

## Pardon Me

by Kathryn Hore

Somewhere deep within the RMIT city campus is a full-sized tree growing out of a wall. It's a Port Jackson Fig, roots as thick as a body-builder's arms spilling over the sides of the high blue brick they grip so defiantly. The wall is thick, imposing. It was once part of a prison and this tree lives vibrantly upon it heedless of the 136 prisoners who were executed here, under the shadow of these daunting prison walls.

RMIT took over this land in the 1920s, back when it was still a Working Men's College and the prison, now the museum better known as the Old Melbourne Gaol, had only just closed. In the 1929 ground works, the steam shovel began turning up bodies of executed prisoners; the quicklime used to accelerate their decay had instead calcified and preserved the bones. The story goes that students of RMIT – sorry, the Working Men's College – rushed to the site for souvenirs. Well, Ned Kelly had been hanged in this prison, after all, and his skull might have been up for grabs.

"Those remains were taken to the other gaol, Pentridge, and interred there in 1929," explains Kevin Morgan, a historian and expert on life, and death, within this prison's walls. He is pouring over a model of the original gaol site, pointing out buildings no longer in existence. Almost all the land is now part of the university campus and he indicates an area which used to be the prison hospital, but is now the RMIT Alumni lawn. "We've discovered that they buried five prisoners in this yard, including Colin. We're hoping for identification of Colin."

He means Colin Ross, the man executed in 1922 for the rape and murder of twelve year old schoolgirl Alma Tirtschke. On the 27<sup>th</sup> of May 2008, thanks to research by Kevin and his wife Linda, the Attorney-General of Victoria awarded Colin Ross the first and only posthumous pardon ever granted in Australia. The decision was unanimous. Three Victorian Supreme Court Judges together with the Attorney-General re-examined the case and agreed a miscarriage of justice had occurred. The Victorian Government had hanged an innocent man.

The case of *R v Colin Campbell Ross (1922)* hinged on hair samples taken from Ross' wine saloon, said to be from Alma. It was the first case in Australian legal history to use forensic comparison of hair in securing a conviction. The prosecution claimed the schoolgirl had been in the saloon, drinking, on the day of her murder and used the hair to prove it. Seventy-five years later, Kevin found that very same hair, in the middle of a closed case file. "I took it out and for a long time, just looked at it."

Kevin had not begun his research planning to make Australian legal history. He'd been researching the influence of a long ago schoolgirl's murder on a series of Blackman paintings he'd seen exhibited at the NGV. But "when I saw the hair I realised, this investigation had just gone up a notch." Modern DNA testing was inconclusive. Microscopic examination using exactly the same techniques as used in 1922, however, proved beyond doubt the hair was not Alma's. "That was a very powerful statement and I thought, well, I think the Attorney-General needs to see this."

The petition for Colin Ross' pardon was unique – it was on behalf of both families. Ross' family understandably wanted to prove his innocence, but Alma's family, too, had never been able to accept the prosecution's case and its dependence on the little girl drinking with her murderer. "Both families were discontent with the verdict," Kevin explains, for the Tirtschke family "had been very upset by the treatment of Alma by the prosecution." They knew the depiction of Alma's character in court bore no resemblance to the child they loved and grieved for. They knew there had been little justice in the outcome of the 1922 trial.

"This is the gaol. It's really nineteenth century, isn't it?" Kevin stands at the entrance to the cellblock, gesturing to its shadowed length as if introducing an old friend, or at least a very familiar foe. All dark stone and imposing weight, he indicates the dim far end, then begins a walk of

measured steps towards it. "On the day of Colin's execution, he took this walk. He would have gone up these steps here, the platform was there. He took the cell on that side."

Visitors to the Old Melbourne Gaol can stand directly in front of the scaffold where Ross was executed. "That is the actual beam, the beam was in use for all executions here." It is a dank place, cold and shadowed; to stand in front of it and look out, as Kevin does now, is to see what Colin saw in those last moments before death. "It was important, with what they did to Colin," Kevin says, staring out at the lonely stone, "the execution so appallingly botched. We knew that had to be documented."

In his book, *Gun Alley: Murder, Lies and Failure of Justice*, Kevin describes Ross' execution in detail; at the end of a rope, he probably took between eight and twenty minutes to die. The details are excruciating. It was, Kevin says simply, "very, very difficult to write that." And yet "it's such an important case. It makes people think about capital punishment. About what the real meaning of that is."

These days, RMIT occupies almost all the land surrounding the Old Melbourne Gaol, from the former Magistrates Court on the corner of Russell and Lonsdale Streets, to the new Spiritual Centre, which long ago used to be the prison Chapel. The massive façade of the prison main gates, through which Ross was brought after being sentenced to death, are still there, tucked in behind the Emily McPherson building and currently covered in scaffold. The Melbourne Gaol once occupied most of this land. The big bluestone edifice was even considered one of Melbourne's eyesores for a long while, in the latter part of the nineteenth century.

Ross' story plays out across this block. From the night of his arrest, when he was questioned in the old CIB headquarters, now the privately owned white building across the street, to the Watch House, next to the Alumni lawn, where he was remanded. The magnificent old Magistrates Court, purchased by RMIT in 1997, was where Ross' bail hearing was held, and denied. Colin Ross protested innocence from first to last, all of four months from first charge to execution. In a final letter to his family, written the night before they hanged him, Colin assured them, "the day is coming that my innocence will be proved."

It may have taken more than three quarters of a century, but finally that day has come.