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‘Murderous coppers’

Police, industrial disputes and the 1929 Rothbury shootings

Richard Evans

Norman Brown, a coalminer engaged in picketing the Rothbury colliery, was shot dead by police in 1929. The Rothbury incident and the police suppression which followed became part of both union folklore and the personal legend of one police officer, William John MacKay, later New South Wales Police Commissioner. This article probes beneath the layers of myth that surround Rothbury and argues that the initial tragedy was largely the result of police incompetence, and that MacKay’s association with the shooting is deeply ironic. The more measured police actions that followed the shootings were Mackay’s responsibility, however, and they had damaging long-term consequences.

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On the morning of 16 December 1929, police guarding the Rothbury colliery, near Branxton in northern New South Wales, opened fire on picketing miners. Norman Brown, a 29-year-old miner from Greta, was killed. At least ten other miners were injured, two of them critically. The Rothbury tragedy was a cataclysmic event in the history of the northern coalfields. It shaped relations between miners and employers and between the community and the police for a generation.

The Rothbury incident is famous, still part of union folklore. There are several songs, poems and stories about the incident. One song, written by Dorothy Hewett, has a rollicking chorus:

1 Sydney Morning Herald (hereafter SMH), 17 December 1929, 11; Newcastle Morning Herald (hereafter NMH), 17 December 1929, 5.
Norman Brown, oh Norman Brown,
The murderous coppers they shot him down.⁴

Many labour historians have reacted to the event with anger but not surprise: this, after all, is what Marxist theory predicts, the iron heel of the capitalist state crushing the workers.⁵ Stuart Macintyre’s description is typical of many:

The Kurri Kurri pipe band led 10 000 protesters in the small hours of 16 December up to the pit where they were ambushed by armed police. Forty men were wounded; Norman Brown died of a shot in the stomach.

After Rothbury the northern coalfield was an occupied province in which police detachments conducted a reign of terror … Baton charges, violent assault and arbitrary arrest became habitual.⁶

The incident is described in several works of labour history, notably Wendy Lowenstein’s Weevils in the Flour.⁷ However the value of this interpretation is limited. Oral testimony is uncritically repeated, even when it is easily disproved. Andrew Metcalfe, for example, repeats claims that the police were armed with steam hoses and machine guns.⁸ Had this been true, it would have been shrilly denounced in the Labour Daily and other unionist and radical publications, but there was no mention of either weapon in any contemporary newspaper.⁹

Most of the oral accounts, too, come from one person: Jim Comerford, later a prominent union official. Comerford told the story of Rothbury frequently and wrote a semi-autobiographical novel covering the Rothbury shootings.¹⁰ While his fiction no doubt reflected his experiences, it is hard to avoid the impression that his later recollections, including a memoir published in 2006, had become polished over time.¹¹

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⁸ Metcalfe For Freedom and Dignity, 149.
Rothbury was also part of the personal myth of one of the most significant figures in Australian police history, William John MacKay. Though only an inspector in 1929, MacKay was already the dominant personality in the New South Wales police. He was appointed commissioner in 1935, an office he filled for 13 turbulent years until his death in 1948. Ruthless, colourful and energetic, a moderniser and champion of ‘scientific’ policing, MacKay transformed the force in New South Wales, but he also made many enemies and was plagued by scandal. Critics and admirers alike – from the Communist Party to the New Guard – saw Rothbury as a key moment in his rise to power.

Bruce Swanton and Lance Hoban, writing about MacKay for the *New South Wales Police News*, declared that ‘Although not in command of the police party MacKay, a natural leader, took charge ... Despite the furore, though, he impressed Labor politicians with his decisiveness.’ A Communist Party pamphlet published in 1937 took a more cynical view: ‘It was none other than MacKay who gave the order to shoot down the miners of Rothbury. A staccato order rang out. Rifles cracked! Nine workers lay prostrate. Norman Brown had been murdered. MacKay was qualifying for promotion.’ Forty years on, Labor Premier Jack Lang’s memoir claimed that MacKay

led the police sent up from Sydney to protect the mine. During the disturbance the deputy leader of the Labor party ... J M Baddeley, had been hit over the skull by a police truncheon. It was generally believed that the policeman wielding the truncheon had been MacKay.

This story was received wisdom in New South Wales Labor circles. It was repeated, for example, by another former Labor Premier, William McKell, when interviewed by Bob Carr in 1981.

From labour history, the story has also entered popular and general history. Michael Cannon’s illustrated history of the Depression describes how ‘Detective-Inspector W J MacKay led the charge against miners at

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Rothbury in December 1929’. Frank Cain, in his entry for the *Australian Dictionary of Biography*, writes:

MacKay was often at the forefront of such events as at Rothbury ... when police, guarding the mine, fought against locked-out miners and a young miner was shot dead.

Despite this level of interest, there has been little serious historical inquiry into the Rothbury tragedy.

Police history is inaccurate, evasive and brief. ‘Peace’, write Swanton and Hoban, ‘was rapidly achieved’. John O’Sullivan’s history of the mounted police alleges the miners ‘fired iron bolts from catapults’, which is untrue. The *Sydney Morning Herald* and many other newspapers, which were hostile to the unionists, made numerous and sometime wild allegations of violence on the part of the miners, but not that they used catapults. O’Sullivan also uses the passive voice – ‘Fire was opened’ – to avoid apportioning responsibility for the shooting. Histories of the coal industry, similarly, touch lightly on the incident.

The only detailed historical study of Rothbury is an MA thesis by Miriam Dixson, subsequently reworked in a journal article and a book chapter. Dixson’s work is of high quality, but her focus is on the mining unions, their internal politics and the handling of the long-running dispute which led to the Rothbury shootings. She does not investigate the actual incident in detail, or consider policing issues.

It would be fascinating to trace the evolution of the Rothbury legend in labour history and its connection to communist influence in coal mining unionism, but that is not the purpose of this article. Rather, I hope to establish, as accurately as possible, what happened at Rothbury.

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23 O’Sullivan *Mounted Police*, 139.
25 Miriam Dixson’s surname was Rechter when she submitted her thesis; to avoid confusion I will use Dixson consistently.
and who was responsible for the violence which occurred on 16 December and subsequently. The answers to these questions shed new light on the historical role police have played in industrial disputes in Australia.

Rothbury was just one incident, though the most spectacular, in a great struggle between labour and capital at the onset of the Depression in Australia. This struggle centred on three big industrial disputes – strikes by waterside and timber workers and a lockout of coal miners – which began in late 1928 and lasted into 1930. All three disputes were widespread and long-running; all represented attempts by employers to cut costs by reducing pay and working conditions; all were defeats for the unions.27 The three disputes were social and economic disasters, dividing and all but bankrupting whole communities.28 The breakdown of established systems of dispute resolution led to open and sometimes violent class conflict.29 On the Melbourne waterfront, a police shooting led to another death of a unionist.30

The vast majority of industrial disputes are brief, peaceful and require no police intervention. The exceptions to this rule, however, create particular difficulties for police forces. The legal positions of the parties involved in a dispute, along with that of the police themselves, are often unclear. A strike or lockout is not (usually) illegal: it is an extreme measure used to put pressure on the other party in a contractual disagreement. However, the tactics which unionists adopt, especially picketing, may place them in conflict with police, especially if the pickets wish to prevent strike breakers from entering the work place.31

As David Baker argues, the tension in policing between enforcing the law and keeping the peace is acute on a picket line.32 The police usually have the legal power to arrest picketers, but strict enforcement of such laws has been rare. Police usually opt for a low-key, minimum arrest policy, if only for the pragmatic reason that arresting large numbers of

picketers is physically difficult.\textsuperscript{33} Such a peace-keeping role maintains at least the appearance of neutrality.\textsuperscript{34} Conservative governments and aggressive employers periodically complain that police acting in this way are ‘soft’ and failing to enforce the law.\textsuperscript{35} The more radical view is that such ‘neutrality’ in fact tends to protect the economic interests of employers. Even so, the importance of an impression of police neutrality in preserving the peace cannot be overstated. Most of those perpetrating violence in industrial disputes usually would be law abiding. They would become involved in violence against strikebreakers and police only when they feel both that their grievances are legitimate and that the police are agents of injustice.\textsuperscript{36}

What causes violence between unionists and police is disputed, but some common factors can be identified. Violence is more likely if the dispute is protracted; if the grievances of those directly affected can be seen to represent a broader injustice; if existing institutions for resolving conflict fail; if the police are pressured by governments or employers to take a more aggressive stance against unionists; and if police escort strikebreakers through picket lines.\textsuperscript{37} One factor which I have not seen identified in any literature on this subject, but which I argue is significant, is incompetence on the part of the police. If senior officers lack the foresight to prevent a dangerous confrontation developing, and if police on the ground panic or are undisciplined when such a confrontation occurs, then serious violence can occur without any party intending it.

As Baker contends, an industrial dispute which leads to widespread violence can be a serious challenge to the legitimacy of state power. When such a challenge occurs, there usually will be a swift and repressive response. As the agents of state power, the police will act to restore control and are almost always quickly effective in doing so. Such action has a high cost: it makes the police appear as agents of injustice, the partisan servants of capital, and erodes the community consent so critical to police power. Even so, when seriously challenged such factors become


\textsuperscript{34} David Baker, \textit{Police, Pickets and Politics: The Policing of Industrial Order in Australia}, PhD thesis, Monash University 2000; Baker \textit{Batons and Blockades}.

\textsuperscript{35} Baker ‘A tale of two towns’.


secondary. Control and order are the basic mandate of modern police. The police believe they must always win if their power is challenged.  

The policing of industrial disputes is a test of social cohesion. Historians differ in their interpretation of police–unionist conflict in Australia, but while serious violence has occurred – the ‘Great Strikes’ of the 1890s and the 1912 mining dispute at Broken Hill are well known instances – the usual experience is for the legitimacy of the state and the police to be respected. This has been variously attributed to tactful policing and the comparatively law-abiding character of most unionists – which is another way of saying that the police and the law they enforced have enjoyed fairly general support among working people.

The 1929 coal lockout initially fitted this pattern. The dispute began in February 1929, eight months before the Wall Street Crash but as Australia’s economic position was already deteriorating. In an effort to cut costs, the members of the Northern Collieries Association demanded that their employees accept a reduction in wages. The unions refused and the miners were locked out. The lockout was technically illegal, as it was in breach of an existing award. The mines affected were all in the northern coalfields, the area inland from Newcastle which includes the towns of Greta, Cessnock, Kurri Kurri and Branxton. The unions sought an order to reopen the mines through the Industrial Court, and argued their case at a Royal Commission inquiring into the industry’s many problems, all without result. As the dispute dragged on, the affected mining communities experienced grave hardship.

Right up to the Rothbury shootings, the lockout was remarkably peaceful, even though the miners had every reason to be aggrieved. There was no serious trouble in nearly ten months of the dispute. The miners picketed, but peacefully, and they allowed ‘safety men’, essential maintenance workers, to keep the mines from serious damage. For their part, the mine owners made no attempt to restart operations. Reports of crime in the Newcastle police district, including the offences  

38 Baker, Police, Pickets and Politics; Baker Batons and Blockades, 7–10.  
40 SMH, 1 March 1929, 13.  
43 Smith’s Weekly, 25 January 1930, 8, 11.  
44 Shaw and Bruns The Australian Coal Industry, 147.  
against good order commonly associated with picketing, actually decreased during the dispute.\textsuperscript{46}

Eventually, the conservative Nationalist state government attempted to break the deadlock. The key government figure was Reginald Weaver, Minister for Mines and Forests. Weaver lived up to his name: frequently linked to scandals, including the framing of the Industrial Workers of the World in 1916, he was notorious in conservative politics as a plotter and schemer.\textsuperscript{47} Jack Lang, not necessarily the most reliable source, remembered him as a bitter, sarcastic and friendless figure, even in his own party.\textsuperscript{48} For most of 1929, Weaver had been preoccupied with another major dispute of the time, the great timber strike which had begun in 1928, and which was particularly bitter in New South Wales.\textsuperscript{49} Openly siding with employers, Weaver worked with W J MacKay, then an inspector and head of the detective branch, to combat the strikers.\textsuperscript{50} MacKay took on this duty with characteristic energy.

MacKay had recently returned from a trip abroad, where he had studied developments in policing in the United States and Britain and learned of the techniques developed by British police to combat strikes after the First World War.\textsuperscript{51} There the Special Branch developed a network of spies and informers in unions and radical groups. Using this information, they would arrest strike leaders, often on spurious charges, in order to cripple strike organisation.\textsuperscript{52} MacKay would use this tactic several times, including against the timber workers and later the New Guard.

MacKay wrote several reports after this trip criticising traditional ‘beat’ policing. He wanted a modern force that would make use of the wireless and the motor car, taking advantage of speed and surprise.\textsuperscript{53} Archival evidence is scant, but other sources suggest that MacKay formed a mobile unit to harass violently the striking timber workers. Unionist oral histories mention a special squad of police who would raid meetings

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\textsuperscript{46} NMH, 7 January 1930, 7.
\textsuperscript{48} John T Lang The Great Bust, Sydney: Angus and Robertson 1962, 164.
\textsuperscript{49} Dixon ‘Timber strike’.
\textsuperscript{50} MacKay to Childs, 19 September 1929, Colonial Secretary, Correspondence, 5/8914, State Records of New South Wales (hereafter NSWSR).
\textsuperscript{51} MacKay to Mitchell, ‘British Special Constabulary’, n.d [c 1928], Colonial Secretary, Correspondence, 5/5427.2, NSWSR.
\textsuperscript{53} MacKay to Mitchell, Colonial Secretary, Special Bundles, 5/5427.2, NSWSR.
and violently break them up.  

Such evidence needs to be treated with caution, but it is corroborated by a retired police officer, Ray Blissett. In 1988, Blissett told and interviewer that a ‘flying squad’ was formed during the strike and it would raid meetings and beat up strikers: ‘They were known among the timber workers as the basher gang, see, because they weren’t above jumping out of a car and giving a couple of pickets a hiding somewhere if they were causing a bit of trouble.’  

MacKay probably also planted agents provocateurs among the strikers. Union sources alleged this, claiming the police were hoping to provoke violence.  

On 22 July, MacKay led a spectacular raid on Trades Hall. A large number of detectives and uniform police descended on the hall, seized documents and arrested seven strike leaders. The men were charged with conspiracy to ‘unlawfully molest, intimidate and assault’ non-union labourers during a mass picket.  

The prosecution was, however, a humiliating failure for the police. Prosecution witnesses admitted they had been coached and were unable to identify the defendants. Evidence given about conspirators meeting at Trades Hall was shown to be fabricated, and the charges were dismissed without the defence case even being presented. Counsel for the strike leaders, the future Labor leader H V Evatt, directly charged the police – and this meant MacKay, as the officer in charge of the investigation – with having concocted the case, and having done so on political instruction.  

However, if the prosecutions were mainly intended to tie up the strike leadership and cripple union organisation, perhaps the ploy was successful. The strike began to falter and from July the workers gradually returned to work on the employers’ terms.  

Weaver now turned his attention to the coal lockout. Declaring that coal was urgently needed, he announced that the government would open three
mines using free labour, beginning at Rothbury.\textsuperscript{65} There was a widespread expectation that the move would bring trouble. The stridently anti-union, pro-capitalist \textit{Sydney Morning Herald} reported ‘ugly rumours’ that ‘by a campaign of terrorism the strikers [sic: the miners had been locked out] hope to dissuade the volunteers from going down into the mine’.\textsuperscript{66}

Weaver personally went to Rothbury to supervise operations: ‘in the front line’, as he put it.\textsuperscript{67} Such needless provocation was usual for Weaver. ‘If you think you can defy the Government of this country [sic] you don’t know what you are talking about’, he told a meeting in Cessnock: ‘I am not going to be dominated by a mob of miners’.\textsuperscript{68} On the eve of the opening of the mine, Weaver was reported to have said ‘we will “go” the miners’.\textsuperscript{69} Weaver arrived at the mine at about 4 pm on 15 December, joining ‘spiritedly in the full life of the camp’ and telling the press that the mine whistle would blow ‘hard and long’ the following morning for work to commence.\textsuperscript{70}

The truth about what occurred at Rothbury on the morning of 16 December 1929 is elusive. The archival record is thin – No full inquiry was held, almost everyone present harboured strong partisan feelings and thick layers of mythology have subsequently been added to events.

The only detailed account of MacKay’s actions on the morning of the shooting was published in 1971 by Vince Kelly, a Sydney journalist who wrote several books of history and biography:

Fifteen months after the lock-out... Rothbury miners decided to break the lock out and take possession of the mine... At 5 30 a.m. on 16 December 1929 they made a mass move on the colliery. They smashed down fences, tore up railway tracks, and invaded the property, but were driven back by a baton charge led by Superintendent William J MacKay, who had been rushed to the colliery by the Commissioner... MacKay ... had arrived only the previous afternoon.

Miners had been emboldened by a report that the police were issued only with dummy ammunition. This was true, at first. What they did not know was that MacKay, on his own initiative, had hurriedly provided police with live ammunition. In the miners’ dawn attack police used only their batons. Believing they had nothing to fear from bullets, the miners regrouped at 10.30

\begin{itemize}
\item \textsuperscript{65} Dixson, MA thesis.
\item \textsuperscript{66} SMH, 14 December 1929, 18.
\item \textsuperscript{67} SMH, 16 December 1929, 11; Daily Telegraph, 16 December 1929, 3.
\item \textsuperscript{68} SMH, 21 November 1929, 11.
\item \textsuperscript{69} He later denied having used the expression. \textit{Daily Guardian}, 16 December 1929, cited in \textit{NSWPD}, 17 December 1929, 2529, 2544.
\item \textsuperscript{70} SMH, 16 December 1929, 11.
\end{itemize}
a.m. for another attempt to take possession of the mine. This time the police drew their revolvers and waited on orders from MacKay.

There were more than 2000 miners and 100 police. In the milling crowds of miners were two local political figures, Rowland James, a Federal Labour M.P., and John Baddeley, their Member in the State House.

In the miners’ second attack newspaper reporters were handled roughly. Press cameras were seized and smashed. Police cars were overturned and their tyres slashed. Miners surrounded a company car and dragged out of it a mines supervisor. They were manhandling him when MacKay gave the signal.

The police held their revolvers high and fired a volley into the air. As the miners still came on, they fired a second volley, this time as MacKay directed, into the ground, and MacKay personally led a baton swinging attack.

Several police were knocked unconscious, and most of them injured. Also injured were the two politicians, James and Baddeley. Both politicians claimed later they were singled out by police. Baddeley said: ‘If MacKay didn’t do it himself, he knows bloody well who did.’

... The miners’ tempers were quickly cooled by tragedy. One of their comrades, Norman Brown ... struck by a ricocheting bullet, was rushed to hospital, where he died. Two other miners were seriously injured and more than a score of police had to receive hospital treatment ... the death of Brown crushed the desire of the miners for any further clashes.71

This account is farcically inaccurate. The incident occurred in the ninth month of the lockout, not the fifteenth.72 The mine was reopened by the state government and the miners were picketing to prevent this.73 There is no evidence that the police had any dummy ammunition, or that the miners believed this to be so, either in contemporary news reports or in later accounts by unionists.74 There was no mention in any contemporary news account of police cars being damaged in the incident.75 MacKay was an inspector, not a superintendent, at this time.76 Most significantly, MacKay was not in command of the police; he did not provide the police with live ammunition, on his own or anyone else’s initiative; he did not

72 Dixson ‘Stubborn resistance’.
73 Daily Telegraph [Sydney], 13 December 1929, 3; 14 December, 1–3.
75 SMH, 16–31 December 1929; NMH, 16–31 December 1929; NMH, 12 February 1930, 5.
76 SMH, 17 December 1929, 11.
personally lead two baton charges; he did not give the signal to fire. MacKay was not there.

So many secondary sources assert that MacKay was present and was the de facto leader of the police – indeed, this was the reason for my interest in the incident – that it took me a long time to accept that they were wrong. But all available contemporary evidence indicates that MacKay was not present at the mine when the shootings occurred. There are no extant police records that I have been able to discover, but numerous eye-witness accounts by journalists and others were published within a few days of the incident. An examination of every daily and weekly newspaper, both pro- and anti-labour, published in Sydney or Newcastle in December 1929 confirms that on the morning of the shootings the Newcastle Region Superintendent, Alexander Beattie, was in overall charge and that his second-in-command was Inspector Boland.\(^{77}\) This accords with the official statement released by acting-Commissioner Walter Childs on 16 December.\(^{78}\) Many other police are mentioned by name in contemporary press reports: if MacKay – already a well-known figure and unpopular with the labour press – had been present he would certainly have been mentioned.\(^{79}\)

The first reference to MacKay dates from 17 December, when he and Beattie attended the funeral of Norman Brown, at Greta.\(^{80}\) The *Sydney Morning Herald* later reported specifically that MacKay was not present when the shootings occurred.\(^{81}\) Department of Mines records also show that MacKay claimed expenses for meals at Rothbury for the first time on 17 December.\(^{82}\) The police at the colliery telegraphed asking for reinforcements from Sydney at about 6 am. Seventy additional police arrived by special train at midday and another 100 later in the afternoon.\(^{83}\) MacKay probably arrived on the first of these trains.

Given its many errors, Kelly’s account would be of little interest, except that MacKay himself was probably the source. Kelly was a veteran Sydney crime reporter, a minor celebrity during the 1930s and 1940s, and reputedly

\(^{77}\) *SMH*, 17 December 1929, 11; *NMH*, 17 December 1929, 5; *Daily Telegraph*, 17 December, 1–3, 14–15; *Labour Daily*, 17 December 1929, 1, 4; *Workers’ Weekly*, 20 December 1929, 1.

\(^{78}\) Commissioner Childs to Chief Secretary Chaffey, 16 December 1929, reproduced in full in *SMH*, 17 December 1929, 11.

\(^{79}\) For MacKay being a well known figure, see for example *SMH*, 21 August 1929, 15; for MacKay being disliked in union circles, see Voigt and Garden *The 1929 Lockout*, 31.

\(^{80}\) *NMH*, 18 December 1929, 7.

\(^{81}\) *SMH*, 15 November 1930, 16.

\(^{82}\) MacKay to Sergeant Bower, 12 January 1930, Department of Mines Files, 7/7111, NSWSR.

\(^{83}\) *NSWPD*, 17 December, 1929, 2520.
an intimate personal friend of MacKay.\textsuperscript{84} The account of MacKay's alleged exploits at Rothbury appears in Kelly's biography of William McKell, Labor Premier of New South Wales. The story's presence in the book is odd, as its relevance to McKell is tenuous. But Kelly, in his many books about policing in New South Wales, often mentioned his close relationship with MacKay, and it is clear that Kelly was anxious to record for posterity his late friend's great achievements, at times digressing from the subject at hand to do so.\textsuperscript{85} It is inconceivable that Kelly would not have asked MacKay about a famous incident such as Rothbury in the course of their acquaintance. Had MacKay wished to distance himself from the tragedy, he could easily and legitimately have done so. Instead he appears to have told Kelly, and presumably others, an outrageous piece of make-believe.

Such big-noting was not out of character for MacKay. MacKay also claimed that when he was only 23, having served two years in the Glasgow police, he was involved in a celebrated murder case. This was the mysterious death of Marion Gilchrist, a wealthy spinster who was found murdered in her Glasgow apartment on the evening of 21 December, 1908. Suspicion fell on a German Jew, Oscar Slater, who was charged with murder. The behaviour of the police and prosecuting authorities before and during Slater’s trial was scandalous.\textsuperscript{86} In 1927, after a long public campaign, Slater’s case was heard again and the prosecution case was completely demolished. Slater was awarded £6,000 in compensation for the 18 years he had spent wrongly imprisoned.\textsuperscript{87} The Slater case was an appalling miscarriage of justice. Even a partisan history of the City of Glasgow Police concedes that it ‘did nothing to enhance the reputation of the Glasgow police force’.\textsuperscript{88} According to Swanton and Hoban, ‘A reward of £200 was offered for the arrest of the murderer ... MacKay claimed to have received £68 – the remainder of the sum being apportioned to senior officers. MacKay considered the information he had provided was worth more and in his disgust determined to leave the force’ and migrate to Australia.\textsuperscript{89}

\textsuperscript{87} Ibid.
\textsuperscript{89} Swanton and Hoban ‘William John MacKay’, 13.
MacKay’s claim to have been involved in the Slater case is doubly ironic. First, he was prepared to boast of his involvement in a case which was an infamous example of police misconduct. Second, his claim to have been involved in the investigation was almost certainly false. The trial and its many appeals generated an exhaustive paper trail, as various elements of the prosecution were subjected to review. If he had received a reward for the arrest of Slater, he would certainly have been mentioned, but MacKay is not recorded as a witness in any of these legal proceedings, nor did any other witness mention his name, nor is he mentioned in any press coverage I have been able to find.\(^90\) His Glasgow Police service record makes no mention of the Gilchrist case. Several months before Gilchrist’s murder, MacKay received his only recorded reward: for apprehending two thieves he was given a certificate and ten shillings.\(^91\) The story of MacKay’s actions at Rothbury thus fits a pattern: personal mythmaking in the service of vanity, a need to be seen as the tough man at the centre of events, no matter how notorious.

So far as can be determined from piecing together press reports from the time and accounts of reliable participants, what actually happened was as follows. In the early hours of Monday 16 December, thousands of miners converged on Rothbury from mining towns in the region. The intent was to ‘mass picket’ the mine at the attempted re-opening with about 5000 miners, and to then maintain a smaller picket indefinitely.\(^92\) Several such mass demonstrations had taken place already during the lockout; none had led to any trouble.\(^93\)

The police at the mine – it was never adequately established how many there were, but it was probably about 40 – were under the command of Superintendent Beattie. The first serious incident occurred at dawn. The police version of events was that about 3000 miners assembled at the front fence of the colliery and some of them forced their way onto the mine property.\(^94\) Beattie met them ‘with about 40 police’ and told them

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\(^91\) W J MacKay, Police Personal Records, SR22/55/21 no 225; SR22/56/19 no 10996, Glasgow City Archives.


\(^93\) *Coalminers of New South Wales*, 193.

\(^94\) The Commissioner, Walter Childs, made a written report to the Chief Secretary (the minister responsible for police), Frank Chaffey, in the afternoon of 16 December. I have not been able to locate an archival copy of the report, but it was published verbatim in *SMH*, 17 December 1929, 11.
to leave. The miners kept advancing and Beattie ordered a baton charge. At this point, according to Beattie, three shots were fired at the police, and other miners threw stones and again advanced. Beattie ‘instructed the police to draw their revolvers and fire into the ground’ in order to ‘avoid any bullets going over ... which might injure people who were in the background’. The miners then left the mine property and there was no further trouble for several hours.\(^95\)

J M Baddeley, a Labor member of parliament, was present at this incident and gave a very different account. Baddeley told parliament that the trouble started when a group of miners from Greta crossed the fence marking the boundary of the mine.\(^96\) He tried to persuade them to leave, telling the police: ‘Leave these men to me. I know them and I can handle them. I will get them outside.’\(^97\) However, a police officer needlessly hit a miner over the head with a baton:

> Not satisfied with doing that the policeman also hit me in the back of the head ... I was struck and knocked to the ground ... It was a cowardly and despicable action on the part of the policeman.\(^98\)

Baddeley said it was this action that caused stones to be thrown.

> The next thing I saw was that the police had drawn their revolvers and I heard them firing. It has been said that the policemen fired their revolvers into the air. All I can say is that they were shooting pretty close to me.\(^99\)

Baddeley persuaded the men to retreat from the mine and conduct a meeting. There he and other officials urged the men that there should be no further disorder.\(^100\)

Of the two accounts, Baddeley’s is probably closer to the truth. The most important point of difference in the two accounts is the claim by the police that the miners fired shots first. This is almost certainly untrue: not one of the reports made by journalists at the scene mentioned any shots other than those fired by the police.\(^101\)

The more serious violence occurred later in the morning. At about 10.30 am a car containing three mining inspectors approached the mine

95 SMH, 17 December 1929, 11.
96 The fence, a wooden post-and-rail about waist high, was not a formidable obstacle. Photograph, Daily Telegraph, 17 December 1929, 14.
97 NSWPĐ, 17 December 1929, 2424.
98 Ibid.
99 Ibid, 2525.
100 Ibid.
101 Later news reports did describe shots being fired, at times very graphically (see for example The Sun, 17 December, 1, 3), but the source for all these reports was almost certainly Weaver. NSWPĐ, 17 December 1929, 2543.
gates. Pickets, apparently believing that Weaver was in the car, rushed the vehicle. When police tried to reach the car they were showered with stones and sticks. At this point the police again opened fire. Again the police report claimed great provocation – the lives of the people in the car were in danger, shots were fired by someone in the crowd – and that warning shots were fired into the ground. It was during this shooting that Norman Brown, a bystander positioned well away from the car, was struck by the bullet which killed him.102

Again, the police report almost certainly exaggerated: there is no independent evidence of miners shooting either at the police or at the car. Even so, the attack on the car was a serious incident. Firing on the crowd was not justified, but a baton charge would have been.

However this should not obscure the fact that neither incident should have occurred at all. Many of the elements which can lead to violence in industrial disputes, noted earlier, were present at Rothbury. But the most important element contributing to the tragedy was police incompetence. The opposition leader, Jack Lang, immediately got to the nub of the matter in parliament:

> Who told the police to shoot? ... Who ordered them to discard tact and use bullets? Who could it be but the Government which was determined to 'go' the miners?103

Weaver’s account of events to parliament on 17 December was long in wild accusations against the miners and vague about anything else. The miners had massed to overwhelm the police, ‘annihilate the free labourers’, burn down the camp and ‘destroy the mine’, he said: ‘I do not hesitate to say that had the miners got into the grounds ... I would not have been alive to tell the tale ... Don’t forget that the man who lost his life was on the side of the attackers.’104 One Labor member suggested of Weaver: ‘I do not think he is all there in bringing about a situation such as occurred yesterday.’105 Regardless, the presence of a forceful and intemperate authority figure like Weaver would have made the task of the police officer in charge extremely difficult. Superintendent Alexander Beattie seems to have not been equal to the challenge.

In 1929, Beattie was in the twilight of a long and not particularly distinguished career. He had joined the police in 1896 and slowly floated

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102 Childs to Chaffey, 16 December, in SMH, 17 December 1929, 11; NMH, 17 December 1929, 5.
103 NSWPD, 17 December 1929, 2518.
104 SMH, 18 December 1929, 19.
105 Ibid.
up the ranks: sergeant in 1908, inspector in 1920, superintendent in 1927. On this promotion, he was given charge of the Newcastle district, his first appointment outside Sydney.\textsuperscript{106} It is possibly an unfair conclusion – it is based on scanty information – but Beattie comes across as the sort of dull and stolid leader produced by the system of seniority promotion. Whatever the case, his leadership at Rothbury was disastrous.

Had the policing of Rothbury been better planned and led, in all probability there would have been no serious violence. Had reinforcements been sought earlier and in particular had more mounted police been present, the authorities would have been much better able to deal with incursions. If the police had remained calm and allowed union officials to control the miners, there is every possibility the tragedy would have been avoided. There had been no previous violence during the dispute and even after the shootings the union leaders were usually able to persuade their members to remain peaceful.\textsuperscript{107} If access to the site had been controlled, the occupants of the car would not have been put in danger in the second incident. If it was absolutely necessary for the mining inspectors to cross the picket line, this could have been accomplished by negotiating for a union official to accompany them.

In his report on the incident, Acting Commissioner Childs stressed:

\begin{quote}
I have every confidence in Superintendent Beattie in his supervision and control of the situation. I am satisfied from the information I have received that the individual members of the force have acted with commendable restraint and discretion.\textsuperscript{108}
\end{quote}

But this was just police closing ranks. The nature of the injuries suffered belies Childs’ reassurances. Seven police were reported as injured: the most serious injury was a suspected fractured wrist; all the others were cuts, abrasions and bruises. Of the miners, one was killed by a bullet wound to the stomach. Two were critically injured: one shot through the throat; one shot in the back, the bullet lodging in the spine. Both injuries could easily have proved fatal. Other injured miners had bullet wounds to the shoulder (two cases), the wrist (two cases), the thigh (two cases) and the forehead (one case).\textsuperscript{109} The police later said that a total of 123 rounds had been fired during the two incidents.\textsuperscript{110} If this were true, then almost one in twelve of

\begin{itemize}
\item \textsuperscript{106} Alexander Beattie, Police Service Cards, Police Department Files, AK724, NSWSR.
\item \textsuperscript{107} An assault by unionists on free labourers at Ashtonfields on 10 January 1930 (see below) was the only important exception.
\item \textsuperscript{108} Childs to Chaffey, 16 December in \textit{SMH}, 17 December 1929, 11.
\item \textsuperscript{109} \textit{NMH}, 17 December 1929, 5.
\item \textsuperscript{110} \textit{NMH}, 12 February 1930, 5.
\end{itemize}
the bullets fired had caused serious injury. If, as Beattie claimed, the police had fired intending to avoid causing injury, they had failed dismally.

No convincing evidence that shots had been fired by the miners was ever given. The story that police had, twice, ‘fired into the ground’ as a warning is hard to credit. In the course of extensive research on policing in the state, including archival material on training and operational instructions, I have found no reference to the New South Wales Police Force firing warning shots into the ground, or advice to do so. If it happened at Rothbury, it seems to have been the first and last time.

The police report on the incident was not issued until late in the afternoon of 16 December. The long delay and the unlikely elements in the report gives rise to suspicion that it was at least partly contrived. MacKay was later scathing in his assessment of many of the police who had been at Rothbury. He described several as drunks and said Inspector Boland, Beattie’s second-in-command, was hopelessly incompetent. When he arrived at the scene, no steps had been taken to prepare for an inquest, he said, and he had been obliged to do this himself. There is no direct evidence that MacKay was responsible for the police report, but the timing of its release and the skill with which it created a plausible defence for the police actions suggests that he may have been.

Whoever was responsible for it, the police report was almost certainly an attempt to obscure a simpler and much uglier story. The Rothbury tragedy was the result of poor planning and lack of leadership by senior police, a problem made worse by the bloody-minded influence of Weaver, and indiscipline, perhaps panic, by the police who fired their weapons.

Ironies abound in MacKay’s association with the Rothbury shootings. MacKay was a skilled organiser and a forceful personality. He was ruthless, but also astute in his controlled use of force. Had he been present on the morning of 16 December, he might well have prevented the tragedy for which he later appears to have claimed responsibility.

Until recently, police were rarely held accountable for violent action during industrial disputes. Police commissioners would invariably back the officers on the ground. If an inquiry were held, it would be a whitewash. Rothbury was no exception. In February 1930, an inquest was held into Norman Brown’s death. The Coroner, D W Reed, made

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111 NMH, 17 December 1929, 5.
112 Conference of Police Superintendents, 1936, minutes, Police Department Special Bundles, 10/1838 pt, NSWSR.
114 The records of the coronial inquest have not survived. According to NSWSR staff, this is not unusual: only about 50 per cent of inquest records are extant. In the discussion of
no serious effort to identify the police officer who fired the fatal shot, or those responsible for the other serious wounds. He never established how many police were present, or who they were. He accepted expert evidence that all the injuries, including that which killed Norman Brown, were accidental, caused by bullets which had ricocheted off the ground, even though none of the bullets recovered from wounds showed the distortion a ricochet would cause. Brown was an innocent bystander and not to blame, Reed found, but he exonerated the police, who had ‘carried out their duty with forbearance and commendable restraint’. Reed’s platitudes can only have been resented by the mining community, which that summer had endured a style of policing neither restrained nor forbearing.

If the government or the police felt any remorse over what happened at Rothbury on 16 December, they did not show it. Premier Tom Bavin’s speech to Parliament on 17 December was one of defiance and righteous anger. He claimed the miners at Rothbury were ‘the subject of persuasion by a number of men who are open and avowed revolutionaries and communists’. He presented the situation as one of clear-cut principle:

The plain issue now is, whether the State Government is to be deterred... from taking those legal steps which it considers necessary ... it would be an abdication of our function as a government to be deflected from our policy by any threats.

At one stage during J M Baddeley’s address to the same session of Parliament, Bavin interjected:

Baddeley: The object of this aggregate meeting [of the miners at Rothbury] was to transact the business of their organisation.
Bavin: Yes, to kill free labourers!

The conservative press had similar views. ‘For those victims of their own temerity who were innocent of guilty intent and who have had to pay in blood, there will be merited public sympathy’, opined the Sydney Morning Herald, but it scarcely drew breath before adding:

But there can be no real question of right or wrong so far as the police are concerned. They are sworn to duty, however distasteful its performance may be, to the assertion against all odds of the constitutional authority of which they are the first-line custodians ... They were armed with batons and revolvers precisely that they

the inquest, I have relied on newspaper reports, especially the very detailed coverage in the NMH.

115 NMH, 18 February 1930, 8.
116 NSWPD, 17 December 1929, 2514.
117 NSWPD, 17 December 1929, 2516–2517.
118 NSWPD, 17 December 1929, 2523.
should use them in such an emergency, and the blame for what occurred rests with those who created the emergency and not with the men who gallantly rose superior to it.\textsuperscript{119}

Simultaneously, there was grave apprehension, the fear of revolution. Wild rumours of civil strife were common in the weeks after the shootings. Reports circulated that the miners were arming themselves to again attack Rothbury. A paramilitary group, the Labor Defence Army (or Corps) was established, and drilling involving several hundred men did occur in some coal towns.\textsuperscript{120}

Weaver publicly suggested that special constables be sworn in to maintain law and order on the coalfields.\textsuperscript{121} However, MacKay quickly demonstrated that he could restore the power of the state without help. Under MacKay’s command, the Rothbury colliery became the centre for aggressive harassment of the miners. The police raided homes, broke up meetings and assaulted local people, some of whom had no connection with the dispute. Communist propaganda later exaggerated the severity of the police ‘reign of terror’.\textsuperscript{122} Still, MacKay was brutal in reasserting control and the actions of police under his command were, in my view, at times reprehensible.

For a week after the shootings, little trouble occurred, but soon tensions increased. Police raided the homes of union officials in Kurri Kurri, ostensibly searching for bombs and ammunition.\textsuperscript{123} On 9 January, 1930, MacKay personally led a fruitless raid on the house of Leonard Wibberley, a union official. The \textit{Labour Daily} was scathing in its report.

Without a warrant the police made a mad rush down the side entrance to the place through the back yard and onto the railway fence. Inspector MacKay, coatless, with his shirt sleeves pulled up and the glint of battle in his eye, led the grand assault.\textsuperscript{124}

The \textit{Labour Daily} took every opportunity to attack the ‘zealous detective chief who figured so largely in the timber strikes’.\textsuperscript{125} A miner arrested on 10 January claimed that MacKay punched him in the jaw without provocation. The \textit{Labour Daily} suggested MacKay was ‘humiliated at being outmaneuvered by the miners’.\textsuperscript{126} This was a reference to a successful deception by the mining unions. They had announced a mass picket of

\begin{footnotes}
\item[119] SMH, 17 December 1929, 10.
\item[120] SMH, 31 December 1929, 11.
\item[121] SMH, 16 January 1930, 11.
\item[122] Lawrence Sharkey, \textit{History: Communist Party of Australia}, Sydney: Communist Party of Australia 1942, 9; Metcalfe \textit{For Freedom and Dignity}, 151.
\item[123] SMH, 23 December 1929, 11.
\item[124] Labour Daily, 10 January 1930, 1.
\item[125] Ibid.
\item[126] Labour Daily, 11 January 1930, 1.
\end{footnotes}
Rothbury, but had instead converged on another mine, at Ashtonfields. There, several free labourers were roughly handled and stripped naked. 127

The _Labour Daily_ gloated:

> The people of the state ... today are laughing at ... Mr MacKay, the policeman who went home, at our expense, to learn something at Scotland Yard, and came back here to – break eggs with a big nobbly stick ... Mr MacKay is regarded as a tower of intellect in detective circles. But his leadership on this occasion would have disgraced a Portuguese lance-corporal. 128

The miners soon discovered that it was not wise to goad MacKay: his response to public embarrassment was invariably ruthless. 129 The following Wednesday, 15 January, saw the most serious violence of the Rothbury aftermath. The _Sydney Morning Herald’s_ reporter described how one column of marchers, about 3000 strong, approached the Abermain No. 2 mine, intending to stage a mass picket.

The procession took its final turn towards the gates. Barring the road was a strong flying squad of police ... For a minute the men tried to press on. The police drew their batons. At the first few blows the pickets, though many of them were carrying sticks, turned and fled ... and in all ways manifested their desire to have no part in any further fighting. Within five minutes the police had attained a notable victory. 130

There was another encounter at the Abermain No. 1 mine, about ten miles away. ‘In one short, sharp, baton attack the miners were sent flying from the mine.’ 131 Later in the day, there was a meeting of miners at Kurri Kurri:

> It was after these meetings had been concluded ... [that the] flying squad arrived. The effect of the police attack was instantaneous. The remaining miners dispersed with alacrity. The police squad left in the direction of Cessnock as soon as the town had quieted down. 132

Even the _Herald’s_ partisan reporting describes naked aggression. It was nowhere suggested that any warnings to disperse were given, or that the marches were illegal, or that the miners offered violence at any time. The President of the local shire council later gave court evidence that he had issued a permit for the march on Abermain No. 2 Mine. Three local police

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127 Ibid.
128 Ibid, 4.
129 The semi-fascist New Guard would learn the same lesson after Francis de Groot ‘opened’ the Sydney Harbour Bridge in 1932: see Evans ‘A menace to this realm’.
130 SMH, 16 January 1930, 11.
131 Ibid.
132 Ibid.
testified that the march was orderly and quiet, that there was no need to make any arrests, that they did not believe mine property would be attacked and that there was no need for batons to be used.\textsuperscript{133}

The worst incident was the attack on the crowd at Kurri Kurri. The union meetings had been completely free of trouble, supervised by local police. They were dispersing when the flying squad arrived and ‘the police attack’ commenced. This was a brutal reassertion of police power. The \textit{Labour Daily} denounced what it called police ‘basher gangs’:

> In a wild orgy of baton charges by flying squads of the police on the coalfields today, scores of defenseless and law-abiding men were clubbed into insensibility. Every attack was unprovoked and it was launched by the police without warning … one hundred constables under Superintendent Beattie and Inspector MacKay were savage in their assault on the men.\textsuperscript{134}

The \textit{Labour Daily} reported that local police had attempted to restrain the flying squad, a claim supported by evidence in later court proceedings.\textsuperscript{135}

MacKay’s tactics were, in the short term, effective. After the tumultuous events of December and January, the region became calmer and the police at Rothbury were gradually withdrawn. The first reliable figure on the number of police at Rothbury is for 3 January 1930: 197 police were protecting 138 labourers. The largest number, 210, was reached on 10 January, the day of the Ashtonfields incident. By February the number was down to 158, by April, 102. By June only 30 police were still stationed at the mine.\textsuperscript{136}

Inspector MacKay must have been hoping for a reward for his work, and quickly. A state election was looming and Labor had been threatening revenge on the police force.\textsuperscript{137} On 14 October 1930, MacKay was promoted to superintendent, third class.\textsuperscript{138} Less than two weeks later, Jack Lang’s Labor Party swept back into government in New South Wales.\textsuperscript{139}

An inquiry was expected.\textsuperscript{140} According to the \textit{Sydney Morning Herald}, police were outraged:

> If there is any attempt to interfere with the administration of the force, to disturb the rights of the officers concerned, or to punish

\begin{footnotesize}
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\item 133 \textit{Labour Daily}, 6 February 1930, 1; 7 February, 5.
\item 134 \textit{Labour Daily}, 16 January 1930, 1.
\item 135 \textit{Labour Daily}, 6 February 1930, 1; 7 February, 5.
\item 136 Rothbury mine, personal, Department of Mines Files, 3/3242, NSWSR.
\item 137 \textit{SMH}, 12 November 1930, 12.
\item 138 \textit{SMH}, 15 October 1930, 10.
\item 140 \textit{Labour Daily}, 1 November 1929, 6; \textit{SMH}, 1 November 1930, 13.
\end{itemize}
\end{footnotesize}
anyone for doing his duty, an ugly position will be created. All ranks are apparently prepared to adopt strong measures.\textsuperscript{141}

MacKay was named as the likely target:

Although Superintendent MacKay was not the senior officer during the coalfields disturbances, and although he was not present when Norman Brown was fatally shot at Rothbury, his name has frequently been referred to as having incurred the displeasure of the labour extremists. Apparently the manner in which small mobile squads of detectives set the ‘workers’ army’ to flight is one of the principal causes of resentment.\textsuperscript{142}

There never was an inquiry. The man named as the likely head of an inquiry, Albert Piddington, later said that the whole idea was invented by the conservative press.\textsuperscript{143} The new Chief Secretary, Mark Gosling, quickly assured his ‘brother unionists’ of the Police Association they had nothing to fear.\textsuperscript{144} This may have been due to police pressure, but there is no evidence of it. More likely, the Lang government was preoccupied with the economic catastrophe which had overtaken the country. In any case, MacKay had a remarkable ability to prosper in spite of, or even because of, shifts in power. The Lang government soon discovered that it needed a hard man to deal with the semi-fascist New Guard: a role MacKay would play with all the skill and ruthlessness he showed against the coalminers, for which he was again promoted.\textsuperscript{145}

Miriam Dixson argues that the actions of MacKay’s flying squads were responsible for mass rank-and-file activity declining after February 1930 and not resurfacing for the remainder of the lockout.\textsuperscript{146} Whether the flying squads were solely responsible, the miners saw them as a large part of the problem. The communist \textit{Workers’ Weekly} noted ‘Fierce Hatred for Police on Coalfields’, but more respectable sources also protested.\textsuperscript{147} On 21 January 1930, a deputation from the mining communities demanded that the government withdraw all but the local police from the northern coalfields. ‘There was no trouble until extra police were sent’, they said: ‘The conduct of those police has been angry and tactless.’ The deputation specifically

\textsuperscript{141} SMH, 12 November 1930, 12.
\textsuperscript{142} SMH, 12 November 1930, 12.
\textsuperscript{143} Arthur Piddington \textit{Political Revelations and the Kisch Case}, University of Sydney Library, Rare Books, MS, no date.
\textsuperscript{145} See Evans ‘A menace to this realm’.
\textsuperscript{146} Dixson, MA thesis, 244.
\textsuperscript{147} \textit{Workers’ Weekly}, 24 January 1930, 1.
Murderous coppers

named MacKay as a source of trouble. In 1945, Alan Walker, then Methodist minister at Cessnock, quoted a local police officer: “The feeling against the police was very strong for years after 1929, against “foreign police” especially.” Nearly thirty years after the lockout, Miriam Dixson noted ‘remarkable antipathy ... towards the police in many northern coalfield towns today [that] goes back to this period’.

The distinction made between local and ‘outside’ police requires further comment. It is likely that local police officers sympathised with the unionists, many of whom they would have known well. Perhaps MacKay did not include local police in his flying squads for this reason, and local officers risked his displeasure by protesting at what occurred. It is also possible that MacKay was displaying foresight. The local police had to remain and preserve order long after the flying squad had gone. By allowing local police to distance themselves from anti-union action – ‘good’ local police, as opposed to hated ‘foreign police’ – he ensured they would be able to re-establish community support with less difficulty.

This may be giving MacKay more credit than he is due. His actions caused great damage to the police, especially in the eyes of working-class communities. Sustained community hostility of the sort which resulted from Rothbury is a serious problem for police. As Robert Reiner argues, police power is most successfully preserved, not through overt force, but by structures and processes which avoid the need for force.

One of the many ironies of Rothbury was the state government’s attempts to blame the tragedy on revolutionary communism. The Communist Party regarded the coal lockout as an event of great political promise, but the party in 1929 was small, fractious and poorly led. Less radical unionists had succeeded in minimising communist influence in the miners’ union for most of the dispute. But police actions in both the timber strike and the coal lockout gave credibility to radical arguments, that under economic and social pressure the capitalist state reveals its true, repressive colours. In the years which followed Rothbury, communists steadily increased their influence within the coal mining

148 SMH, 22 January 1930, 15.
149 Walker Coaltown, 9.
150 Dixson, MA thesis, 244.
151 Baker Batons and Blockades, 207.
153 See for example NSWPD, 17 December 1929, 2325–2328.
154 Gollan Coalminers of New South Wales, 193.
156 Geary Policing Industrial Disputes, 1.
unions of New South Wales.\textsuperscript{157} By the 1940s, a communist-controlled Miners’ Federation was a significant power in Australian political and economic life.\textsuperscript{158}

Violence is necessary to policing, but it must be controlled violence and its use must be seen as legitimate by society at large. The shootings in which Norman Brown was killed and others were badly injured were neither controlled nor legitimate. The later physical intimidation was more calculated, but illegitimate – indeed, lawless. Such conduct erodes the community acceptance which is the foundation of police power and, in turn, undermines the legitimacy of the liberal democratic state. Despite apparently claiming responsibility, MacKay cannot be blamed for the death of Norman Brown. He was, however, responsible for the subsequent brutal policing which left such a bitter legacy.

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\textsuperscript{157} Macintyre The Reds, 154.
\textsuperscript{158} Phillip Deery Labour in Conflict: The 1949 Coal Strike, Sydney: Hale and Iremonger 1978.