

## **Solicitors in World War One**

Tony Cunneen BA, MA Dip ED.

Contact [acunneen@bigpond.net.au](mailto:acunneen@bigpond.net.au)

Solicitors were demonstrably loyal to their country and Empire during World War I. True to these values, and sensitive to the obligations of social service, solicitors and their families involved themselves in the conflict either through enlisting in the armed forces or by supporting war related charities and organisations such as the Comforts Fund<sup>i</sup> or the Australian Branch of the British Red Cross. Solicitor WM Marks, who saw service in the British Navy on a minesweeper, expressed a commonly held attitude when he exhorted the assembled students of Sydney Grammar School to “rush to the colours and down the dirty Hun! . . . What better can you do than to go out and die fighting for your country?”<sup>ii</sup> He survived the war. Others were not so lucky

The first adventurous solicitors who enlisted in August 1914 went with the Australian Naval & Military Expeditionary Force (ANMEF) to fight in New Guinea. John Malbon Maughan, a 36-year-old solicitor from Neutral Bay was among them. Maughan was beginning a military career that would see him later survive fighting on Gallipoli then being wounded in action on the Western Front, where he would be awarded the high honour of the Distinguished Service Order.

While the ANMEF battled the heat and humidity in New Guinea the first contingents of soldiers sailed from Fort Macquarie near Man o' War Steps in Sydney Harbour. They expected to go to Europe but disembarked in Egypt. Colonel Leonard Dobbin, a 46-year-old Irish born solicitor commanded of the 1<sup>st</sup> Battalion. He was one of many members of the law who had been chosen to be officers in these contingents. Another

influential appointment was an Indian born 34-year-old solicitor: Major Charles Melville Macnaghten, who was in the 4<sup>th</sup> Battalion. He was an imposing, vigorous, impetuous character who had gained a reputation in the pre-war militia for transforming inner city youth into soldiers. His commanding voice could have been heard echoing around the Domain as he trained his young men. When war broke out he worked closely with Sydney barrister, Colonel Henry Normand MacLaurin. The two men “largely influenced the choice of officers throughout the (1<sup>st</sup>) Brigade.”<sup>iii</sup> Generally, they chose men similar to themselves in terms of professional or business status. A steady stream of solicitors joined up.

#### Free Legal Advice

Solicitors were keen to help out in a variety of ways other than as members of the armed forces. Legal firms offered free advice to soldiers on active service. At the beginning of the war this offer may have been made out of patriotic energy but it would commit these lawyers to years of protracted complex matters. With nearly 100,000 men from New South Wales going overseas during the war it was no small service to have offered free legal advice to them. On occasion, soldiers’ wills were dealt with by solicitors who were grieving themselves for lost relatives. The legal processes could be quite difficult especially if the body of the soldier was not located or there was a dispute over the next-of-kin, the date of death, the correct recipients of medals or the loss of the soldier’s possessions.

#### Red Cross

Another practical way of helping the families of soldiers was through the Red Cross Missing and Wounded Bureau, which was established in mid 1915 and funded largely

by the legal profession. The Incorporated Law Institute of New South Wales provided practical support for the Bureau by guaranteeing a sum of one hundred pounds per annum towards the salary of a permanent clerk at the office. Many solicitors gave up their time to visit hospitals to interview survivors to ascertain the details of men killed or missing in action. Relatives of such men were invited through regular advertisements to visit the Bureau's offices to be told whatever news was available or simply to enquire as to the progress of an investigation. Families were desperate for any scrap of information and often constructed elaborate scenarios as to the possible survival of a loved one: could he have been a prisoner or wounded and suffering from memory loss and lying unnoticed in some hospital somewhere? Red Cross searchers looking for information scoured hospitals and military around the world. Countless letters and cables were sent. All the evidence was then evaluated and a report sent to the family. The Bureau's detailed, careful assessment of evidence shows all the hallmarks of legal procedures. These report can now be accessed today through the Australian War Memorial archives. They are an invaluable historical resource.

#### Comforts Fund

In addition to the Red Cross and free legal advice a number of solicitors were active in the Comforts Funds, which looked after the personal needs of the soldiers. Among the Comfort's Fund's leading lights was its Vice President, the influential and politically committed solicitor, Edward Percy Simpson of Minter, Simpson & Co. Typical of the patriotism of the time, his family was involved in the war effort. His son Edward Telford Simpson was admitted to partnership of the firm in 1916 while he was on active service in Europe with the Royal Flying Corps. His daughter, Helen,

was employed by the British Admiralty decoding messages in foreign languages. AR Minter's son, Bruce, also enlisted. Another great fundraiser for the Comforts Fund was the solicitor and mayor of Hunters Hill, William Windeyer. He gave all manner of practical support, including donating the flowers he cultivated to the fund for sale at one of their Pitt Street stalls.

The Comforts Fund had its head office at 113 Pitt Street, next door to the Red Cross Missing and Wounded Enquiry Bureau. Law firms surrounded both organisations. The Fund's mostly female volunteers worked long, uncomfortable hours on the sewing and knitting of socks, warm clothing, carry bags as well as putting together of food parcels and other bundles of comforts for soldiers overseas. They had plenty of work to do once the landings had been made on Gallipoli.

### Gallipoli 1915

One of the first of the legal professionals to fall in action was the Sydney solicitor, Alan Lieutenant Dawson, killed in the confused battles on Gallipoli on day one, 25 April 1915. Solicitor, Major Macnaghten, went ashore and showed his enthusiasm for battle soon after. On 26 April a messenger burst into the 4<sup>th</sup> Battalion Headquarters and blurted out: "the line is to make a general advance." Famously, Macnaghten said to his Commanding Officer, Colonel Onslow Thompson: "I'll take the right Colonel, if you'll take the left". Then they attacked with their men. Charles Bean wrote that 'led by two of the bravest and most highly trained officers in the force, without the vaguest instruction or any idea as to an objective, the 4<sup>th</sup> . . . went blindly on to Lone Pine.'<sup>iv</sup> Defeat was inevitable. Macnaghten did his best to rally his retreating troops. He was shot in the chest, but went on. Then he was shot in the throat. He staggered

back to an aid post and collapsed. But the noise of battle was too much. He revived, drew his revolver and set off again at the enemy. He only stopped when he was unconscious. The day after this battle, Macnaghten's close associate, the barrister Colonel Henry MacLaurin was killed in action. His death was a great shock to the legal community.

Fighting with Macnaghten in the 4<sup>th</sup> Battalion in that battle were the Sydney solicitors Lieutenant Bertie Stacy and Lieutenant Adam Simpson. Bertie Stacy was reported as being a particularly effective soldier who 'displayed gallantry, coolness and judgement during the whole operation.' The report was one of a number of such commendations made by their Company Commander, another solicitor, Captain Hector Clayton. The men survived the fighting, but others were not so lucky. Major John Brier Mills a 45-year-old solicitor who had survived the Boer War, was killed in the Turkish attacks in late May.

Other Units containing the usual proportion of solicitors arrived to replace the fallen. Captain John Malbon Maughan survived New Guinea then went to war again with the 12th Light Horse Regiment. Commanding the Light Horse was a 46-year-old solicitor and Member of Parliament, Percy Phipps Abbott from Glen Innes. He had another solicitor serving with him - Ernest Ambrose "Nulla" Roberts, a 43-year-old who practised in Wagga. Roberts was one of those who had joined up as an example to younger men. He could have kept away from the front line as an orderly with his good friend and commanding officer, Percy Abbott. However, Roberts insisted on fighting and was killed while duelling with a Turkish sniper in the front lines on 17 September 1915. His death was widely mourned, particularly amongst the ex-student community

of The Kings School, at Parramatta, which he had attended along with his fellow Light horseman, John Malbon Maughan. Such close connections were common amongst lawyers.

At least two other solicitors fell in action on Gallipoli. On 6 August a number of Units attacked one of the heavily defended Turkish Positions at Lone Pine. The indefatigable Macnaghten, newly promoted to Lieutenant Colonel and recovered from his earlier wounds, led the 4<sup>th</sup> Battalion was wounded again during the action. His name reappears throughout the accounts of Lone Pine; calling for reinforcements; replacing officers wounded or killed in action; clearing the trenches of wounded and organising the defence against Turkish assaults. Macnaghten's worst injuries were not physical. He was deeply traumatised by his experiences.

Amongst the men killed at Lone Pine in the 2<sup>nd</sup> Battalion was the South African born solicitor, Private Rayner Garlake. He disappeared in battle a few hours after arrival on Gallipoli. His wife made enquires about his fate through the Red Cross, but no one knew what happened, probably because no one at the battlefield had time to get to know him. His fate was only confirmed when his body was discovered in 1919. He had probably not had time to unpack his gear and have a sleep before he was killed.

Withdrawal from Gallipoli was inevitable because of the tactically poor position in which the ANZACs found themselves, exacerbated by the now freezing weather. On 11 December, solicitor, Major Gordon Uther went forward with two other officers to check the frontline in preparation for covering the evacuation. Turkish shells exploded

nearby as they scrambled up Monash Valley, but they were safe in its deep trenches. However, when they arrived at Russell's Top they were more exposed and, after waiting a few minutes, they scuttled along the less protected trench towards the frontline. After barely a dozen yards a shell landed amongst them, killing Uther and another Sydney barrister, James Logie Marcus, as well as their Battalion Commander, Major Richard Jenkins of Hornsby.

### Egypt 1916

Following the Gallipoli evacuation, the Australians regrouped in Egypt with new reinforcements from Australia, in preparation for transfer to the war in Europe. The solicitor, John Maughan, was one of the Australian troops who traveled across Europe and assembled for battle. His deep appreciation of French and English monuments was typical of his peers, most of whom had received an education steeped in European history.

The 4th Battalion was put under the temporary command of the newly promoted Major Bertie Vanderleur Stacy who replaced the now thoroughly worn out Lieutenant Colonel Macnaghten. Macnaghten was repatriated to Australia, medically unfit for duty. However, he became the central figure in many services and memorials to the men of his battalion. One other solicitor in the 4th Battalion was making his mark as a successful commander. He was Captain Adam James Simpson, whose mother was so active in the Red Cross. Simpson, the son of Mr Justice Simpson, was proving himself a fine leader of men.

Other lawyers who would make the journey from Egypt to France included the Sydney solicitor, Captain Arthur Wellesley Hyman, who had landed on Gallipoli on 25 April 1915. He had been one of the lawyers active in the busy military courts in Egypt. From August 1916 he was a very well respected claims officer at 4<sup>th</sup> Division Headquarters. He was eventually appointed OBE for his work in that role.

The Western Front, France 1916 – 18

The killing started again not long after the Australians reached France. Solicitor Lieutenant Robert Clive Hunter was killed in action 13 June. Hunter was probably a tragically unlucky victim of German artillery. Over the next three years many legal families would suffer the loss of a loved one because of an unlucky shell.

Once on the Western Front the industrial nature and scale of the conflict dwarfed the individual stories of anyone involved. On 20 July 1916, the fierce battle of Fromelles took the life of another solicitor Lieutenant Clarence Collier of Boundary Road Roseville. The family received a cable from the military authorities after the battle to say that their son was wounded. Then they heard nothing. The Missing and Wounded Bureau uncovered a series of different accounts from wounded soldiers scattered in hospitals across England. One said Collier had sprained his ankle; another said he was still at the front. His death was not confirmed until over a year later.

In 1917 General Haig's step-by-step approach saw a succession of battles and consequently a succession of deaths in the ranks of serving solicitors. Wilfred Foxton King Kemp, a solicitor from Bellingen was wounded 11 April while coming off duty from his first battle at Arras, and died 29 May 1917. He was one of five cousins killed

in the war. Not long after Kemp was fatally wounded a Hunter Valley solicitor Frank Wadhurst Fry was killed trying to rescue a wounded comrade near Hermies in France. At Polygon Wood on 26 September 1917 Captain Hubert Thompson led his men forward only to be killed by artillery. His body was lost in the violence and has never been located.

Solicitors and their associates went into a variety of services and death took many forms. Henry Bowd, articled to Anderson & Halloran in Inverell joined the Australian Flying Corps in Egypt. He was killed 25 October 1917 when the plane he was piloting fell apart in mid air as he attempted to put it into a tight manoeuvre.

As these battles took place, the traumatized Lieutenant Colonel Macnaghten nevertheless reenlisted under another name and ended up on the Western Front. His well-known face, his CMG ribbon and accent marked him out among the close knit front line communities. Eventually he met up with his old associate, Hector Clayton who told him "Don't be such a bloody goat, Charles!"<sup>v</sup>. Macnaghten had a great deal of trouble adjusting to life after the battle at Lone Pine.

#### Impact of the War on Law Firms

Some law firms were particularly struck by the war. The law student, Adrian Consett Stephen, the son of J Alfred Stephen of Stephen, Jaques & Stephen (now Mallesons, Stephen, Jaques), joined the Royal Field Artillery. He was killed by enemy artillery fire 14 March 1918. Barrister, Harold Vivian Jaques, the son of the firm's partner, Alfred Edmund Jaques, also served and was eventually badly wounded, losing his leg and a finger in action. On 17 September 1918 Graham Cameron, a solicitor who had been articled to J Alfred Stephen was killed in action. Only a day earlier Cecil

Bernard Feneley another Hunter Valley solicitor was caught in a German barrage. He tried moving to what he thought was a safer position, but in the tragic lottery chose the wrong place and was killed. Feneley and Cameron were both killed barely eight weeks before Armistice.

War related legal cases included many that emanated from the crowded and often poorly conducted camps around Liverpool and elsewhere. Camp followers provided the usual string of offences as the authorities tried to control their activities. The *War Precautions Act (1914)* gave great powers to the government. The Sydney barrister Robert Randolph Garran was appointed Solicitor-General by Prime Minister William Morris Hughes. Garran was in charge of enforcing the provisions of the *Act*. In a famous incident the barrister Thomas Bavin walked into Garran's office and asked: "Would it be an offence under the War Precautions Regulations...?" Without waiting for Bavin to finish, Garran responded, "Yes!"

### Aftermath

By the end of the war in 1918 at least 370 law students, barristers, articled clerks and solicitors had joined the armed forces. Sixty two had died from war related causes. Seventeen of the dead were solicitors. It is hard to understand the change in nature that the war wrought on normally peaceful men. Perhaps the best summed up by the words of Adrian Consett Stephen, whose letters home were published posthumously. He wrote in July 1916, that while he was glad to be safe, "the guns call to me from a distance; they fascinate and repel, but there is a fascination, though it might be unpleasant, like the fascination of a snake."<sup>vi</sup> And like a snake, there were dangers. The names of the solicitors who fell victim to them are::

William Edmund Cotter  
Guy Kennedy Davenport MC  
Alan Dawson,  
Norman Lockhart Dreyer DSO  
Cecil Bernard Feneley  
Frank Wadhurst Fry  
Charles Bernard Donaldson  
Rayner Garlake  
Robert Clive Hunter.  
Wilfrid Foxton King Kemp  
Howard Douglas McKenzie  
Walter Thomas McLaren  
Thomas Alexander Ogilvie  
Ernest Ambrose Roberts  
William Stewart  
Hubert Gordon Thompson  
Gordon Arthvael Uther  
*Lest We Forget*

The author teaches English and History and is the Senior Studies Coordinator at St Pius X College at Chatswood. He has published two books, *Suburban Boys at War and Beecroft and Cheltenham in World War I*, in addition to numerous articles. This article is a condensed version of two working papers on the legal profession in World War One which may be accessed on the website for the Forbes Society for Legal History at <http://www.forbessociety.org.au/>. The research is ongoing. People with

information or interest concerning the topic are invited to contact the author at  
acunneen@bigpond.net.au

**Acknowledgement:** The author would like to express his gratitude to Brian Williamson for his valuable advice in the preparation of this article.

## **Bibliography**

### **Books and Other Publications**

Bean C.E.W. (1921 - 1941) *Official History of Australia in the War of 1914-18 The Story of Anzac* Volumes I to VI Sydney: Angus and Robertson

Bennett, J.M (1984) *A History of Solicitors in New South Wales* Legal Books Pty Ltd. . Sydney

Blair, D (2001). *Dinkum Diggers: An Australian Battalion at War*. Melbourne University Press. Melbourne.

Bowden S.H. (1919) *History of the Australian Comforts Fund*. New South Wales Comforts Fund. Sydney

Hall, GE & Cousins, A. (Eds) (1939) *University of Sydney Book of Remembrance* Sydney

Mackenzie, K.W. (1946) *The Story of the Seventeenth Battalion A.I.F. in the Great War*. Sydney.

Minter RH, Howard, W. Burge W.R. (1986) *Minter Simpson – A History from 1827*. Sydney. Minter Simpson.

Nairn, B. & Searle, G. *Australian Dictionary of Biography*. Melbourne University Press.

New South Wales Law Almanac (1922) *Roll Of Honour* Government Printer. Sydney

New South Wales Law Reports (1916) *The Weekly Notes Covers*. Sydney

Oppenheimer, M. (1995) Alleviating Distress: The Lord Mayor's patriotic Fund in New South Wales, 1914 –1920. *Journal Royal Australian Historical Society* Vol 81. Part 1 85-98.

Oppenheimer, M. (2002) "The Best PM for the Empire in War? Lady Helen Munro Ferguson and the Australian Red Cross Society, 1914 – 1920." *Australian Historical Studies* 119. Pp 108-124

Scott, Ernest (1941). *Official History of Australia in the War of 1914-18* Australia During the War. Angus & Robertson. Sydney

Stephen A.C.S. (1918) *An Australian in the RFA* W.C. Penfold & Co. Sydney

Street, KW. (1941) *Annals of the Street Family of Birtley*. Private Publication.  
Sydney Courtesy Sir Laurence Street.

Stanley, P. (2005) *Quinn's Post* Allen & Unwin Sydney

Sydney Grammar School *The Sydneian 1914 – 1920* Sydney

Taylor, F.W. & Cusack T.A. (1942) *Nulli Secundus: A History of the Second Battalion, A.I. F. 1914- 1919*. New Century Press. Sydney

*The Law List of Australia and New Zealand 1914* Butterworth & Co. Sydney

Treath, V.(1940) *The Law School and the War in* Bavin, T R (ed) *The Jubilee Book of the Law School* Sydney.

### **Online Databases and Websites;**

Embarkation records of soldiers and, where available, accounts of death in action or Honours and Awards Recommendations were accessed through the Australian War Memorial Biographical Databases [www.awm.gov.au](http://www.awm.gov.au) , including the following files:

- *Red Cross Wounded and Missing Files World War One*
- *Nominal Roll for World War One*
- *Embarkation Roll World War One*
- *Honours and Awards Recommendations World War One*

- *Unit War Diaries*

National Archives of Australia - *Service Records for Soldiers of World War 1. Series*

B2455 [www.naa.gov.au](http://www.naa.gov.au)

### Endnotes

---

<sup>i</sup> Also known as The War Chest. There was a plethora of such funds which amalgamated and reformed in a variety of ways during the war.

<sup>ii</sup> WM Marks Empire Day Address reported in *The Sydneian No. CCXXXVJ* June 1918  
Courtesy of Sydney Grammar School. 7.

<sup>iii</sup> Bean C.E.W. (1921) *Official History of Australia in the War of 1914-18 The Story of Anzac Volume I* Sydney: Angus and Robertson. 54

<sup>iv</sup> *Ibid.* 490

<sup>v</sup> Chapman I (1975) *Iven G Mackay Citizen and Soldier*. Melbourne: Melway Publishing Pty Ltd. 93

<sup>vi</sup> Stephen A.C.S. (1918) *An Australian in the RFA* W.C. Penfold & Co. Sydney 120

The MAT-49 was developed by France after World War Two to satisfy the need for a more modern submachine gun to replace the MAS-38. The military had come around to standardizing on the 9x19mm cartridge [â€¦] Share this

In Estonia, there is a story of two companies during World War Two. Both were Estonian, but one was a conscript group in the Waffen SS and the other was conscripted by the Soviet Union. In the deep dark woods, these two groups got lost and then began walking side-by-side.

1 World War I had a significant impact on people at home in Australia, especially for women and people of German background. Explain why and how the war might have affected these two groups of people in particular.

1 It has been argued that wars are essential to a nation's development and sense of national identity. Do you believe this is true? Discuss your ideas as a class, making reference to the way in which World War I is commemorated each year.

2 What were the two major alliances formed before World War I? Which countries were the members of the two alliances?

3 Why was Germany's colonial empire so much smaller than Britain's in the lead up to World War I? Apply and analyse.

4 Using Sources 5 and 6, explain what is meant by the term "arms race".

World War I, international conflict that in 1914-18 embroiled most of the nations of Europe along with Russia, the U.S., the Middle East, and other regions. It led to the fall of four great imperial dynasties and, in its destabilization of European society, laid the groundwork for World War II.

A British soldier inside a trench on the Western Front during World War I, 1914-18. Hulton Archive/Getty Images.

Top Questions. What was the main cause of World War I? World War I began after the assassination of Austrian archduke Franz Ferdinand by South Slav nationalist Gavrilo Princip on June 28, 1914. Read more below: The outbreak of war.