Mr Big of Bankstown

The Scandalous Fitzpatrick and Browne Affair

Andrew Moore
For Drew Cottle, comrade, colleague and Bankstown boy

‘I’ll be judge, I’ll be jury,’ said cunning old Fury.
‘I’ll try the whole cause and condemn you to death’.
(Alice in Wonderland)

– Sun News-Pictorial, 14 June 1955
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Preface

When approached to write 500 words on Raymond Edward Fitzpatrick, the ‘Mr Big of Bankstown’, for the *Australian Dictionary of Biography* in 1992, I had never heard of him or the privilege case that landed him and Frank Browne in gaol in 1955. Having assumed that the power to commit was the sole province of the courts, I was amazed to find that it was possible for the Australian Commonwealth Parliament to send citizens to gaol, and was surprised by how little had been written about the case. Indeed, it proved difficult to find out very much about the events of 1955 because the official records in the National Archives of Australia remained closed well beyond the normal thirty-year access period. This changed on 7 December 2000.

The research for the article, and later this book, was a revelation, and especially enjoyable when it involved speaking to the likes of C. J. McKenzie, who worked for Ray Fitzpatrick in the 1950s, and his mates in the boozy environment of the old Journalists’ Club in central Sydney. I shall always be grateful to CJ, as he is best known, for lending me parts of his unpublished autobiography, sections of which are quoted here for the first time.

My interest in this unusual incident in Australian political history was inspired further by a serendipitous connection with my own life. Most famous for hosting a bikies’ massacre in 1983, the suburb
of Milperra, near Bankstown in south-west Sydney, is not the most distinctive of all Sydney suburbs. Yet I have spent much of my working life there, teaching Australian history at what is now the University of Western Sydney, Bankstown Campus. Twenty-six years ago I began teaching in old wooden buildings in the familiar style of the NSW Department of Education, left over from the days when the university’s present site housed Milperra Public School. I now feel more kindly about those broken-down buildings, long since removed. For they were also where Ray Fitzpatrick gleaned what knowledge he had about reading and writing. The house in which Fitzpatrick grew up has long since been demolished, but was located little more than two hundred metres away from the campus in an adjoining street. Without intending to do so, I have retraced some of my subject’s footsteps.
Introduction

It all happened in 1955, the year rock and roll came to Australia. The Fitzpatrick and Browne affair is a celebrated incident in Australian political, constitutional and legal history. The *Australian Law Journal* has recently described the privilege case as ‘one of the most significant constitutional law cases of the 20th century in Australia’.¹ Yet Australians often suffer from amnesia – or convenient forgetfulness – about our history, and the events set in train by ‘Black Friday’, 10 June 1955 are not as widely remembered or understood as they ought to be. Even civil liberties advocates are unfamiliar with the case and it is not mentioned in any of the recent literature, a veritable deluge of polemic, about the need for a Bill or Charter of Rights. If E. H. Carr is right and it is the function of the historian to understand the past ‘as the key to understanding the present’,² the privilege case emerges as more than a quaint tale about a forgotten past; rather it is a warning about the way in which, even in a strongly democratic polity, executive government can be a threat to the rule of law.

More than fifty years later, the implications of *Fitzpatrick and Browne* (1955) 92 CLR 17 remain surprising. In June 1955, and without reference to a court of law, two individuals were imprisoned on nothing more than a vote of the Commonwealth House of Representatives. One was Raymond Fitzpatrick, a rough-hewn, ill-educated Sydney businessman known in the media as ‘Mr Big of Bankstown’, whose newspaper, the *Bankstown Observer*, published a
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vitiolic article attacking the reputation of local politician Charles Morgan. The other was the journalist Fitzpatrick employed, Francis Courtenay (Frank) Browne. Because Morgan was able to convince his colleagues in parliament that he was being intimidated into silence, Fitzpatrick and Browne’s ‘crime’ was framed as contempt of parliament or, as it was described more commonly at the time, a breach of parliamentary privilege.

Denied legal representation in the course of their ‘trial’ before the House and its Privileges Committee, Ray Fitzpatrick and Frank Browne also had no right of appeal. Indeed, they were never formally charged. Contempt of parliament was not widely understood as a crime. It was assumed that parliamentary privilege simply safeguarded the right of politicians to speak their minds within the House without the fear of legal consequences, specifically that of being sued for defamation. That it also involved the right of politicians to protect their reputations and the independence of their institution from intimidation by journalists was an astonishing revelation, not least to Ray Fitzpatrick, Frank Browne and most members of the fourth estate in Australia. As Gavin Souter suggests in his history of the Commonwealth Parliament, it ‘was as if the House had been annoyed by two blow-flies, and used its new Mace to swat them’.3

* * *

Drawing upon the work of Frank Green, Harry Evans and Enid Campbell,4 as well as hitherto untapped archival and manuscript material, this is the first time the incident has been subjected to detailed, book-length examination. My purpose is to provide context and to seek out illumination, to make some sense of it all. What had brought the principal characters together in this unhappy enterprise? What was the background to this affair? How
did events of local provenance within a single Sydney suburb, Bankstown, come to feature so prominently in Australian national politics in 1955? Then as the privilege case unfolded, what actually happened on 'Black Friday'? Was the Commonwealth Parliament entitled to send two Australian citizens to gaol without a trial? What was the significance of the Fitzpatrick and Browne affair and what has been its legacy? Could it all happen again?
Shops and Bankstown Municipal Council Chambers, South Terrace, Bankstown
Bankstown Council was a focus of both civic pride and chicanery.
(Bankstown City Library, Local Studies Collection)
The year 1955 was the height of the Cold War: a period of international tension which saw the division of the world into two hostile camps. On the one side the United States and its allies, including Australia, claimed to represent freedom and democracy; on the other was the Soviet Union, depicted as intent upon global domination and enslaving the world to communist dictatorship. The ‘free world’ and the ‘Australian way of life’ seemed to be imperilled. The relaxed torpor of Bob Menzies’ Australia was only skin deep. Everyday life was underwritten by a general sense of anxiety and uneasiness. Anti-communist initiatives in South-East Asia remained a preoccupation as part of Cabinet’s discussions of Australian Activities in the Cold War and involved practical measures such as the construction of a jungle training centre at Canungra, Queensland.1

The Cold War was not a propitious time for the preservation of civil liberties in Australia. Antipodean McCarthyism rendered democratic liberties precarious. Attacks upon free speech included extended political surveillance by the newly established Australian Security Intelligence Organisation (ASIO), plans to ban the Communist Party of Australia and imprison its leaders, sedition trials, and phone taps. An Official Secrets Act drafted in 1951 and 1952 created a new offence of spying for a foreign power in
peacetime, punishable by death or imprisonment for not less than seven years.²

The major political event in Australia’s domestic Cold War followed the defection of the Soviet diplomat Vladimir Petrov in April 1954. While Menzies may not have colluded with ASIO, or otherwise influenced the timing of Petrov’s defection, the defection and the subsequent Royal Commission into Espionage it precipitated were manna from heaven for the prime minister. Assisted by booming economic conditions, he had won the 1954 election by exploiting public anxiety about communism and basking in the Anglophile enthusiasms whipped up by the visit of a young Queen Elizabeth. The austerities of war-time Australia were an increasingly distant memory. There were high levels of productivity in manufacturing. Farm incomes were strong. Ordinary Australians were beginning to share in the benefits of the consumer economy. Registered unemployment was 0.4 per cent in 1951 and did not exceed three per cent for the decade. The millionth post-war migrant arrived in November 1955, and massive public investment in infrastructure such as the Snowy Mountains Hydroelectric Scheme was beginning to bear fruit.

On the surface, at least, there was a sense of robust good health in sport-loving, egalitarian Australia. In the ‘miracle of 1955’, the South Sydney Rabbitohs won eleven virtual sudden-death games, coming from behind in the last ten minutes of the grand final to clinch the NSW rugby league premiership. After a series of protests, hotly debated in the media and in many pub conversations, Laurie Whitehead, driving a diminutive Volkswagen, was announced the winner of the third and last Round Australia Redex rally, an iconic event in the history of Australian motoring. There were also some significant landmarks in the nation’s cultural life. Ray Lawler’s play *The Summer of the Seventeenth Doll* was first produced in Melbourne. Barrie Humphries’ character Edna Everage made her stage debut. Patrick White’s *The Tree of Man* was published
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to critical acclaim, except from Alec Hope who described it as ‘pretentious and illiterate verbal sludge’. In the realm of popular culture, rock and roll was beginning to make its presence felt. At the beginning of 1955 promoter Lee Gordon had organised an Australian tour by Frank Sinatra, then regarded as ‘the biggest singing star in the known universe’. By the end of 1955 Sinatra was ‘old hat’. Bill Haley and Chuck Berry were the new American superstars, while Australian waxings of ‘Rock around the clock’ and ‘Mabelline’ featured prominently on the radio airwaves.\(^3\) No doubt an eleven-year-old boy from Bankstown, Paul Keating, later band manager of The Ramrods and a prime minister of Australia, was an avid listener of the family wireless.

In the early weeks of 1955 matters of regional security, developments in French Indo-China and the formation of the Southeast Asian Treaty Organization would dominate. On the way to London by boat, Prime Minister Menzies spent two days on an official visit to Ceylon before catching a flight to London at Karachi, while his top advisers visited Indonesia, Siam, the Philippines and Indo-China for the first time. These visits signalled Australia’s growing defence and regional commitments to South-East Asia, reinforced a few months later when Menzies announced Australian troops would be despatched to Malaya to protect the country from terrorism and communist attack ‘from without and from within’.\(^4\)

Throughout the year, apart from administering the broad brush strokes of government policy and keeping the increasingly histrionic leader of Her Majesty’s Opposition, Dr H. V. Evatt, in his place, Menzies was immersed in the minutiae of political life. His personal staff, led by Geoffrey Yeend, shielded him from some of the more mundane issues. Nonetheless, the prime minister was an extremely diligent correspondent with his constituents, the so-called forgotten people. He was also mindful of trivial matters such as the installation of air conditioning at Parliament House,
receiving the very first Phillips television set made in Australia (a somewhat less than useful gift since only a test pattern was then broadcast) and installing wind deflectors on his beloved prime ministerial Cadillac. Though it espoused the values of free market economics, the Commonwealth Government lay at the centre of something approaching a command economy. Menzies and his Cabinet were immersed in matters of tariffs and trade, of controlling the banking system, providing subsidies to firms such as Burns Philp, and generally creating the conditions under which private enterprise could prosper. During 1955 Cabinet was concerned with several matters of significance to the present day, including atomic testing, uranium mining and the production of blue asbestos fibre at Wittenoom, Western Australia.⁵

The 1950s were a high-water mark of corrupt practices in government in New South Wales, rivaled only by the subsequent Askin era, or the Rum Corps of the early colonial period. The Labor-controlled Sydney City Council was notoriously corrupt and tainted the state government led by Premier J. J. ‘Joe’ Cahill by association. Royal commissions in 1953 and 1958 investigated charges against two state government ministers (J. G. Arthur and A. Landa). Illegal gambling was on the rise. Two-up schools such as ‘Thommos’ periodically brought dishonour to both the police and government in the form of revelations of police kickbacks. In March 1954 Cahill’s Attorney-General, Billy Sheahan, claimed a place in the pantheon of incredulous politicians by informing parliament, ‘Never in its history has the police force been more efficient than at the present time. Never has it received more admiration from the general public than at the present time’.⁶ A royal commission into the liquor trades chaired by Justice Maxwell in 1954 identified extensive corruption within the NSW police. Senior officers had connived to assist the practices of illegal nightclubs and the trade in ‘sly grog’. Other inquiries in the period concerned police brutality and general misconduct. In 1954 Clive
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Evatt QC, NSW Minister for Housing, was accused of allocating Housing Commission tenancies to constituents.\(^7\)

The general culture of Labor Party cronyism inclined individuals to extend favours and grease palms for mates in general, and old mates in particular. The expression ‘old-style Labor politician’ was shorthand for a corrupt NSW Labor parliamentarian. More than likely C. A. ‘Gus’ Kelly, Premier Cahill’s Chief Secretary, was a prominent example. As the minister responsible for gaming in New South Wales, Kelly was uniquely positioned to facilitate the growth of illegal casinos. According to author David Hickie, Kelly corruptly channelled tens of thousands of pounds into both personal and party slush funds. Reputedly he even kept a roll-down map of New South Wales in his office identifying the present locations of casinos. This allowed other sites for future business opportunities to be pursued. He was also on the take concerning the granting of licences for drive-in movie theatres and reputedly received £10,000 for one in the Bankstown area at Chullora. Kelly was once asked by a reporter whether it was true he took bribes. The Chief Secretary evidently responded, ‘How much do they say I’m getting?’ When a sum was specified he responded, ‘Oh, no… it’s much more than that’. A colourful character who smoked a pipe and swore a great deal, it seems likely that Gus Kelly was Ray Fitzpatrick’s principal conduit into the inner sanctums of power in New South Wales.\(^8\)

Bankstown – Irishtown – Yankstown

Named after the botanist Joseph Banks who had accompanied Captain Cook on the *Endeavour* in 1770, Bankstown is located on the Cumberland Plain, twenty-two kilometres south-west of the central business district of Sydney. The Georges River frames its southern and eastern boundaries. Salt Pan Creek provides a less imposing boundary to the north. In its modern permutation Bankstown is largely identified with the bustling shopping and
business precinct clustered around its railway station. Bankstown’s principal suburbs include Revesby, East Hills, Milperra, Yagoona, Punchbowl and Panania.

Throughout the nineteenth century the district was strongly identified with the rich seam of Irish settlement that spread through south-west Sydney to Campbelltown, through to the southern tablelands and ultimately to the Murrumbidgee. Bankstown was sometimes known as ‘Irishtown’. In the early 1800s the district was a haven for militant Irish republicanism. Several of the leading cadres of the 1798 Rebellion in Ireland were transported as state prisoners and settled on land at Cabramatta Creek, in nearby Warwick Farm.

Later, Bankstown became a natural enclave for another strongly Irish Catholic institution, the ALP. For the party seeking to civilise capitalism, Bankstown became the geographic centre of a number of safe Labor seats. Throughout much of the twentieth century, the area’s constituents regularly returned Labor politicians to the Commonwealth and state legislatures with comfortable majorities. The federal seat of Reid and the state seat of Bankstown, therefore, were glittering prizes for political hopefuls.

The split in the ALP in 1954–55 – masterminded by the anti-communist B. A. Santamaria from Melbourne – was a traumatic event for Labor across Australia. Bankstown was no exception. The area was honeycombed with ALP branches. In the federal seat of Reid there were fifteen branches and 634 members, with some 400 active enough to participate in the preselection process. Supporters of Dr Evatt on one side and Santamaria (Groupers) on the other struggled for power across the Bankstown area. Some branches – Panania for instance – succumbed to the Groupers, though the peak organisation of Labor politics in the area – the Reid Federal Electoral Council – remained loyal to Dr Evatt. As reported in Ray Fitzpatrick’s newspaper, the Bankstown Observer, on 28 April 1955, at Revesby a ‘Pro-Evatt’ Labor meeting on 15 April
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1955 heard a Waterside Workers’ Federation official denounce the ‘abnoscious [sic] activities of the Industrial Groups within the A.L.P.’ Revesby’s social democrats also urged the banning of the ALP Industrial Groups. For his part Ray Fitzpatrick, a solid Labor man, broadly supported Dr Evatt but was also alleged to be plotting with Grouper elements at the highest level to depose Bill Colbourne as ALP party secretary in New South Wales. Similarly, Charlie Morgan, the local Labor MP at the centre of the privilege case, supported Dr Evatt in Canberra but also stayed on side with the Groupers on the state ALP executive – so much so that in Bankstown many suspected he was a Grouper. He and Fitzpatrick had a long tradition of enmity, which further complicated Labor politics in Bankstown.

The area’s most illustrious ALP representative, of course, was Paul Keating. Born in Bankstown on 18 January 1944 into a working-class Irish Catholic family, he became Labor prime minister from 1991 to 1996. In 1949 his father, Matthew, was a boilermaker working at the Chullora Railway Workshops, and the family lived in a twelve-square-metre fibro house. In 1966, Matthew Keating started a small engineering company and the family moved to a larger home in Condell Park, one of the more up-market suburbs of the district. The business thrived. As Geoffrey Bolton perceptively suggests, in all but their Labor sympathies the Keatings were the epitome of Menzies’ ‘forgotten people’. Self-improvers, their material fortunes improved through hard work, thrift and abstinence. Menzies’ tariff policies also provided a helping hand to such small businesses.

Bankstown was also battler territory. During the Great Depression the suburb was particularly hard hit in terms of unemployment. One resident recalled to the oral historian Wendy Lowenstein that in her street, about a quarter of a mile long, she knew of only three men in it who were working. As if the vagaries of the labour market were not enough, the right-wing
New Guard considered the area a ‘hostile centre’ and a ‘real hotbed of fermenting material’. Driving their motorcars from the more salubrious suburbs, New Guardsmen singled out the local unemployed on 26 February 1932 for a special display of intimidating violence at Thompson Park, at the so-called Battle of Bankstown. At other times eviction fights caused pitched battles in the suburb between the police and the unemployed. At the direction of Mayor Billy Fitzpatrick, Ray Fitzpatrick’s father, the electricity to a house in Brancourt Avenue housing an unemployed family was turned off. When the occupiers refused access to the council electrician, the police stormed the house, shooting one man in the thigh and fracturing the skull of another.

Prior to World War II Bankstown was a relatively small suburb. The building of the airport at Bankstown during the war, with related aviation manufacturing facilities, provided a major spurt. Bankstown became a central part of the Allied war operation in the Pacific. So many American servicemen were stationed there that the suburb was colloquially known as ‘Yankstown’.

After the war, when aviation industries were converted into peacetime manufacturing, the resulting rise in employment opportunities caused rapid expansion. Among the large companies that relocated and built extensive factories there were Taubman’s Paints, ICI, Australian Fertilisers, Hollins’ Mills, Concrete Industries, Dunlop Weatherproofs, British Paints, Swiftsure Electrical Heating, AGE, Holme Engineering, and Steelweld Ltd. In the 1950s Bankstown’s population increased by over 7,000 per year, rising from 58,000 in 1950 to 150,000 in 1961 – at which time Bankstown became the biggest municipality in Australia. Though many of the factories belched noxious fumes into the atmosphere, Bankstown rejoiced in its growing reputation as the ‘Birmingham of Australia’.

While there were still extensive tracts of bush and market gardens in the outlying areas of the municipality, such as Panania...
and East Hills, in the 1950s and complaints about wandering stock came regularly before the local council, most everywhere else there was the hammering of nails and the sawing of wood. Building activity in Bankstown was believed to be greater than anywhere else in the Commonwealth. Nearly every tree in places like Padstow and Revesby was bulldozed, invariably by one of Ray Fitzpatrick’s bulldozers. In 1949, some 1,782 new cottages were completed, including 454 for the NSW Housing Commission. In 1950 on average 130 homes were completed and occupied every month. In 1953 a further 2,473 buildings were completed. C. J. McKenzie, later a respected journalist whose first job was working for Ray Fitzpatrick on the Bankstown Observer, has recalled the production-line system that boosted the district’s housing stock:

Whole streets of houses in Revesby and Padstow were constructed on the nearest equivalent to a chain belt. [One builder’s]…men would move in and lay all the foundations, connect water and drainage, dig septic tanks, building twenty or more houses at a time on each side of a street. As they were mostly fibro cottages, they went up at an incredible rate, in keeping with the post-war reconstruction boom and the pressing need for housing for returned servicemen – and the flood of ‘New Australians’. They were not mansions but they filled the need.

Despite the building boom, many continued to live in sub-standard or cramped accommodation, even in garages, or with relatives. It was not uncommon for several families to reside in a single-room apartment, sleeping on collapsible beds with dividing sheets providing scant privacy, while clamouring for access to a Housing Commission cottage. The former army huts of the East Hills migrant centre provided accommodation for Bankstown’s post-war migrants, many from the Baltic states. By 1950 many
migrants felt sufficiently settled to embark upon the building of their own homes.\textsuperscript{22}

In short, Bankstown grew like Topsy in the immediate post-war years. Even with the best intentions, the authorities were swamped by the demand to provide appropriate suburban infrastructure. Sewerage facilities were primitive and there was no local hospital. In the area of education the state government staged a gallant attempt to keep up with demand. In 1950 alone, three new schools were opened within the Bankstown municipality. Yet there was significant overcrowding, with one local school counting 6,000 students.

Bankstown was bursting at the seams. Overcrowding at matinee sessions of the Star Cinema caused the ALP Branch at Panania to complain to the New South Wales Chief Secretary.\textsuperscript{23} Yet suburban life was potentially isolating. Car ownership was nowhere near universal. Many did not possess a telephone in their homes and queuing for a public telephone was a regular ritual. In this pre-television era suburban dances were indubitably the most popular pastime, as well as a source of revenue for community groups. In any given week there might be seven separate dance functions for patrons to attend. These included ‘50-50’ dances organised by the Panania Girls Hospital Auxiliary and the East Hills-Panania ALP, as well as a Scottish Dance at Picnic Point, a Fancy Dress Dance at the Deepwater Motor Boat Club in Milperra and a ‘Basket Dance’ organised by the Women’s Auxiliary of the Bankstown sub-branch of the Returned Services League. Every Wednesday night the Metronome Dance Syndicate presented ‘The Ultimate in Dance Entertainment’ at the ballroom of Bankstown’s Capital Theatre, featuring an eight-piece orchestra, a ‘girls’ band’, compere and vocalist.\textsuperscript{24} As befitted a solid working-class area, Bankstown established strong credentials in the area of sport, especially cricket and rugby league.
The major forum for local politics was the Bankstown Municipal Council. Even if fixing potholes and providing kerbing, processing development applications and contracting suburban infrastructure were among the essentials of its charter, rather than trade policy or bank nationalisation, this did not mean that discussion and debate was anything less than acrimonious. Indeed, even by the fractious standards of local government, Bankstown Council was combative. Fisticuffs were not unknown at council meetings, nor were writs for libel and defamation. In 1934 the council’s internal politics had become so unmanageable that its affairs had been placed in the hands of an administrator. In the mid-1950s, history was about to be repeated.