
Review by Gillian Dooley for Writers’ Radio, Radio Adelaide

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Millions of words have been written about Ned Kelly, and the latest installment comes from legal historian Alex Castles. *Ned Kelly’s Last Days: Setting the Record Straight on the Death of an Outlaw* examines in detail the legal process which followed Kelly’s capture at Glenrowan in June 1880 and led to his execution in Melbourne on 11 November that year.

Alex Castles has discovered many irregularities in the investigations following the deaths of the other members of the Kelly gang, as well as a huge legal loophole in Ned’s case which a skillful defence team could have exploited. But Ned’s defence was a shambles and the machinations of the prosecution, with powerful backing from the press and the Victorian government, meant that his advisers were kept misinformed: they were often excluded from important hearings, which were brought forward without notification. Ned himself was not allowed visits from family members or anyone else who might help him mount a case. There was a system of legal aid in effect at the time for those charged with hanging offences, but the stipend was so small that the only barrister who would accept the case was young and inexperienced. More senior counsel were unwilling to risk their reputations for such a pittance, because sympathy for the Kelly gang was at a low ebb, and the press, both liberal and conservative, were united in condemning Ned and baying for his blood.
It was only after his conviction and sentence that a campaign against the death penalty began. Apart from family members, the campaigners were mainly drawn from the Society for the Abolition of Capital Punishment. The politicians were unimpressed and the hanging, of course, went ahead.

However, in spite of the many underhand tricks by which the powers that be achieved their end, there is no suggestion in this book of a serious miscarriage of justice. Ned himself admitted his guilt, although he was keen to let the public know the reasons for his crimes. The evidence against him was solid and, although it included hearsay evidence which would not be admitted today, he would probably still be convicted. If Ned had got off, it would have been on a technicality.

*Ned Kelly’s Last Days* delves into many unpublished sources to shed new light on the Kelly story. However, it is a book that perhaps misses its mark. Alex Castles died in December 2003 before the book was quite competed. His daughter Jennifer, who had been assisting him, took on the task of preparing it for publication. In her foreword, she says, ‘As a professor of law, Alex was a stickler for detail and for using highly formal legal language that could not be misconstrued. As a writer and editor working at the commercial end of the market, my job was to “shape” the work so that it was accessible to a wide audience.’ The main frustration I felt with the book was that I was never sure whose voice I was hearing. Much of the writing is infected with the kind of journalese which sacrifices clarity for effect, and which I therefore take to be the work of Jennifer rather than Alex, and I began to long for a more exact use of language ‘that could not be misconstrued’, even if it was ‘highly formal’. And those to whom the book is aimed, who are looking for a ‘good read’, might also be disappointed: the revelations are not exactly
sensational. Ned Kelly has always been an enigmatic figure whose life is a subject of controversy and legend. *Ned Kelly’s Last Days* is unlikely to change that.