

Cemetery Conversations



THE NEWSLETTER OF THE FRIENDS OF ST. KILDA CEMETERY INC.

THE CRIMINAL WHO NEVER COMMITTED A CRIME

Part II from the May 2009 issue of
Cemetery Conversations...

A Sculptor in Basalt.

It was magistrate's day at Pentridge, and Mr. Panton, P.M., whose official activities had brought him often into contact with strange men and interesting situations in earlier days, was on his first official visit to the prison. As he sat in the governor's room entered a warder with the information that No. 13 had been at it again, and that they had "caught him red-handed." I have called the prisoner No. 13 because it is said to be such an omen of luck – the sort of luck that frequently came his way.

"Dear me! Dear me!" said the governor wearily, "the man is incorrigible – quite hopeless."

"We caught him with this," explained the warder, placing a small unfinished bust carved in bluestone upon the table, "And these two prison knives, stolen and worn to the haft, as you see, sir, with the carving of those silly things."

"He has broken the regulations again and again in this way," the governor explained. "He has been punished so often that he is simply imposing his own sentence – imprisonment for life."

Mr. Paton was interested. "It may be a crime," he said, "to do this sort of thing in prison, but, believe

me, outside it would be considered art – and rather wonderful in the circumstances. What is the man's story? What is his prison history?"

They had to look it up because they had forgotten the original sin. In later years the prisoner had treated the regulations concerning rock carvings and misappropriation of knives and other things that might be convertible into graving tools as no self-respecting prisoner should. Instead of treating bluestone with spall and knapping hammer No. 13 had wished only to carve odd things out of it in utter defiance of prison regulations; and prison regulations are solemn things in Pentridge. The curious point was that No. 13's defiance of the regulations was always due to the same passionate longing to carve something in stone, which the policies of prisons do not encourage. Breaking bluestone was industry; carving it was offence. In everything else but his silly habit of caricature he was a model prisoner, yet the want of a model was this chief misfortune. Through this particular kink in a character otherwise amiable, he had managed to accumulate a sentence which no human being could reasonably hope to live long enough to serve. A

man without imagination might have said that No. 13 was mental, but not dangerous. Mr. Panton, however, had imagination, and in addition some considerable knowledge of art. "I should like to see this man," he said, "and have a talk with him." So the image maker, who was such an iconoclast with regulations, was brought in.

"Where did you study sculpture?" the magistrate asked.

"Here, sir – in Pentridge," answered No. 13, seriously, as if the fine arts were something in which penal establishments specialised.

"But you must have had lessons in the beginning?"

"I had lessons about reading and all that in school, sir," he said, "but I took to breaking the regulations here because I couldn't help it. I'm sorry about it, sir, but I had to do it."

"Suppose that I can arrange to get you the proper tools and a shed set apart, where you may work at this without any fear of the regulations, would you like it?"

"Oh, I don't think the governor would let you sir," said No. 13, gravely. "You see, I've been a bad lot, and I don't stand well with the warders. They wouldn't have it."

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THE CRIMINAL WHO NEVER COMMITTED A CRIME...CONTINUED

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Finding a Model.

Mr. Panton had his own ideas about the situation. One of them was to see and interest Mr. Graham Berry, then Premier of Victoria, who agreed that No. 13 should have every facility for carrying out a piece of work which he had in mind and longed to attempt. One difficulty was to get a model. An infant was particularly desired.

"Would not the wife of one of the warders, who has a baby, bring it along some afternoon as a model?" Mr. Panton asked.

"Oh, no, sir," said the poor sculptor; *"you see, I've got a bad name for breaking the regulations."*

Mr. Panton mentioned the incident that night at a Melbourne dinner-table, and the wife of the superintendent of police, who was a guest, remarked, *"What a shame not to let the poor fellow have the baby as a model!"*

"That's very fine," said Mr. Panton; *"but would you be willing to take your little nephew into a penal establishment in the same circumstances?"*

"Yes," said the lady generously and emphatically. *"To-morrow, or whenever you wish it."*

So it happens that a canon of the Church of England,

who is still living, was the model for that infant on the summit of the fountain in Statuary Corner.

This confirmed criminal, who had never committed a crime until he came in contact with the regulations, was pardoned and released from Pentridge. Had the regulations been sentient and possessed expression they might have said, *"Good enough for him, too! He deserved it!"*

While the State was in the pardoning humour, full of that expansive glow which follows a good deed done, it forgave itself also for all those woeful, wasted years in the life of the innocent man it had sent to prison. The first bit of work done by the sculptor after his release was the Spring street fountain.

The Weeping Angel.

That is almost the whole of the story which, happily, had a good ending, for, in the words of romance, they married and lived happily ever afterwards. The artist was happy in the love of a dear wife and home, happy in the free employment as a monumental sculptor, of his gifts, and his craft. I have traced many of his memorials to the dead in the Melbourne and St. Kilda cemeteries, because a favourite design was the representation of the weeping angel. Years

before, in prison, the sculptor had seen the picture of a famous piece of statuary, *"The Angel of Cawnpore"*—the pitying figure brooding over the fateful well of the Indian Mutiny. It seems to have made a lasting impression upon him. You have the suggestion of it even in the poise of those birds about the fountain.

That is the story. The last word to be said of the artist who so strangely came to his own was that he never lost his distrust of the law, and never admitted much respect for it. Though always interested in the activities of his friends and neighbours, he declined to join the Prahran Commercial Club because that excellent institution had so hedged itself about with an impenetrable cordon of self-control that whenever it wished to do anything unusual its own autocratic regulations would not permit it to do so.

Postscript: And who was the Rufus Dawes, the criminal who never committed a crime and became a monumental mason? His name was William Walter Tyrell Stanford (1819-80) and in the next issue of Cemetery Conversations, we'll reveal Stanford's letter of complaint against the Trustees.

(Source: *The Argus* 25 Aug 1928 p10)

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"Designed and Executed by Stanford Windsor" —Grave of Thomas and Margaret Irwin at the St. Kilda Cemetery which features the sculpture by William Stanford (CofE "B" 19)



CLOSING THE ST. KILDA CEMETERY: SURVIVING THE SCARE OF '68



Grave of Sir Archibald Michie, one of the memorialists who signed the petition to close the St. Kilda General Cemetery (CofE "B" 15)

"The push to close the St. Kilda Cemetery reflected the social attitudes of the era that a cemetery positioned in a built-up area close to houses was prejudicial to their health".

A little known, but significant chapter in St. Kilda Cemetery's history occurred in 1868 when there was an attempt to close the Cemetery. This was the era of the McCulloch government — the longest serving ministry when governments came and went at whim.

In July 1868, a deputation consisting of the Hon R Turnbull MLC, the financier J B Were, and Mr Jeffries argued to the Commissioner of Public Works that *"the Cemetery had become injurious to the public health"* as a consequence of the large increase in population.

This was not the first attempt to have the St. Kilda Cemetery closed. In 1864, an application had been made but as *The Argus* noted;

"...the state of the law at that time prevented the request from being acted upon. Since then, however, the Health Statute had been passed, under which the Governor in Council had power to close the Cemetery".

It is interesting that while J B Were and many of the Were family lie interred in St. Andrew's Churchyard Cemetery in New Street, Brighton, the St. Kilda

Cemetery is the final resting place for other members of the family.

The push to close the St. Kilda Cemetery reflected the social attitudes of the era that a cemetery positioned in a built-up area close to houses was prejudicial to their health. It was an attitude that continued until at least the 1910s when the same argument was used unsuccessfully by the adjoining Caulfield City Council to close the Brighton General Cemetery.

After the meeting, the Commissioner forwarded the petition to the Trustees, who then went to the local St. Kilda Borough Council who then communicated with the department, who finally declared the government would not act until the inhabitants of the district had an opportunity of expressing their sentiments. Democracy had a different meaning in the 1860s.

It did not take long for public meetings to oppose the petition. And they were held on 23 July and 31 July by the inhabitants of St. Kilda and Prahran respectively.

The St. Kilda meeting was convened by the Mayor Dr James Patterson and was attended by well over 400 at the St. Kilda Town Hall. The

meeting was advertised specially requesting all house-holders to attend, *"in order to emphatically protest against this invasion of their rights"*.

Patterson opened the meeting by reading the memorial (petition) before the Town Clerk read the names which included well-known residents such as Hon A Michie, Mr J B Were, Mr E S Symons, Mr W W Wardell, Mr Jas. White, the Hon James McCulloch, Mr John Mackenzie, Mr A Kyte, Mr D A McDougall. Groans were heard from the audience when the more well-known names were read—Michie and McCulloch.

The Mayor said it was peculiar *"that, instead of communicating with the trustees of the cemetery, or any other public bodies having an immediate interest in the matter, the memorialists had gone in a sort of clandestine way to the Commissioner of Public Works, without a word to any one else. This is almost against common decency, seeing how much the trustees had done to beautify the St. Kilda Cemetery, which, with its beautiful gates and fine wall, was a credit to the country"*.

...to be continued



Group of graves to the family of J B Were at the St. Kilda Cemetery (CofE Section "B")



FORTHCOMING TOURS

Seniors' Week

Tuesday 6 October 2009 at 10.00am

Visit the graves of famous and infamous Victorians: firemen, art benefactors, botanists, premiers and a prime minister.

Horses and Jockeys

Sunday 1 November 2009 at 2.00pm

It is Racing Week in Melbourne! Enjoy a Melbourne Cup themed tour through the St. Kilda Cemetery.

What a Way to Go!

Sunday 22 November 2009 at 2.00pm

Come on this fascinating tour of those who met with an unusual end.

General tour details:

All tours of St. Kilda Cemetery leave from the main entrance gates on Dandenong Road, St. Kilda East.

Tour cost: \$10.00 for adults (except where indicated).

Members of the Friends of St. Kilda Cemetery and children (under 18 years) are free.

Bookings: Reservations for all tours are essential.

Numbers are limited. Book now on (03) 9531 6832 to avoid disappointment .

Tours usually run for about 90 minutes.

Tours are offered in all weathers, so please dress appropriately for the conditions. There is little shelter or shade within the cemetery. Tours proceed at a leisurely pace, and keep to the safest paths, but those who may have difficulty walking on uneven ground should use their discretion.

THE CASE OF JANE GARDNER

Mr. [Samuel] Candler held an inquest at East St. Kilda yesterday concerning the death of Jane Gardner, 59 years of age, the wife of Henry Gardner, builder, residing at East St. Kilda.

Emily Ellen Gardner, daughter of the deceased, deposed that her mother was in her usual health on Monday night when she went to bed. She had been going about her domestic duties all day on the 19th inst. At about 5 o'clock on Tuesday morning witness heard her mother moaning, and on going into the bedroom found her sitting on a box by the side of the bed. She asked witness for some medicine, and shortly afterwards the deceased laid her head quietly on the bed and ceased to breathe. There was no convulsive movement or struggling. Mr. Lamert was sent for, but the deceased was quite dead when he arrived. Deceased never had any epileptic fits.

Wm. G. A'Beckett, legally qualified medical practitioner who made a post-mortem examination of the body, deposed that the brain was congested and there was a large quantity of serum in the ventricles. The heart was loaded with an enormous amount of fat. The cause of death was serous apoplexy, which would account for the suddenness of death. The deceased was not subject to epilepsy. In the opinion of witness, nothing could have been done for the deceased by a medical man.

The jury found a verdict that the deceased died from serous apoplexy.

Footnote: Jane Gardner was interred on 20 August 1878 (Bap "C" 88) and lies buried with five other persons including her husband Henry.

(Source: *The Argus* 22 Aug 1878 p7)



Unadorned gravesite to Jane Gardner at the St. Kilda General Cemetery (Bap "C" 88)

