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After 90 years, an injustice is laid to rest

John Silvester
October 16, 2010 - 3:00AM

IT has taken nearly 90 years of struggle, an unprecedented legal battle and a series of scientific breakthroughs for a Melbourne man wrongly executed as a child killer to be finally laid to rest a free man.

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The final step in the journey will be conducted on Monday morning when Attorney-General Rob Hulls formally returns the cremated remains of Colin Campbell Ross to his family in the jail where he was hanged in April 1922.

Ross was executed after he was convicted for the December 1921 rape and murder of 12-year-old Alma Tirtschke. He maintained his innocence to the end.

The small Baptist service at the Old Melbourne Gaol will be conducted at the spot where Ross climbed the steps to the gallows.

In the condemned man's cell will be the Bible he read in the days before his execution. In that Bible are the passages Ross highlighted with a stubby lead pencil that he hoped would encourage others to continue the fight to clear his name.

In 1924 his mother, Elizabeth Ross, wrote a letter asking the government to release his remains for a Christian burial. The request was refused. Now his ashes will be buried next to her in a quiet country cemetery.

Mr Hulls said, "This is an opportunity to right an historical wrong. One can't imagine the pain suffered by Colin's mother, who no doubt died a broken woman. I just hope this outcome finally brings peace to the family of Colin Campbell Ross."

The case, known as the Gun Alley Murder, remained dormant until dogged researcher Kevin Morgan began his own investigation in 1993. It has taken 17 years to reach a conclusion.

A key piece of evidence was prosecution testimony from a chemist that hairs found on a rug seized from the suspect's home were from the victim. It was the first time such forensic evidence was accepted in Australia.

The Crown claimed Ross, 28, persuaded the victim to enter his wine saloon in the Eastern Arcade, in Bourke Street, while she was in the city on errands for her mother. Police alleged he gave her alcohol before raping and strangling her.

A bottle gatherer found her body in Gun Alley, off Little Collins Street, on December 31, 1921.

Ross was arrested at his Maidstone home on January 12. Just 115 days after the murder, he was executed, following a short trial and two failed appeals.

In 1995 Morgan found the hair sample in the brief of evidence filed in official archives and pushed to have them re-tested. Three years later, a microscopic examination by Dr Bentley Atchison, of the Victorian Institute of Forensic Medicine, showed the hairs were not from the schoolgirl.

Members of the Ross and Tirtschke families presented the government with a Petition of Mercy, using Morgan's book, *Gun Alley: Murder, Lies and Failure of Justice*, as the basis for the case to be re-opened. In 2006 Mr Hulls asked the Supreme Court to review the conviction.

In a legal first, a specially convened panel of Justices Bernard Teague, Phil Cummins and John Coldrey re-examined the existing evidence. They unanimously concluded: "There has been a miscarriage of justice."

In May 2008 Governor David de Kretser signed a posthumous pardon for Ross.

Ross' niece, Betty Everett, said at the time it was her greatest hope his remains could be identified and returned to the family.

The first challenge was to find the remains in unmarked graves and the second was to identify them.

Records showed 32 executed inmates were exhumed from the Old Melbourne Gaol when it was decommissioned in 1929 and reburied at Pentridge Prison, but Ross was not among them.

The remains of four inmates were found in 1937 buried at the old police hospital in Russell Street, an area now part of the RMIT park. They were also exhumed and taken to Pentridge. They were found in archaeological digs by Heritage Victoria in 2007 after Pentridge closed.

The chance of a positive identification would have been hopeless if not for the practice of throwing bags of lime into the unmarked prison coffins in a bid to quickly destroy the remains. This unintentionally resulted in a chemical reaction that preserved the skeletons.

One of several methods used by Victorian Institute of Forensic Medicine experts to identify Ross involved superimposing images of the executed man over a recovered skull. It was a perfect match.

Last month the coroner completed a report that confirmed the identification was complete. The remains were then cremated at the request of the family.

Mrs Everett, now 80, told *The Age*, "It is rather wonderful that after all this time he will be able to have a Christian burial."

Her family had "lived with shame, secrecy and sorrow for all this years" until Ross was finally exonerated.

Mrs Everett said he would be laid to rest in a cemetery next to his mother who died in 1932. "She campaigned tirelessly for him until she died."

Mr Morgan said, "This is an historic gesture. I am very happy for the Ross family that this helps restore dignity for Colin, a man from whom everything was taken."

This story was found at: <http://www.theage.com.au/victoria/after-90-years-an-injustice-is-laid-to-rest-20101015-16nks.html>