SET THE 12 MEN FREE

By HENRY E. BOOTE
(Editor "Australian Worker")

AN EXAMINATION
of the
SENSATIONAL FRESH FACTS
Brought out before the
Royal Commission

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SET THE 12 MEN FREE

CHAPTER I.

A Blind Judge

A great deal was expected from Mr. Justice Street's report on the evidence brought out before the I.W.W. Commission. Not only the friends of the incarcerated men, but very many people who previously had been hostile to them, or had seriously doubted their innocence, considered that in the light of the fresh facts established by the inquiry his Honor would be bound to make a report favorable to the men and their advocates.

That there was something radically wrong with the conduct of the case for the prosecution was made plain even in the scrappy newspaper accounts of the Commission's proceedings. The public were deeply impressed by the revelations made. In more than one instance they were startled and shocked. That the well of justice was not the pure fount that it ought to be seemed FLAGRANTLY APPARENT, and the stirring up which it received not only sullied its waters, but suggested the existence of muddier depths beyond the reach of the Commission's power to probe.

When, therefore, the Commissioner comes along and says that all's as right as right can be, people can only look at one another in surprise and wonder if their ears deceive them.

Unfortunately there is no deception in the matter. That is unquestionably the substance of the Commissioner's report. His own words are:

"Nothing has been brought before me which raises any suspicion in my mind that misconduct (on the part of the police) in fact took place."

"No fresh facts have been elicited before me raising any doubt in my mind as to the guilt of the convicted men in the case under consideration."

That statement, in my opinion, is so astonishingly at variance with the evidence disclosed by the inquiry that I propose to subject it to a critical examination, and show, by a review of some of the "fresh facts" presented to Mr. Justice Street, that his depreciation of their value is utterly unwarranted.

CROWN WITNESSES DISCREDITED.

The most important of those "fresh facts" is this, that THE PRINCIPAL WITNESSES FOR THE CROWN, ON WHOSE EVIDENCE THE TWELVE MEN WERE MAINLY CONVICTED, HAVE BEEN COMPLETELY DISCREDITED. So untruthful and unscrupulous did they prove themselves to be under cross-examination that everybody who heard them experienced a sense of nausea, and the Commissioner himself was moved to condemn them in his report in the most scathing manner.

Thus, speaking of the allegation against Pauling and Turbet, in the sworn statement given to Judd by Davis Goldstein, that they asked him to place dope in the pockets of the I.W.W. men, Mr. Justice Street says: "I am satisfied that the statement was A BARE-FACED 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 no grudge."

Referring to the charge that dope was placed in Teen's pocket, his Honor remarks: "It is another WICKED AND UNSCRUPULOUS CONCOCTION on the part of Davis Goldstein."

And this is how he sums up Louis Goldstein: "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 of 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 unenviable notoriety which would interfere with this."

Now consider how H. C. Scully appeared to the Commissioner: "He impressed me as a criminally-minded man of a dangerous type. He has a smooth and plausible manner, and is possessed of an excellent memory. . . . He is, I have no doubt, a man of cold and calculating temperament, TREACHEROUS AND QUITE UNSCRUPULOUS. I dare say he tells the truth if he thinks it suits his purpose to do so, but I am equally certain he departs from the truth without the slightest hesitation if he thinks that the occasion requires it."

With regard to the dead witness, McAlister, he says: "It is evident that he and Scully were in communication (after the trial), and I have 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."

And finally he sums up the whole four of them as follows: "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."

HAD THE JURY KNOWN.

Now, surely, the character of those witnesses against the I.W.W. prisoners is a "fresh fact" of the very highest importance. Can it be imagined for a moment that if the jury had known what was disclosed by the Commission about those witnesses it would not have made a profound impression upon them? Is it not well-nigh certain that such disclosures would very materially have affected their estimate of the evidence given by witnesses of that type?

To bring the value of this "fresh fact" vividly before the minds of my readers, suppose that Mr. Justice Street had appeared in Court at the I.W.W. trial, and had said to the jury:

"This man, Davis Goldstein, has been proved guilty of 'WICKED AND UNSCRUPULOUS CONCOCTIONS' against persons 'who never did him any injury.' He is 'reckless and unprincipled,' and capable, when it suits his purpose, of inventing 'barefaced and deliberate lies.'"

Would not that have made the jury exceedingly suspicious of Davis Goldstein's testimony against the I.W.W. prisoners?

And if it could have been shown, as it was before the Commission, that he had offered to obtain evidence in the I.W.W. case ON CONDITION THAT HE WAS LET OFF ON THE CHARGE OF FORGING BANK-NOTES; if it could have been shown that he was trying to strike a bargain with the Crown right up to the day that he gave evidence against the I.W.W. in the police court, and that he was actuated in the giving of that evidence by the hope of purchasing his liberty in this way, would not such a circumstance have caused the jury to ask themselves whether evidence so given, by a man of his talent for unscrupulous lying, was not likely to have been manufactured to please the Crown, and thus induce it to abandon the forgery charge against him?

And suppose Mr. Justice Street had shown the jury that THE CROWN DID NOT PRESS THE CASE AGAINST DAVIS GOLDSTEIN as it ought to have done; suppose he had said, as he does in his report, that "no attempt was made at the police court to show that the Goldsteins had financed the (forgery) scheme"; and further had stated that the explanation of this laxity furnished by the Crown Prosecutor and the detectives "was not very satisfactory, and the attention bestowed on this aspect of the case does not reflect very much credit upon any of those concerned"

would not such statements, coming from a judicial investigator, have caused the jury to view the evidence of Davis Goldstein with the gravest suspicion?

Those are "fresh facts" of the greatest significance, and it is hard indeed to understand how his Honor has contrived to close his mind against them.

MORE "FRESH FACTS."

It was also brought out before the Commission that the Goldsteins and their solicitor were anxiously striving to induce the Crown to drop the forgery charge against Davis Goldstein, on condition that he gave the police incriminating evidence against the I.W.W.

That, we say, is a "fresh fact" that cannot be ignored by the country, however lightly Mr. Justice Street may regard it, for it shows THE POWERFUL MOTIVE Davis Goldstein might have had to get busy on one of those "wicked and unscrupulous concoctions" in which his Honor has pronounced him to be so expert.

Another "fresh fact" in connection with Davis Goldstein is the sworn statement he gave to Judd IMPLICATING THE POLICE IN A DASTARDLY FRAME-UP.

This sworn statement he subsequently retracted, declaring it to be a tissue of falsehoods and a piece of pure perjury.

Whether it was so, or whether its precious author was persuaded or intimidated into backing down on it and branding himself as one of the vilest of liars, is a question that need not be considered here.

This is the point I want to make at present: If Davis Goldstein would lie so wickedly about the police, when he had ABSOLUTELY NOTHING TO GAIN BY IT, as Mr. Justice Street said he did, then we are entitled to assume he would lie about the I.W.W. men, if by doing so HE COULD GREATLY ADVANTAGE HIMSELF.

There are other "fresh facts" associated with Davis Goldstein which OUGHT to have raised a doubt in his Honor's mind as to the guilt of the convicted men, though apparently they found him intellectually impervious. But I will pass on to a few "fresh facts" concerning Scully.

THE NEW SCULLY.

To begin with, it is a "fresh fact" that he gave a written statement to Judd, and made verbal statements to Mutch, Connolly, King, and myself.

It is a "fresh fact" of sinister suggestiveness that in these statements he REFLECTS IN THE GRAVEST MANNER UPON THE QUALITY OF THE EVIDENCE GIVEN AT THE TRIAL; also upon the conduct of the detectives and the other principal witnesses for the Crown, and of high officials connected with the administration of justice.

Whether we regard these statements as true or false, they have a most sensational bearing on the case. If true, then the men were convicted on framed-up "FACTS" AND PERJURED TESTIMONY. If false, then SCULLY HIMSELF OUGHT TO BE ELIMINATED FROM THE CASE, and his evidence cast aside as that of a worthless and unscrupulous witness, whose word can only be accepted when corroborated in the most conclusive way. That there was NO SUCH CORROBORATION I will show later on.

It is a "fresh fact," which ought to have raised doubts and suspicions in his Honor's mind, that Scully was ASSISTED OUT OF THE COUNTRY BY THE POLICE at a time when they knew it was highly probable HE WOULD BE WANTED TO GIVE EVIDENCE BEFORE A ROYAL COMMISSION, and when it was exceedingly difficult for a man of military age to obtain a passport. Undoubtedly the police were extremely anxious to remove Scully from the scene, this anxiety carrying them so far as to actually buy the ticket for him, and send a detective to escort him to the boat and see that he actually sailed away.

His Honor says, "The suggestion that the police arranged to deport Scully, to prevent him from divulging the circumstances of the case, is without foundation." But the "fresh fact" that they DID arrange for his deportation, and right at the height of a public agitation for a searching inquiry into "the circumstances of the case," and moreover gave him £150 into the bargain, is not one that ought to be waived aside in that airy fashion; and that Mr. Justice Street does so dismiss it, instead of permitting it to raise a perfectly legitimate suspicion in his mind as to the conduct of the police, is yet another instance of that curious inability to perceive the logical bearing of evidence which is the most striking feature of his report.

THE SUITS EPISODE.

Passing on, let us consider for a moment the very first "fresh fact" brought out before the Commission —the sensational episode of the suits of clothes.

It is not necessary to detail the circumstances of the affair; they are too well known. It is the comments of the Commissioner upon it we are interested in just now. He says:

"The question which I have to consider is whether the police have, in fact, given false evidence in regard to the matter. I am not free from doubt, but I AM INCLINED TO THINK 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 factors in the case which prevent me from feeling that I can safely and satisfactorily accept their story."

Now, if that is not a "fresh fact" that should certainly raise a suspicion of misconduct in his mind, it is hard to imagine what he would regard as such.

The whole allegation against the police—made, be it remembered, by Crown witnesses—was that they had

"framed-up" the evidence on which the twelve I.W.W. men were convicted; in other words, that they had COMBINED TO SWEAR FALSELY against them.

We do not know whether or not they actually did. The inquiry was held to decide that question, if possible. And when, in the course of the inquiry, it is disclosed that some of the police have been engaged in a shady piece of business, and have, the Commissioner is "inclined to think," in order to conceal what they have done, been guilty of "combining to swear falsely," surely that is a "fresh fact" of THE MOST TREMENDOUS SIGNIFICANCE.

When they are shown, almost to the point of certainty, to have done in one instance what they were accused of doing in another instance—that is, combined to swear falsely—how can the Commissioner hold that this is not a "fresh fact" of a kind to raise suspicion in his mind?

If it is true that it did not raise suspicion, then all I can say is that the mind that could view that striking coincidence, and suspect nothing, must be of most peculiar structure.

Not only so, but the mind that regards as "a comparatively venial offence" the acceptance by police officers of "small" presents from men whom they believed to be implicated in a gigantic forgery case, but against whom the charge had been dropped—this mind, surely, is not the "judicial" mind of which we hear so much, that fits a man to sit in judgment on his fellows, and decide the issues of right and wrong.

CHAPTER II.

The Mystery of Detective Surridge

A most remarkable feature of this case was the attitude of Detective Surridge. DID HE TELL THE COMMISSION ALL HE KNEW?

Right up to the time of his appearance in the witness-box it was thought that Surridge might have something sensational to say—something which would throw a lurid light into the dark recesses of the case.

This expectation was based in the first place on statements made by Scully to Mutch, Connolly, King, and myself in conversation, and to Judd in writing; and in the second place on certain talks which King and Judd informed the Commission they had had with Surridge himself.

This is a phase of the case well worth more consideration than Mr. Justice Street appears to have given to it. It is, indeed, a "FRESH FACT" of the utmost significance.

In his written statement to Judd, Scully says that while at Springwood, in charge of Surridge, prior to the I.W.W. trial, he frequently discussed the case with him. Then this passage occurs:

"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. Surridge 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 Surridge said, 'Fagin got very wild with Rob-

son; he said there was nothing in his bag.' Surridge said, 'Robson put it there, all right.'"

Giving evidence before the Commission Scully repeated those statements, with some modifications. He was not then certain that Surridge said, "Robson put it there, all right"; but stuck to it that Surridge had suggested there was something suspicious about the finding of the dope in Fagin's bag, and said, "There is no telling, IT MIGHT HAVE BEEN PUT THERE," or, added Scully, "words to that effect."

In discussion with Mutch, Connolly, King, and myself Scully volunteered practically the same statements about Surridge as those that appear in the document he wrote for Judd.

A REPORTER'S EVIDENCE.

Now let us hear what King, a reporter on the "Sydney Daily Telegraph," has to say with reference to a conversation he had with Surridge. He met him, he told the Commission, at the racecourse on the Saturday preceding an interview he (King) had had with Scully—to be exact, February 2, 1918. Relating what passed on that occasion, King stated:

> "I told him that I had an idea that everything was not right in connection with the I.W.W. cases, and that I understood that he was mixed up with them, and that I thought he might possibly be able to give me some information. He first asked me if anybody had suggested that I should see him on this particular question, and I told him no, absolutely, that it was my own matter, and that I wanted to have a talk with him. He was very reticent; and said that in the event of an inquiry HE MIGHT POSSIBLY BE ABLE TO GIVE CERTAIN INFORMATION, but that he was a married man; that he had his position to look after, and that consequently he did not feel inclined to say anything. He suggested to me that if I wanted to get anything in connection with the case I could see Mr. Scully, at the coaling battalion, at Garden Island, he thought. With that information I thought I had got sufficient for the time being."

King's evidence is extremely important. No attempt was made to shake it in cross-examination by Mr. Shand, and it was indirectly corroborated, or at any rate supported, by the testimony of Mr. Braham, editor of the "Sydney Daily Telegraph," who stated that King, who was police roundsman on the paper, went to him, and suggested that the "Daily Telegraph" should take up the I.W.W. case.

"Mr. King's suspicions," said Mr. Braham, "seemed to have been aroused BY VARIOUS THINGS THAT HE HAD HEARD AND SEEN IN HIS INTERCOURSE WITH THE POLICE, in the course of his duty."

One detective's name in particular was mentioned to Mr. Braham, but he could not remember whether it was that of Surridge or not. Asked the nature of the conversation reported to him with this particular detective, Mr. Braham replied, "The nature of the conversation was that he was sick and sorry of the whole business, and that he had been mixed up with something that was very discreditable."

HIS HONOR: "He being the detective?"

MR. BRAHAM: "He being the detective; that he, the detective, said there was a lot of dirty work which had been done in connection with this trial, and that he was sick of his whole connection with the detective force, and would be glad to get out of it."

Mr. Braham added that he had always found Mr. King to be "perfectly truthful and straight," and a "conscientious journalist."

JUDD MEETS SURRIDGE.

Judd's account of his interview with Surridge is next in order. This meeting was arranged by Scully, and took place in Hyde Park.

There can be no doubt that SURRIDGE KNEW THE OBJECT OF THE MEETING AS FAR AS JUDD

WAS CONCERNED—that he was being approached as a detective who was believed to be able to give such information about the conduct of the case as would be favorable to the men.

Judd told him straight out the purpose with which he sought the interview. Surridge, however, said at once and emphatically that HE WOULD MAKE NO STATEMENT. "He also said that he had a good position; that his home and interests were here." Judd's evidence then reads as follows:

> "I said to him, 'In that case, can you give me any indication of where I may look to secure the evidence, or to find out THE BAD PARTS OF THE CASE?' He did not speak for a while. He was looking thoughtfully across the park, and then he said to me, 'HAVE YOU SEEN GOLDSTEIN?' and I said, 'No.' I could not give the exact words, but he spoke to the effect that it would be wise to see Goldstein, or to get in touch with Goldstein.
>
> "He would not give me any further hint or indication of where I might look for weak spots or bad portions of the I.W.W. trial. I asked him then was he prepared, if I could assure him that his position would be safeguarded, was he prepared on that condition, or would he be prepared on such a condition, to give me an indication as to where I would get the evidence. Well, he would not do that. He said, 'No, if you get a Commission, Mr. Judd, I will tell the truth,' or 'the whole truth.' I am not sure at this stage whether he said, 'I will tell the truth, or 'I will tell the whole truth.' It was on that understanding we separated."

When Surridge went into the box to give evidence, he denied the accuracy of this account, and tendered one of his own to which nobody who knows Judd will attach the slightest credence.

Mr. Justice Street himself rejects the most essential part of Surridge's account of the interview. He

says, "Again I have to choose between Surridge and another witness, and I think it is more than probable that Judd is speaking the truth in saying that Surridge asked him if he had seen the Goldsteins."

Now that acceptance of Judd's testimony is of root importance. Judd, remember, asked Surridge, "Can you give me any indication of where I may look for the evidence, or find out the bad parts of the case?" And Surridge answered "to the effect that IT WOULD BE WISE TO SEE GOLDSTEIN, or get in touch with Goldstein."

If the detective knew nothing wrong in connection with the case, WHY DID HE SUGGEST TO JUDD, who was investigating the case with a view to proving the innocence of the men, THAT GOLDSTEIN OUGHT TO BE SEEN IN THE MATTER?

Surely that was a most significant piece of advice. It was a plain hint, if words have meaning, that Goldstein either did know or might know of some "BAD SPOTS" in the case, and it conveyed more than a suggestion that Surridge himself would speak but for the circumstance that "he had a good position," and that "his home and interests were here."

THE JUDGE MISSES A CLUE.

Is not this peculiar attitude of Detective Surridge a "FRESH FACT" OF THE HIGHEST VALUE, and one that ought to have raised suspicions in his Honor's mind as to the manner in which the prosecution of the 12 men had been conducted?

Is it not a "fresh fact" that SURRIDGE ATTEMPTED TO THROW THE COMMISSION OFF THE SCENT by going into the box and swearing what his Honor evidently believes to be false, namely, that he did not ask Judd if he had seen Goldstein?

As regards the conversation which King says he had with Surridge on the racecourse, his Honor declares, "I DON'T BELIEVE THAT SURRIDGE IS TELLING THE TRUTH IN DENYING THE EXISTENCE OF ANY SUCH CONVERSATION."

Well, WHY DID NOT HIS HONOR FOLLOW UP THE CLUE he had here in his hands, and ask himself WHAT PURPOSE SURRIDGE HAD in meeting the "Telegraph" reporter's evidence of a very significant conversation with a lying denial, made, don't forget, under an oath that required him to speak "the truth, the whole truth, and nothing but the truth, so help him, God."

Certainly, either King or Surridge perjured himself in the witness box in this connection. And in King's case there is an UTTER ABSENCE OF MOTIVE. There is no reason in the world why he should deliberately invent the story of meeting Surridge, and of having that talk with him on the I.W.W. case. On the other hand, there is A VERY OBVIOUS REASON why Surridge should deny that any such meeting took place.

Is not THAT a "fresh fact" that OUGHT to have raised a suspicion in the mind of the Commissioner? His Honor says, "There might have been a mistake in what was said in the conversation, but I BELIEVE THE CONVERSATION DID TAKE PLACE."

That is an important decision at which to arrive, and it is simply astounding that his Honor should fail to perceive the logical conclusion of his own words.

Having said he believed that Surridge was lying, he ought not to have let it rest there. He ought to have faced the crucial query, "WHY DID HE LIE?" What had he to conceal? His Honor was on the threshold of what promised to be a most illuminating line of inquiry, and instead of boldly entering in, he turned away, and WALKED OFF IN ANOTHER DIRECTION!

"There might have been a mistake in what was said in the conversation," he reports. But instead of dismissing the matter in that Podsnappian fashion, ought he not to have accepted King's recital of what was said, as well as his statement that the meeting took place?

On what ground could he so lightly brush it aside? King repeated the substance of the conversation to his

chief, the editor of the "Telegraph," and asked him to take up the I.W.W. case in the paper. Mr. Braham's evidence went to show that the story King told the Commission was substantially correct.

Moreover, Judd's account of what Surridge said to him (Judd) agrees with what King alleges Surridge to have said; that is, with reference to his having a good position, and interests, which he was unwilling to jeopardise.

It may be mentioned here that Detective Robertson was put into the box to prove an alibi for Surridge. He declared that Surridge was with him in another part of the racecourse to that in which the conversation is said by King to have occurred, and was never away from there the whole day; the inference being, of course, that King was lying, and that the meeting which His Honor is convinced took place was a deliberate concoction. So much for police corroboration!

A VITAL POINT.

I have dwelt upon this Surridge business, because it seems to me transcendently important.

EITHER SURRIDGE KNOWS SOMETHING, OR HE DOES NOT. If he knows nothing, why did he say to Judd, as his Honor believes he did, "Have you seen Goldstein?" when asked where evidence as to "bad spots" in the I.W.W. case could be secured?

If he knows nothing, why did he talk with the reporter King about the I.W.W. case, and refer him to Scully, as his Honor seemingly believes he did?

If he knows nothing, why did Scully, in introducing him to Judd, say so meaningly, "Now, Arthur, you can speak freely to Judd"?

And if he knows nothing, why did Scully swear that he made some of the sensational statements in the written document he gave to Judd ON THE FAITH OF WHAT SURRIDGE HAD TOLD HIM ABOUT THE CASE?

If, on the contrary, Surridge does know something, WHAT IS IT HE KNOWS? And why does he not say what he knows? And why did he give his testimony in

such a way that his Honor, in regard to several matters of importance, was forced to practically brand him as A LYING WITNESS?

A word here on the relations of Surridge and Scully will carry this analysis a little further. They were on a friendly footing. That is admitted. Scully, far from having any desire to do him an injury, spoke well of him on every occasion, both before the Commission sat and in his evidence there.

He had no motive whatever to tell lies about him. When, therefore, Scully says that Surridge told him this, that, and the other, his statements are not to be rejected without the most weighty reasons.

Altogether, Surridge is a witness who ought to have figured very prominently in the Commissioner's report. That he does not is a striking proof of Mr. Justice Street's failure to grasp the significance of the evidence that was given before him.

CHAPTER III.

The Strange Affair of the Two Goldsteins

From the Mystery of Detective Surridge I now pass to the Strange Affair of the Two Goldsteins.

These "loyal citizens," as they describe themselves, by some means or other got mixed up with THE BIGGEST BANKNOTE FORGERY CASE AUSTRALIA HAS EVER KNOWN. They were suspected of having financed the scheme, and both were arrested. That was about September 9, 1916.

Bail was granted, and while out on remand Louis Goldstein (on September 11) called at the detective office and saw two of the detectives engaged on the case against them.

One of them, Pauling, giving evidence before the Commission, said:

> "Louis Goldstein came to the detective office and saw Detective Turbet and myself, and told us that, if it were possible, HE WOULD LIKE HIS NAME KEPT OUT OF THE CASE, as it might do him an injury in his business; and he said, IF THAT COULD BE DONE he would be able to get some valuable information from his brother, Davis Goldstein, about the I.W.W."

DAVIS GOLDSTEIN'S YARN.

In the afternoon Louis brought his brother, who told the detectives he knew that I.W.W. men were responsible for fires that had occurred in Sydney. "A day or two after that" the same two detectives saw the Goldsteins again. Pauling continued:

> "Davis Goldstein then told us that he had found out that a man named Jack Hamilton, who was a member of the I.W.W., was the man who had

the stuff with which they set fire to the places; and he also mentioned Teen's name. . . . Detective Turbet asked him would he try and get some of the stuff, and Goldstein said he would try and do so. The next time we saw Goldstein was on the 15th, I think. About six at night he came along to the detective office, and he had a bottle containing some liquid, some cotton waste, and some newspaper wrapped round it. He then told us he had got it from Jack Hamilton."

Now, the circumstances surrounding this sensational transaction were of such a nature that no jury, knowing of certain "fresh facts" brought out before the Commission, COULD POSSIBLY GIVE ANY CREDENCE WHATEVER TO THE YARN TOLD BY DAVIS GOLDSTEIN, nor to the "corroboration" of the yarn subsequently supplied by the police.

At the trial of the I.W.W. men Davis Goldstein swore that he received the dope from Hamilton on September 15, at the door of the I.W.W. rooms, on the public footpath; and Detective Lynch, who was posted with another detective in an empty fishshop on the opposite side of the street, went into the box and declared on oath that HE SAW HAMILTON HAND A PARCEL TO DAVIS GOLDSTEIN on the date and at the place mentioned.

What would the jury have thought of this piece of corroborative evidence had it been known that, in the report which they wrote for their chief, setting out what they had seen from their post of observation on that day, LYNCH AND THE DETECTIVE WHO WAS WITH HIM MAKE NO REFERENCE WHATEVER TO THIS STARTLING EPISODE?

They tell whom they saw going in and out of the I.W.W. rooms, and describe certain little incidents they are alleged to have witnessed, but not a word about Goldstein, not a word about Hamilton!

Mr. Windeyer handed Detective Lynch his report on what he saw that day, and the following bit of cross-examination ensued:

"There is not one word about Goldstein in that report?—No.

"Can you tell us why?—Because it had no bearing on the matter as far as I knew at that particular stage.

"Did you know this man, charged in the £5 note case, whom you swore at the trial you had seen down there?—Yes.

"And you never reported it?—No, I did not.

"And what is your explanation?—I take it that it must have been an oversight. I had no idea that Goldstein was connected with the I.W.W. prior to that."

A very lame explanation, indeed, in view of what we have since found out—that Goldstein was supposed to be there AT THE INSTIGATION OF PAULING AND TURBET, who had asked him to try and get some of the dope from Hamilton, and who would naturally desire to have his evidence corroborated.

WHAT THE JURY DIDN'T KNOW.

It is not necessary for me to pronounce an opinion on the value of the corroboration furnished by Detective Lynch. But I put this question to intelligent men and women: "Had the jury been aware of the fact that, in his official report of that day's happenings, Detective Lynch makes no mention of the incident, WOULD THIS SUBSEQUENT VERBAL STATEMENT THAT IT TOOK PLACE HAVE CARRIED ANY WEIGHT WITH THEM?"

The jury did not know that that report existed. They did not know that Goldstein had offered to get evidence IN THE HOPE OF BEING LET OFF THE FORGERY CHARGE. They did not know that he had been to see the police, trying to strike a bargain with them, and that the police had asked him to prove his bona fides by obtaining a sample of the fire dope.

Nor did the jury know that Davis Goldstein was a man capable, as is shown by the findings of Mr. Jus-

tice Street, of "A WICKED AND UNSCRUPULOU CONCOCTION," and one who would PERJURE HIM SELF to attain his own ends.

Had they known these "fresh facts," elicited b the Royal Commission, it is impossible to believe the would have accepted the bit of evidence against th I.W.W. which he "discovered" for the police IN A ATTEMPT TO INDUCE THEM TO LET HIM OUT O THE FORGERY CASE.

The evidence of an unprincipled informer lik Davis Goldstein requires to be corroborated in the mos conclusive fashion before any value can be attached t it. The belated corroboration of Detective Lynch, i view of the remarkable silence of the report he wro AT THE TIME, is not nearly sufficient to carry co viction to the mind.

Even in the statement which Detective Lynch pr pared for the use of the counsel for the Crown (M Lamb), there is NO REFERENCE TO HAMILTO HANDING A PARCEL OF FIRE DOPE TO GOLD STEIN; yet when Lynch subsequently went into th box his relation of this episode formed one of the mos sensational features of his evidence.

Surely this is a "FRESH FACT" that ought t have raised some suspicion in the mind of the Commi sioner. If the incident really happened, and Lyn saw it happen, WHY DID HE NOT PUT IT INTO TH ALMOST CONTEMPORARY RECORDS IN WHIC HE DESCRIBES WHAT HE SAW THAT DAY?

Goldstein is said to have given the dope to t police on September 15, yet Lynch, who is supposed t have seen him get it from Hamilton, writing his repo to the Detective Department only three days afte wards, and preparing his statement for Mr. Lamb's i formation at a later date (the document itself is u dated), makes absolutely NO MENTION OF IT, JUS AS THOUGH IT HAD NEVER HAPPENED AT AL

Had this extraordinary fact been known to t jury, would they not have turned down this piece Davis Goldstein's evidence, so unsatisfactorily co

oborated? Under the circumstances it is hard to im- gine the most biassed and ignorant jury accepting it.

Davis Goldstein had a powerful motive to PRO- VIDE EVIDENCE THAT WOULD PLEASE THE POLICE. And if there was no genuine evidence to be had, the man who accused himself of deliberately in- venting outrageous lies against innocent policemen, when there was nothing to gain by it, would not hesi- tate to manufacture lies against innocent I.W.W. men when he HAD A GREAT DEAL TO GAIN BY IT— when it was likely that in this way he would save him- self from prosecution on a serious charge.

JUDICIAL DENSENESS.

Mr. Justice Street, in his findings, says:

"Notwithstanding Davis Goldstein's efforts, and those of his solicitor, the Crown absolutely re- fused to make a 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 im- probability of securing a conviction, the Attorney- General filed a nolle prosequi in his case."

Did it not strike his Honor that the Crown kept Goldstein on tenterhooks, and fed him on hopes, IN ORDER TO STIMULATE HIS ZEAL AS A WITNESS AGAINST THE I.W.W.?

The "fresh facts" brought out by the Commission went to show that this was so. Moreover, as regards the "improbability of securing a conviction" on the forgery charge, it must not be forgotten that the police handled the case against Davis Goldstein in a strangely careless manner. If they had actually wanted to let him off, they could scarcely have been more inefficient in prosecution than they were. His Honor on this point is trenchant:

"No attempt was made at the Police Court to show that the Goldsteins had financed the scheme. Turbet says that Mr. Bathgate (Crown Prosecu-

tor) 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, and that after receiving those instructions he DID NOT MAKE ANY INVESTIGATION OF THE GOLDSTEINS' FINANCIAL AFFAIRS.

"This explanation IS NOT VERY SATISFACTORY, and the attention bestowed on this aspect of the case DOES NOT REFLECT VERY MUCH CREDIT upon any of those concerned."

Nor, in my opinion, does his Honor's deduction from all this queer business reflect very much credit upon HIM. Did it not occur to his judicial mind that the Crown's laxity in the matter might be explained by its anxiety to secure Davis Goldstein as a witness against the I.W.W.?

His Honor continues, referring to his own examination of the Goldsteins' cheques and pass books:

"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. I cannot avoid coming to the conclusion that THE DETECTIVES ACCEPTED TOO READILY WHAT THE GOLDSTEINS TOLD THEM, and that their investigation of the affair was of a very perfunctory character."

In the Crown Law Office the impression certainly prevailed that the case against Davis Goldstein WAS NOT PRESSED AS IT COULD HAVE BEEN, but there

they found the explanation that his Honor shirked—that this was because he was wanted to give evidence for the Crown in the I.W.W. case.

For instance, when an application was made for the refund of Davis Goldstein's bail money, after Morgan absconded, the Clerk of the Peace (Mr. W. R. Beaver), writing to the Acting Under-Secretary on January 16, 1917, advising against the refund, said:

"It may be the fact that the money in question was handed by Davis Goldstein to the bondsman, Morris. Goldstein himself was committed for trial on the bank-note charge; but the Crown did not proceed against him ON CONDITION THAT GOLDSTEIN GAVE EVIDENCE AGAINST THE ACCUSED IN THE I.W.W. CONSPIRACY CASE. There is no question that Goldstein was implicated in the former crime; and there can be little doubt that he gave evidence in the conspiracy case TO SAVE HIMSELF from the consequences of his participation in the forgery."

MR. WINDEYER (cross-examining the foregoing witness): That is quite a definite statement of yours, is it not, Mr. Beaver?—Yes.

I take it that naturally you would not make a definite statement like that unless it were based on some definite information?—I should think not.

I can take it for certain, can I not?—Yes.

In view of such "fresh facts" as these—in view of the frantic efforts of the Goldsteins and their solicitor to get the Crown to drop the case against Davis, the culpable slackness of the Crown in prosecuting the case against him, and the conclusive letter of the Clerk of the Peace, his Honor's finding, which is tantamount to an expression of opinion that Davis Goldstein's evidence could not have been influenced by any hope of being let out of the forgery charge, is SIMPLY INEXPLICABLE, and makes one wonder by what judicial criteria he can have tested the value of the evidence placed before him.

LOUIS GOLDSTEIN'S YARN.

Let us now have a look at the other Goldstein's little story.

Louis did not belong to the I.W.W., nor was he on intimate terms with any of its members, but when he wanted evidence against them, with which to conciliate the police, HE GOT IT WITHOUT ANY TROUBLE!

He stated at the trial that on September 22, 1916, he met Teen at an anti-conscription meeting outside the Town Hall. They were only on nodding terms, yet when Goldstein said to him, "What about the recent fires?" Teen (so Goldstein swore) at once replied, "Do you know Stedman's fire? I DID THAT—and immediately rang up the police and said, 'This is another of Barker's fires. Are you going to release him?'"

It was a tough yarn to ask the jury to swallow—that Teen would place himself in the power of a stranger like that; and they would probably not have done so but for the evidence of Detective Leary, who swore that he saw the two men in conversation on that date, and followed them to the corner of George and Quay streets, where they stood talking together for some time.

In connection with this peculiar affair a "fresh fact" of great significance was discovered by Mr. Windeyer during the cross-examination of Mr. Cohen, solicitor for the Goldsteins. He stated, positively and circumstantially, that Louis Goldstein had informed him on September 14 of this alleged confession by Teen—that is, EIGHT DAYS BEFORE IT HAPPENED, according to Louis Goldstein's evidence on oath at the trial!

There can be no doubt about the accuracy of Mr. Cohen's recollection, because it is supported by an entry in his professional diary, and by a subsequent conversation he remembers to have had with Mr. Gannon, counsel for the Goldsteins in the same case.

Mr. Cohen's statement, indeed, could not be more assured and explicit. He had asked Mr. Boyce (who also appeared for the Goldsteins) to draft him a letter

with reference to the bail for Morgan. Mr. Boyce drafted the letter, which is dated September 13, and it was to be sent the next morning. The witness continued:

"I had that letter typed, and was about to deliver it when Louis Goldstein came into the office and said he was very much worried. I said, 'No doubt you are worried, with a serious charge like this over you.' He said, 'But the trouble is this—you have heard of Stedman's fire?' I said, 'Yes.' He said, 'Well, A MAN NAMED TEEN CONFESSED TO ME THAT HE SET FIRE TO STEDMAN'S.'"

MR. WINDEYER: "Louis Goldstein told you that?"

Witness: "Yes. He said 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. I said, 'Well this is a very serious thing. The best thing you could do is come and see your counsel. I do not like the responsibility of this—to say that Teen confessed to you—and it is a serious matter; these fires are taking place. You had better come up and see Mr. Gannon.' I said, 'Where is your brother Davis?' He said, 'Down at the factory.' I said, 'Send for him,' or I sent for him, for Davis to come and meet me at Gannon's. I was busy at the office with someone else, and I told Louis Goldstein to wait for me until I had finished what I was doing on some other matters. I said, 'You meet me at Gannon's.' Whether he came up with me, or subsequently met me there, I do not remember. However, I remember this—that I called for Mr. Boyce on the way to Mr. Gannon's. Louis Goldstein was there, and Davis Goldstein subsequently came in. I said to Mr. Gannon 'Louis Goldstein has just told me that A MAN NAMED TEEN HAD TOLD HIM THAT HE SET FIRE TO STEDMAN'S.'"

SOME FRESH FACTS.

There is no mistaking the significance of that statement by the Goldsteins' solicitor. There is no ambiguity about it. It is a clear-cut recollection, with a wealth of circumstantial detail that gives it the stamp of truth.

When Mr. Boyce was called, he could not remember that Mr. Cohen spoke about Teen's confession to Louis Goldstein in the presence of himself and Mr. Gannon; but HE WOULD NOT DENY IT. And it is worthy of note that Mr. Gannon was not called by Mr. Shand to rebutt Cohen's damaging evidence; all the more damaging because given without the slightest desire to help the case of the I.W.W. men.

Why, then, having told his solicitor this on September 14, did Louis Goldstein swear at the trial that Teen confessed about Stedman's on September 22, and not before? Obviously BECAUSE CORROBORATION WAS WANTED, and the following of himself and Teen on the later date by Detective Leary SUPPLIED WHAT WAS NEEDED in this respect.

I will now summarise a few "fresh facts" disclosed in connection with the Goldsteins and the part they played in this case:

(1) THEY LIED when they swore they had not seen the police about the fires before they handed some dope to Pauling on September 15.

(2) THEY LIED when they swore they had not offered to get the police evidence against the I.W.W. ON CONDITION THAT THE FORGERY CHARGES WERE DROPPED.

(3) DETECTIVE LYNCH'S EVIDENCE on oath at the trial, that he saw Hamilton hand a parcel to Davis Goldstein on September 15, IS NOT MENTIONED IN THE REPORT HE WROTE FOR HIS CHIEF THREE DAYS AFTER THE ALLEGED EVENT, nor in the statement he prepared for the use of the prosecuting counsel.

(4) LOUIS GOLDSTEIN'S EVIDENCE that Teen told him on September 22 that he set fire to Stedman's is FLATLY CONTRADICTED BY HIS OWN SOLICITOR, who informed the Commission that Louis Goldstein communicated this alleged confession to him on September 14.

Are not the foregoing "fresh facts" of such a nature as OUGHT to have raised in the mind of the Commissioner that doubt which he says he does not feel as to the guilt of the men in jail?

I submit that they are. I submit that they completely destroy the credibility of two of the most deadly pieces of evidence given against the accused at the trial, namely, the alleged handing of fire dope to Davis Goldstein by Hamilton and the alleged admission of Teen, made to Louis Goldstein, that he was the author of the great fire at Stedman's factory.

Nor have we done with the Goldsteins yet. There is more to follow!