer, which I do not think that I should pass over without comment. In discussing the conduct of the police he said that, though actuated by a sense of duty, there might often be a great temptation to them, where they had a strong reason for believing that people were guilty, to make the evidence a little bit better than it would otherwise be, and he went on to say "I have heard it said that the police are justified in polishing evidence, and so on," (p. 743). I have never myself heard anything of the kind said, and I am very sorry to think that there is any such impression abroad. Nothing could be further from the fact. The police are not justified in stretching the evidence against an accused man one hair's breadth beyond the truth, and any police officer who conceives that he is, or who thinks that he is, or who thinks that his own belief in a man's guilt justifies a departure from truth and fair play, is unfit to be in the service. I am not assuming that the police would do anything of the kind. I am sure that no reputable and self-respecting police officer would feel himself so justified, and I am quite sure that if any such practice were brought under the notice of the Inspector-General of Police, or of the heads of departments under him, it would be dealt with summarily and effectively. The duty of all officers of the Crown, police officers, Crown Prosecutors, the Crown Solicitor and the Attorney-General, is the same in respect of prosecutions for crime; and it is simply to see that the facts of the case are brought out fully and fairly, without extenuation, but without over-emphasis, and that no charge is pressed home against an accused man vindictively, or by resort to sharp practice, distortion of the facts, or other improper means. All this is, of course, a matter of common knowledge and traditional practice in the Crown Law Office, and I have no reason to suppose that the police force as a body is not animated by the same proper standards and the same sense of fair play; but as Mr. Windeyer had stated that he had heard it said that the police are justified in departing, to the extent that he mentioned, from this practice, I think it is right that I should express my condemnation as strongly and as emphatically as I can.

#### CONCLUSION ON THE CHARGES OF MISCONDUCT.

I have nothing further to say on this part of my inquiries.

I have to report, in conclusion, that the charges of misconduct made against members of the police force in connection with the case *King v. Reeve* and others have not been established as a fact, and that nothing has been brought before me which raises any suspicion in my mind that misconduct, in fact, took place, though it could not be proved.

#### INQUIRY AS TO NEW FACTS RAISING A DOUBT AS TO THE GUILT OF ANY OF THE CONVICTED MEN.

I turn now to the request of the Government, conveyed to me through the Attorney-General, that if, in the course of my inquiry, any facts should be established which raised in my mind a doubt as to the guilt of any of the men in the *I.W.W.* case

case now in gaol, I should so report. Some discussion as to the precise meaning of this request took place in the course of the arguments addressed to me, but I have no doubt in my own mind of what was intended. It was clearly not intended that I should sit as a court of review, and it is quite clear that I was not asked to express an opinion whether, on the evidence before the jury, the conclusion to which they came was justifiable. That is a matter which was dealt with by the Court of Criminal Appeal and which lies altogether outside my province as a Commissioner. A number of grounds of appeal against the conviction were taken, and were argued by competent counsel before the Court of Criminal Appeal; and Mr. Justice Gordon, in delivering the judgment of the Court, said (*R. v. Reeve and others*, 17 S. R., 90): "All the above grounds of appeal were fully and ably argued before us by counsel for the appellants and for the Crown, and in addition to a most earnest consideration of those arguments we have ourselves most carefully considered the evidence affecting each charge against each of the accused, bearing in mind the danger that may arise from a large number of accused being tried together upon several charges, and we have considered this appeal as if each individual accused was being tried upon a separate indictment containing only one of the above counts." It is manifest, as I say, that it was not intended to thrust upon me the burden of going over the ground again that was covered by the Court of Criminal Appeal, or of sitting in review upon its decision. I think, therefore, that much of Mr. Windeyer's criticism of the evidence in the case was really beside the point. He called attention to a number of discrepancies, inconsistencies, reasons for disbelieving the witnesses, and so forth, based upon a criticism of the evidence before the jury, and before the Court of Criminal Appeal, and very proper to be considered by those tribunals. I have no reason to suppose that these matters escaped attention, but, in any event, as I have pointed out, my functions are not those of a court of review. What I am called upon to do, according to my reading of the letter, is merely to report whether, in the course of my inquiry, any material fact has been elicited of such a character that it raises a doubt in my mind whether the men were really guilty of the offences for the commission of which they are being punished.

#### NO MATERIAL FACTS ELICITED ON THE QUESTION OF GUILT.

I have to report that no fresh facts have been elicited before me raising any doubt in my mind as to the guilt of the convicted men. I am, of course, discriminating between fresh facts, on the one hand, and, on the other hand, criticism of the credibility of the evidence before the jury. In some of the earlier passages of my report I have dealt with some fresh facts relied upon by Mr. Windeyer, and I do not wish to take up time by going over the same ground again. I have pointed out, for instance, that, as Mr. Windeyer himself admitted, his contention that there had been no suggestion at the trial that McAlister joined the I.W.W. at the instance of the police cannot be supported, and I have also dealt with his criticism of the fact that evidence was not given at the trial of the ties by intimacy and marriage between McAlister and Fergusson.

Another new fact relied upon by Mr. Windeyer was Fergusson's statement that McAlister told him that he had told Andrew that he would use the "fire dope." Mr. Windeyer contended that this evidence, if accepted, made McAlister an accomplice, and that, if it had been known at the time of the trial, the presiding judge could not have directed the jury that there was no evidence that McAlister was an accomplice. He added, "I do submit that that is a matter of some importance, which is a new fact elicited by this inquiry." (p. 784). It is obvious from Fergusson's evidence that McAlister's statement that he would use the "fire dope" was only made in order to gain time for consideration; and, before doing anything further in the matter, he carried his information to the police. I am clearly of opinion that what took place between him and Andrew, before he went to Fergusson, was not sufficient to make him an accomplice, but, in any event, the whole of Mr. Windeyer's submission upon this point is based upon a misconception. The fact that McAlister said that he would use the "fire dope" was not elicited at this inquiry for the first time. It was given in evidence by McAlister at the trial. Referring to his conversations with Andrew, he said "I asked him what was the effective method they had; he asked me if I would be prepared to use it if he got it for



for me; and I said yes, I was. I asked him when he would get it; and he said on Saturday next." Mr. Windeyer is mistaken, too, in suggesting that Mr. Justice Pring directed the jury that there was no evidence that McAlister was an accomplice. He told the jury that he could see no evidence of it for himself, but that it was a matter for them, and that they might be able to see further than he did, and might come to the conclusion that McAlister was an accomplice. Moreover, in dealing with McAlister's evidence, he read to the jury the passage from it which I have just quoted.

Another fresh fact, to which I have already referred, is the evidence of Mr. Cohen that Louis Goldstein told him on the 14th September, 1916, of his conversation with Teen about the fire at Stedman's factory. If that were true, of course Louis Goldstein's subsequent evidence that Teen told him of this on the 22nd must have been untrue, and the suggestion is that that date was fixed upon in order that Leary might be able to give corroborative evidence of having seen Louis Goldstein and Teen in company with one another. I am satisfied, as I have already said, that Mr. Cohen is mistaken in his recollection. I do not in the slightest degree doubt his honesty as a witness, but I do doubt the accuracy of his recollection.

Another circumstance upon which Mr. Windeyer placed reliance was that it was not made known at the trial that Scully gave evidence through fear, and purely to save himself, and that the police so held him—held him "to break" was the expression used—that he was compelled to give such evidence as they wanted. It was suggested that, if Mr. Justice Pring had known this he would have called attention to it when warning the jury against acting on Scully's uncorroborated evidence against Beatty, and that, in that event, in all probability the jury would have returned a different verdict. A reference, however, to the evidence given at the trial, shows that Scully was cross-examined as to the circumstances in which he was first approached by the police, and as to the circumstances surrounding the statement which he made at the detective office, and the suggestion was evidently made to him that what he did was done to "save his skin." I do not know, of course, what was said by counsel in addressing the jury, but I should think it highly improbable that he neglected to call attention to Scully's relations with the police, and to the suggestion that Scully's evidence was given through fear of prosecution and in order to save himself.

Another matter to which Mr. Windeyer referred was the statement made by Goldstein to the police, on the 20th October, 1916, as to his knowledge of Besant, who was suspected of complicity in the note forgery case. In that statement, Goldstein, after saying that he first met Besant at the I.W.W. rooms on the 15th September, 1916, went on to say: "Previous to this, about a week, I had a conversation with detectives Turbet and Pauling, and they told me to try and find out the whereabouts of Besant." Mr. Windeyer referred to that report as something which had never been disclosed before this inquiry, and he contended that it showed that about a week before the 15th September Davis Goldstein was being used by the detectives in connection with their inquiries as to the case of forgery, and that it was a fact of great importance as bearing upon the question whether the Goldsteins were honest witnesses or tools of the police. The expression, "previous to this, about a week," is, however, an ambiguous one, and I do not attach any such significance to it as Mr. Windeyer puts upon it. The Goldsteins approached the police on the 11th September, and it may very well have been after that that the inquiries in question were made from Davis Goldstein.

There is one other matter to which Mr. Windeyer referred, and which I think that I ought not to pass over without comment, though it is not a matter which raises any doubt in my mind as to the real guilt of any of the convicted men. It is the circumstance that Mr. Gannon, K.C., after receiving information from the Goldsteins about the incendiarism in the city, and after urging upon them the duty of giving information to the police, defended some of the accused persons, including Teen and Hamilton. I do not feel called upon to express an opinion as to the propriety or otherwise of this action, and in any event I do not know all the facts as to what took place before the brief was accepted. I only mention the matter now because it was referred to by Mr. Windeyer, and in order that it may not appear that I overlooked it.

I do not propose to dwell any further upon the facts. My report is already longer than I wish, and I conclude what I have to say upon this part of the case by repeating that no fact had been elicited before me which raises any doubt in my mind as to the guilt of any of the convicted men in the case under consideration.

#### CONCLUDING REMARKS.

In concluding, I should like to take this opportunity of thanking all the counsel who appeared before me for their assistance in eliciting the facts, and I should like to thank Mr. Shand, K.C. and Mr. Windeyer, K.C. for the very great help which they gave me by their very able and exhaustive discussion and criticism of the evidence, and of the different features of the case.

I should also like to place on record my appreciation of the work done by the reporting staff. They had to work under difficulties, and at a high rate of speed, and they had to follow a vast mass of evidence; and I consider that the manner in which their work was done reflects very great credit upon their skill and upon the attention which they gave to their duties.

I also wish to express my indebtedness to Mr. W. C. Lacey, of the office of the Clerk of the Peace, who has acted as my secretary. I feel that I owe much not only to his ability and experience, but to his continued industry and alertness, and his attention to details.

I have the honour to be,

Sir,

Your Obedient Servant,  
P. W. STREET,  
Commissioner.

Sydney, 11th December, 1918.

## APPENDICES.

## APPENDIX A.

STATEMENTS made by Harry Scully (informer in I.W.W. cases), to me and T. D. Mutch, M.L.A., at Miller's Point, on February 5-6, between 11.5 p.m. and 12.30 a.m. :—

Grant, Larkin, King, Moore, Reeve and Glynn know absolutely nothing about the affair.

Fagin, Teen, Besant, Hamilton, and Morgan (probably Mahony), and the others I think did it. The case was rigged right enough, but they did not go on with any of the business the police say they went on with.

## DETECTIVES.

Ferguson, Leary, Lynch, and Robson did the dirty work for the police. Pauling fixed the Goldsteins.

Arthur Surridge and Robertson are perfectly clean in the case.

Surridge, Robertson, and Pauling are prepared to tell what they know. They have assured me that they will give evidence in the case of my claim against the Government for £2,000.

*Lamb.*—The police, at the beginning of the case, took me to Lamb's office, where I answered a lot of questions, and before I knew where I was they handed me a typewritten statement, which I signed. The statement was based on the answers I had made. When I found they were leaving out everything in my statement that was in the accused's favour, and twisting the remainder of the statement to suit themselves, I objected, and Detective Surridge was very wild about it. He told them he would have nothing to do with it.

*Lamb's reply.*—After I had been in the witness box I went to Lamb and asked to be put back into the box so that I might give fair evidence. I made out a list of questions for Lamb to ask me. He said he could not hear of my going back into the box. I did not know as much about law then as I do now, and did not know that I could insist upon going back into the box. When the appeal was coming off I was down the South Coast. Before I went I saw Lamb, and he told me that no fresh evidence would be called, and that I would not be needed. Lamb told me the appeal case would be purely a review of the evidence in the other court. I did not know that fresh evidence of a material nature could be called in appeal cases.

*Walker.*—Walker (Superintendent of Detective Office) kept McAlister and me apart, telling each of us the other was not to be trusted. When I became dissatisfied with my treatment, I spoke to Arthur Surridge, and he arranged for us to meet McAlister, and we then put our heads together. Unfortunately, he only made verbal statements, and he then died. His death was very peculiar. I was in Walker's office and heard him say, "Thank God that's one of them gone!"

## WALKER, PAULING, AND THE GOLDSTEINS.

Walker said to me in his office, "Fancy moneyed men like the Goldsteins going for £60. Of course, I know where that's gone." The inference was that the money had gone to Pauling. When I told Pauling, he "went up in the air" and wanted to make a scene with Walker over it. I could not let him do this.

When Walker knew I had issued a writ against the Government, he asked me did I think I'd get the full amount, and said, "It ought to be worth something to help you work up the case."

Walker got Ferguson his stripe, and Ferguson gave Walker his share of the reward, £50.

Robson's reward was a good clerical job at Long Bay gaol.

Pauling got nothing out of it, and left the Detective Office, and is now in uniform.

It has always been my intention by means of my case to reopen the I.W.W. cases and see the men get a square deal. That is apart from the money, which I need, because I have dependents. The Government has already approached me with an offer to make up the amount to £1,000. They paid me a wage while I was on the case, and gave me £163 when it was ended. The police cut up £800 of the reward between them.

Daly is my solicitor. I am not aware that Mrs. McAlister has issued a writ for £2,000 against the Government through Daly.

Daly took McAlister and me to have an interview with Hall. We waited in the anteroom and Daly went inside. After a while, came out and said, "That's alright." We never saw Hall.

I had a lot of experience of the Detective Office. They would frame anything up. I saw how they worked on the Shaw case. They have been trying to get me to go away, stating that the I.W.W. had hatched a plot to do for me; that I told them it was probably some fat policeman. The police tried to prevent me getting into the coaling battalion. I came into it by Pauling coming to me and saying the chemicals I sold were being used by the I.W.W. The whole of the chemicals used were bought at Fuss's, in the Haymarket. The detectives never brought this out, and also suppressed the name of the place at which the cotton waste was bought.

## APPENDIX B.

STATEMENT of H. C. Scully, handed by him to E. E. Judd.

ON Saturday, 30th September, 1916, I met Detectives Robertson and Surridge at the corner of Castlereagh and Market streets. They told me they had been sent to me by the C.I. Branch in connection with the treason case. I walked through the park with Surridge. Robertson came on later, and caught us up in Phillip-street. In company with Robertson and Surridge, I went to the Detective Office and wrote out a statement. I was detained at the C.I. Branch on Saturday, and slept there that night in one

one of the offices. A policeman was placed in charge of me late on Saturday night, and I was under a guard until Robertson came on duty on Sunday afternoon. About 10 o'clock on Saturday night Inspector Walker came into the room I was sitting in and showed me a small bottle. He said it was a bottle of "fire dope," and invited me to try it. I removed the cork and put a lead pencil into the liquid—the preparation did not light until it was put near the fire. I noticed the cork was not waxed as it should have been to make it airtight. One of the detectives in the room told me that Teen had been arrested that night, and the bottle Inspector Walker had was supposed to have been found on him. They did not show me any cotton waste. While in the detectives' room with Robertson, Leary called Robertson and had a conversation with him. Robertson came back to where I was sitting and said, "Leary wants to put something in your evidence against Grant." I told him I knew nothing about Grant. Leary called me over and said, "We have not got enough against Grant. You could easily fix something up." I again refused. On Sunday night I went to Springwood with Detective Surrudge. During the next week I frequently discussed the case with him. In talking about the arrests I told him I could not understand Fagin having a bottle of phosphorus solution in his bag, as I had told him on the 25th that he was to be arrested. Surrudge laughed, and said he was in the room when Robson went to Fagin's bag, adding that he supposed the truth would all come out some day. On another occasion we were talking about the midnight raid on the house in Burton-street, and Surrudge said Fagin got very wild with Robson—he said there was nothing in his bag. Surrudge said Robson put it there all right.

On Saturday, 7th October, I came to Sydney with Surrudge to see Lamb. He was busy all Saturday morning with Brown, of Broken Hill, and would not see me in the afternoon, as he wanted to win a lot of money at the races. So it was arranged that I would be sent back to Springwood by motor-car after I saw Lamb in the evening. I went up to Lamb's office with Inspector Walker and Robertson about 8 p.m. Lamb asked me questions from my statement. He then asked Inspector Walker if he had made any promise as to what they would do for me after the case. Walker replied that he had given me to understand that I would be all right. Lamb then told me that I could take it from him that I would be looked after. He then asked me for further evidence—particularly against King and Grant. I told him I had no evidence against them. He then went through my statement, again fixing the different dates.

Immediately after finishing with Lamb I was sent back to Springwood by motor-car with Surrudge. The car was hired from a man who used to be in the police. On October 10th Surrudge handed me a typewritten paper saying, "This is the evidence you are to give." He told me it had been forwarded from Lamb's office, and that I was to learn it off. I had told Lamb that I had not supplied any chemicals until after the fires had occurred. This was left out of the prepared statement which was handed to me. I had also told Lamb that King, Grant, Glynn, and others had nothing to do with the fires. This also was omitted from the prepared statement handed to me. On October 12th I left Springwood by an early train. Inspector Walker sent in to the detective office for my copy of the evidence I was to give. I handed it to Surrudge, and it was not given back to me, although I asked for it on several occasions. Gave evidence that day at the police court and was sent away in the afternoon with Detective Robertson to Point Clare. While at Point Clare, Leary rang up about the note case. He wanted me to go to town and see him about giving evidence against King in that case. I told him I knew nothing about the case, but he still wanted Robertson and I to come to Sydney. Robertson and I were together all the time from the police court trial until the case was heard at the Criminal Court. We often talked over the case. He told me James—the barrister for the defence—was annoyed with some of my answers to him as they favoured the I.W.W. I was surprised at this attitude on the part of their barrister and said so. Robertson explained to me that the case was purely a political one, and as James was a leading Liberal he was more interested in their conviction than in getting them liberated.

In speaking about the work of the police in the case, Robertson repeatedly said he had never told lies to send a man to gaol, but it was his opinion that most of the police evidence in this case was "rigged." He instanced where Mahony was mentioned—saying that no one could find any trace of him, and yet he was the one who according to McAlister, Ferguson, and Co., was directing the whole affair. He also said that Robson was getting into the habit of finding "fire dope" with the men when they were arrested. On November I came to Sydney for the trial. I was kept at the detective office on the Monday and Tuesday. McAlister was also there. This was the first occasion that I had met him. I went up to the court on Wednesday and there met the Goldsteins. I noticed that Davis Goldstein would not have anything to do with McAlister. I spoke to him about it. He said, "Don't be seen in his company. All the police know he is committing perjury for the sake of a few pounds. He is not like you and I who have been forced into the case." Goldstein and I had lunch together that day and we talked over the case. He told me that he had to give evidence against the I.W.W. to get out of the £5 note case; that his barrister, Gannon, had influenced him and arranged it all with Lamb. I remarked that it was peculiar Gannon doing that and then defending the men. Goldstein remarked that it showed how much chance the men had of getting off. On the Thursday I gave evidence. Before going into Court I was told by the detectives that I would be asked questions about abortion and given a general idea as to what I would be cross-examined on. After giving my evidence I sat in the court and attended each day until the end of the trial. After the trial I was told by Inspector Walker I was to be kept in Sydney until the appeal came off. While waiting for the appeal I was very often at the detective office and frequently met McAlister there. I used to have a quiet go at him about his pal "Mahony," and his bad luck in drawing the "red disc." He spoke to me one day about the way the police were cutting up the reward. McAlister was very dissatisfied and said he was getting cut out of his fair whack. On another occasion he told me he had had a yarn with Leary about it and that Leary told him Walker was going to see he was fixed that up, but that Walker was only a poor man with a big family and expected a cut. McAlister started to get interesting, so I invited him to come and see me. After this he frequently called to see me. We both lived at Little Coogee and we used to go down to the beach together. He was very anxious about the appeal and wanted to get out of Sydney after it. He told me he held the career of three of the detectives in the hollow of his hand; that the detectives supporting his evidence had all sworn lies, and that his statement was "fixed up;" that they had fixed the date in his evidence against McPherson by going to the pay office and finding out on what day he and McPherson were working together, and the police never saw them at dinner time. He never had dinner with McPherson.

McAlister

McAlister also explained how Ferguson got him to join the I.W.W. and work in with him. That he did it to get some money, as wharf labouring was no good to him. He was connected with Ferguson by marriage—he first met him at the wedding which connected them. He said Leary fixed up the evidence about drawing discs to see who would start a fire—he never met “Mahony,” but Leary knew him, and Ferguson also said that Mahony was one of the ringleaders. He also told me he had not made a statement until after he had read mine. He explained this in the following manner:—He and Ferguson were working their heads, and Ferguson seemed to get anxious and asked him to meet two other detectives—was then introduced to Leary and Lynch. He agreed to work with them on condition that he would not be required to give evidence. They decided to get others to fix whoever McAlister mentioned. He was then taken to see Superintendent Mitchell and Inspector Walker; they also told him he would not be asked to give evidence, but would get his cut out of the reward. A few days after this Walker sent for him and showed him my statement. They had an argument as to whether he would give evidence or not, McAlister saying—“You have got the man you want now—that lets me out of the case.” Walker said “This man is not afraid to give evidence, why should you be?” McAlister said that he told Walker that they wanted him to say too much. He held out about not giving evidence, but Leary, Walker and Ferguson persuaded him, Walker saying “He would get no cut out of the reward unless he gave evidence.” He, Leary, and Ferguson, after consulting Walker again, then put his statement together. He repeated this conversation to Surridge and myself on another occasion. Robertson was present another time with Surridge when McAlister repeated to the three of us that none of the detectives saw him with McPherson or with Moore. He said the evidence given by Leary, Lynch, and Ferguson was all “faked.” They also wanted him to give evidence against me. He told me that he had met Fuller, Deputy-Premier, at Moss Vale, that he had talked over the case with him. Fuller told him to put it into them, and said, “This case is going to win us the conscription campaign and also the elections.” Fuller also told him to come to him after the case, he would look after him. McAlister wanted me to go with him to see Fuller, but I persuaded him to see my solicitor. We both issued writs on the Government with the idea of opening up the case. Shortly after this I met Goldstein at the races, and discussed the case with him. He told me that he knew there was a lot of crook work in the case—that he knew about some of it. He also said that King, Grant, and Glynn had no right to be in gaol. I asked him to help re-open the case, which he agreed to do. I never saw him again until March of this year, when he promised to write out a statement.

A few weeks after the writs were issued McAlister died suddenly. In company with three other men I met him in town; he made an appointment to meet me at the solicitor's the next day, but never kept it. On the following day my solicitor told me he was dead. I met McAlister's brother-in-law at the solicitor's office, and was going with him to inform Inspector Walker when we met Surridge and Robertson. Robertson told Surridge to give the news to Walker. I met the detectives later in the day. Surridge told me that he had informed Walker, who had remarked, “It was a bloody good job, he might have split.” I could never find out what McAlister died from, and though the circumstances were very unsatisfactory, there was no investigation *re* the cause of his death.

After the appeal case was over I met different detectives in town on various occasions. There was a good deal of dissatisfaction amongst them over the promotions, and the way the money was cut up, and they were inclined to talk about the case, especially the promotion of Ferguson and Hooper, who were not considered to have done much. Leary was also mentioned, it being considered irregular for him to draw Inspector's pay when he was not ranked as an inspector, the reason he was not promoted being there was no vacancy in the “C.I.B.” for an inspector, and he did not want to be transferred. It was said that Lamb had worked it for him, as Leary had been under Lamb's direction right from the start of the case, and no move was made without Lamb being consulted. I know that was so in my own case. I had several chats with Robson. He was very disappointed not getting promotion, and said he was going to fight Walker for it. If he did not get it there would be something doing, as he knew too much.

Later he told me he had a go with Walker and had got fixed up. That he was going out to Long Bay as Chief Accountant. Pauling also was dissatisfied. I repeated to him what Inspector Walker said to me about Pauling getting a cut from the Goldsteins. He got very annoyed and said that he would be in no more of Walker's dirty cases—he was trying to get out of the C.I.B., and if Walker did not take care he would find himself in serious trouble. I remarked that it looked as if the “fakers” had got the plums. He replied—not all of them at that—only Walker's pets. During the trial I heard Gannon discussing the case with Robertson. I heard Gannon say “He would like to see them all get ten years.” I spoke of it to Robertson and Surridge, remarking that Gannon should not take their money if he feels that way. Towards the end of the case I saw Manning and, later, Lamb, telling them I wanted to go into the witness box again. I wanted to explain my position and to emphasise I had not sold any chemicals prior to the fires. Lamb told me it was impossible—the Judge would not allow it.

On the Friday night I was in the Court when the men who were on the jury came through on their way home. They had a short talk with some of the detectives. The foreman of the jury was a friend of Stuart Robson's and was talking over the case with him. I heard him say, “The jury had made up its mind the first day.” I was told by the detectives the jury was composed of men from a special list. This list was composed of owners of property to the value of £600 or over. During the trial I endeavoured to discuss the case with McAlister, but he would talk about it for a minute and then change the subject. Later, he explained that he had been warned by the detectives to have nothing to say to me as I was dangerous and too clever for him.

#### APPENDIX C.

LETTER from H. C. Scully to Inspector-General of Police.

To the Inspector-General of Police.

Dear Sir,

“Fernbank,” Arden-street, Coogee, April.

I desire to place my exact position before you in consequence of having rendered assistance in the I.W.W. Conspiracy Case.

Prior

Prior to the case I was managing a chemist's business, receiving over £7 per week. During the case and pending the appeal I received £6 per week from the Government. While waiting for the appeal and final settlement I was under heavy expenses including doctor's and hospital fees.

When I found out how I was to be treated I put my position before my solicitor, upon whose advice I have since acted.

After the appeal I still drew £6 per week, but this was charged against me.

Finally I received £163 10s., but I got out of the case with little more than £100 to my credit. I endeavoured to obtain employment as a chemist in this State, Victoria, and Queensland, but chemists were afraid to employ me as they feared violence from the members of the I.W.W. I had never previously been out of work, and have never been dismissed by an employer—always leaving a position to better myself.

I have tried to enlist as a chemist on two occasions—the first time I was put off—the last I was refused owing to my connection with the I.W.W. cases. During the recent industrial disturbance I volunteered to coal transports, and remained at this work up to February, when, owing to questions being asked in Parliament, I was put off and expelled from the loyalist union, the Chief Justice's copy of the depositions having been brought down to Dawes' Point camp and my evidence read to the union executive and later extracts from it were read out at a monthly meeting, to about 400 men.

Since February I have been unable to find employment of any kind, although I have had the aid of many influential friends. I am in the position of an outcast with most decent people, owing to the garbled newspaper reports of my evidence.

It is apparent I have no other course but to leave Australia and live under another name. I will be forced to forego my profession. Although I do not consider any payment sufficient to compensate me for the loss of position—gained after years of patient study and good living—and being exiled from Australia—I think the Government should see its way clear to grant me adequate funds for a fresh start in another country, and in view of the great assistance I rendered your department in its service to the country, the compensation should be sufficient to place me in a similar status in society to that which I was in prior to the case, and for that purpose £1,000 would hardly be sufficient. I am adopting this course of writing to you in the hope that my grievance will be remedied, as I consider such matter ought not to be aired in public these critical times.

Yours &c.,

HARRY C. SCULLY

#### APPENDIX D.

STATEMENT of Davis Goldstein given by him to E. E. Judd.

The evidence in connection with Hamilton in reference with Hamilton giving me fire dope is not correct in so far that Hamilton gave me the dope in the yard at the back of the I.W.W. rooms, but I did not speak to him in the front of the hall. Pauling suggested I say that Hamilton gave it to me in front of hall. On the Friday following I saw Detectives Pauling and Turbet, and they told me that a raid was to take place on the morrow (Saturday). I then suggested that the raid should not take place, stating that I might be able to get more information in connection with the guilt of I.W.W. men in the fires that had taken place or were to take place. Turbet then replied that instructions from Melbourne were to the effect that the raid was to take place immediately. I was then asked if I could place some dope into the pockets of some of the prominent I.W.W. men at the I.W.W. rooms before the raid took place. I replied by inquiring how I was to get the bottles of fire dope. They answered I need not worry about that, they could get plenty. Eventually the matter was talked out by me as an impracticable proposition. On the evening of 30th September, 1916, I was walking along Elizabeth-street for the purpose of going to the Stadium. I was accompanied by Teen. While walking along with Teen, a detective, whom I know now as Matthews, arrested him. After Teen was arrested he gave me certain articles, viz., umbrella and money, which I have since returned. After leaving Teen I went to the Stadium. On coming out, Detective Pauling met me, and told me what had transpired at the Central Police Station. He stated as follows:—"That on searching Teen it was found that he had a towel, which was opened, and found to contain cotton-waste and a bottle with some liquid in it, and when Teen was asked about same he stated it might be some soap." I then looked straight at Pauling and asked him if it was a fact. He then said no. That will be our evidence. Pauling then told me that while Teen was being pushed about, Detective Hooper placed the towel with cotton waste and bottle in Teen's pocket, which was, after a little while, taken out of Teen's pocket by Detective Miller, and Teen confronted with same. While Pauling was telling me this we were walking towards Victoria-street through Roslyn-street. Detective Pauling then asked me where Fagin lived. I told him I did not know. He then said if anyone asks you if I saw you to-night, say no. He then left me with the remark that he had to assist in the arrest of Fagin and others. On the night the twelve I.W.W. accused persons were found guilty on one, two, or three indictments, Scully, McAlister and myself were waiting in the body of the Court when the foreman of the jury was passing, and after commenting on the case he stated how hard he had worked taking down notes of the case, and said that the whole of the accused persons were found guilty by (us) after hearing the evidence of the first day. The only accused person there was a little disagreement about was accused King, but the disagreement was about whether they should indict him on one charge or two. It was eventually agreed by the jury to indict him only on one charge, because he had been in gaol for some time in connection with another case. After giving Pauling one statement some three days before the conspiracy cases were heard at the police court, I was told to go and see the Crown Solicitor, Mr. Tillett. I saw him, and he asked me questions from the statement Pauling had written out at my dictation. I was asked by Tillett if I could make the statement a little stronger. And after I had given him a fuller statement he asked me again if I could make it stronger. I stated that I had told him all I knew. I was, after a day or so, given a statement of the evidence I was to give by Pauling, but when I was about to enter the witness-box the statement was taken away from me by Pauling. I asked for a copy of the statement afterwards, but was refused, and given a copy of the *Evening News*. Tillett pressed me for information about the other accused, especially King. I herewith express my firm belief that King, Grant, Bessant, Moore, McPherson, Larkin, Reeves and Beatty are absolutely innocent of the crimes upon which they were convicted.

APPENDIX

## APPENDIX E.

## STATUTORY Declaration of Davis Goldstein.

I, DAVIS GOLDSTEIN, of 182 Forbes-street, Sydney, in the State of New South Wales, of no occupation at present, do solemnly and sincerely declare:—

On the morning of the day that I was arrested in connection with the £5 note cases, Glynn came to me and got me to go bail for Morgan under duress. First I refused to go bail. Under the duress I went bail, and on the same afternoon at about 4 o'clock the detectives came to me, and the first question they asked me was, "Do you know a man named Morgan?" and I said, "Yes." While the detectives were chatting to me about Morgan, Glynn again appeared on the scene. He appeared to be intoxicated. After behaving in a very peculiar manner, Detective Surridge removed him from the premises (43 Wentworth-avenue). I was then asked if I would accompany the detectives to the police station, where I was told that I would have to present myself for identification immediately. At the police station a man whom I did not know at the time, but whom I know now as Ferguson (Morgan's partner), was asked to identify a man named Goldstein whom he had seen at Maroubra—where the alleged forgery was supposed to have taken place. Ferguson identified a different man, and, after certain looks from Detectives Pauling, Turbet, Mitchell and others, he pointed to me, and I was then charged. On the same evening that I was charged, my room at the Captain Cook Hotel (Park-road) was searched by the detectives and a certain photograph was taken of my brother and I. On the following day I appeared at the Central Police Court to answer a charge of forgery, and I was remanded. I was well dressed that day, and the detectives not being satisfied with Ferguson's identification of the previous day, again placed me among a group for identification. A man whom I did not know at the time, but whom I now know as Bradbury, was requested to do what Ferguson was asked to do the previous day. Bradbury had no trouble in identifying me, but a few days afterwards—when the trial took place in the lower court, and the case was adjourned in the evening till the following day—I was placed with Bradbury in the same compartment of the Black Maria. While there I got into conversation with Bradbury. He expressed regret for having to identify me. I asked him where I had met him before. He said, "It does not matter." I then pressed the following questions:—"Did you see my photograph before you identified me?" At first he evaded the question, but afterwards admitted that the detectives had shown him my photograph. When I was brought up in the lower court, the chief witness for the Crown (Tighe, the informer) said he could not identify me as the person he saw at Maroubra Bay. After I was arrested on the Five Pound Note cases, I was told, per messenger, that it would be advisable for me to give the detectives concerned in the note case some money to make things run smooth. I asked him how much was wanted. He replied, "£1,000." He eventually agreed to accept £750. This was paid over to him, and I was told that it was handed to the detectives. After the note cases finished, the whole of the detectives concerned in the cases put it on me for a suit of clothes each. The whole of them went to my tailor (Mr. Pura) and each selected their cloth and had a suit made by him. My brother and I paid the whole account. Three or four days prior the forgery cases in the lower court, I reported to Detectives Pauling and Turbet that I had every reason to believe that Morgan was going to get away, and that it would be advisable either to arrest him or withdraw from my bond. They told me that it would be inadvisable to take the latter course, as members of the I.W.W. would suspect that I had dealings with the police, and it might prejudice my position in securing information re fires and I.W.W. I have repeatedly made application to the Crown Law Department for the return of this £400—but have never received a satisfactory reply. In fact, Mr. Garland told my solicitor, at an interview with him, that I was very lucky indeed that a charge of conspiracy with another gentleman was not laid against me. Since then I have written to Mr. Garland and interviewed him on the question of returning my money, but have never received a satisfactory reply. I have not even received a definite reply to the statements made by me when I interviewed Mr. Garland. When the detectives searched my room certain literature and writings were found, which tended to show that I had taken an active part as a member of the I.W.W. Two or three days after my arrest, I met by accident Detective Pauling, and he asked me certain questions re the I.W.W. He told me that the evidence against me in the note case was very weak, "But," he said, "it will be sufficient to prejudice you in your business with the Defence Department." He said that the police would do their very best to conserve our contracts. In addition to our contracts, when the case came on, we were making nearly all the outsize military uniforms for New South Wales. The District Board ceased giving us their orders immediately I was charged with forgery, but on the representation of the police these orders were given back to us. During the aforementioned interview with Detective Pauling, he asked me if I knew the I.W.W. organisation well. I said, "Yes." He stated I would render a great service to the country if I should find the guilty persons connected with the then recent fires. I said that I would do my best, and if I should get any information I would report to him, but such information was not to be utilised for the purpose of making me a witness. I was assured I would not be required as a witness. From then on I reported to Pauling and Turbet from time to time, and soon found I was compromised and enmeshed in a sort of a net. I was asked by Detective Pauling and Turbet to get some fire dope from some of the men. I asked Hamilton to get me some. He gave me the stuff the same day. I took it to Detectives Pauling and Turbet the same evening. The evidence in connection with Hamilton giving me the fire dope is not correct in so far that Hamilton gave me the fire dope at the back of the I.W.W. rooms, but I did speak to him in front of the hall. Detective Pauling suggested that I say that Hamilton gave it to me in front of the hall. On the Friday following I saw Detectives Pauling and Turbet, and they told me a raid was to take place on the morrow—Saturday. I then suggested that the raid should not take place, stating that I might be able to get more information in connection with the guilt of I.W.W. men in the fires that had taken place. Turbet then replied that instructions—coupled with requests from Melbourne—were to the effect that the raid was to take place immediately and that "something must be done." I was then asked if I could place some dope into the pockets of some of the prominent I.W.W. men at the I.W.W. rooms before the raid took place. I replied by inquiring how I was to get the bottles of fire dope. They answered that I need not worry about that, they could get plenty. Eventually the matter was talked out by me as an impracticable proposition. On the evening prior to Teen's arrest, I was asked by Detective Pauling to accompany Teen along Elizabeth-street, a little further than Mark Foy's towards the Quay, on the next evening. Pauling said, "Our instructions are to arrest Teen in the street." On the evening of 30th September, 1916, I was walking along Elizabeth-street for the purpose of going to the Stadium. I was accompanied by Teen. While walking

walking along with Teen, a detective, whom I now know as Matthews, arrested him. After Teen was arrested he gave me certain articles, viz., umbrella and money—which I have since returned. After leaving Teen I went to the Stadium. On coming out Detective Pauling met me and told me what had transpired at the Central Police Station. He stated as follows:—"That on searching Teen, it was found that he had a towel which was opened and found to contain cotton waste, and a bottle with some liquid in it, and when Teen was asked about same, he stated that it might be some soap." I then looked straight at Pauling and asked him if it was a fact; he said "No." That will be our evidence. Pauling then told me that while Teen was being pushed about Detective Hooper placed the towel with cotton waste and bottle in Teen's pocket, which was, after a little while, taken out of Teen's pocket by Detective Miller and Teen confronted with same. While Pauling was telling me this we were walking towards Victoria-street, through Roslyn-street. Detective Pauling then asked me where Fagin lived. I told him, "I don't know." He then said, "If anyone asks you if I saw you to-night, say "No." He then left me with the remark that he had to assist in the arrest of Fagin and others. Some three days before the conspiracy cases were heard at the police court, I was told to go and see the Crown Solicitor, Mr. Tillet. I saw him, and he asked me questions from the statement Pauling had written out. I was twice asked by Tillet if I could make the statement a little stronger. Tillet pressed me for information about the other accused, especially King. I was afterwards given a statement of the evidence I was to give, by Pauling, but when I was about to enter the witness-box the statement was taken from me by Pauling. I asked for a copy of the statement afterwards but was refused, and given a copy of the *Evening News*. I met Glynn on the 21st instant (September). Such a conversation as referred to by me on p. 122 of the I.W.W. depositions never took place. But I was engaging Glynn in conversation to see if I could get any information from him about the fires, and the whereabouts of Morgan. In my report to Detective Pauling, such conversation (Glynn) was not mentioned, and such conversation as I gave in my evidence *re* the conversation with Glynn was suggested to me, and written down for me in my office, in Wentworth-avenue, by Detective Pauling.

*Nat Lewis.*—With regard to Hamilton at Nat Lewis', I was told by Detectives Pauling and Turbit that when suggesting a fire to Hamilton I should suggest Nat Lewis', as they knew him well, and he would always fall in with their ideas. After I delivered the bottle of fire dope to them they told me that I would see a bogus report of the fire at Nat Lewis'. (*Conversation with Teen, 27th September, on page 123 of the depositions.*)

The statement that he (Teen) said that "Never mind, we shall give them so more fire dope," is not correct. That part of the conversation was dictated to me and written out for me by Detective Pauling. I never gave Tillet (Crown Solicitor) any statements.

On the night the twelve I.W.W. accused persons were found guilty on one, two, or three indictments, Scully, McAlister, and myself were waiting in the body of the court when the foreman of the jury was passing, and after commenting on the case he stated how hard he had worked taking down notes of the case, and that the whole of the accused persons were found guilty by "us" after hearing the evidence of the first day. The only accused person there was a little disagreement about was King, but the disagreement was about whether they should indict him on one charge or two. It was eventually agreed by the jury to indict him only on one charge, because he had been in gaol for some time in connection with another case. I hereby express my firm belief that King, Grant, Besant, Moore, McPherson, Larkin, Reeves, and Beatty are absolutely innocent of the crimes upon which they are convicted.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1900.

DAVIS GOLDSTEIN.

Declared at Sydney this eighteenth day of July, one thousand nine hundred and eighteen, before me, H. W. M. HEMSWORTH HUNTINGTON, a Commissioner of the Supreme Court of New South Wales for taking affidavits.

## APPENDIX F.

STATEMENT of Davis Goldstein handed by him to Mr. Windeyer.

Sydney, 18 August, 1918.

I, DAVIS GOLDSTEIN, herewith make statement in full, in connection with my evidence in I.W.W. cases, and declare same to be a true one as to why I gave statements to E. E. Judd, Esq., on two different occasions. Since I gave evidence in I.W.W. cases it has been both my brother's lot and mine to have gone through a terrible persecution and ostracism through taking up the attitude that I did in connection with the I.W.W. cases, viz., acting as a Crown witness. Strange to say, this persecution has not only been from the I.W.W. and its sympathisers' side, but also from the insurance people, police, and apparently the Government. In proving the above statements, I wish to quote the following facts:—I gave evidence on behalf of the Crown in the I.W.W. conspiracy cases. In that evidence I told the whole truth as far as my investigations went. The statements I gave in court were absolutely mine, and were in no way dictated by anyone else. At the time of the I.W.W. conspiracy cases I was in business with my brother as clothing manufacturers, and was manufacturing military clothing in accordance with contracts made with the Commonwealth Defence Department. After the I.W.W. conspiracy cases were over I was unable to secure any further contracts from the Commonwealth Defence Department. The insurance companies cancelled all insurance on our business, and it was practically impossible to secure any further insurance. Through the above we were compelled to sell out, and had to take an extremely low figure for same. My brother then decided to go into business as a hotelkeeper, and purchased the lease, license, and goodwill of the Grand Hotel, Wyong. The cost of same was £2,500, apart from stock. I invested the whole of my money with him in the said business. After taking possession of the said hotel in February, 1917, business was brisk and we were getting on fairly well. Then the I.W.W. cases came before the Appeal Court, and the whole of the evidence was published. The public at Wyong then discovered that both my brother and I were the identical two who gave evidence in the I.W.W. conspiracy cases. Our trade then fell to zero, and reflections were all the time passed on our character, which helped to injure our business. I instructed my solicitor to interview the Solicitor-General on my behalf



behalf for the purpose of securing a return of £400 which was placed as bail for a man named Morgan who absconded while on bail. My contention for asking for the return of that money was that I had informed the police some three days before Morgan had to appear in the lower Court that he was making all preparations to leave, and that it would be advisable for them to watch him closely or arrest him. My solicitor's request for the return of the said £400 was turned down by the Solicitor-General with the remark that I was a lucky man that he did not indict me on a charge of conspiracy to get Morgan out of the country. The hotel at Wyong, after the I.W.W. appeal cases were heard, began to get back to normal, when an undercurrent of prejudice appeared to set in. The climax was reached when certain statements were made to Sergeant Morris, Licensing Inspector of the district, stationed at Gosford, which were reported to Inspector McCarthy, of Newcastle, and my brother was ordered by Sergeant Morris to get out of the hotel as there was no chance of him getting a renewal of license. I then endeavoured to get an interview with the Inspector-General of Police, which was kindly arranged by the Crown Solicitor, Mr. Tillet. The Inspector-General listened to what I had to say, and then rang up Inspector McCarthy of Newcastle with whom he had a conversation. After their conversation on the telephone the Inspector-General informed me that nothing would be done in the meantime, and no coercion would be used by his Department. After getting this assurance from him I was perfectly satisfied. But instead of the pressure being from the police as before, it shifted to the landlord of the hotel, Mr. T. P. Smith, and through constant intimidation and coercion we were compelled to sell out at a figure which left us very little indeed after being in the hotel a little more than eight months. Since then I have endeavoured to do my best to earn an honest livelihood, but have been hounded and ostracised all the time. About the beginning of this year a series of articles were published in *The Worker* newspaper, which brought my name into prominence a great deal. When one day I met Scully off Pitt-street, in Moore-street, and when referring to the evidence *The Worker* published, I stated that I am entirely sick of this persecution. Gaol for me since the I.W.W. cases would have been far better than the persecution and ostracism I had undergone since that case. I stated I would sooner do anything than have my name continually brought before the public. He then told me he was suing the Government for £2,000 compensation in connection with the I.W.W. cases, and that he was in touch with Mr. Judd about three times a week. I then stated I would be prepared to do anything provided *The Worker* newspaper and any other paper would not bring my name so prominently before the public. An appointment was arranged by Scully, and I met Judd and Scully together at Judd's residence in Albion-street. I then requested Judd to secure my depositions which were taken at the upper Court, which he did. After a day or so I gave him a short statement in connection with my evidence, stating that Detective Pauling had told me that Detective Hooper placed a towel, cotton waste, and fire dope in Teen's pocket. I also stated that the fire dope given me by Hamilton was given at the rear of the premises at the I.W.W. headquarters, but I had left Hamilton in front of the hall with a parcel in my hand. I also stated that the foreman of the jury after the case was over said that the jury was satisfied, after hearing the evidence of the first day, that the accused twelve were guilty. I had no more interviews with Mr. Judd until he made inquiries at several places to find out where I was located, and even went so far as to send a man named Mr. Edwards up country where I was staying. I received from Mr. Judd stating he wants to see me on very urgent and important business. I replied that I was not financial and that he should send along my expenses. I received same, and when I arrived in Sydney I gave Judd an additional statement in which I denied most of my evidence and also accused certain detectives of receiving bribes. The sole reason that prompted me in giving the said statement to Judd, was as a hope that being practically ruined financially I would have to earn my livelihood as a journeyman tailor, and it would be practically impossible for me to hold a billet unless I secured a union ticket, and in view of the persecution I had undergone I did not care what I stated or what may arise out of any statement I made, as long as it cleared me one way or the other. To go on in the old groove was terrible for me. The Solicitor-General refused to refund my money. I had none. I could not secure employment. I had certain dependents, and I thought by making the statement I did and swearing to it, it would either give me a chance to earn an honest livelihood or go to gaol for perjury. Last Monday morning Mr. Judd came to see and stated he was having an interview with Mr. Boote, Brookfield and Mutch, to decide what action to adopt to use pressure on the Government to force a Royal Commission to inquire into the whole of the circumstances surrounding the I.W.W. cases, and then made an appointment to see me at half-past 6 in the evening. I met Judd at that time and he asked me if I would have any objection attending the protest meeting at the Town Hall in the evening. I said, "I don't know. I might come down." He said the speakers had a talk over the matter and proposed the following. That I would be in a room at the back of the stage, and I could then come on the platform and speak to the audience. This I refused to do, stating "I am not going to make this a political case." I wish to state that I was perfectly prepared to perjure myself up to last night, when I reflected and determined that I was not going to ruin the lives of honorable men by committing perjury. I wish to state that my statement given at the upper Court was a true one, and that given to Judd, which contradicts my evidence at the upper Court, is not true; also that part that reflects on the police officers and the Crown Solicitor in any way whatever is not true.

I herewith state that I made the statements to Judd without coercion, and that I had done same with a one desire, thinking that it would put to an end the persecution and ostracism I had gone through.

DAVIS GOLDSTEIN.

All the matter contained in the two statements made by me since giving evidence, and handed by me to Mr. Judd, came entirely from my own mind, and was not suggested to me by anybody else.

DAVIS GOLDSTEIN.