Fred Paterson — The People’s Champion

Ross Fitzgerald

By now, most students of Australian history know that the ex-divinity student, Rhodes Scholar and radical barrister, Frederick Woolnough Paterson, the MLA for Bowen from 1944-1950, was Australia’s first and only communist member of parliament. They may also know that in Brisbane, on St Patrick’s Day 1948, while observing a march of striking unionists, Paterson was savagely bashed from behind by a plain-clothes policeman and sustained serious head injuries. Few realise, however, that in 1930 there was a two-pronged attempt by governmental and other authorities in Queensland to stop the militant communist activist practising as a barrister.

While working as a pig farmer in Caboolture, Fred Paterson had been admitted as a student of law in April 1928. After feeding his pigs early in the morning he had to travel 30 miles by rail to attend, as law students were then required, the full court in Brisbane. At the end of each day’s sitting he would return to Caboolture and finish his farm work. As well, he gave, three times a year, a series of ten weekly evening public lectures on ‘The Truth About the Soviet Union’ at the Brisbane Labour College.

After the bottom fell out of the pig market, Paterson walked off the piggery in 1929 but in he Brisbane continued to study law and to be active as a communist propagandist. Thus, apart from his regular lectures at the college, during this time of acute economic failure, social dislocation and personal suffering, he addressed numerous public meetings.

On 17 January 1930, during a general discussion about the conservative Queensland government’s industrial conciliation and arbitration act amendment bill in the Brisbane Domain Paterson addressed a lunch-time gathering on the relationship between the law and the working class.\(^1\) He was arrested two days later on a charge of sedition, brought against him by AE Moore’s country and progressive national party state government. Had Fred Paterson been found guilty, he would have been unable to practice law.

An impoverished law student is an unlikely target for such political harassment. However, this was the beginning of the depression. The world’s capitalist economies had plunged into crisis and, despite its lack of a manufacturing base, the Queensland economy was severely affected. As well, the communist party (CPA) had begun to behave much more militantly, and was being portrayed in the media as being poised to strike, viper-like, at the bosom of Australia’s well-being. Sensitive to any criticism of the social and economic system, the state government was supposedly acting to protect itself. The subject of Paterson’s address in the domain, ‘the law and the working class’, specifically brought the legal system into the area of critical public discussion. To conservative members of the Queensland political and legal fraternity, such ‘seditious’ utterances from an intending lawyer created grave misgivings.

Fred Paterson was arrested on 19 January 1930 just a few weeks before his final bar examination, which he failed.\(^2\) Up to this point, he had always passed his
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law exams with ease. In his memoirs, recorded shortly before his death in 1977, he candidly admitted that his failure in one exam paper at the time may have been deserved in that his defence of himself at the sedition trial completely occupied his time: ‘I am prepared to admit that my failure in one paper ... may have been a just decision. I had neglected my law studies to prepare my defence’.

The charge against him was that in the Brisbane Domain on 12 January, 1930 he advisedly spoke and published seditious words, namely:

If the workers shed a little blood in their own interests as they did for the capitalists in the war they will be emancipated. They should take the law into their own hands. Although I hope that I will not have to shed any of my own blood, if the necessity arises, I am willing to do so in conjunction with the workers as a whole. But before I do so the workers will have to be thoroughly organised to have a successful issue. There was no harm in the spilling of blood in the late war in the capitalist’s interests so why could it not be spilt in the worker’s interests, who could not be much worse off than they are now?

During his trial on 16 April 1930, Paterson sat at the bar table. The crown prosecutor, FW (Fred) O’Rourke, called two young constables, ET Rooney and P Collins, as witnesses to the alleged seditious utterance. To secure a conviction for sedition under Queensland law, the evidence had to be given by at least two witnesses. The two policemen who allegedly witnessed Paterson’s speech both recounted over 200 consecutive words without a word of difference and without the aid of notes. The words complained of were, the officers stated, used in the domain when the industrial conciliation and arbitration act amendment bill was being discussed. Several other constables were present, but none made any notes. In reply to a question from the crown prosecutor, Collins said that he did not form the opinion that Paterson was trying to break the law.

Paterson neither confirmed nor denied that he had uttered the words. His defence rested on the proposition that no individual, let alone a pair of constables who had allegedly not attended the meeting with the deliberate intention of charging him, could listen to an hour-long speech and recall a select ‘seditious’ passage word for word, yet at the same time not be able to repeat accurately any other statements made before or after the offending remarks. Paterson said in court:

Sedition is a serious crime, next on the criminal code to treason, yet the crown comes along here with the most unreliable evidence ... Would any of you, the jury, go to a political meeting and on returning home remember the exact words used without the aid of notes? ... The original Siamese twins were born together, lived together, ate together, slept together, but the police variety think together.

He added: ‘Behold the Siamese twins of the Queensland police force. They were not born together, they do not eat together, they do not sleep together and probably they will not die together. But they remember exactly together, and they forget together’.

After a retirement of less than fifteen minutes the jury returned a verdict of not guilty, and Paterson was discharged. As his eldest son, John Paterson, recalled, his
father often remarked that the ‘not guilty’ verdict was returned in the sedition trial before the jury had had a free meal. This was uncommon in the years of the depression, as many jurors would delay giving their verdicts until after they were served the standard free hot luncheon or dinner.10

The Brisbane Truth of 20 April 1930 headed its report on Paterson’s trial thus: ‘Police Siamese Twins. Rhodes Scholar Scathing Indictment of Crown Evidence, Acquitted of Sedition’. For years afterwards, the two unfortunate constables were known as ‘the Siamese twins’ of the Queensland police force. In what the Brisbane Truth referred to as a ‘sensational speech’ in his defence, Paterson told the jury:

We are living in a modern age, and I speak when the opportunity offers. If I am guilty ever of sedition I am prepared to take the consequences, but I am not guilty in this case ... It is not I but the crown, and its method of giving evidence, which is on trial at the present time.11

As prosecuting counsel, O’Rourke responded in court that Paterson had an idea that he had been singled out for ‘extinction’ by the crown, but ‘from his address to you it will be seen that he is a man who might easily be led away and who might use words not always advisedly’.12 The trial judge, chief justice Sir James Blair, gave what Paterson later called ‘a viciously vindictive summing up’, telling the jury that as trained witnesses the police officers would have no difficulty in remembering the words allegedly spoke in the domain that day. As he had previously had run-ins with him at the University of Queensland, Paterson wasn’t surprised at Blair’s vindictive summation to the jury.13

The possibility of a conspiracy between the conservative state government and the Queensland bar association to prevent Fred Paterson from practising as a barrister must have crossed the minds of many who knew him. Indeed Paterson later argued that he had evidence from a former fellow student at Brisbane Grammar School, the prosecutor himself, that the trial was a set-up. As Paterson put it:

The crown prosecutor was Fred O’Rourke, an ex-Brisbane Grammar School boy, and one who believed in the real liberal principles — liberal with the small “l” of the legal profession. On the day of the trial Fred O’Rourke asked me to attend his chambers. I did. He told me that the trial was purely a political trial; its aim was to get a conviction to prevent me from becoming a barrister.14

Paterson’s claim about the political nature of his trial is lent extra credence when one considers the degree of complicity shortly afterwards between the agents of Moore’s state government and the federal conservative opposition in pursuit of the ALP federal treasurer, EG (‘Red Ted’) Theodore, over the Mungana mines allegations.15

Also damming to any pretence by conservative Queensland legal authorities that they acted impartially is the fact that Paterson, who had topped the state in the junior public examination, came third in the Queensland senior examination, graduated from the University of Queensland, and completed an honours degree in theology at Oxford University as a Queensland Rhodes Scholar, was failed three times in his final law examinations. Paterson came to the conclusion that there was something
radically wrong with the marking of his exams, at least on the second and third occasions.

In his tape-recorded memoirs, later published as a booklet *Fred Paterson: A Personal Story*, Paterson explained the tactics he then adopted:

> I made it widely known among all the other law students, and as many people as I could find ... that, when I sat next time I would take a copy of my answers and, if I was failed, I’d have them published in *Smith’s Weekly* (the widely read radical newspaper).

Paterson’s ploy had the desired effect. He passed the final exam.

However, a further requirement for his admission to the bar was to obtain two signed statements, by barristers, that he was a fit and proper person to be admitted. One of these barristers was Roslyn F Philp, the brother of a woman, Hazel Philp, Paterson had previously courted when Paterson was a devout Anglican associated with the Holy Trinity Church in Woolloongabba. This was before he left Brisbane for Oxford in February 1920.

Like Fred Paterson, Roslyn Philp was also a Queensland Rhodes Scholar who had been educated at Brisbane Grammar School. Paterson contends that Philp, who had been called to the Bar in 1923, later informed him that he had been approached to withdraw his name — but he refused. Ironically, Philp, from 1939 a justice of the supreme court of Queensland, was one of the three judges appointed in 1954 as royal commissioners to investigate the Petrov affair, in which Paterson played a minor legal role.

The other signatory who attested to Paterson’s good character was Edwin (‘Eddie’) Stanley, nephew of chief justice Sir James Blair, and an old colleague of Paterson’s from the University of Queensland’s St John’s Anglican College. Like Roslyn Philp, Edwin Stanley also became a supreme court judge and remained a friend of Paterson’s until the latter’s death. As a consequence of the support of Philp and Stanley, Paterson was admitted as a barrister on 18 March 1931. He was 33 years old.

Attempts by governments in Australia and elsewhere to punish dissidents by circumventing their career aspirations, or preventing them from obtaining employment at all, were to reach endemic proportions during the cold war era of the 1950s and early 1960s. In the light of the documented instances of such coercive government actions during the cold war, it is not at all surprising that, during an earlier period of social and political instability, attempts were made to interfere with the careers of articulate and politically committed citizens such as Fred Paterson.

Paterson’s successful defence of himself in the ‘Siamese Twins’ sedition trial, coupled with his *Smith’s Weekly* strategy in his final law exams, marked the beginning of a career as a radical barrister which involved numerous court appearances defending those unable to defend themselves and who could not afford the high costs of legal representation. Had Paterson been convicted of sedition, he could not have been admitted to the bar, and his legal career would have been the stuff of bitter regret. Many unemployed people, poor and powerless individuals, victimised unionists and immigrants, as well as the CPA as a body and those whom he termed
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‘the useful people’, were to benefit from him practising law. On the other hand, the Queensland police force, various city and municipal councils, and subsequent federal and Queensland governments may well have regretted the day Paterson was found not guilty of sedition.

The influence of Fred Paterson’s presence in the north Queensland branch of the CPA after he moved from Brisbane to Townsville at the end of 1932, and his work within northern working class and immigrant communities, was to be a crucial factor behind communism’s popularity in north Queensland. This widespread support for the CPA was especially the case from the late 1930s to the mid 1940s when the area was known as the ‘Red North’. Paterson’s important contribution to this historic national political aberration did not begin in earnest until after he was admitted to the Queensland bar in March 1931, almost 17 years to the day before, on St Patrick’s Day 1948 in Brisbane, he was viscously struck down from behind by a baton wielded by Detective Sergeant Jack Mahony.

As a communist party activist and orator, Fred Paterson was witty, persistent, and astute. In order to survive, he had to be. After his arrival in Townsville in December 1932 he continued, and expanded, his public-speaking. Paterson did an enormous amount of propaganda work addressing CPA gatherings all over north Queensland.

Paterson’s successful use of the public meeting in halls, churches and on street corners soon attracted the adverse attention of authorities. Thus in July 1933, the Cairns city council attempted to obstruct his activities by refusing him a permit to speak on the street by the Cairns esplanade. To counter this, Paterson spoke from a table in the shallow waters of the sea. Similarly, the Bowen town council attempted to prevent Paterson from addressing public meetings by denying him permits. Although opposed by Bowen’s progressive mayor, Ernie Russell, the strongly anti-communist Bowen council passed a resolution during 1934 banning Paterson from speaking on any land under its jurisdiction. Paterson retaliated:

The Bowen town council banned me from speaking on council property so I researched the land titles and discovered that their boundaries had not been surveyed since the 1870s and that there had been reclamation of the seafront since then. This was the case in many of the coastal towns. So I addressed meetings from below the high water mark and they couldn’t legally stop me.

At the subsequent court case on 11 January 1935, brought against Paterson by the council for the offence, allegedly committed on 10 December 1934, of ‘speaking without a permit on council property’, he was acquitted in the summons court by acting police magistrate, PJ Higgins. The council was forced to pay all costs. This case, reported on the front page of the Bowen Independent on 14 January 1935, says much about Paterson’s inventiveness and humour. Paterson defended himself ‘on the grounds that I honestly and reasonably believed in a state of facts which, if true, would mean that I was not guilty of any offence’. Included in the costs awarded against the council were accommodation expenses and a first-class rail ticket for Paterson’s trip from Bowen to Townsville and back. This was the only time he travelled first-class, until he got a gold rail pass when he was elected to parliament in 1944.
During the party’s ‘illegal period’, from June 1940 to December 1942, Paterson often travelled to regional centres to help propagate local CPA branches, and to advise members on ways to circumvent the commonwealth government’s ban on the organisation and its publications. In an instructive discussion of tactics used to sustain the local membership, ex-CPA member Albert (‘Alby’) Graham recalled one of Paterson’s visits to Bundaberg: ‘Doblo had been found in possession of an illegal document, *The Spark*, a publication of the communist party. In Doblo’s defence, Fred said that’s all admitted (possession of *The Spark*) but what the prosecution have failed to establish is “Mens Rea” ... in other words they’ve got to establish that not only was he in possession of this banned publication but he knew he was committing a breach of the law in being in possession of it — guilty knowledge’.  

The judge recorded a conviction, but decided on no penalty, on account of the prosecution’s failure to establish Doblo’s guilty intent. While he was in the Bundaberg area, Paterson felt he could get away with addressing an illegal CPA meeting. According to Graham:

> We used to hold meetings in all sorts of places. So when Fred came up he wanted to talk to us, so we arranged a meeting. We had a bloke who was a very good organiser of meetings. He took us everywhere, different places. On this day, the local waterside workers branch had a football team in the local competition. Well, it was decided that a safe place for a meeting of the illegal communist party would be to go and see the coach of the wharfies football team and get him to arrange a training session and we would have it out there with the footballers. So the footballers are running up and down, and there is a big “rozzer” (policeman); we are running up and down with a football having our meeting and the big rozzer is trying to run with us too. Anyhow, it wasn’t such a successful meeting; we’d had better ones in the cemetery! And Fred said, “Well, there’s a few other things we need to complete”. The big rozzer’s still there so we decided the next day we would meet in the surf at Bargara. That’s a beach in Bundaberg. The coppers were following us and we knew them and they knew us, so we waved at each other along the way. Anyway, when we got there we stripped off and had our meeting amongst the breakers. The coppers ... hadn’t brought their togs, so it was quite a successful meeting.

After the meeting, Paterson gave the group the following advice: ‘Don’t have banned publications in the house or you will be gone. Leave them in your letterbox. Read them at the front gate and put them back in your letterbox. Anybody can drop anything in your letterbox’.

The 1948 Queensland rail strike was to prove to be pivotal in Paterson’s life. His part in it was to turn the ALP government of E M (‘Ned’) Hanlon against him to the point where not only was the MLA for Bowen the target of the legislative arm of the state, he was also to be the target of its coercive arm — the Queensland police force.

Paterson fully and immediately supported the action of the striking Queensland railway workers in their demand for equitable wages, margins, and penalty rates. He regularly went on picket duty each morning before going to Parliament. In Paterson’s opinion, ‘the strike was legal, as all the tradesmen’s unions had carried the vote in favour of strike by a huge majority’.

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As the result of the statewide rail strike, Queensland’s economy and transport system soon was in chaos. An official ‘state of emergency’, declared on 27 February 1948, signalled the desperation felt by the Queensland ALP government. According to Australian railway union (ARU) activist, Viv Daddow, Hanlon, who was premier for two years, ‘turned the clock back thirty-six years (ie, to the notorious 1912 tramways strike) in dealing with strikers and peaceful citizens’.  

To this point, Paterson’s main role in the dispute had been to speak in favour of the strikers and against the state government’s repressive legislation. Paterson’s main extra-parliamentary task was to advise picketers of their legal rights and see that the Queensland police did not use any illegal methods in dealing with them. The site of the most successful mass picket in Brisbane was the Milton tram depot. As a key member of the central disputes committee, Paterson often headed the striking workers in their confrontations with the police. As Paterson explained:

I used to go on picket duty at Mayne junction and the detectives would come along and tell the pickets to move on, and I’d say to the pickets, “Now you move on, obey their order, but their order is simply to move on, they have no power to tell you where you must move, just move on. Move on and go back to where you were!” And this bamboozled and incensed the police who were there.

Paterson thus prevented the police from acting illegally and ensured that the pickets were conducted in a legal manner. Is it any wonder that, at the same time that he incensed the police, the communist MP also got up the Queensland government’s collective nose?

The Hanlon government was determined to retard Paterson’s activity in successfully helping the strikers. Hence, even while the state was being governed under emergency powers, with the support of its parliamentary ‘opposition’, it passed specific legislation, directed against him. On 9 March 1948 the Queensland parliament rushed through the industrial law amendment act, which prohibited participation in an illegal strike and stipulated heavy penalties. Police were granted power to enter any home or building, to disperse any gathering, and to arrest without warrant; the onus of proof was placed on the defendants. Under the act, which attacked fundamental principles of justice, the opinion of a police officer was sufficient proof of a misdemeanour. Even the conservative Courier Mail commented, ‘These powers ... are the most far-reaching ever given to the police in any state in Australia’. The pro-government front page article was headed: ‘NO MORE PICKETING’.

In parliament, the premier personally attributed the impetus for the bill to Paterson’s handling of the pickets after their receipt of police instructions:

(T)he people who are trying to prevent a settlement of this dispute and prevent obedience to the order of the courts are being advised by a legal mind well versed in finding means for getting round the law.
In a moment of unusual candour, Hanlon admitted: ‘As a matter of fact, this Bill might have been called the Paterson Bill’. 39

Hanlon argued that Paterson was assisting people to ‘get around the law’. The new legislation, the premier said, would remedy this situation: ‘It will enable the police to do things they were prevented from doing under the emergency regulations ... The police can move anybody from the vicinity of a workshop. The police can order such persons to move away from the workshop instead of their marching up and down in their hundreds outside the gates’. 40 When Paterson insisted that the law of Queensland be adhered to and it became plain that, for the government’s purposes, the law was insufficient to the police’s task, it simply legislated to enhance those police powers.

Paterson attacked the industrial law amendment bill as ‘the greatest scab-herding, strike-breaking piece of legislation ever introduced by a labor government anywhere in Australia’. 41 Although knowing that the repressive bill was destined to be passed, he spoke in defence of the striking railwaymen with passion and eloquence:

There comes a time in the life of every man when he comes up against what he considers to be an injustice so grave that he cannot tolerate it, and he begins to kick. If he is in an organisation, he kicks in an organised way. That is what the trade unions have done on this occasion — the workers who have struck are taking what they believe to be effective measures to control their interests. 42

In my recently published biography of Fred Paterson, The People’s Champion, I have dealt with the details of his bashing in Brisbane on St Patrick’s Day, 17 March 1948 while he was acting as a legal observer for the marching strikers. However, in the light of Hanlon’s publicly expressed antagonism to Paterson, it is significant that, on the afternoon of the day that he was bashed, the Queensland ALP caucus met and decided that no inquiry would be held. Moreover, no charges were laid against Paterson or the detective-sergeant involved.

Yet, in parliament the following day, the feisty independent MLA for Mundingburra, Tom Aikens, asked the premier a three-part question:

1. Is it the intention of the government to prosecute detective Mahony for attempted murder or any other charge under the criminal code for brutally smashing Mr F. Paterson, MLA, with a baton on the head from behind, in Edward street, yesterday?
2. Did detective Mahony so brutally attack Mr Paterson under instructions from the Government?
3. If so, what did the Government hope to gain by Mr Paterson’s murder or serious injury? 43

The premier’s reply to this extremely serious charge did not even mention any detail of the assault, Paterson’s name, or the Queensland detective’s name. It merely consisted of a gratuitous attack on Aikens and his ostensible lack of courage. Implying that the questions asked were facetious, Hanlon said of Aikens:
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You can be sure that he was hiding as far away from the scene of the disturbance as he possibly could. Evidently he takes considerable pleasure in inciting other people to take part in disturbances, but when the opportunity comes, the hon. member will not be found in the vicinity.  

It is hard to believe that, if such an event occurred in Australia today, even in Jeff Kennett’s Victoria or Richard Court’s Western Australia, there would not be either a state parliamentary inquiry or one instituted by the senate.

Yet, in the ALP-controlled Queensland of the late 1940s, a deliberate assault upon a dissident member of parliament was greeted with an extraordinary official silence. It is hard not to agree with Fred Paterson’s own assessment about the significance of his bashing on St Patrick’s Day 1948. As Paterson said late in his life: ‘The story of this action, and the bashing of other people on this day is one that should be told again and again, to expose the corruption of some members of the police force and the corruption of some government administrators’.

Endnotes

1 Brisbane Courier, 17 April 1930.
3 Ibid, p. 10.
4 Brisbane Courier, 17 April 1930.
5 Ibid.
6 Ibid.
8 Ibid.
9 Brisbane Courier, 17 April 1930.
12 Ibid.
13 Fred Paterson, interview with Wendy Lowenstein, 1974.
14 *A Personal History*, op. cit., p. 17.
16 *A Personal History*, op. cit., p. 9.
17 Mrs Roslyn Allen, telephone conversation with Ross Fitzgerald, Brisbane, 11 June, 1996. Mrs Allen was named after her grandfather Sir Roslyn Philp.
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23 Fred Paterson, interview with Lowenstein, 1974.
29 *Ibid*.
30 *Sixty Years of Struggle*, op. cit., p. 15; *A Personal History*, op. cit., p. 43.
32 *A Personal History*, op. cit., p. 53.
33 *Sixty Years of Struggle*, op. cit., p. 15; *A Personal History*, op. cit., p. 43.
34 *A Personal History*, op. cit., p. 58.
35 *Courier Mail*, 10 March 1948, p. 3.
36 *Ibid*.
37 *Ibid*.
42 *Ibid*.