

The Law at War (1916)

A Social History of the New South Wales Legal Profession in

1916

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“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.”

Adrian Consett Stephen, Diary entry: Pozieres, 25 July 1916

From *An Australian in the Royal Field Artillery* by Adrian Consett Stephen, (1918)
WC Penfold & Co. Sydney

Adrian Consett Stephen, MC., C de G avec Palme. BA. LLB. Student-at-law. Son of A Consett Stephen of the legal firm, Stephen Jaques and Stephen. Grandson of Chief Justice Sir Alfred Stephen. Graduate of Sydney Grammar School and Sydney University. Killed in Action 14 March 1918

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A Social Profile of the Legal Profession at the Beginning of World War One

While this paper focuses predominantly on the legal profession in 1916, it is worth beginning with a brief description of the social and physical world in which lawyers operated before the war. The barristers were mostly housed in Victorian colonial buildings surrounding St James' Church, the State Parliament and the Supreme Court. The area around Macquarie Street was predominantly three storey townhouses. The spires of St James' church, St Mary's and St Andrew's cathedrals punctuated the skyline to the south and west of the court. The city had a noticeably English style evident in the Victorian style of the buildings as well as the sweeping formal pathways of the Botanic Gardens and Hyde Park. The sandstone bulk of Fort Macquarie squatted on Bennelong Point. The Mitchell Library was a recent addition to the Macquarie streetscape.

Approximately 150 barristers congregated in Phillip Street. They crowded into Wentworth, Denman, Selborne and University Chambers. The New South Wales Bar Association was only a few years old and met in Banco Court. Solicitors' offices were located in the nearby city thoroughfares of Pitt, Castlereagh, Elizabeth and George streets. Some well-known firms such as Norton Smith & Co, Stephen Jaques & Stephen and Minter Simpson were already established. Major clients including the Colonial Sugar Refining Company gave lucrative employment to select lawyers.

A number of families were established in the Law, including the Streets, Stephens, Windeyers, Simpsons, Abbotts, Fitzhardings, Addisons and Owens. While many young men with these surnames went into Law, their sisters did not have the same opportunities. The wives and daughters of professionals often put their energy into charitable causes. "They were always getting involved in some cause or another," wrote the daughter of one successful architect at the time. Elaborate social rituals governed female behaviour. There were strict rules amongst women concerning the proper etiquette regarding the returning of visits and being at home. One woman scandalised her neighbourhood by being suspected of playing cards during the day. On another occasion, the wife of one local police constable won a craft competition – which was considered improper, because of her lower class compared to the other entries. "But the war changed all that", wrote the architect's daughter, who lived just around the corner from one of the most promising young law students to go to war in 1916, James Blackwood.

The legal community lived in established areas outside of the city. The city itself was not a pleasant environment. When the poet Banjo Patterson wrote about his "dingy little office" midst the "the foetid air and gritty of the dusty dirty city," he had been referring to his time in legal practice with JW Street. Patterson's condemnation was of his surroundings, not the Street family, with whom he remained close for the rest of his life. Many lawyers such as the Streets lived in the beautiful open spaces of the Eastern suburbs. They could travel by cable tram from King Street to Edgecliff, then

meet the electric service from Dover Road, Rose Bay, at Ocean Street. Trams also plied their way along Elizabeth Street. Traffic congestion was becoming an issue.

Other lawyers lived on the North Shore of Sydney Harbour, in Mosman or Neutral Bay. Another group lived upstream of the harbour, along the winding, picturesque Lane Cove River, in suburbs including Greenwich, Woolwich and Hunters Hill. The latter suburb was a popular residential area for Judges and other legal professionals. Locals nicknamed one early morning departure from the Alexandra Street Wharf in Hunters Hill, the ‘Judges’ Ferry’. The elegant, double-decked, steam-powered craft allowed the lawyers to arrive at King Street Wharf then travel up the hill to be in time for the first court sitting of the day. It was a beautiful way to get to work, with stop offs at Riverview, Woolwich and Greenwich before entering the Harbour. The shared ferry trip helped to promote the close ties that existed within the Hunters Hill legal community.

Another group of lawyers lived in the bucolic surroundings of Sydney’s Upper North Shore. There were substantial houses and estates at Wahroonga, Warrabee, Pymble, Gordon and Lindfield. An extension line allowed steam trains to wheeze and gasp down the rails towards Milsons Point, where passengers met the ferry service to Circular Quay. The North Shore area greatly supported the war through enlistments and charitable work.

Many lawyers had forged their friendships, values and beliefs by attending one or other of the Greater Public Schools (GPS) particularly Sydney Grammar School (Grammar) in the city, The King’s School (King’s) at Parramatta, the Sydney Church of England Grammar School (Shore) at North Sydney, or Newington College at Stanmore - if they were Protestant or Jewish. Catholics tended towards St Ignatius’ (Riverview) or St Josephs Hunters Hill. Other lawyers attended country schools such as All Saints’ Bathurst or the various public schools including Sydney High School or Fort Street. Their sisters attended similar establishments. Abbotsleigh and Ascham, in particular, had their share of girls from legal families. The list of schools chosen for the education of legal families is not exhaustive, but gives a good indication of the relationships amongst the legal community made possible through shared educational institutions. These schools fostered connections amongst their ex-students, which would emerge in surprising places.

Sydney University was another influential institution that inculcated its values into young lawyers. In addition, churches such as St Mark’s at Darling Point or All Saints’ at Hunters Hill were also powerful social forces in lawyers’ lives. Many senior lawyers socialised and shared their ideas as members of the Australian Club in Macquarie Street, just around the corner from the Supreme Court. Their clerks exchanged news while playing dominoes when they were able, in one of the local coffee shops. Overall, lawyers were loyal to the British Empire and generally patriotic about the new nation of Australia, but also felt that the new Federation had to prove itself on the word stage and define itself as a country. The legal community’s support for the war was a manifestation its values of leadership, duty and social obligation.

The legal landscape was changing from what Wilfred Blackett in *May It Please Your Honour* described as a “Golden Age” of colonial security and certainty. The newly established Federation created a need for new interpretations. Emerging technology

meant new legal situations. Although transport was still dominated by train, horse or steamship, the motorcar was making its presence felt through events such as the 1905 Sydney to Melbourne Reliability Run, and the 1909 release of the Model T Ford. There was much community anxiety over the new machines. Legislation was enacted to govern damages. Personal injury became a developing issue to be resolved in the courts.

But everything changed when war was declared in August 1914.

There was a rash of enlistments amongst lawyers when war first broke out, and then again after Gallipoli in mid 1915. By the beginning of 1916, members of the legal profession and their families were involved in the war as active soldiers, sailors and airmen, or volunteer workers - at home and overseas. In addition, various barristers, solicitors and judges had acted in a number of war-related matters. These activities would escalate throughout the year. The legal community was not immune from the sadness inherent in the drama overseas. The war brought tragic surges of telegrams to the legal communities throughout Sydney and country New South Wales. The hive of legal activity in Pitt and Phillip Streets was approached with escalating numbers of requests for support in one form or another for the boys overseas – and on the whole they responded enthusiastically.

In 1916 the soldiers would still march along Macquarie Street to depart for the battlefields and offices, but increasing numbers of late-night departures meant that even that spectacle was denied them. Chambers and courtrooms would absorb the grief of families suffering the loss of loved ones. Occasionally death notices would be delivered to lawyers' offices directly as they were listed as the home address for clients or relatives. In addition, the war would encroach into legislation and give a pointed edge to high-profile legal cases. But 1916 marked a change in attitude from the naive enthusiasm of battle glory to a bitterly stoic will to see the ugly business through to the end. People would be maddened with grief over the loss of some of the most talented young men in New South Wales.

Emerging Legal and Political Issues in 1916

The political careers of the New South Wales lawyers in the war are well related in a variety of publications. Many barristers were active in politics. For example, the wartime prime minister, William Morris Hughes, was listed as a barrister in University Chambers in 1914. While a member of the Labor Party, his attitudes towards government control certainly matched those of his fellow Sydney lawyers. These lawyers became involved in all manner of war-related activities. Barrister, LFM Armstrong, was the Chief Censor for the Sydney Military District from January to March 1916. He was in charge of a staff of press censors, postal censors and interpreters. Judges were called upon to adjudicate many matters, and often their judgments led them into unexpected territory.

The dominant legislation for the period was the *War Precautions Act*. In 1916 the Sydney barrister Robert Randolph Garran was appointed Solicitor General by William Morris Hughes. Garran had been a member of the Constitutional Convention and as such had been an influential figure in the lead up to Federation. He had written influential books on the topic: *The Coming Commonwealth* and *The Australian Handbook of Federal Government* which were published in 1897. In 1901 he published *The Annotated Constitution of the Australian Commonwealth*, coauthored with J Quick. Garran was in charge of enforcing the provisions of the *War Precautions Act*. His interpretation of its powers was that the Act gave the Commonwealth authority to make laws about anything that affected the war effort - and High Court interpretations in disputes meant that this covered almost anything. 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!" Bavin in turn replied: "That's the soundest and shortest opinion I've ever heard you give." Garran's response would have resonated with Bavin's favourable views of government control as indicated by his support for the Universal Service League. The anecdote not only reveals the power the act gave to Garran but also suggests a comfortable familiarity between the two lawyers. The incident resonates with High Court's decision in the famous case of *Farey v. Burvett* (1916). This decision gave the Federal government power which in other circumstances would have been the prerogative of the States. Many lawyers wanted this power exercised in the most overt way – through Universal Service.

The Universal Service League was founded in 1915 to advocate, in its own words:

The adoption for the period of the present war of the principle of universal compulsory service at home or abroad, in the battlefield or elsewhere; and to support the Government in providing at the earliest possible moment such organisation as is necessary to secure the wise and just application of this principle.

The legal community was well represented on the Executive of the New South Wales Branch of the Universal Service League including the barristers: WA Holman MLA, who was the State Attorney General; The Honourable Charles Gregory Wade KC MLA; The Honourable John Garland KC, MLC; FS Boyce; EM Mitchell; and one of the most influential of legal people, Professor J B Peden of the Sydney University Law School. There were a number of other lawyers involved in the League in a variety of ways. The Honorary Secretaries of the League were the barristers Thomas Rainsford Bavin and the Honourable JD Fitzgerald. The League's offices were in these barristers' building at University Chambers in Elizabeth Street Sydney. The League's situation was geographically and socially at the heart of the legal profession. Bavin, along with many other lawyers was a member of the Australian Club, just around the corner from their chambers. Bavin went on to have a very successful career, eventually becoming Premier of New South Wales.

The lawyers were among those who put their names to a small pamphlet, *The Case for Universal Service*, which was sold for one penny in late 1915. Among other things, it stated their attitudes to the Empire, conscription, and community service in general. To the members of the League . . . :

The existence of the British Empire and all that it stands for, to its own citizens and to the world at large, is in danger. If the Empire should fall the rights and liberties which, to a British community, are as necessary and natural as the air they breathe, will fall with it...Our first duty is to send more men to the front...Besides sending more men to the fighting line we must so organise all the community that every man and every woman may be able to render the best service of which he or she is capable to the Empire's cause.

The pamphlet was a strong call for conscription, but it also gave an indication of the way a number of leading lawyers viewed the legal landscape of the new Federation. In the section dealing with objections to conscription, under the derisive heading "The Legal Quibble", they dismissed any possible legal challenge to government directives. They wrote:

On the legal question, which has been raised, as to whether the Commonwealth Government has the power to pass a law compelling citizens of the Commonwealth to serve as soldiers outside the territorial limits of Australia. Such power probably exists under the Constitution as it stands at present. But even if it does not, it is quite absurd to suppose that a legal technicality of this kind would be allowed to hamper the Federal Government in requiring Federal service abroad for Imperial purposes.

More importantly, the League was not simply urging conscription into the military forces: the members wanted full government direction of all aspects of life. They wrote that:

In short, the league holds that the government should find out what help in money or in work every man and woman, every lad and lass can best give, towards winning the victory in this war: and then enable and command them to give it.

These strong proposals stirred up strong reactions – both for and against. Supporters of the League addressed public meetings around the city. The barrister Edward James Loxton, accompanied occasionally by Professor John Peden, spoke at Hornsby, Thornleigh and Beecroft on the Upper North Shore of Sydney in just one week in September 1915. As a result, there were five local Universal Service League committees in Hornsby Shire at the beginning of 1916. Conscription was the major political issue that the legal profession actively promoted throughout 1916. Isolated by their enthusiasm they misread the mood of the country. Prominent solicitor and army officer, Charles Melville Macnaghten, wrote his impressions of 1916 as being that: “the country generally is in favour of conscription except for a few out and out red rag Socialist Unions.” The “No” vote in the referendum at the end of 1916 showed just how wrong was his opinion of the country’s mood.

The war took on its own momentum for the profession. Just as the lawyers who went away were swept up in the grand struggle and extraordinarily different world in which they acted so the same happened to those who became involved at home. The unfolding conflict gave new and unexpected nuances of experience to all who were involved. Events compounded. Thus, the campaign for Universal Service gave an impetus to the activities and agitations of the International Workers of the World the IWW. Not all the citizens of New South Wales shared the lawyers’ enthusiasm for the idea of Universal Service for the Empire, although the *War Precautions Act* certainly gave the government that opportunity. As the war progressed, political associations such as the Universal Service League attracted the patriotic energy of a range of leading lawyers. Through such organisations as the League, the legal profession promoted its key social and political values: loyalty to Empire; centralised government; and leadership and service to the community. Lawyers, along with many people at the prosperous end of the social spectrum, lived according to the idea of *noblesse oblige*. They provided leadership in politics, charities and the military. Their commitment to these values was not simply theory and rhetoric. They were willing to put some of their best representatives into the front line and sacrifice their fees, time and energy and risk controversy to support a variety of war causes.

It is beyond the scope of this paper to give a comprehensive overview of the legal activities in New South Wales at this time. There were the usual assaults, thefts, frauds and damages cases. The rights of tenants and of landlords kept many courts busy, as did divorces. There was a gradual increase in the number of cases involving motorcars, which matched the rising use of that form of conveyance.

The war threw up some peculiar matters. One was the Royal Commission into the conditions in camps. While the men on Gallipoli battled the elements and the enemy, the military authorities in Australia struggled to come to terms with handling large numbers of recruits. As the men crowded into hastily erected camps, the strains on the inadequate facilities caused all manner of problems. Liverpool Camp, outside of Sydney, was particularly sensitive location, with a history of troubles. There were a number of cases where local businesses were prosecuted for their dealings with the soldiers.

Mr Justice Rich was appointed to head a Royal Commission into the camp, and his recommendations caused a stir within the government, the military, and a variety of

social pressure groups. The Commission attracted some very influential lawyers. Barristers Reginald Innes and Henry Edward Manning assisted Rich. Innes, the son of the Supreme Court Judge, Sir George Long Innes, was appointed KC in 1916 and later joined the Australian Military Forces as a lieutenant, but was too old to be sent overseas. He served in Australian postings from 1916 to 1919. He was appointed to the Supreme Court Bench in 1925. Manning had been associate to Mr Justice RE O'Connor of the High Court of Australia and went on to take silk before an influential political career, working closely with his friend Sir Thomas Bavin, among others. Manning had attended St Ignatius' College, Riverview with Justice O'Connor's son, George. Another well-known barrister, Edward Milner Stephen, acted for the camp medico, Dr Schlink. Milner Stephen was the grandson of Sir Alfred Stephen. He was a member of the Council of the Bar for New South Wales and was appointed a puisne judge in 1929. He retained a lifelong commitment to community service, exercised in the support of a variety of causes. Milner's sister, Thea, was another lady energetically involved in the Red Cross. His brother, Edgar, served as a Doctor with the Australian Army Medical Corps in France.

Rich's report was thorough, well documented and well written but was not without controversy. He was critical of Dr. Schlink being allowed right of private practice while spending only the afternoons on duty, especially since there had been a staggering 53 deaths at the camp since the start of the war. Rich also criticised the training by the officers, and concluded his report stating:

The Spartan like method of exposing soft recruits to unnecessary privations and hardship is not only cruel but calculated to endanger lives. In many cases the men may be permanently incapacitated and become a burden before they have had a chance of fighting on its behalf.

Rich displayed great sensitivity and understanding of training and the finer details of handling large numbers of men in camp. He recommended that the availability of alcohol be severely restricted. Temperance groups were jubilant, and a number of such individuals and organisations wrote to the government supporting the banning of alcohol completely. The military took a more moderate line, and urged regulation. Rich's recommendations included a ban on the practice of a "patriotic drink", whereby soldiers in uniform were given a free tippie. A medical report endorsing this proposal was not released. A Department of Defence Minute Paper stated that Rich's recommendations "regarding alcoholic indulgence (were) so grave that they would constitute . . . a serious deterrent to recruiting." The message was clear: Australian soldiers liked a drink. Rich's recommendations, supported by the medical board, fell on deaf ears. There were further riots in Liverpool in February 1916, for much the same reasons as he had investigated.

Rich was more controversial than he might have expected. The investigation was particularly relevant to him. He carried out his commission shadowed by his own personal grief. His son, John Stanser Rich, had been killed a few weeks before his father's appointment. Perhaps it was sensitivity to what his own son may have suffered, in addition to the evidence, which led Rich to make such sensible recommendations.

John Stanser Rich had travelled to Europe in February 1914 with his mother and sister. When war broke out, he volunteered for service. He went to Aldershot and was commissioned a Lieutenant attached to 3rd Battalion King's Liverpool Regiment from August. John Rich died in action 17 May 1915 at Festubert, aged 19. His commanding officer wrote a citation in which he praised the young Australian lieutenant:

For gallantry and devotion to duty on the 16th and 17th May 1915 at Richebourg in leading his platoon across "no man's land" under very heavy fire and subsequently in a further attack on the Ferme Cour D'Avoue on the 17th, when his platoon was ordered to withdraw from a difficult position, by his coolness and ability he was able to effect this with success and with very few casualties. Lieutenant Rich was exceptionally brave on this occasion running great personal risks to ensure the safety of his men. He was killed almost at the moment when the operation was concluded.

As was so common for young men of his background, John Rich was killed, leading from the front.

Justices Rich and Street both lost sons in May 1915. Justice Street's son, Laurence, had been killed standing on the parapet of his trench, leading his men in their defence against a Turkish attack on Gallipoli. Both boys had been to Sydney Grammar School. Justice Street was the Chairman of the Trustees of the school. As such he was a regular attendee at a variety of functions for Old Boys and students. At some such functions, the names of those Old Boys killed in the war, referred to as "Fallen Sydneians", were read out to the crowd. John Rich was the eighth name on the list. Laurence Street was the ninth. On occasions, Justice Street would then address the assembly. The New South Wales Bar Association had sent letters of condolence to both Justice Rich and Justice Street on the loss of their sons. The legal community supported each other in their grief. Around the same time as these condolences, there was recognition of the death of MacLaurin on Gallipoli and a proposal for a memorial to all barristers who served.

A general outline of legal issues peculiar to the war in 1916 can be gained by a review of *The Weekly Notes Covers* for that year. The legal position of the enemy had been of great concern since the outbreak of the war when the courts had to consider what to do with German ships in or on their way to Commonwealth ports. Further consideration was given to the legal status of the proclamation of war. There was also coverage of the legal ramifications of proceedings by and against alien enemies. These issues percolated through the Notes in 1915. The legal rights and obligations of enemy aliens were a great interest. Could they sue? Be sued? Could they appeal? What happened in industrial awards where parties were not divided by the line of war? Could enemy alien be summarily dismissed on suspicion of possibly committing sabotage? Much of the material in the *Notes* deals with English cases. As the war continued so other interesting legal questions came to the fore. Was it libellous to call a man a German as it could "bring him into hatred, ridicule or contempt with the public at large?"

By 1916 it was "well settled law" that the outbreak of war brought about the dissolution of a contract with an enemy. Industrial relations were by no means as

obvious. In March and April 1916 there were a series of reports on an article by Mr Justice Higgins had written an article for the Harvard Law Review aimed at explaining to American readers the position and functions of the Commonwealth Court of Conciliation and Arbitration. His intention was to discuss “some general aspects of the Australian endeavour to secure industrial peace through the minimum wage and arbitration.” In May there was an article on the German “act of Barbarism” in executing Nurse Edith Cavell. The writer was trying to urge America into the war “to safeguard the rights of humanity.” His comments as reported in Australia indicated the legal justification many in the law community may have felt: that by participating in the war they were in fact advancing some form of legal principle. In June Justice Heydon responded to Judge Higgins “with the greatest deference to his honour”. Heydon stated that he “did not think that the promoting of peace but the doing of justice should be “the object of the New South Wales Industrial Boards. The issue of industrial relations would come to a dramatic climax in the Great Strike of 1917. Justice Heydon would later give a significant judgment in a related to that issue. One of the most high profile cases of 1916 involved the Industrial Workers of the World

The war gave lawyers and judges a number of cases with which to test the powers of the new Australian legal system. Generally they interpreted it according to a strong, centralist policy. Crimes could be seen as being more heinous because they went against the spirit of a country at war. In this context they came across organisations such as the Industrial Workers of the World- the IWW, or more prosaically, “The Wobblies”. The IWW was an international workers organisation, which flirted with anarchism, encouraged sabotage, had a number of idealistic aims, and a rousing anthem: *Solidarity Forever*. One of its spiritual leaders, Joe Hill, had been executed by firing squad for a grubby murder in the United States. His last words were “Don’t waste time mourning. Organize.” The IWW was busy doing just that down among the dockworkers of Sussex Street, and the rail and other unions around Sydney. The tram workers who transported the lawyers back to their homes in Darling Point and Vaucluse were sympathetic to the IWW. The IWW was on a collision course with the New South Wales Establishment and the legal system that supported it. They were natural enemies.

On 2 April 1916 there was a particularly lively afternoon of speeches in the Domain – a noted venue for soapbox orators. Unfortunately for one Doland Grant he shouted out in the presence of a policeman: “For every day Barker (an anti conscriptionist) is in jail it will cost the capitalists ten thousand pounds.” It is not clear what Grant meant by this statement but it got him into a great deal of trouble to the extent that along with eleven other members of the Industrial Workers of the World he was tried for conspiracy to burn down buildings, conspiracy to release Parker by unlawful means and conspiracy ‘to incite sedition among his Majesty’s subjects.” He was not simply on trial for his fifteen words, although that was what the IWW apologists claimed. There had been a number of arson attacks and a murder in Tottenham in the middle of 1916 and there was genuine fear of anarchist violence. The IWW was blamed. The defendants were brought before Mr Justice Robert Darling Pring in one of the most publicized of cases in November and December of 1916.

The trial went ahead against the background of intense feeling regarding the first Conscription Referendum. Justice Pring was a graduate of The Kings School Parramatta where he had been Dux, School Captain and Colour Sergeant. He came

from a family of graziers. Graziers, represented by their Association were particularly fearful of the IWW. The Graziers' Association's solicitors, McLachlan and Murray gained useful information from the police to against workers' group.

At the time of the trial Pring was also a Governor of The King' School, and President of its Old Boys Association. As such he was party to the universal grief, which met the flurry of tragic telegrams, which came after Gallipoli, Fromelles and Pozieres. He had attended memorial services to ex-students killed in action. Some of the men killed, such as the barrister Charles Edye Manning, were well known to him. Charles Edye Manning had been Secretary of The Kings School Old Boys Association at the same time as Pring was its President. Two other lawyers from The King's School had also been Secretaries of the Old Boys Union: the charismatic Ernest Ambrose "Nulla" Roberts and Alan Mitchell. Both of these men had died at Gallipoli. Pring had attended Roberts' memorial service in the atmospheric stone chapel at The King's School. Manning's death in 1916 was mourned as a fitting sacrifice for the Empire. Charles Manning's brother, Guy, had been killed accidentally while serving in New Guinea. Pring would certainly have known about these and other deaths. Pring had been a fine barrister and had a great reputation but he was a world away from the earthy, boiling world of labour politics, which centered on the Sussex Street area and the Darling Harbour Docks down the hill from the law courts. The rhetoric, which circulated in the world of the *Hungry Mile* of Darling Harbour, would have rankled with him.

The ideas and accusations proposed by the IWW put them on a collision course with the legal community. A popular motif in the IWW program was that the working class carried the bulk of the fighting. On 22 August 1915 Tom Barker, whose imprisonment had precipitated so much trouble for Dalton had said: "Let those who own Australia do the fighting. Put the wealthiest in the front ranks; the middle classes next; follow these with the politicians, lawyers, sky pilots and judges." Barker's accusation was that the working class was carrying the lion's share of the fighting. There is little doubt that the legal profession generally supported the war. It is also clear that the profession were willing to put their sons where their ideals were. Furthermore, buoyed up by a sense of *noblesse oblige* these young men saw it as incumbent upon themselves to provide leadership under the most arduous of conditions. They fulfilled the ideals of education, family, church and Empire. The Wobblies came before a Judge who had lost close friends in the war and had seen fellow Judges lose their sons. Any arguments about the unfair burden of the war on the working class were not likely to win his sympathy.

The trial was held over the months of November and December in 1916. Pring's biographer noted that: "he conducted the trial with scrupulous propriety." The real controversy came when he sentenced the men. Grant received fifteen years in jail for his part in the conspiracy. The workers claimed it was fifteen years for fifteen words – a claim which did not do justice to the evidence, but had a powerful rhetorical effect.. The sentencing was accompanied with Pring's habitual moralizing approach, referring to the need for "strong and drastic steps" to suppress the IWW. The Labour Press went ballistic. H E Boote, the Editor of *The Australian Worker* led the agitation and held little back. Soon after the sentencing in December, he wrote of the trial that:

It is one of the most ghastly atrocities that the Law has ever been guilty of, and that is saying something. I feel dizzy with amazement when I think of it. It turns me hot and cold with indignation . . . It is horrible to think that fifteen years of (Grant's) valuable life should be wasted in jail, while that brainless and brutal jury goes about pluming itself on what it has done, and that class-biased and bitter judge sits in the seat of Justice with loaded scales.

There was plenty more in that vein. According to Boote, Pring was "bigoted" against the working class. Boote's reference to class and bias was part of the rhetoric at the time. The remarks caused him and John Bailey to be charged with contempt of court, again which they appealed and came before Mr. Justice Richard Sly in 1917. Sly was another Old Sydneian and a foundation member of the Red Cross in New South Wales. He was not impressed by their defence.

Perhaps the legal community contributed to the feeling of alienation through its repeated descriptions of itself as a class that produced natural leaders. The controversy over the IWW case went on for years and was reviewed by a variety of Judges including Sir William Cullen, Mr Justice Sly and Mr Justice Gordon. Public outcry led a further review by Mr Justice Street, which basically confirmed the bulk of Pring's judgment. The IWW accusations of the unfair burden of the war on the working class would not have elicited any sympathy from Justice Street, whose son Laurence had been killed on Gallipoli and nephew was killed at Pozieres. Eventually, after much agitation the IWW "Martyrs", as they were called, were released after a review by a judge from Tasmania in 1920. They were promptly given a reception in Sydney Town Hall. In the midst of the first part of the controversy Pring's son, Sydney, enlisted and sailed to the front at the end of 1917. He was wounded but survived the war. Pring continued his successful career. The IWW case led to the passing of the stringent Crimes Prevention Act (1916). The act stated that it was a crime

If any person incites to, urges, aids, or encourages the commission of crimes or the carrying on of any operations for or by the commission of crimes that person shall be guilty of an offence against the act."

Under this law, firebrands such as Grant with his celebrated "fifteen words" could get into plenty of trouble. The war had led to much closer control of the citizens. Pring was not the only judge to engender controversy in 1916. But the legal community was involved in activities well beyond their normal roles.

3

The Legal Community and Charitable Work during the War

The first stirrings of any formal Red Cross organisation in Australia had been in 1911 when the Lane Cove Branch of the Red Cross had its first meeting in the Hunters Hill Town Hall. President was Mrs Archibald Simpson, the wife of Mr Justice Simpson. He supported the first calls to establish an Australian Branch of the Red Cross during 1912 and 1913. The outbreak of the war galvanized those people already interested in the organisation into a vigorous promotion of its ideals. The war gave them the opportunity to put their ideas into action. Originally the Red Cross was to train women and girls in First Aid and other volunteer work, however the war caused an expansion of its activities into a variety of areas.

One of the people who worked hard to establish the Red Cross was Mrs Mary Langer Owen, the wife of Langer Meade Loftus Owen KC. He was a prominent barrister, and had been a founding member of the Council of the New South Wales Bar Association. Mrs Langer Owen was the daughter of Francis Travers Dames Longworth QC, of Glynwood, Athlone. He was Lord-Lieutenant of County Westmeath. She had watched a parade of army cadets in April 1914 and been inspired to find a way to involve the mothers and sisters of the marching boys in the defence of their country. The barrister, Hanbury Davies, was also inspired by that parade. He was another one of those who energetically promoted the movement when the war broke out. One of the great successes of the Red Cross in the war was that it attracted help from all classes of society.

Mrs Archibald Simpson reappeared on the first General Committee of the Australian Red Cross formed in August 1914, within days of the war breaking out. Barrister Hanbury Davies was the Chairman. Among the others on the committee were Mary Langer Owen and her daughter, Gladys. Mrs. Owen was a vice-president of the foundation committee of the State division of the British Red Cross Society and worked ceaselessly for sick and wounded soldiers until her death on 30 November 1917. Their daughter Gladys was joint honorary secretary of the Red Cross from 1914 to 1927. Their son, William, served with the Australian Imperial Force. He joined up in December, 1915 and travelled overseas in May 1916. He survived the war. Other Red Cross committee members included Lady Thomas Hughes the wife of a prosperous solicitor and a Miss Consett Stephen, a relative of another well-known legal family. Lady Eliza Cullen, the wife of the Chief Justice, Sir William Portus Cullen, was vice-president of the New South Wales Division of the British Red Cross Society in 1914, and became president of the Australian Red Cross Society in 1916. She was another energetic supporter of a variety of comfort funds and other organisations during and after the war. The contribution of women like Lady Cullen to public life has not yet been properly researched and written.

Mrs Simpson remained active in a very practical manner and served in the War Chest committee, which sent “Comforts” to the Sydney based 4th Battalion. She was particularly close to this unit. Her son, Bertie, had been killed fighting with it at Lone Pine in August 1915 and her other son, Adam, served with the battalion throughout the war. These women displayed enormous energy throughout the war and proved to be the organisers of one of the most effective institutions in the home front. They were able to deal with the talented but imposing Lady Helen Munro-Ferguson who took charge of the Red Cross and chose women of a certain style and calibre, which she found both effective and comfortable to deal with. Prominent legal families were just the sorts of social context that she found suitable for the leaders of the Red Cross. They did not let her down.

The Red Cross also attracted the support of some very senior barristers. Adrian Knox KC, a member of the Bar Association Council served with the Red Cross as a commissioner in Cairo. He was the son of Sir Edward Knox, the founder of the Colonial Sugar Refinery and would go on to succeed Sir Samuel Griffith as Chief Justice of the High Court in 1919. Knox was very active in a variety of areas during the war. He had landed on Gallipoli late in the campaign to facilitate the delivery of various comforts for the wounded and medical supplies. He later worked with them in Cairo and his name appears on a number of enquiries into the fate of men on Gallipoli. In Egypt he worked to make sure that the stores donated by the Red Cross actually got through to the soldiers. Knox had shown himself to be a great organiser. When he had arrived in Egypt he discovered that there were less than ten men to do the heavy work of shifting the steady stream of cases that an enthusiastic Australian population was sending to the Front. Often ships arrived without warning and anything up to a thousand boxes would be unloaded lacking any invoices, manifests or advice as to what the shipment entailed. Identification marks were often duplicated or simply wrong. A variety of committees in Australia vied with the military for space on the transports. The enthusiasm of these committees often outweighed their practical skills. The cases of donated supplies could be unceremoniously dumped on Cairo Station. The material then needed to be moved within 36 hours.

It is not hard to imagine the chaos that followed the unplanned arrival of heavy, unlabelled boxes of mysterious supplies on Cairo station. There always existed the chance for the supplies to simply disappear before they reached their intended beneficiaries. The intense heat of the June/July months added to the difficulties. There were all manner of goods in the unlabeled crates. Owen and his associate Norman Booth worked hard. *The Red Cross Record* for March 1916 recorded the work Knox had done organising “the supplying of hospital requisites, the arrangements for fitting up outgoing transports, the work in the hospitals and convalescent homes in the various cities and ports.” Knox did a fine job of it, and the Red Cross repeatedly expressed their gratitude and admiration for his charitable organisation. In addition Knox successfully negotiated clear demarcation lines between the Red Cross and a similar organisation - the Comforts Fund. Knox established that the Red Cross would deal with the soldiers in hospital, while the other funds dealt with “comforts” for the ordinary soldiers. There was the constant need to reassure the public that their donations were properly spent, and duplication of effort, or the confusion of aims was a constant concern. The confusion and concern was exacerbated by the fact that many people gave donations that were meant to reach

specific ends, such as blinded soldiers, or a particular unit or hospital. Knox's organisation gave people in Australia the confidence of knowing that their donations went to their proper destinations.

Knox continued his association with the Red Cross throughout the war and served on a number of their committees. These committees often involved both men and women and Knox was not comfortable with the mix. He lamented in a letter to James Murdoch in the London Branch of the Red Cross of having to serve on "Cock and Hen" committees. His reference was clearly to the necessity of having to work with women. He was keen to avoid it if possible. Nonetheless, he was another member of the legal community who found a way to serve the community.

The Windeyer family was also heavily involved in supporting soldiers. The Sydney solicitor, William Archibald Windeyer, was mayor of Hunters Hill. His older brother Richard was a very successful barrister. The Windeyers demonstrated the kind of commitment, which the war engendered among a number of legal families, such as the Streets, Simpsons and the Langer Owens. In 1916, William Windeyer was the energetic honorary secretary of the Hunters Hill War Fund Committee, which raised nineteen thousand pounds for the various patriotic funds. Hunters Hill gave a great deal in terms of money and enlistments. Forty-four men from the suburb lost their lives in the conflict. William Windeyer was awarded the MBE for his efforts. His generosity went to all aspects of his life, even to the extent of being an enthusiastic donor of sweet pea blooms and seeds to the "War Chest" Flower Shop, which operated at 126 Pitt Street in the city. William Windeyer was a keen gardener and specialized in propagating these plants. He was as active in World War II as he was in World War I. His youngest son, Henry, died of wounds received at Tobruk.

Richard Windeyer's wife, Mabel Fuller Windeyer (nee Robinson) was active overseas with charitable war work including the Voluntary Aid Detachments (VAD) and the Red Cross. Her name appears in a variety of places. She made bandages, was an emergency helper in hospitals then qualified as a VAD. She went to the Soldiers' Ward, Royal Hospital for paralytics London. She then acted as Matron in the Red Cross Hostel in Paddington. In January 1916 she was a nurse in the Anglo-French Hospital in Nevers in France. She stayed there throughout the year. Her daughter, Marion Fuller Windeyer was also in England and worked as a VAD at the Paralytic Hospital in Queens Square London then at the Plymouth War Hospital. Such work was not glamorous. Looking after men's surgical cases is heavy work. Only the very committed can do it. Her other daughter, Lois Elwood was also in London and served as a nurse at Wrest Park Military Hospital, Bedfordshire in 1916. She then worked in Bath until falling ill. She later qualified as driver in the Women's Legion working in Dartford and later with the AIF Headquarters in London. Lois and Marion had both attended Ascham School in Sydney. The Windeyer's efforts in Europe indicate a sense of patriotic commitment and willingness to be active in practical and perhaps unglamorous activities. In addition to the three female members of the Windeyer family working for the war, Mabel and Richard's four sons enlisted. One, Charles Robert, was to lose his life in France in 1917. His mother was working with the Australian Red Cross in London when Charles was killed in action in Belgium. She returned to Australia 1919 with his effects.

The Red Cross, in early 1916 was an absolute hive of activity. *The Red Cross Record* of 1 February 1916 described its activities as “Work, work, work, and still more work. Work of every description – in every part of the city and country. Any sort of work from correspondence to jam making, pickle making, spinning, toy-making, basket making, and the arranging of transport of wounded men.” New branches were established throughout New South Wales at the rate of six to eight a week. Each new branch brought with it a wild energetic enthusiasm that had to be organised “upon a real business basis . . . before the sewing” commenced. The names of the barristers Hanbury Davies, Adrian Knox KC and Langer Owen KC, as well as female members of legal families Mrs Langer Owen and her daughter, Gladys, Lady Hughes, Miss Consett Stephen reappear on a variety of committees regarding Finance, Foodstuffs, Hospital Supplies, Clothing, Convalescent Homes, Volunteer Aid Detachments (VADs) the Town Hall, Transport, Produce, Country and Suburban Sales, Receiving and Packing, Books and Games, Industries and the Enquiry Bureau. Then there were committees to oversee the other committees and represent the state at the national level. Mrs Langer Owen’s effort was so debilitating on her health that according to the official historian, Ernest Scott, the work contributed to her death in 1917.

The work was all done with a paper filing system, hand typed letters and an overstretched and problematic cable service. All speeches were made without electronic amplification. Travel was by non-air conditioned trains and trams, or unreliable cars – some of which caught fire without warning - or they walked, rode or went by horse and buggy. Of all the service so important to the Red Cross, the Missing and Wounded Enquiry Bureau in particular would grow in importance throughout 1916. *The Red Cross Record* explained how The Missing and Wounded Enquiry Bureau provided “ever-sympathetic ears” to the “poor old mothers and fathers uncertain of the fate of their sons” who came in to ask for assistance.

The Australian troops withdrew from Gallipoli in December 1915 then recuperated in Egypt. Tragically there was a huge amount of work to be done in sorting out the kit of dead men and trying to trace the fate of those missing and wounded in action. The Red Cross Missing and Wounded Bureau was integral to this process. This Bureau was established with the support of the legal profession in mid 1915 and was one of the great social volunteer successes of the war. The Sydney barrister, Langer Meade Loftus Owen, lead the effort in the Sydney bureau and put in place many procedures and polices which ensured its success. The Bar Association acknowledged the bureau’s efforts.

Many men and women worked hard in Australia, London and France to track down the stories of what had happened to men missing or killed in action. Miss Vera Deakin and Miss Chomley were especially important overseas, but they had a variety of helpers. The families at home eagerly devoured any scrap of information. Sometimes hopes were raised unrealistically or people lived on in false hope for years. Among the many people who interviewed survivors and wrote letters to find out details of loss in battle were a number of lawyers and their wives. Among the London files is the name of Mrs Windeyer assisting to collate information.

Langer Owen worked hard in the Sydney office. He sifted through the many reports of what had happened to men in battle. His legal skills regarding the handling of evidence was of great assistance and are obvious from the sort of enquiry forms that became the standard. Owen selected out what was a reasonable explanation of the fate of the soldier and wrote to the families or called them in for interviews. People were warmly invited to come in to the offices themselves to find out further particulars. Every month there was an advertisement in the *Red Cross Record* urging people to enquire. The advertisement promised: “If sorrow or anxiety can be relieved the Red Cross will try to do it. “ These interviews must have been harrowing scenes but far better than the bald statements contained in telegrams delivered by somber local clergymen. The relief gained from such an authoritative response cannot be underestimated. Langer Owen was energetic and forceful. The bureau’s offices were initially at Woodstock Chambers at 88 Pitt Street but were soon moved in 1916 into the imposingly colonial Dalton Building at 113-117 Pitt Street – surrounded by solicitors both within and adjacent to the site.

Langer Owen often wrote a report on the Bureau for the *Red Cross Record*. On 3 February 1916 he wrote that the Bureau had forwarded the names of just over 1100 men by cable, and had received replies in respect of 1070. They had also sent enquiries regarding 780 men by letter and receive 881 reports by letter in response to them. Langer Owen wrote:

“The whole of the work of the office has been carried on by the legal profession, and between 60 and 70 members of the profession are at work in the office.” Obviously the volume of letters required careful record keeping and the barrister Harry M Stephen was singled out for praise along with one Mr Rutherford. Apart from the letters and enquiries another section collected evidence from the returning soldiers, often visiting them in hospital or interviewing them in the Soldiers Club set up in the Royal Hotel George Street under the strict supervision of Dr Mary Booth. The barrister David Wilson supervised this enquiry section. He made many excursion to the soldiers hospital at Randwick to enquire as to the fate of those lost or killed in action. Lange Owen commented:

Every day we are receiving letters from different members of the public, thanking the office for the help that it is giving to those who are in anxiety or distress, and we cannot help feeling that the establishment of this office has been of considerable benefit to the community.

The investigators used legal terminology such as “witness” and “informant” in their reports. They made comments about how someone could be “a most reliable witness” which resonates with their legal background.

In addition to free personal services from lawyers to soldiers on active service the Incorporated Law Institute of New South Wales provided practical support Missing and Wounded Bureau by guaranteeing a sum of one hundred pounds per annum towards the salary of a permanent clerk at the office in the Dalton Building. Subscriptions for this salary fund were collected by the honorary treasurer of the Institute according to a report published in *The Weekly Notes* in August 1916. The article describe how there was a soldiers’ advice bureau in Victoria. The report went on to state: “from the commencement of the war the legal profession of New South

Wales as a whole had been prepared to render, and individual members had been and were still rendering legal service gratis to members of the Expeditionary Forces.” Practical examples of such help resonate through the files of servicemen. With nearly 100,000 men from New South Wales going overseas during the war it is no small service to be offering free legal advice to them. Some soldiers, files fairly bulge with legal letters. On occasion, soldiers’ wills were dealt with by solicitors who were themselves grieving 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 recipients of medals or the loss of the soldier’s possessions. It was a great service.

Another charitable fund, which attracted the energetic attention of lawyers and other prominent citizens, was the Comforts Fund, originally known as The War Chest until August 1916. Its President was the businessman and financier, Henry Yule Braddon of Turramurra. Braddon had been a founding vice-president of the New South Wales branch of the Red Cross and was well connected to the legal community. His son, Henry, was a barrister in Chancery Chambers, and true to the notion of service joined the artillery as a gunner in January 1916. Henry’s two brothers, Dudley and Geoffrey also enlisted. The Braddon’s were another family committed to both the charitable and the military side of the conflict. Despite the comfort of the Braddon house, “Rohini” in Turramurra the Braddons followed their schoolmates from the Shore School into the military. Service was all. The values came from the school and their family.

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. in Union Bank Chambers. Simpson had a prosperous practice, taking on profitable work with CSR. This work associated him with Adrian Knox KC, whose family were major shareholders. Simpson’s sons went into the military and he was a passionate, if extreme, supporter of conservative causes. His son Edward Telford Simpson was admitted to partnership of the firm in 1916 while he was on active service with the Royal Flying Corps. Simpson’s daughter, Helen, was in France when the war broke out. She crossed to England where she was employed by the admiralty decoding messages in foreign languages.

The Comforts Fund had its Head office at 113 Pitt Street, right next door to the Red Cross Enquiry Bureau. The Fund provided more than just luxuries. The volunteers worked on socks, warm clothing, carry bags as well as food parcels, which probably saved some lives in the cold winter months as well as alleviating all manner of distress in the trenches. In retrospect it is staggering to consider just what items the Australian Army did not supply its soldiers during the war. Mr HE Budden went overseas as Commissioner for the War Chest Fund in 1916. He was a resident of Hunters Hill and a close associate of the solicitor and mayor of that suburb, the solicitor William Windeyer.

1916 saw great intensification in the work of the Red Cross. The battles of June to August 1916 put a severe strain on the soldiers and their supporters at home. The Red Cross was put under great pressure. Barrister Richard Teece was by then a Vice President of the Society along with Hanbury Davies and Mrs Langer Owen. Adrian

Knox KC was still on the Executive Committee along with Mrs Constance Sly, the wife of Justice Richard Meares Sly. Constance Sly had been a foundation member of the New South Wales Branch of the Red Cross and remained active on many committees. By 1916 these committees were responsible for aid posts in France, which helped in the treatment of wounded soldiers being transported from one medical facility to another. They operated on rail stations or convalescent hospitals. In Australia the Red Cross organised visits to No. 4 General Hospital to talk to those “who have entered the weary avenue of darkened days” according to the *Red Cross Record* of July 1917. Severely wounded men were a tragic sight and the Red Cross worked hard to help them in their rehabilitation. Mrs Langer Owen took this cause as one particularly close to her heart. She threw herself into it with her customary energy, but the strain was beginning to tell on her. The overwork caused by the influx of wounded after 1916 was one of the factors that ruined her health.

Mrs Langer Owen’s programme of rehabilitation was especially needed in 1916. She had realised early in the war that preparations had to be made for the training of the maimed ones who returned unable to pursue their previous occupations. The *Red Cross Record* explained that new occupations “would not only relieve the tedium of their lives, but also give them a feeling of independence, and prove of benefit to the community at large.” Young women and girls were trained in a variety of crafts such as basket weaving, toy-making woodcarving and leatherwork. These women, in turn instructed the returnee soldiers.

Often returned soldiers came back to Australia only to die. On 10 May 1916 Robert Eric Lenehan, the son of Sydney solicitor Robert William Lenehan an ex-student of St Ignatius Riverview died of pernicious anaemia at the Randwick hospital after a long illness which followed upon him contracting dysentery on Gallipoli. Others were more fortunate. Maurice Ormsby, a law clerk from Marrickville returned to Australia in early 1916 with chronic appendicitis, recovered went back to the war then became sick again with enteric fever. He survived that illness as well. Others were not so fortunate.

Enlistments by Lawyers in 1916

By the end of January 1916 approximately 170 barristers, solicitors, law students, law clerks and articled clerks had joined up since the outbreak of hostilities. Out of the 123 barristers called to the bar after 1890, 15 can be traced to have had enlisted. The Council of the Bar's Annual Statement for 1915/1916 stated that 29 barristers had joined up. Due to the scattered nature of the records it is hard to be exact but a reasonable estimate is that as a much as a quarter of those barristers of military age were in the armed forces either on active service or in the Home Defence in 1916. Some 100 solicitors had enlisted along with a similar number of law clerks, associates and law students. These figures do not take into account any lawyer who may have offered himself for service but been rejected on medical grounds. One such person was Herbert Vere Evatt, who later became a justice on the High Court of Australia then federal attorney general. In 1916 Evatt was a student at Sydney University. He tried to enlist but was rejected because of astigmatism.

Many lawyers had served on Gallipoli. At least 13 had lost their lives, including four well-known barristers: Samuel Edward Townshend; James Fraser McManamey; Henry Normand MacLaurin and James Logie Marcus. Three solicitors had fallen in action, as had six law clerks. Amongst the law students who had enlisted was the son of Justice Street - young Laurence Whistler Street, who had lost his life soon after the Gallipoli landing. Of course many other relatives of lawyers were also in action and should be mentioned as being part of the extended legal community even if they were involved in different professions as they affected the mood of the profession. For example two other judges to have lost sons by that time included Justices Simpson and Rich.

There had been a number of recruiting campaigns throughout New South Wales at the end of 1915. These coincided with spikes in the rate of enlistments. Lawyers were no exception. One feature of these campaigns in late 1915 was the rash of recruiting marches also known as "snowball marches." These marches appear to have influenced a number of lawyers to enlist. One of the most famous marches was called the *Coo-ees*. This patriotic procession started in Gilgrandra on 10 October 1915 and ended in Sydney. It is hard to quantify the effect of the march, but forty year old Arthur Fitzharding, a member of a well known legal family, was working in Gilgrandra as a solicitor when he enlisted 22 January 1916. Another march, the *Waratahs*, started in Nowra; the *Kangaroos* came from Wagga, the *Men from Snowy River* from Delegate, the *Kurrajongs* from Inverell, the *Kookaburras* from Tooraweenah, the *North Coast Boomerangs* from Grafton and the *Central West Boomerangs* from Parkes. Six of the 12 lawyers who enlisted in January came from country areas directly affected by the marches. There were other influences on recruitment which coincided with the marches.

The Sydney barrister Edward James Loxton KC gave the toast to the Sydney Grammar School's Old Boys' Union Speech night in December 1915. He spoke of the soldiers as being "like the heroes of 2,500 years ago, . . . holding the gates of Europe against the barbarians of Central Europe . . ." Later he compared them "those

Athenians who fell in the defence of their liberty of their country.” A young barrister and fellow old boy of the school, Alroy Cohen made the speech in reply to the toast. Cohen spoke about “the call of Imperial duty.” With the 70 men in khaki who were present on the night cheered to the man it was hard for anyone of the right age to resist the call to enlist. Loxton’s son, Merlin, was then in action on the Western Front with the Royal Field Artillery. He later became a barrister and inherited his father’s rooms in University Chambers.

Another barrister and Old Sydneian, Tom Rolin KC, moved the vote of thanks. The law was well represented on the stage on that hot December night. Within a few weeks an Old Sydneian, Cecil Jenkins, a 38-year –old solicitor from Unanderra joined up, it is not clear whether he was influenced by the school, or by the snowball march through his area, or his own personal sense of commitment. All these factors could have contributed in their own way. Of the 360 or so lawyers who enlisted in the armed forces, at least 50 went to Sydney Grammar

There would never again be the profusion of enlistments that had burst forth in the early days of the war then reappeared after the landings at Gallipoli. This pattern of enlistments in the legal profession reflected the trends of the wider community. The population had lost any sense of glamour about the war in 1916.

Of the six Sydney based lawyers who enlisted in January 1916, three were from the Turrumurra area on the Upper North Shore. They were Harry Braddon, who was a barrister, Colin McCulloch and Telford Gilder who were both law students. They were aged 23, 24 and 22 respectively. All three had attended Shore. They were just the sort of people who were likely to have been impressed by the show put on at Hornsby School of Arts by the *Wallabies* marchers. This Snowball march had traveled through the Hunter Valley to end up at Newcastle. The marchers then caught the train to Hornsby, which was only a short trip away from Turrumurra, where the three young lawyers lived. The marchers were the centre piece of a recruiting meeting, which was then reported in the local newspaper, *The Cumberland Argus and Fruitgrowers Advocate*. The Hornsby recruiting committee was particularly active. Recruiting meetings were generally held in the local School of Arts and were powerful emotional events. There were speeches, patriotic songs, displays and whatever else the local committee could conjure up. At the end of the night young men often crowded the stage promising to enlist. Others went away to sign up soon after. The enlistment at the same time of the three young North Shore lawyers, Braddon, McCulloch and Gilder, suggests that they were influenced by their school friendship, locality, profession combined with the enthusiasm of a nearby recruiting committee.

The culmination of Snowball marches whether by foot or by train was the centre of Sydney, usually Martin Place, just around the corner from the law offices. The arrivals of the marchers were widely reported and often attracted large crowds as the

suntanned, wiry rugged looking groups of men marched proudly to the podium. Oratory was a much admired art and the arrivals allowed local speakers to give full vent to their skills.

While it is possible to correlate some enlistments to public campaigns, others are less easy to explain. On 7 February 1916 Dr Edwin Mahew Brissenden went to Victoria Barracks in Sydney and applied to enlist in the AIF. He was married, 43 years of age and a very well respected barrister. He had been admitted to the Bar in August 1887, the same year as men such as George Rich, Wilfred Blacket and Alexander Shand. Brissenden had been a stalwart member of the Bar Association. On 27 March 1916 he filled in his AIF Attestation Form in his careful strong hand. Perhaps he was nervous because he answered a number of obvious questions incorrectly on his first attempt. He gave his address as care of his fellow barrister, EM Mitchell of 30 Wentworth Court Phillip Street. Brissenden enlisted as a private soldier, in of all things, the 3rd Division Cyclist Company. Within a few weeks he sailed to war on *Demosthenes* on 18 May. The Cyclists appear to have had a high appeal to the law. Among the officers in the Cyclists were the law student, Lieutenant Keith Aubrey Ferguson, the 21-year-old son of Judge Ferguson and Lieutenant Desmond Gavan Duffy, the 26-year-old barrister son of High Court Judge the Honorable Mr Justice Gavan Duffy. A 23-year-old solicitor, Hubert Victor Chedghey was also in the unit.

The transport, *Demosthenes*, had arrived in Sydney only a week or so before it departed with the Cyclists and other units. The ship had carried with it wounded and sick soldiers as well as the effects of those killed in action. Among the bags were those, which had belonged to a number of lawyers, including the law student Charles Bernard Donaldson, whose father was a solicitor in Pitt Street. Donaldson's best friend, the law student Leo Maloney, was still on active service overseas. Such sad cargoes removed any glamour from the departures as described by James Blackwood another law student who departed for war at the beginning of 1916. He wrote that as his ship sailed:

Some of the launches were painful to watch, with the weeping women. They were few, but one poor creature caught my notice as she stood on the bow of a launch in abject despair. A man held her by the waist as she stretched one hand towards the steamer, and whoever it was on board, almost as if she was straining to grasp the hand of a departing friend. . . .It was all pretty depressing.

Blackwood was already in Europe by the time the Cyclists left Sydney. The men in the Cyclist Company were split among a variety of other units when they arrived in Egypt. Brissenden fulfilled all that could be expected of such a well-educated man and was rapidly promoted. He would find a great use of his legal skills as Divisional Claims officer dealing with complaints by French civilians against the Australian Army. He was awarded an MBE for his efforts in acting quickly, fairly and effectively reducing the possibility of friction between the Australians and the French civilians. Furthermore the French recognized his abilities with *Ordre Du Merite Agricole – Chevalier*. The historian CEW Bean was very enthusiastic towards Brissenden who he described as being “brilliant and distinguished.” Bean records the story of Brissenden's promotion in December 1916 as being that “when the military

authorities brought him a message from Sydney suggesting his return to Australia to fill a vacant judgeship, replied ‘Not on your life – I’ve just been made a second lieutenant in the AIF!’” Like a number of men, Brissenden became closely attached to his unit and comrades.

HAR Snelling QC in J M Bennett’s *A History of the New South Wales Bar* wrote that like those who had fought in the Boer War, the lawyers who joined up “were inspired by a mixture of patriotism, daring and the elements of chivalry and pilgrimage that had characterised the Crusades.” Families, churches, the press and the profession inculcated such values. Schools were another significant avenue of encouragement for enlistments. Schools, particularly the Protestant establishments early in the war, promulgated enlistments to their students at speech days, assemblies and the daily discourse of their life. Their ex-students also received the same encouragement through the school magazines such as Riverview’s *Our Alma Mater*, Grammar’s *The Sydneian*, Shore’s *The Torch-Bearer*, The Kings School *The Kings School Magazine*. There are reports of these and other magazines being sent to ex-students at the battlefield. The war was said to have strengthened the ex-student communities of these schools. These magazines exhibited great pride in the number of ex-students each school had produced for the armed services – although this pride would soon turn to grief. These magazines had always had sections on their ex-students detailing births, deaths, marriages, careers and other highlights. Usually they were a few pages. The war brought floods of letters to the schools from their ex-students and their families. The sections expanded dramatically. Of course it was not only the major private schools that supported the war. Virtually every level of education was passionate about the war in both public and private discourse.

Snelling’s reference to the Crusades is very applicable to the discourse in schools during the war. The College magazine for Riverview, *Our Alma Mater*, had an editorial at the beginning of 1916, which is reproduced here courtesy of that school. The editorial compared the ex-students who had enlisted to “other Crusaders long ago; of whom it has been well said that they went out and returned having accomplished nothing except an epic . . .” Other references of ancient ideals of heroism echo throughout the discourse of war delivered by the legal profession. Such a traditional view of heroism and sacrifice may well have due at least in part to the emphasis on the Latin and Greek Classics in the education of lawyers both at school and at university.

The idea of a crusade resonated throughout their discourse. One priest, RJ Little SJ wrote a poem entitled *Jerusalem Liberated*. Part of the poem published in the magazine *Our Alma Mater* said:

O Sion! Teach our brave ones, young and daring,
 (All ere too young for death: Alas! Too daring!)
 Who have freed thee from the horrors of Mahmound,
 Teach them the only ways of life are ever
 The ways of Him who sanctified thy ground.

Father Little, like so many of the GPS teachers was deeply affected by the deaths of the young men he had educated. As the casualties mounted there was some diminution of overt encouragement to join up. Gaunson, in his history of Sydney

Grammar in the war noted that after the Headmaster, Sloman, enlisted there was a less strident urge to join up. The interim headmaster who replaced Sloman was Mr Lucas. Extracts from speeches and letters of the Sydney Grammar community are reproduced here courtesy of that school. Lucas had been at Grammar for a long while and wrote of his time there during the war that:

Those were the bitterest days I ever experienced, as name after name came in of dear young friends and promising pupils, fallen in the field of battle . . . Oh, the pity of it!

Lucas' comments were written after the war and indicate that he was well aware of the sacrifice his boys and their families were making. Departing troops often marched along College Street and passed by Sydney Grammar. Troops who had attended that school would shout out "Goodbye" to those they knew still inside. Often they would use Lucas' nickname, the "Chief", to farewell him personally. Their deaths affected him deeply. Nonetheless at the beginning of 1916 there was a great deal of encouragement to get young men to enlist. The circumstances of the Sydney University law student, James Blackwood, may serve as an example of the sort of accumulation of pressure that existed at that time.

James Blackwood was the son of Ludovic Blackwood, a prosperous businessman who when the war broke out, had just constructed a spectacular house, *Maraba*, on the corner of Beecroft and Pennant Hills Roads, overlooking Sydney. Young James attended Shore. The family worshipped at the Presbyterian Church in Beecroft where the Reverend Ogilvie railed against the Germans. Their local newspaper, *The Cumberland Argus and Fruitgrowers Advocate* hectored all men to join up and at one stage urged the police to challenge any 'shirkers' who may not do so. The local suburb, Beecroft, was fiercely patriotic with the local Honour Board of those who had enlisted prominently displayed on the School Of Arts. Beecroft Primary School, just down the road from where young James Blackwood lived had endless fundraising days. In the yard the children played a lively game called "Smash the Kaiser" and celebrated Empire Day with gusto.

When James Blackwood graduated from Shore at the end of 1914 he took with him prizes for Latin, Greek, General Knowledge and English. In addition, he was also given that school's top overall award, the Brian Pockley Memorial Prize, named after the ex-student, who had been one of the first to be killed in New Guinea in 1914. Blackwood had been at Shore when the boys had stood on their grounds and watched Pockley and others in the Expeditionary Force sail out of Sydney Harbour to New Guinea. Later it would be his turn.

In the Speech Day at which the Pockley prize was presented to 19-year-old James Blackwood, the Headmaster, Mr Purves, spoke to the young men, exhorting them to work hard "and hope that when the great adventure comes (they) may meet it in the same spirit as Brian Pockley . . . Old Boys have done their duty so well and have made themselves forever heroes in the history of the school." Such sentiments were widespread amongst the school communities. Sitting on stage listening to Purves on that spring day were the Headmasters of the King's School, the Sydney Grammar School, Newington and the Warden of St Paul's College. Each spread the message to their own communities in their own way. At the time of the presentation, James

Blackwood had already joined up after completing one year of Law at Sydney University.

Blackwood was in the same class at school as Vernon Treatt, who was just beginning his successful legal career, which would be interrupted by war service. James Blackwood left for war on 30 December 1915. His letters home, preserved at his old school provide an evocative account of his life overseas, as would be expected from such a talented young man. His letters are reproduced here courtesy of Shore. One of his most moving descriptions was of his sadness that the towers of Shore school, which he called his “second home”, had slipped behind Bradley’s Head as the ship sailed out of the harbour. Vernon Treatt left two weeks later. They were heading for Egypt, where the New South Wales legal profession was part of a most unique and lasting contribution to the war – the Red Cross.

References to the obligations of leadership thread the discourse of lawyers at the time. It is natural that this thread should also extend to their reasons for enlisting. Some lawyers had enlisted as an expression of this sense of leadership. Ernest Ambrose “Nulla” Roberts was a well-known country solicitor. He had played Rugby for New South Wales and was a popular ex-student of The Kings School. He was 43 years old and married when he enlisted as a trooper in the Light Horse in May 1915. He explained his actions by saying “The young single men will not go and so an older and a married man like myself had better set an example, and it may shame some of them into doing their duty.” As a friend of the commanding officer, Colonel Percy Abbott, who was also a country solicitor, Roberts could have been held out of the front line. He insisted on going into battle and thereby fulfilled his fatalist premonition of dieing for his country. Roberts was typical of the ideal that said he simply had to go, to fulfil his mission as one of the leaders in society. He had become a much-respected figure in the Light Horse on Gallipoli, despite being in the lowest ranks. By the end of the campaign he was dead, shot through the head while involved in a sniping duel. His death was widely grieved in a variety of public and private memorial ceremonies. Many lawyers attended these services. Enlistments steadily declined throughout 1916 from the high point in January. About half of the total number of lawyers who enlisted in that year came from country areas. There were four enlistments by lawyers in February, five in March, eight in April and nine in May. It is difficult to outline the reasons behind each decision, but each enlistment appears to have been motivated by uniquely personal circumstances. Enlistments amongst the law then fell away to only three or four per month until September. There was another peak in September when nine lawyers joined up after news of the July battles was highlighted. Five more signed up in October then on 1 November four lawyers joined up. Again, the reasons appear to be distictly local. The four lawyers who joined up on 1 November all came from the same locale. Roderick Kidston was a 25 year old barrister and Alfred Robinson, a 23 year old law clerk. who both lived in Mosman. Leyburn Maclean was a 34 year old solicitor from Neutral Bay, the next suburb and Clive Wilkinson was a 23 year old law clerk from nearby Chatswood. Robinson and Wilkinson sailed to war together.

Enlistments had become rare by the end of 1916 with obvious local circumstances predominating. On 11 December William Ballantyne Simpson (later to become a Judge) interrupted his studies to enlist. His brother John also enlisted on the same day. They were the only two lawyers to enlist in that month. Their particular reasons for doing so are not obvious, but the family connection suggests some especially local impetus. December was typical for the remainder of the war. Adrian Knox KC wrote in a private letter that enlistments by the end of 1916 were, in general, "slack." Those who wanted to go had gone. Apart from the odd flurry of enthusiasm in the first quarter of 1917 only two or three lawyers, at the most, joined up in each month until the war ended. Despite the sometimes strident calls to do so. Another Old Sydneian, the solicitor WM Marks who saw service in the British Navy on a minesweeper in the North Sea was speaking to the assembled students of Grammar. He exhorted them 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?"

5

The Law at War in Europe in 1916

In early 1916, there was a great reorganisation of the units in Egypt. Many men were very reluctantly shifted into new formations, which mixed Gallipoli veterans with newly arrived recruits. While Grant was making his speeches in the Domain the class he was criticising for not pulling its weight was as much a part of the process as anyone else. The legal profession who were officers had a number of promotions. People with legal backgrounds, particularly if they came from a GPS establishment, as many of them did, were viewed favourably for promotions. At this stage of the research it is obvious that the number of GPS educated lawyers in the war was in the order of 75%. An unknown ex-student from Shore wrote in their magazine *The Torchbearer* in 1917. His comment may serve as a general statement for what happened to these men overseas.

Age counts for little here, personality and education for everything, and battalion commanders in seeking for new officers have recognised the value of the boys whom the GPS turn out, and if a promising NCO, even of junior rank, is a GPS boy, he is almost certain of his commission . . . the boy who has learnt as he must learn from CEGS (Shore), that he who gives most gets most, who has learnt to be responsible for others, and above all to set an example in everything is going to make a good officer, who will think of his men's safety and comfort first and his own last, who will never ask his men to do anything he is not prepared to do himself, who can keep a cheerful face and crack a joke in the midst of utmost danger, who strives to be better than everyone of his men in every branch of military knowledge, can do anything he likes with the Australians and they will follow him right through.

This somewhat idealistic comment from an anonymous contributor indicates the kind of encouragement young men from the GPS schools, including the lawyers were receiving. They would get plenty of chances to show their leadership abilities. These ideas were not restricted to Shore alone. The GPS community often saw themselves as particularly suited to lead.

Major Harry Clayton, the son of solicitor JH Clayton and the brother of serving solicitor Hector Clayton addressed the Sydney Grammar Old Boys in mid 1916. He made the speech in reply to the stirring words of barrister Albert Bathurst Piddington KC, who had referred to the conflict as a "holy war". Piddington KC was then Chairman of the newly established Inter-state Commission. He was later appointed to the High Court under controversial circumstances but resigned before he had sat.

Clayton noted how many Old Sydneians had gone away as private soldiers but soon became senior officers. He lamented that "some of them who fell as privates, had they lived and been officers, could have rendered valuable services to their country. If I may say so" he continued, "that seems to me to be one of the defects of our military system – that such men are allowed to die as privates." His message was quite clear –

GPS boys should be officers. Other studies of the make up of the officer corps have confirmed this trend, particularly in the early years of the war. Perhaps the educated ones were better suited for the paperwork of command. The actions of many lawyers such as Hector Clayton in battle suggest that they also carried a sense of their responsibility as leaders onto the battlefield. One of the ex-GPS barristers in Egypt making his mark was Lieutenant Colonel Ignatius Bertram (Bert) Norris. He is a good example of how keen some lawyers were to fight.

‘Bert’ Norris, of Darling Point, had grown up in Hunters Hill and attended St Ignatius College, Riverview. He was one of the many Catholic boys who rowed or ferried across the Lane Cove River to climb the steps up to the fine stone building that commanded such spectacular views towards the city. Norris had been in Egypt for six months by the beginning of 1916. The thirty-six-year-old Sydney barrister was working as Judge Advocate in Court Martials. At that time there was no army legal division so officers were selected for court martial duty and often those with legal backgrounds found themselves back in court. Norris’ pregnant wife, Jane, had sailed to Egypt to be with him. She gave birth to their son, John, in Egypt in February. But Norris was keen to get into battle. He wanted to get to the Western Front and fight.

Not all the lawyers who were in Egypt were officers, but they were often well connected. Letters to their homes contain keen accounts of meeting school, university or social friends, many of whom could do favors. Soon after he arrived in Egypt Law student, James Blackwood was peremptorily sent to the 2nd battalion and in his words “dumped down at the front door.” They were at Serapaeum, “where the canal runs up between high banks, a vivid blue riband through the yellow sand with refreshing clumps of shady trees on the nearest shore.” His rather sensual imagery indicates his facility in English prose. It was a skill he shared with many lawyers, and their letters home were published in a variety of outlets – school magazines, local newspapers and other publications, including the *Sydney Morning Herald* and local newspapers. Blackwood had another of his fortuitous and very welcome meetings. He came across another man from his little village of Beecroft – Captain Harry Gordon Vernon, a Dentist serving in the infantry. Vernon lived just ten minutes walk away from the spectacular Blackwood residence at the top of the hill. Vernon welcomed Blackwood as a “personal friend” and put him in his platoon, which Blackwood saw as a “blessing.” Soon they were to move to France.

Blackwood’s letters home provide vivid descriptions of the exotic life of Egypt. His letters suggest the sensitively observant nature of some of the young lawyers who went overseas in war. He was no wild eyed fanatic but more of a Renaissance man, well educated, talented in letters in particular, There is a sense of keen interest and wonder, but also some bewilderment at his surroundings. His letters are a poignant indication of the sort of sensitive young law student sent overseas into strange and sometimes savage places. The lawyers were entering another world. Their reactions varied from fascination, pride, wonder, excitement and horror.

The Solicitor, John Maughan, was one of the Australian troops who traveled across Europe and assembled for battle. He was in the 17th Battalion. His letters home are reproduced here courtesy of the Kings School. He described the journey through France as being “really very pretty, (with) fruit trees especially just in blossom” and everywhere the “the fine old churches and cathedrals, a great and new sight to our

Australian boys.” They had “just a glimpse of the Eiffel Tower and of Versailles.” Maughan’s appreciation of the historical significance of France and England was typical of his peers.

The Fourth Battalion was put under the temporary command of the newly promoted Major Bertie Vanderleur Stacy who replaced the thoroughly worn out fellow Sydney solicitor, Lieutenant Colonel Macnaghten. Macnaghten was sent back to Australia as medically unfit for duty. He became the central figure in many services and memorials to the men of his battalion. One other solicitor in the Fourth Battalion was making his mark as a successful commander. Captain Adam James Simpson, whose mother was so active in the Red Cross, was also proving himself a fine leader of men. He and Captain Alan Humphrey Scott, the nephew of Judge Street, were described as working with a “fiery energy” by Charles Bean as they trained and reorganized their unit. Scott and Simpson had both attended Sydney Grammar School. They obviously held the same values regarding service and loyalty, fostered through their common background in school and the legal community.

The Fourth Battalion marched out of their desert camp to the sound of a pipe band. They traveled by train to Alexandria and then sailed to Marseilles. While unloading at the dock they had their first glimpse of German prisoners of war working as wharf labourers. For three days the Fourth Battalion traveled north towards the Western Front. Other lawyers to make the journey from Egypt to France included: the barrister Major Alexander Windeyer Ralston, the son of Alexander Gerard Ralston KC and Sydney solicitor, Captain Arthur Wellesley Hyman, who had landed on Gallipoli on 25 April 1915. He had been one of the lawyers active in military courts in Egypt. From August 1916 was a very well respected claims officer at 4th Division Headquarters. He was eventually appointed OBE for his work in that role. Lieutenant Roy Blashki, a young law student, was another Old Sydneian traveling through Egypt to the Western Front.

The Australians had generally not treated the Egyptian population with great respect. There had been some ugly incidents, but they were to come into close contact with the French when they transferred to the Western Front, and then the English when they were in camp, on leave or in hospital. Their impressions of the French and the battlefield were a mixture of wonder and surprise. For many of the men, Europe was an almost mystical place. Members of the profession including law student, Adrian Consett Stephen and barrister, Francis Coen, and the law student, James Blackwood recorded some of their impressions. Their letters and diaries provide a great insight into the sort of men these lawyers were. They were observant, sensitive and curious about the foreign cultures. Many of the lawyers who went away were similarly erudite in their letters that appeared in a variety of public and private forums.

It is at this point that Adrian Consett Stephen enters the account. He was the son of A. Consett Stephen of Stephen Jaques and Stephen. He was the Grandson of Chief Justice Sir Alfred Stephen and a graduate of Sydney Grammar School and Sydney University. Another Sydney barrister connected to that law firm who also joined the Royal Field Artillery was Harold Vivian Jaques, the son of solicitor Alfred Edmund Jaques. Jaques was the Associate to the Right Honourable Sir Edmund Barton of the High Court. Jaques was an ex student of Shore and served in France for 18 months. He was eventually badly wounded and lost his leg and a finger in action. He was one

a score or more of lawyers who for one reason or another joined the British Forces. Many lawyers had strong family connections with Great Britain and some were there when the war broke out and they enlisted in the nearest unit. Adrian Consett Stephen was one of those.

Around the same time as the battalions from Egypt men were travelling to the northern battlefields Adrian Consett Stephen was also trying to survive the end of his first winter in France. In March 1916 he wrote with his usual eye for detail:

our chief concern was billets . . . much the same wherever one goes – a little farm-house as a rule, with bare rooms and a stove jutting out into the middle of the floor. These French stoves have a peculiar method of gaining ventilation. All the heat goes up the chimney and all the smoke goes into the room. Still a stove's a stove for all that. Of course the cows have the best accommodation in every house and the traces of these good animals are always piled in the front yard, which is not, perhaps, an example of the French artistic soul, but is certainly an example of the French idea of sanitation." In the cold, the priority was first a bed. "The next consideration is fire. The mere thought of fuel (or the absence of fuel) will cause you a panic of shiveringNot infrequently one sees an immaculate officer burrowing under the snow for a log of damp wood, or prowling around a barn with an axe. It generally ends in one crouching over a few smouldering twigs, and cursing the Service Corps for 'pinching' one's inadequate ration of coke and bad coal. Still it is comforting to have a ceiling overhead, and walls, even bare ones, around you, and a floor, even a stone one, underfoot. But when you look out of the curtainless windows at an expanse of snow, broken by glaring braziers and twinkling lights, and see far away the clear, cold, glitter of the stars, you feel warm even if you really aren't.

The war seemed a long way away. In reality it was only over the hills. Like many people, Consett Stephen was still unaware of what was to come. They were entering an alien world.

The 4th Battalion under Bertie Vandeleur Stacy was similarly concerned with the comforts of daily life. While in their first postings they could purchase beer in the nearest estaminet at the end of the day. It was an unreal introduction to war. But over the next few weeks they moved closer and closer to the sounds of the guns. Often the daily life of the soldiers just behind the front lines could be a mixture of pleasant surprises and then sudden bursts of violence. Adrian Consett Stephen wrote of sitting and reading *The Bulletin* in between ducking for cover when enemy shells came over. He described his life in March:

"I am sitting in the sun – yes, in the sun, on a deck-chair in a little vegetable garden. For the next day or two I am here before going into the trenches. A band is playing close by, and one almost forgets the war. I say almost because overhead is the thrashing of aeroplanes, and occasionally one hears the scuttling noise of anti-aircraft shells, and even this afternoon an aeroplane, that shone like gold in the sun, dropped some bombs on the village. I regard this bomb dropping as the 'limit.' It is a privilege that should be reserved for Londoners. A French dame has just thrust her head out of the window and regarded me with disfavour. I suddenly realise my chair was planted on her

lettuce patch, so I smiled sweetly and murmured “Bonjour” in the inimitable way that has so often won eggs and butter from apparently disapproving sources. Consett Stephen then “performed at a concert with unprecedented success, giving three ‘turns.’ Of these, strange to say, some pieces from Shakespeare evoked storms of applause. . .An hour later . . . I am hurrying to the trenches with ammunition, after an urgent order, with guns roaring around me. One of the officers, who also performed at the concert, was carried past me on a stretcher, and a few minutes later I placed a man under arrest for being paralytic drunk. What a life!”

A few weeks later he was keen to see the Australians arrive. Like Blackwood and all the others Consett Stephen was thrilled if he saw someone he knew from home.

Another lawyer who wrote evocative letters about the time in France was the barrister Francis (Frank) Coen of Selborne Chambers. He wrote to his mother 18 April 1916. As was appropriate from a graduate of the Jesuits at St Ignatius College Riverview he was particularly sensitive to the religious significance of his experience. He wrote:

“I pushed on and half an hour’s walking brought me to the Front Line. Just before reaching the Front Trenches I came face to face with a miracle. About 400 yards in rear of our front trenches there are a few buildings. One of these was of brick, built around a large size wooden cross with crucifix attaches. A shell had landed on this edifice, demolished three of the walls and 2/3 of the remaining one, also the room, and yet the cross and crucifix were still standing there without a scratch on them. This made a great impression on me; one hears so often of such incidents that they fail to convince us deeply. But to see them is most convincing. The buildings all around are a mass of ruins, yet the cross and crucifix are intact . . . In the afternoon I attended Rosary and Benediction in the church of St Vincent de Paul. The congregation numbered some 600. I noticed only three men: the remainder consisted of women, girls and children – all in mourning. It is not on the Boulevards or in the Cafes that one sees the grief of la belle France, if you wish to look into the heart of the unfortunate country you must visit the churches. There you can arrive at some estimate of the grief and suffering in this hateful struggle.”

Coen was a committed Catholic. He had gone overseas on *Ceramic* in June 1915 with three other barristers who had all gone to Riverview: Bert Norris, Charles Gavan Duffy and Jack d’Apice. In the absence of a Catholic Chaplain they had led those of similar faith to theirs in prayer. They said the Rosary every night, sung hymns and had special prayers on Sunday. The Jesuit priests at Riverview were particularly proud of the way its men led others in prayer and often attended Mass before battle.

The experiences in France crystallised the opinions of soldiers towards the war. There was rarely any doubt as to the justice of the cause expressed in their letters, although they did doubt the wisdom of the tactics and were acutely aware of the deaths. Coen wrote his reasons for why Australia should be in the war in letter to his mother 2 May 1915. “The Huns were through here on their advance to Paris – so these poor people know the horrors of war. . . They are wonderful. It is a privilege for one to be given

the opportunity of spending a portion of this life in fighting for the liberty of a people so truly noble. He saw the children playing games within the sound of the guns, and with their gas masks in satchels around their necks. . He recorded that his own opinion was “that France will march with all the determination of which she is pre-eminently capable, to a victory more glorious than ever she achieved in the past.”

Two other Australians with legal connections through Riverview were serving in the British forces in France at this time. Bryan Desmond Hughes and his brother Gilbert were serving in the British forces. Like so many of his background, Bryan had joined up as a private soldier then had been promoted within weeks. A cable from Archbishop Kelly to a Major Redmond in England had ensured a fine reception for Bryan and Gilbert when they arrived for training. One difficulty for Bryan Hughes, as no doubt it was for many other young lawyers was reconciling their essentially peaceful natures with the violence of war. A tribute to Hughes, written in the Riverview magazine *Our Alma Mater* by a writer who signed himself with the initials RG dealt, with this issue. The writer said that Hughes’ “disposition was winning and gentle to a marked degree, but when he entered into a competition, whether intellectual or physical, he threw himself into the contest with extraordinary white-heated fire and energy. He hated, with his whole being anything and everything that savoured of injustices or tyranny...” In short, he was competitive, energetic, hardworking and idealistic. He could have been any one of hundreds of young, well educated lawyers at the time. Similar to Hughes, the obituary to Charles Manning mentioned that “almost impossible to associate (him) with war and soldiering and bloody fighting.” For many lawyers, war was the last thing they had thought of doing.

Bryan and Gilbert Hughes were the sons of solicitor John Hughes MLC, then deceased. Their uncle, Sir Thomas Hughes, was principal in the firm Hughes and Hughes. Bryan was a solicitor in that firm when he enlisted. The Hughes’ were a prosperous legal family who supported the war in a variety of ways. Lady Hughes was active in the Red Cross and Sir Thomas was a foundation executive member of the Universal Service League. He was one of group of influential Catholics who opposed the anti-conscription attitudes of Dr Mannix. Both his sons Geoffrey and Roger enlisted and went to war in France in 1916. Geoffrey went into the Royal Flying Corps. All the Hughes boys went to St Ignatius College Riverview. Their families were valued and active members of that school’s community.

In April 1916 Bryan Hughes was serving with the 8th Dublin Royal Fusiliers when their line was breached by a German attack. Hughes was wounded but organised a section of bombers to fight the Germans and successfully repel them. He was awarded the Military Cross for his actions. His brother Gilbert was gassed in the same attack on the same day.

St Ignatius Riverview supported its ex-students in the armed forces as proudly as any other GPS establishment. The Jesuit community took some comfort in their profound Faith and perhaps saw echoes of the earlier battles in the conflict. They were especially proud of the way their ex-students continued to give leadership in the practice of their Catholic Faith while they were in the military. Tragic deaths were

ameliorated to some extent if the young men had gone to Mass and received Holy Communion in the days immediately prior to battle.

The lawyers in the AIF were about to get their first experiences of battle on the Western Front in early 1916. A number of legal families were to suffer loss from the violence in Europe. One of the most prominent was that of Justice David Ferguson. His son, Lieutenant Arthur Ferguson, had served with the 20th Battalion since arriving with it on Gallipoli. He was in action with the 20th Battalion on 5 May when they suffered a fierce attack. Arthur Ferguson was with 'B' Company when they were attacked with some 20,000 shells in one and a half hours according to his commanding officer, Major Fitzgerald, who wrote of the event to Justice Ferguson. Arthur rallied the men after the bombardment and fought off a sustained attack. Fitzgerald wrote that:

“He had a marvellous escape. He was with 9his friend and fellow officer) Connor when the latter was hit, and has holes in his uniform and deep cuts in his boots from the shell fragments. He kept his head splendidly in the most trying circumstances, and without waiting for the reinforcements which were being rushed up to him, he retook his lost trenches with the few men he had available.”

Arthur Ferguson was only one of many to discover how dangerous battles on the Western Front could be. Within a few weeks his luck finally deserted him. He was still defending the same place as his previous narrow escape but on 14 June a high explosive shell howled into his dugout and killed him instantly. Colonel William Holmes, a long term correspondent with Justice Ferguson, wrote of Arthur Ferguson's "noble and manly qualities, and his fearless and gallant conduct in action at all times." When Arthur Ferguson was killed, his brother Keith, a law student, was sailing to war, unaware of his brother's death. Letters of condolence flowed to the Ferguson family. Some came from Arthur's unit. One came from a Sydney Barrister, Major Francis (Frank) Coen serving in the headquarters of the 2nd Division and indicates the strong sense of duty and responsibility typical of the lawyers at that time. He wrote that: "the poignancy of your grief may well be allayed by the pride you may so justly feel at the thought that Arthur has gone to his reward, bequeathing a record of duty nobly done, which will always serve as an inspiration to those who had the privilege of knowing him. At the earliest opportunity I shall visit his last resting-place, and in a later letter give you further information." This was the last letter Francis Coen wrote to Justice Ferguson. Coen was killed in action on 30 July 1916.

According to the history of the 17th Battalion at the beginning of June 1916 its sector 'became lively'. There were a series of raids on the Germans' trenches which were intended to 'give confidence to the troops, foster their fighting spirit, obtain identification, and strike at the enemy's morale. One such raid was planned for the night of 25 June and among the volunteers selected to go was the 28-year-old Manly Law Clerk and Anzac veteran, Captain Errol Wharton Kirke. He was the member of an elite force made up of men from the 17th 18th and 19th Battalions. They were specially trained in bayonet fighting, operating the new Lewis guns, wire cutting, signalling and bomb throwing in the three weeks prior to the attack. The battalion history stated that the men "were literally bursting with high spirits and eager for

combat.” On the night of 25 June the men went out. Kirke was in charge of the covering party. He was part of a spectacular night.

At 11 pm the Allied Artillery opened fire on the German trenches in a “deafening roar.” Immediately red, blue and green alarm rockets shot up from the German lines and No Man’s Land ‘was transformed into day by dozens of star shell.” German artillery and machine guns started firing. The Australians moved forward and occupied about 30 metres of the German trenches for around five minutes. Kirke’s unit guarded the flanks of the attack. He returned safely. At the time he was in action, his younger brother, Hunter, was serving nearby with the 19th Battalion. The Kirkes were one of those families who involved themselves fully in the war. Their mother had been particularly active in fundraising. She had been one of the moving forces in the very successful “Australia Day” appeal in mid 1915.

Solicitor Lieutenant Robert Clive Hunter was serving with the 2nd Battalion in June 1916. According to his military records, he had been an Anzac with the 6th Light Horse. Once back in Egypt for the great reorganisation of troops he was transferred to the 2nd Battalion stationed at Tel-el-Kebir. He had travelled with them to Marseilles, landing there on 28 March. He then went to Trench Mortar School of Instruction at Berthes from 3 April to 12 April. He was promoted to Lieutenant on his return to the unit on 16 April. He was lucky to arrive at Oudersteen on that day, as only two days earlier the battalion had endured a fifteen mile forced march in full packs and 120 rounds of ammunition. The battalion history recoded that “Many fell out from the heat and exhaustion, but straggled on behind, footsore and weary.” The men marched to Fleurbaix a few days later. Fleurbaix was “a mud-encompassed hell (in which) the battalion received its baptism of fire in France.” The soldiers could see the towns of Fromelles and Lille from their observation post. Hunter’s unit left the line on 3 May.

Hunter’s record shows him going on leave to London from 30 May to 10 June when he rejoined the 2nd Battalion. Three days later he was dead, reported as “killed in Action” in France on 13 June, and then buried in Wye Farm Military Cemetery, near the battalion headquarters just south of Armentieres. There are few details on record concerning the circumstances of Hunter’s death. On 13 June 1916 there was a raid on German trenches conducted by the 6th Battalion which passed through the 2nd battalion trenches to the front. On the same day a group of men from the 17th Battalion were killed by artillery fire. The 2nd Battalion history records that they were subject to a heavy bombardment on that day, so it is possible that Hunter was a victim of German artillery. The 23-year-old solicitor from Forbes was just tragically unlucky. Artillery would become the most common way to lose a life on the Western Front and over the next three years many legal families would suffer the loss of a loved one because of an unlucky shell. Clive Hunter was killed just one month after his two brothers, William and John, had left Sydney for war together on *Argyllshire*. No doubt they were looking forward to seeing their sibling. They would have arrived in Europe to be greeted with the news of his death. But these deaths were only the first of many on the Western Front.

Lawyers in the Battle of the Somme

It is nearly 90 years since the end of the war. Very few people are alive with direct memories of the deaths of those who went away. It is easy to see the fallen simply as fading marks on monuments or as anonymous representatives of social classes. But they were real people, much loved, and greatly mourned. Their actions overseas were a bizarre change from the lives they led at home. The ideals of Empire and service which underpinned their lives have either disappeared or been changed by the need for accountability or profit. But the men who went to war from the legal community entered a completely different world. This section gives some indication of what happened to them.

Langer Owen had written about the war situation in the *Red Cross Record* at the beginning of June 1916. He commented that:

Now that many of our men are in France it is inevitable that the anxiety of their relatives and friends must be increased, and we wish it widely known that this Red Cross Office is only too anxious to help those who seek news of sick, wounded and missing men at the front . . . We will gladly try to help anyone who cares to write to us, or to call at this office.

Langer Owen and the Red Cross Missing And Wounded Bureau were about to be flooded with just such requests. On 1 July one of the greatest battles of the Western Front started when Allied troops, commanded by the controversial figure of General Douglas Haig, attacked the entrenched Germans near the river Somme in France. Adrian Consett Stephen was a member of the British Field Artillery and described his experiences both for his family and in an article for the *Sydney Morning Herald*. His accounts, and those of other lawyers in private letters, which were often published in newspapers, provided valuable personal stories of the war to the home population. The lawyers made excellent reporters. Consett Stephen described the lead up to the battle. His account displays the sensitivity to detail, which is a feature of his profession:

The wood was seething with traffic: ammunition, wagons, guns, transports, and marching men. A deep low growl filled the air. Night roared with the lumbering of endless wheels. It was the "Big Push" at last. It was upon us, undeniable, gripping us with a strange excitement of feeling oneself an atom being swept along in a crowd with a vast sense of power behind, and the unknown destiny in front. It was the "Big Push" and it made us nervy. For the next ten days we worked hard. . . Wires had to be laid, gun-pits improved, telephone du-gouts to be made into strongholds like the control top of a battle ship; and the observation positions had to be explored, and once discovered, had to be filled with provisions for many days in case the forward observing Officer was besieged during the bombardment. Every night the transport roared along the road and every night til two or three in the morning, the gunners unloaded wagons of ammunition until the gun pits and ammunition dumps were filled, row by row, with glistening shells. The Boche of course knew there was something afoot, and put out notices: "Why attack here, we have more

guns than you?" but probably did not know the exact starting point, or objective of our offensive.

On the first day there were 60,000 Allied casualties – mostly British and Canadian. The Somme offensive rapidly faltered and the deadly process of wearing down the enemy began. One of the major features of the first day was the massive artillery barrage. Consett Stephen described the experience:

“The day of the assault arrived at last . . . the world burst into a gigantic roar, that was flung from horizon to horizon as thunder is tossed about mountains. The bark of the 18 pounders, the cough of the howitzers, the boom of the heavy guns, and the lightning rush of naval guns, swelled and merged into a jerky rumble. It was wonderful music – the mightiest I have heard. It throbbed exultantly with a sense of infinite power. Sometimes one felt inclined to laugh with the exhilaration of it. From the OP I could see the smoke cloud. A line of trenches flickered with short flames, which sent up dense columns of white and orange smoke that twisted and curled and mingled, and then swept forward, a solid rampart towards the German lines. Shells exploding in the white smoke splashed it with scarlet. Rumours came dancing down the line . . . but I could see nothing. . . . German shells falling in their own trenches gave me a hint of our progress. Throughout the smoke and bombardment, a Boche machine gun played steadily. What fighters they are!

In the afternoon he was subjected to a German counter bombardment, but survived the ordeal. He was more concerned for the infantry. He could see them lying “out there between the lines, the sun flashing on buttons and metal discs. Not far, poor fellows on the way to Germany. In the evening everything is quietened, The chief noise was the throb of aeroplanes, circling slowly against the sunset.”

Consett Stephen’s ability was also to describe the personal reality of being in the battle: from the garbled messages of the military telephones to the wireless messages from the spotter planes and the desperate runners bursting in at all times of the day and night. He wrote that: “After a few hours of this, coupled with the ceaseless roar of the guns in the ear, the subaltern in charge sees nothing but a smoking gun, a reeling gun pit, and a circle of orderlies flapping messages at him. He begins to feel that he is engaging the whole German Artillery. And even if your servant does spill the dinner down a sump hole, and upset the pickles over your best map, well, these things will happen in the most historic battles.” Consett Stephen’s good humour also contains evidence of his assumed class attitudes through the use of the word ‘servant.’ While there is no doubting his compassion, he was clearly someone used to command. But for him the gunpit was “nearly always fascinating. The roar and flash and biting smoke, the misty figures moving swiftly and quietly, the thin metallic voice down the telephone and the throbbing of the other guns around, all make a picture and a sensation that few will forget, and many will recall half wistfully in the future days of civilian ease.” Little happened in the preliminary bombardment in fact to him, “except for the noise it was quite a Manly Beach sensation.”

Consett Stephen has mentioned the need for self control and good humour, the sort of values the schools inculcated in the boys. His letters reveal just how that humour

played out in practice. The other officer commanding the battery was a Canadian. The two colonial officers shared the same quirky sense of humour. Some of their conversations echo the later surreal *Goon Show* scripts of Spike Milligan. Consett Stephen recorded the following exchange with his Canadian fellow officer during the preliminary bombardment:

“Hello Australia how’s things?”

“Oh, we’re winning.”

“What?”

“The war.”

“Is there a war?”

“Oh! That accounts for the funny noise.”

“Fire a few rounds and end the show.”

“Right let them go.”

“Say kid what about a small one first?”

“Sound idea.”

“Cheero.”

“So long.”

“And thus in fashion somewhat undignified we would continue the greatest cannonade in history,” he concluded

The battle of the Somme dragged for months. On the 3 July one Richard Hensleigh O’Connor fell in action fighting with the New Zealand Forces. He was the son of Mr Justice Richard Edward O’Connor who had been Minister for Justice and Solicitor General in the 1890s. O’Connor had helped draft the Federal Constitution and served as a senator and later a Justice on the Supreme Court. He had died in 1912. His other two sons also served in the war. One was killed in the British forces and another survived the conflict. Richard Hensleigh O’Connor had been one of those young men desperate to get into the war. He had fought on Gallipoli and then in France before his death in a charge on enemy lines.

In an attempt to induce the Germans to move some troops away from the main action around the Somme River Valley, the British High Command conceived a diversionary attack. Thus the first major battle for the Australians was about to take place as a diversionary action on 19 July near a pretty French village named “Fromelles.” The attack was a disaster. Many families would grieve over the name of Fromelles.

The plan for the battle of Fromelles was that Australians of the 8th Brigade and a British Lancashire unit were to advance at night over open ground to a series of German trenches. After taking the first German trench they would move out into the open ground again and take a second, then repeat the process and capture a third. Dawn would see them safe in the German fortifications. The plan further outlined that an elaborate system of support trenches would have been dug behind the advancing Australians overnight, allowing supplies and reinforcements to come forward from their bases. Or so the plan said. Like so many battle plans at the time, it was a mixture of fantasy and incompetence.

Everything went wrong: the Lancashire troops did not take their objective, so the flank was open; the Australians were scattered and lost contact with each other; the second and third German trenches were inadequate for protection, or non-existent; support trenches for supplies could not be dug, and rather predictably, the Germans fought like hell with artillery, machineguns, grenades, bayonets, rifles and their own raw courage and superb training. Getting to the German trenches was hard enough; holding on to them in the face of the inevitable counterattacks was impossible. The inexperienced Australians were slaughtered around the same time as their friends and neighbours were coming over from Australia to help them. A wave of telegrams swamped the communities in Australia, including Sydney where a number of the units were based.

While the Battle of Fromelles raged New South Wales was in the excited preliminary promotion of the first “Day” Appeal for the War Chest Fund, which would soon take the name of *The Comforts Fund*. It was the same fund that as so strongly supported by Edward Simpson. Many military units had their own dedicated Comforts Funds, and the families of legal practitioners reappeared constantly in the lists – although often they may have been motivated by grief as much as any sense to serve or lead.

Harriet Addison established the 18th Battalion Comfort Fund. Her son, Wilfred, had been killed in the tragic charge with that unit on Gallipoli in the horrors of August 1915. The Addisons were a well-known legal family in the nineteenth century. They were friends of the historian Charles Bean, who had himself been a lawyer briefly. Young Wilfred Addison had gone into action fully expecting that he would be one of the first to be killed – leading from the front. And so he had died. Fromelles would take many others.

The 53rd Battalion went into action 20 July at Fromelles under the command of Lieutenant Colonel Bert Norris, the barrister from University Chambers in Phillip Street, Sydney. Norris was leading his men into their first major battle. He received his last orders from Captain Geoffrey Street, who he probably knew as the nephew of Justice Street. The 53rd Battalion advanced. Norris was killed within the initial 20 minutes, according to Charles Bean. In the heat of battle it was impossible to properly care for the bodies so there was an extensive investigation into the possibility that he was a prisoner. His death was confirmed later. Lieutenant George Ernest Allan, a 23-year-old law clerk from Bondi was also serving in the 53rd Battalion. He too went missing in action on the 19 July. The Red Cross tried to track down details of his fate. Eventually the various accounts confirmed that he had been shot in the advance. His body never located.

The men straggled back to their lines. The news of the battle casualties would cut a swathe of grief through the solicitors’ offices along Elizabeth, Pitt and George streets, and penetrate into the crowded barristers’ chambers near the court. The uncertain fate of many of the men made the work of Langer Owen and the Missing and Wounded Enquiry Bureau both arduous and essential. The case of the solicitor Lieutenant Clarence Collier of the 53rd battalion may serve as one example of how these enquiries developed.

The Collier family in Boundary Road Roseville received a cable from the military authorities after the battle to say that their son was wounded. Then they heard nothing, from the army or from him. They would have known of the battles and enormous casualties from the newspapers that were full of accounts and lists of those fallen in action. They approached the Missing and Wounded Bureau in Pitt Street, which then cabled London. A series of different accounts came back from wounded soldiers scattered in hospitals across England. One said Collier had sprained his ankle; another said he was still at the front. The names of other witnesses were given and they in turn were tracked down and approached. The story of the sprained ankle kept reappearing. In November the family were told that their son was classified as “Wounded and Missing.” London told them to make further enquires in Sydney. They went back to Langer Owen’s office. In addition they went to see returned soldiers from their son’s unit who were in hospital. The bureau went searching for these men.

In early February 1917 Sydney barrister David Wilson went to No. 4 Australian General Hospital in Randwick to interview a soldier from Collier’s unit. The account was written up by Wilson and has the tone and detail of a legal interview.

At Fleurbaix on 19 July Informant and Collier were together in a charge at about 40 yards distance from our parapet. There was a muddy creek waist deep in slush and Collier and informant were lying side by side alongside this creek until a further advance was ordered.. After going a few yards Collier was hit and fell. Informant saw him fall and two days later passed the spot again and noticed that Collier’s body was still there. Death must have been instantaneous. Collier was young, auburn complexion, medium height, rather stout build.

A week later the Sydney solicitor HS Osborne of Wilkinson and Osborne in Castlereagh Street went to interview another soldier. The story was much the same as the other witness. Collier had been hit, his last words were to his sergeant: “Carry on.” He could not have been a prisoner. The witness stated that: “The bombardment was terrific, and it was easily possible for him to be blown to bits after he was wounded.” At the bottom of the report Osborne commented in the manner typical of legal enquiries, that the soldier was “a careful and reliable witness.” Enquires were made in Germany but he was not on any of their lists. AIF Headquarters confirmed Collier’s death on 12 September 1917. There were thousands of similar cases for the bureau to investigate after the battle of Fromelles. Many were connected with the law – one case involved tracking down the fate of Lieutenant Alan Mitchell, the son of George Mitchell, the Darlinghurst Inspector of Police.

There was some glory amidst the chaos. Major Adam James Simpson, the law Clerk from Hunter’s Hill was serving with the 56th Battalion. He led two companies into the attack and managed to extricate most of them with very few casualties. As a result of the fine leadership he displayed Lieutenant Colonel Humphrey Scott recommended Simpson for the Order for the Crown of Italy.

Langer Owen’s column in the Red Cross Record was missing in the later part of 1916. He was too busy handling the mass of enquires. More were to come from a new action in the town of Pozieres. It deserves a section on its own.

Lawyers in the Battle for Pozieres

The Battle for Pozieres was a hideous affair, which took place in the heart of beautiful Picardy countryside: a superb vista of “golden grain crops strewn with red poppies and corn flowers, hedgeless and studded with green copses” as described by the official history of the 17th Battalion. The beauty extended only to the edge of the battlefield. Combined with Fromelles, Pozieres would generate many dead, wounded and missing notifications to the extended legal community.

Pozieres was a key town about 10 kilometers north of the Somme River in France. Despite all efforts since 1 July the British had not captured it and the beautiful town was turned into an unrecognizable wasteland by their attempts. Pozieres was a magnet for artillery fire, easily reached by the German guns. The road to Pozieres went through Albert, one of the last major cities before the front line. Adrian Consett Stephen had passed through it and described it as “a ruin. The railway station is a tangle of iron and glass, the fronts of houses have been torn away subjecting their privacy to indecent exposure. Cafes are stripped bare, leaving their marble tables standing out white amidst the debris, while the church tower is riddled and its gilt statue now hangs downwards with its arms outstretched to earth. The town is a sort of modern Pompeii.” Stephen is revealing the influence of the classical aspect of his education with his reference to Pompeii.

On 21 July Reginald Arthur Kerry was one of the first of the legal community to fall at Pozieres. He lost his life serving with the 1st Company of the Machine Gun Corps. He had gone overseas with reinforcements for the 3rd Battalion in 1915 and had served on Gallipoli. He was English by birth but listed his address on enlistment as being in Chatswood, and his profession as schoolteacher. Kerry had studied Arts and Law at Sydney University. He is on Treatt’s list as having attended the Sydney Law School.

The Australian troops had marched to battle up the crowded, lethal thoroughfare known as “Sausage Valley.” Beyond that long, shallow depression was the front line. Major Bertie Vandeleur Stacy was waiting on the eve of the attack behind Sausage Valley with the 4th Battalion was. He had survived the early skirmishes and then endured the long march with his men through St Ouen and Vignacout towards the sound of the guns. They had witnessed the British survivors of the first assaults, singing as they marched away, many bearing German helmets as war trophies. Sydney barrister, Lieutenant Colonel Adrian Windeyer Ralston, “Win” to his family, also made the trip through the French towns to the battlefield. Other lawyers who went up through Sausage Valley included, John Maughan, Errol Kirke, Francis Coen, Charles Manning, Bruce Monie, Maxwell Barton, Frank Crommelin and William Mackenzie. Some would never return.

The Australian phase of the battle started officially at 9.30 pm on 22 July 1916.

Adrian Consett Stephen stayed on duty all night because his fellow Australians were attacking. A cousin of his, Captain Edgar Milner Stephen was about to treat

causalities at the Casualty Clearing Station at Puchevillers a few kilometres away from the battlefield. Adrian Consett Stephen was in an Observation Post near the front line and described the opening of the battle:

As zero time became due, three or four guns opened out – there are always a few early guns – for it is impossible for 50 watches to synchronize, but after a second or two all the Batteries get into their stride and the whole world becomes merely noise – noise! After each round the gun would heave back on its haunches, as though taking a breath while smoke dribbled out of the long barrel . . . It is useless to attempt to shout orders to the four guns. . . I enjoyed myself. Even the prematures from the field guns behind . . . that sent their shrapnel singing overhead like spray, only added the necessary touch of danger. The roar of the guns, with their irregular pound – pound – pounding that sounded like hammer blows filled one with a sense of immense power – and that in itself is an intoxication. He had become “a connoisseur of bombardments, and a glutton too – provided of course that the shells are going in the right direction. I have discovered a thrill in mere noise, such as Wagner could never give me.” He watched the trolley loads and stretchers of the wounded all night. After dawn new troops “swung up the valley road. (He) watched them, trying to pick out a face (he) knew. “The men marching to Pozieres, and the loads of wounded streaming back from it, not ten yards between them, made a contrast. The battle seemed to consist of a passing circle of men through that inferno, some of them staying there forever, some coming out broken, but few – I never saw any – coming back as they had gone . . . Their bandages and their torn and bloody clothes made them look like old time buccaneers. . . But Pozieres itself was now a furnace: dense smoke, yellow and white and black poured out of it; the boche bombardment sounded like the crackling of tin; it seemed impossible that men without trenches could exist in such a cauldron.

Another young lawyer to write in detail about what happened was young James Blackwood. There is none of Consett Stephen’s fascination and exhilaration. Blackwood reveals a sensitive, bookish young student, with no pretensions for heroism blundering about a chaotic battlefield.

Blackwood wrote a long letter to his parents describing how he felt “rotten” in the lead up. He saw “how curious it was to stand in front of the guns to see the men place the belching steel mouth in position to observe the flash, the loud report and then to note how the mouth and frame recoiled like some great vicious monster snake after striking its prey.” Snake images recur throughout Consett Stephen’s writing as well as Blackwood’s. The snake is beautiful and deadly – just like the war, with its heroic splendour and savagery. Blackwood went up through the maze of trenches to the front line. He described what happened next:

We hopped the parapet about 12.30 am, creeping on our stomachs and lying down whenever the Germans sent up their brilliant flares. Meanwhile the British artillery was pouring a positively awe-inspiring bombardment upon the tree trunks and ruins of Pozieres. The continued vivid flashes of red and yellow flame made both made both the trees and ruins very clear . . . I was terrified by the row, and felt little splinters of stuff striking my legs.” Then they got up

and staggered forward under the weight of their equipment. . He wrote. “I got entirely lost, and wandered around for several hours amid scattered mobs in much the same bamboozled condition . . .At one place an officer came up who seemed rather uncertain of the lie of the land as well. I recognized him as (Hasty) a’Beckett who had been at Shore and we shook hands there and then.

It is poignant to picture the two school friends meeting across one another in the midst of one of the worst battles in the war, but such instances were not uncommon. Many of the men mention how pleased they were to see someone they knew at the time. The connections of family, school, suburb, church, university and profession provided ample opportunity to meet someone in unexpected places. The two Shore ex-students were soon separated and Blackwood and his friends wandered about while the Germans dropped artillery all around. They had a number of close escapes, devoured captured German rations and watched comrades get hit - or buried alive. Blackwood saw a man he knew from Sydney University who gave him news of other acquaintances then at five o’clock he was hit in the left forearm by shrapnel. In his own words he “bolted for dear life.” He did not write that he saw a German nor did he mention firing a shot. He just seems to be glad to have survived and be out of it.

Many other lawyers and the sons of the profession were scattered throughout the men who waited in the dark in Contalmaison Valley watching the flares arc above the distant trench. Many displayed the leadership expected of them. Not far away from Consett Stephen a young Adelaide solicitor, Arthur Seaforth Blackburn, was going into the fierce action. He was the brother of a Potts Point Doctor, Charles Bickerton Blackburn, who was then serving with the Australian General Hospital. Arthur Blackburn led a series of attacks on the German trenches for which he was awarded the Victoria Cross.

The barrister Major Alexander Windeyer Ralston, led the 20th Battalion on the night of 25 July. The men attacked with Ralston moving his headquarters forward into a shell hole in No-Man’s land. He could do little but help the survivors back to safety when the attack failed. Ralston led his battalion throughout the battles of 1916, trying to husband their strength in the face of the demands placed on them by the higher commands. One of the senior commanders he had to deal with was a Sydney barrister who had made a career in the military - Major General James Gordon Legge. As a barrister, he had compiled a 1,600 page work, *A Selection of Supreme Court Cases in New South Wales from 1825 to 1862*. He commanded the 2nd Division, which included the New South Wales units, the 17th, 18th 19th and 20th Battalions. Legge wrote the elaborate orders for such tactical operations as the construction of trenches, which were to allow for a protected advance to Pozieres. His conduct of the battle is much criticized. He continued to try and control the action as best he could for the next week or so as the units ploughed through the battle up to Mouquet Farm. He was a controversial figure, with some people believing he was a good commander in the field. General Haig said that he “was not much good.” Others disagreed. By all accounts, his personal style did not help his case. He was sent back to Australia in early 1917, ostensibly because of illness, but in reality it was an excuse by General Birdwood to get rid of him. Legge was also another long-term advocate of Universal Service. His military career faltered after the war and he later became a farmer.

On 25 July the 19th battalion entered the forward trenches covering Pozières—a “shockingly bad relief”, according to the barrister Lt Col William Kenneth Seaforth Mackenzie. His condemnation of the order refers directly to Legge. Mackenzie had to make do with a command post that was also a medical dressing station, so he settled in to run the battle surrounded by bandages and other medical paraphenalia. He commented that “Companies got mixed (and there were) Too many men in front-line”. Next day Mackenzie on his own initiative drew back one company and thinned out the line. Pozières was then subjected to dreadful bombardment and casualties were severe. They would have been worse but for Mackenzie’s action in thinning the front line. Mackenzie felt deeply the hardships and dangers to which his men were exposed and did his utmost to alleviate their difficulties. He was awarded the Distinguished Service Order at Pozières for his work from 25 July to 5 August, According to his citation “he displayed courage of a high order and was unremitting in his attention to the personal requirements and well being of his men. . . never sparing himself during the whole time and scarcely allowed himself time for ordinary rest.”

In the command post with MacKenzie was a 22-year-old law student, Lieutenant Alan Russell Blacket. He had held a Wigram Allen Scholarship at Sydney University, where he had graduated with Honours in intermediate Law. He listed his address as being with Wilfred Blacket KC in Denman Chambers in Phillip Street in Sydney. It is not clear what his relationship to Wilfred Blacket KC was – quite possibly he was the Kings Counsel’s nephew. Whatever their connection, Wilfred Blacket KC would soon receive a telegram telling of the wounding of Alan Blacket from an explosion in the command post at Pozieres. Within a week another telegram would tell of his death. In such a way, the war would occasionally intrude into the world of the law in the most cruel manner. Wilfred Blacket would go on to write *May it Please Your Honour*, one of the most evocative accounts of life in the law at that time.

Mackenzie’s battalion was then withdrawn for a time before returning to action between 21 to 28 August. Again he was unstinting in his efforts to keep his men as safe as he could. He was recommended for the Military Cross for this second time in action, but it was not awarded. After taking his command through the winter he was recommended for Mention in Dispatches. Mackenzie brought the care and attention to detail he had displayed as a barrister onto the battlefield.

Major John Malbon Maughan, New Guinea and Gallipoli veteran, ex-student of The King’s School, Oxford University graduate, grandson of William Charles Windeyer and solicitor of 2 O’Connell Street was serving with the 17th battalion at Pozieres. He had a long battle. When the attack went in on the night of the 26/27 July the men could not see the enemy in the dark. Maughan leapt out of the protection of the trench onto the parapet and, despite the risk from snipers, kept firing flares to light up the area for his men to throw bombs. In the process, he also illuminated himself. As a result of his exposure he was shot in the head. He described the event in a letter to his father. He wrote:

I was directing the defence of a captured trench against a Boche counter-attack lasting all night and had just determined to leave the particular fire step I was on as the men were being picked off from it when I got a whack. It was

probably a bullet just glancing as I was just turning a bit to the left. . . I was knocked down but not unconscious. It was just over the left eye (lucky as usual) as if I had been facing square round I probably would have got it in the eye or right through the head.

He was evacuated to the 3rd Casualty Clearing Station then to hospital in England after almost 48 hours of continuous battle. He was awarded the Distinguished Service Order in September for the actions at Pozieres. His medals, including the striking white cross of the DSO are on permanent display at The Kings School Parramatta where he remained a prominent member of the ex-student community for the remainder of his life.

On 26 July the solicitor Howard Douglas McKenzie was one of a group of volunteers from the 17th Battalion who went forward to confront a German counterattack at a place known as Munster Alley. Bean wrote that McKenzie led his group with “conspicuous bravery.” One eyewitness account was that McKenzie “got out into the open above the German trench when there was a slight wave back on the part of our men. – he rallied them and called out not to give way. He was in the act of throwing a bomb when he was shot through the heart.” His company commander wrote that he “was continuously on top of the parapet, directing the bomb throwing and urging his men forward, thereby displaying not only personal bravery, but as subsequent events proved, cool headed judgment . . . none could have died a gamer death.” After the war, Douglas Mackenzie’s father wrote that Howard “was a manly cheerful boy, good in athletic sports; keen sense of honor; (who) joined in this war because he could never respect himself again otherwise. He gave his life freely for the cause of humanity.” Howard Douglas McKenzie was recommended for the Military Medal but there is no record of the award having been gazetted. He had around 40 close relatives who served at the front, including two brothers, both of whom were wounded in action.

On 27 July Bruce Lawson Monie, the articled clerk from Burwood was killed with the 18th Battalion not far away from where Howard Mackenzie fell. His commanding officer wrote to Monie’s mother that he had been with him when he died. An artillery shell had badly injured Monie. He died soon after. Monie was another ex-student of Riverview and his obituary in that school’s magazine notes with pride how Bruce Monie undertook chaplain’s duties on his transport between Sydney and Egypt and preached every Sunday to the Catholic soldiers. Such an action from a comparatively young 21-year-old, even if an officer suggests the kind of willingness to lead which so many lawyers displayed. Monie was buried in ‘Sausage’ Valley but the grave was later lost because of the incessant artillery bombardment.

Barrister, Captain Francis Coen also lost his life at Pozieres with the 18th Battalion. He was killed in action 28 July. According to three witnesses, Coen took a party of men to the front trenches in the morning to join up two positions. As he was examining the ground before deciding where to commence the work he was struck in the head by a sniper’s bullet. It was just before noon. He was buried where he fell. The man who made the cross for his grave wrote that Coen “was well liked by all the men. He was a soldier.” One Father Clune read the service for him. Charles Bean puts the time of Coen’s death as slightly earlier. He wrote that “the night was a disturbed

one, the artillery of both sides firing heavily, and in the 18th Captain Coen (was) among others killed.”

On the same day Coen died, in the same unit articulated clerk, Robert Eric Penty of Bondi disappeared without trace on the battlefield. His brother Basil would be killed barely six months later. The Fourth Battalion, including Major Stacy endured their own battles nearby. On 27 July Lawrence Oswald Lowe, a 19-year-old articulated clerk from Coogee was injured in the attack on Pozieres. He died of wounds two days later. His father was a solicitor in Pitt Street. Charles Bean wrote that Pozieres was “the severest ordeal ever suffered by the AIF”. It affected the legal community as much as any other.

According to Bean, the Manly Law Clerk, Captain Errol Wharton Kirke, completed work similar to that begun by Frank Coen. Kirke was operating with Coen in the 18th Battalion. At 2 a m Kirke “brought up a small party of infantry with picks and shovels, which before daylight dug a short isolated trench – thenceforth known as ‘Strongpoint 91’.” Bean records Kirke in action over the next two nights repeating his achievement in establishing another strong point which would support a further attack. On 4 August the 17th and 18th Battalions attacked at night under cover of an artillery barrage. The Germans had tried to illuminate the area with burning drums of oil. Bean wrote that there was “no loss, except that of the leading company commander, the gallant Kirke, who was killed at this juncture by a shell.” Kirke’s luck, which had seen him survive New Guinea, Gallipoli and multiple actions in France, finally ran out. He had been the managing clerk to the solicitors Ash and MacLean of 99a Pitt Street. That firm was one of many which did work for members of the AIF.

Also serving at Pozieres was the Anzac veteran and barrister, Charles Edye Manning, a well-known ex-student of The King’s School. He was a good friend of his fellow ex-student John Maughan. Manning had been second-in-command of the Victorian 24th battalion throughout their action at Pozieres. When they withdrew from Pozieres they bivouacked at a place called Tara Hill. The position was subject to artillery fire and Charles Bean reported that one projectile burst in an old gun-pit occupied by the Headquarters of the 24th Battalion. Manning and three other officers were killed. Manning’s battalion had gone into the line on the night of 25/26 July. He had been serving within a kilometre of fellow barristers Lieutenant Colonel WKS Mackenzie, and Captain Francis Coen. Manning had been with 24th Battalion through a succession of attacks and constant barrages. Brigadier General Gellibrand wrote of Manning:

Throughout the operation of the Brigade in France and Gallipoli Major Manning proved himself a most reliable and valuable officer whose steadfast devotion to duty was as conspicuous as his cheerful gallantry in action. His death in action, after holding temporary command of his Battalion, is a severe loss to the Brigade.

Manning’s brother, Guy, had served with him for a time in New Guinea and had stayed as part of the administration when the troops withdrew. Guy Manning had been killed in a motorbike accident a little over a year earlier. Guy and Charles Manning

were the sons of Judge Charles James Manning (deceased). They had lead a privileged life in a splendid waterfront house in Hunters Hill but had left their servants, horses, picnics by the river and their promising careers for war. They are commemorated in All Saints Church Hunters Hill and at The King's School.

Adrian Consett Stephen watched the Australians streaming into battle. He looked for friends and if possible had them in for a meal or a drink. A few days later he was injured while running for cover during a gas attack. He was sent back to the Australian aid station and went by car, loaded with groaning wounded. The distraught driver came from Glebe Point. Adrian Consett Stephen was restless in the dressing station in the old Chateau. He wrote that he saw on 29 July that "ANZACs are pouring in – an endless stream of tattered bloody figures – night and day . . . I hope to be off soon. 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." His comment describes the way the war took over the lives of the men from chambers and law offices. Some people very close to him on that day were about to lose their lives.

On 29 July it was the turn of the 25th Battalion to charge forwards at Pozieres. They were cut to pieces. Among the dead was John Rendell Street of Bathurst. He was the nephew of Judge Phillip Whistler Street but of quite a different character from his cousins, three of whom were fighting at Fromelles. John Street was a colourful character, 42 years old, who enjoyed a free and easy life as a station hand in Queensland. There were repeated references amongst his friends and family to his habit of freely knocking down his cheque when he had been paid – a habit that he maintained in the army. There were a number of transgressions on his record. But when the time came he went forward with the rest. He was well known in his unit and his comrades were clear about his fate. He was hit, probably in the spine and unable to move. Rather than being captured he put his rifle under his chin and shot himself. The Red Cross interviewed five witnesses who confirmed the suicide in battle. One stated that he was "extremely anxious that this report should not reach relations, who are in fairly good position." Accordingly the Red Cross Missing and Wounded Bureau was rather coy about his end, simply stating that he received a "fatal wound." But the relations were not to be fooled. Street's sister, Margery was in London and had experience with the stories of returned men. She requested the full items. There is no record of them being sent. Street's fate was not established until his brother in law travelled to England and gained a Statutory Declaration from an eyewitness, which confirmed the death, but did not mention the manner of it. Street's brother in law was the Sydney solicitor, James Arthur Dowling. Dowling's son, Max, was also among the dead at Pozieres.

Lieutenant Max Russell Dowling had died the day after his uncle. He had led his men into battle on 27 July and was shot in the left hip. He was taken back to the hospital and appeared to be recovering. He had a cup of tea early in the morning but died quite suddenly. James Dowling's other son, Brian, was serving with the Royal Air Force.

Not all the deaths were in the infantry. A 20-year-old articled clerk Frank Crommelin of Grenfell was serving with the 6th Field Artillery Brigade. On 7 August, Crommelin,

a graduate of St Ignatius College Riverview, was on duty in his gun pit when an explosion killed him. The cause was variously described as a premature detonation from his shell, or a round fired by the German siege artillery. Whatever the reason he was still dead. The toll amongst the legal community continued. On 11 August John Ebenezer Donaldson was killed with the 19th Battalion. He had qualified as a doctor but chose to serve as a combatant. His brother, Charles, a Sydney law student had been killed at Lone Pine a little over a year before. There was still one other brother in the army. All three boys had gone to Sydney Grammar School. Their father was a solicitor in Pitt Street. He had written eight letters trying to find out the details for the death of his son in 1915. Now the remainder of his effects arrived at the same time as the dreaded telegrams informing the family of the severe gunshot wound to their eldest son, Frank. He was paralysed by the injury that he had received on 27 July and died of pneumonia.

A few days after the battle of Pozieres had commenced started Adrian Consett Stephen walked up the same road as his countrymen. He saw the dead strewn on the way to Pozieres. He wrote that “the corpses blackened and the horrific injuries . . . some had the tops of their skulls knocked off and hanging like the lid of a box Oh the glamour and the glory of war! How safely the papers talk of ‘ sleeping the last sleep,’ etc, and even Brooke with his ‘some corner of a foreign field is England’ (sic) – ‘C’est la guerre’ is the answer I suppose – as if that answered anything. . . . more Australian batteries jingled up the road, the men with big hats and the horses with flowing tails and manes striking a picturesque note. The Australian uniform is less stiff than the English; it savours of wide plains and the long trek. . . .Not easily shall I forget Sausage ValleyIt was a Piccadilly Circus in the wilderness.”

Among the many men with family connections to the law at Pozieres was 8th Battalion’s medical officer, Captain George Aloysius Heydon, the son of the Sydney Judge, Charles Heydon. His commanding officer wrote that, “no man could have shown more devotion to duty.” Regardless of the danger Captain Heydon was devoted to his task. “His one thought for the wounded” Heydon remained duty for four days and carried wounded himself when stretcher-bearers were themselves casualties. He was wounded eventually and was awarded the Military Cross for his actions. Battalion.

Pozieres was a long battle, which moved through a number of different phases. The troops fought their way north along the Pozieres ridge towards a place known as Mouquet Farm. Francis Maxwell Barton, a 23-year-old law student from Gladesville, was killed in action there. Barton was listed as law student from Sydney University, a member of the Sydney University Scouts and a graduate of Sydney Grammar School. He was a Captain with the 13th Battalion. On the night of 10/11 August he led his company into the attack position and waited for the barrage to end a little after 1 am. Then he led his men off towards the German positions. Bean wrote that they “started well but whether because the night was foggy or through over-keenness, went further than they intended to go. . . . Captain Barton, who moved along the right to reconnoitre, was never seen or heard of again.”

Barton’s disappearance resulted in a long investigation. Rumours of him being wounded, or suffering from shell shock or captured filtered through the system. There are many letters on his Red Cross file recording the efforts of friends and families to

track him down. Nothing was ever heard. One eyewitness wrote that “Captain Barton then went back across No Man’s Land with Sergeant Redda to fetch some tools, and they were both lost, and never seen again. It was a very dark night and we think they must have mistaken their way, and gone into the German lines by mistake.” The Sergeant Redda, mention in this account is probably Sergeant Riordan of Bellambi, who was listed in other accounts as having gone with Barton on the night of the 11 August. Riordan’s mother shared the protracted worry as Barton’s family and in February 1917 she wrote to the Bartons in which she repeated the story of the tow men’s disappearance. Across the decades her final words give some indication of the poignant anguish people experienced when their sons went Missing in Action. She wrote: “I only wish, Dear Mrs Barton, that I could send you some comfort in your trouble – it would seem that if it was true that my son is a prisoner, your son must be also. God grant they are safe somewhere.” Unfortunately Mrs Riordan lived in a false hope. Her son was dead too.

Francis Barton’s brother, Robert, was serving in France at the same time. He too had heard the rumour of the men being prisoners. Robert Barton was, like his brother, a student at Sydney University, but is not listed as being part of the law faculty. He was a lieutenant with the 45th Battalion. Ten months later he was killed in action attacking a German pillbox at Messines Ridge in Belgium. Such stories swamped Langer Owen and the staff working in the Missing and Wounded Enquiry Bureau at the end of 1916.

The 4th Battalion was in action and one of the well-known associates of the legal community was in the thick of it. At the time the centre for law education was Sydney University. The caretaker of the Law School, Private Robert Wilson, was serving with the 4th Battalion at Pozieres. He appeared everywhere and, like so many, braved the torrent of shell fire to run messages, prepare hot food and dig out buried comrades, while always at risk of such a fate himself. For the action he was awarded the Military Medal. Major Bertie Stacy was back with the Fourth Battalion again. He had been an inspirational leader of the unit and held them through the terrible winter of 1916/1917. In March 1917 he was promoted and put in charge of the First Battalion. Stacy was awarded the DSO for his time with the Fourth.

On 29 August a Sydney solicitor, Robert Humphrey Browning was wounded during a charge. A bullet went right through his leg. Despite the injury he continued to direct his men. Browning was awarded the Military Cross for his actions in the battle. His citation reads:

Captain Browning was most energetic in the front trenches, disposing his men skilfully for the night attack, and reconnoitring the objective at great personal risk.

After the attack was launched his Company captured his objective and a fierce bombing fight commenced. Captain Browning was severely wounded in the thigh; he took his whistle lanyard off and twisted it round his leg as a tourniquet and continued to direct his men until general retirement was necessary. Refusing assistance, and ordering the stretcher-bearers to attend to his men first, he crawled 250 yards through the mud to our trenches, where he collapsed. This officer set a very fine example of coolness and courage to his men.

Another officer accompanying Browning in the same battle was the much-decorated Harry Murray, who received the DSO for the action. Browning was the son of a Sydney barrister, Robert J Browning of 149 Phillip Street. Browning was later wounded again in Ypres and eventually joined the Flying Corps. He survived the war. He was another representative of his class who lived up to its expectations. As with men from a range of backgrounds, he discovered his strength on the battlefield.

On 5 October the law student Francis Flannery was shot in the back while serving with the 1st Battalion. He had already survived contracting Typhoid on Gallipoli. At the time of his wounding his unit were in a “rest” sector around Ypres. Despite the fact that the Official History describes the actions there as “unimportant” Flannery was still shot while engaged in trench fighting. At least he had some leave afterwards in England. The death toll mounted.

At a place called Flers also on the Somme Front, Lieutenant Frederick Dunbar, a managing law clerk of Sydney fell in action. It was just after this fight that the barrister, Desmond McMahon Gavan Duffy, the son of Judge Frank Gavan Duffy, was killed. In the cold November weather Desmond Gavan Duffy was reportedly suffering from trench foot. After duty in the trenches at Flers he retired to a rest area called Carlton Camp about three kilometres behind the lines. Around midday he was playing cards in a tent with two other officers when a German long-range artillery shell landed on them. Eyewitnesses said that the officers, including Gavan Duffy were blown to pieces. The three men had survived the extreme battles at Pozieres only to be killed almost at random when they must have thought they were safe. Desmond Gavan Duffy had been with his unit in action for a little over three weeks. Also serving near Flers was Percy Valentine Storkey with the 19th Battalion. He was wounded in action on 14 November. Storkey had been born in New Zealand but had completed a law degree at Sydney University. He was to go on to win the Victoria Cross in battle.

The Battle for the Somme may have been grinding to a halt, but the deaths continued. One 26-year-old doctor from Double Bay arrived in the first few days of that month. Roger Forrest Hughes had only been in the army since March. He was sent to a Casualty Station near Bull Trench in the vicinity of Geudecourt on the Somme. He was treating a patient when a shell from nowhere did him terrible damage – compound fractures to both legs. He was taken to the 36th Casualty Clearing Station where he lingered until the evening. His brother, Geoffrey, an articled Clerk was serving with the Royal Air force. Knowing his brother was in the area Geoffrey had ventured a visit in the hope of catching up. Thus by sheer chance Geoffrey Hughes arrived in time to be with his brother at the time of his death. At least he could comfort his parents with the fact that their son was not alone when he died. Roger Hughes’ last entry in his diary read: “Sunday Dec. 10 – after breakfast read some of the *Imitation of Christ* as mass prayers.” The Jesuits at St Ignatius Riverview would have been comforted by that. Elsewhere, the wounded were recovering from their injuries.

After being wounded in Pozieres James Blackwood had the chance to recuperate in England. Like so many others become a form of military tourist. His letters moved on to describing his meetings with friends, a visit to Chichester cathedrals, the joy of receiving letters from describing his war experiences home and travels around the United Kingdom. He had a pleasant time of it, despite his wound, which healed well. He was able to visit many of the places he had studied in history. His letters home from August through September are filled with descriptions of chapels, tombs, and historic landmarks. The writing reveals a young man intensely interested and aware of the world away from Australia. He wrote of his visit to the Fitzalan chapel that the nobleman. . .

lies clad in full robes and coronet with this lady wife, a Portuguese princess, at his right hand. She by the way wears the peculiar lampshade headdress which characterized the early years of the Lancastrian period, and at the feet of the effigy a pathetic interest attaches to a pair of little lap dogs. A striking sight in this building is the east window, with its fine, modern, stained glasses in memory of the present duke's first wife. There is an appropriate allegorical sense in the vast array of figures, among which appears the lady herself, while in the lowest parts of the window are some persons depicted in the flames of purgatory.

It is hard to conceive of this young man in the violence of Pozieres barely two weeks previous. He found the time in England convalescing "a splendid experience" and was "deeply thankful" he had survived. In November he wrote to his parents expressing his concern for his father's insomnia and loneliness when the family were away. He wrote to his father "I recall how empty the house used to appear when there were migrations to the mountains, how early and quietly you and I would retire together." To his mother he wrote of his sadness at losing the little gift handkerchiefs given to him by her and his aunt. They had been in his sleeve at Pozieres when he had been wounded. He felt embarrassed to mention how upset he was about them and his own sore foot then wrote "but somehow, this Sunday evening, it's just as if you were lying on the library couch, and we were talking." In late November he went back to the Front near Albert.

The Australians concentrated on surviving the winter. The comforts packages from Australia served many a soldier. Adrian Consett Stephen observed them at the time:

I found myself in the thick of Australian troops and transport – but how different now to our last meeting! Now the men were filthy, unshaven, wrapt in weird garments, and the horses had ceased to resemble animals, their tails a cake of mud too heavy for them to lift; and the countryside just a vast mud heap, bleak, barren, dotted with colonies of huts and hovels that sheltered thousands of men. . . One's shaving brush is like wood in the morning; icicles clog one's razor; one's boots are stiff as tin, and the food on one's plate hardens as you eat. (I can only write now by sitting over a wretched stove and heating my fingers after every few lines).

Other lawyers tried as best they could to survive the winter. Their connections kept them in good company. Clarence Prescott, an articled clerk who had attended Newington College, another GPS establishment, kept fit by playing rugby, along with

others from similar Sydney schools. Charles Manning's grave attracted the occasional pilgrim, including his old Head master Stacy Waddy, then serving as a Chaplain.

By December the Battle of the Somme was officially over. The men were exhausted. Consett Stephen wrote that he saw "Australians coming back from Pozieres, big men from the bush, shaking as though they had the ague, and being led by the hand like a child." The warring armies settled in to survive winter and scratch at one another as best they could. Ronald Charles Osborne, a solicitor from Orange was with the Australian Field Artillery in December. On the nights of 7/8 and 9/10 he took a party forward to set up observation posts connected by telephone lines to the 18 pounder guns. They were easy targets in the bright moonlight and Osborne willingly traversed the open ground then and over the next two days and nights despite being under very heavy fire. He was awarded the Military Cross for his "great gallantry and devotion to duty."

The war festered on. Even in the quiet times men could still become heroes or be killed.

Aftermath

In Sydney the embarkations continued throughout the battle of the Somme. On 7 October the 32-year-old barrister from Strathfield, Lieutenant Joseph Robert Ranson, left for duty. At the time of his departure, his younger brother Frederick was a prisoner-of-war. Keith Monie, the brother of the articled clerk Bruce Monie joined up. Keith was 19 years old, and his parents had to sign a permission note for him to enlist. This they did, despite the fact that his older brother had been killed in June of that year. Any departures at this time were against a backdrop of deep grief. News of deaths and injuries kept flowing in.

Francis Coen's death was one which caused a surge of sadness across a number of communities: law; politics; sport, his local Yass community and the Catholic Church, especially his schools, St Ignatius Riverview and St Patrick's Goulburn. As a successful barrister, he was known throughout the legal profession. He had debated and rowed for his school and university, and managed the University of Sydney rugby team. In 1914 he had been a Liberal candidate for the Senate. Local historians, Mongan and Reid, in their fine account of local district of Yass in the First World War report that Frank Coen's stepbrother Father Alphonsus had travelled to the family home to bring the news to their mother. Yass was deeply grieved by Frank Coen's death. There was much sympathy for the family. The Municipal Council adjourned its meeting as a mark of respect. The Mayor of Yass was also Frank's older brother, Michael.

There was a prolonged period of public grief for Frank Coen. A Requiem Mass was held for him in the spectacular setting of Sydney's St Mary's Cathedral on 28 August 1916. His brother Alphonsus celebrated the Requiem Mass in Latin. There were representatives of all those who had connections with Frank: his family: the Catholic Clergy including Jesuit priests and others who were close to him and his brother; sportsmen who had rowed or played rugby with him, barristers, school friends and the military. His old headmaster, Father Gartlan, gave the panegyric. A week later Father Alphonsus celebrated another Requiem Mass for Frank in St Augustine's Church in Yass where Bishop Gallagher spoke and said of Coen: "He was so young, so strong, so talented so buoyant in spirit. He had before him the prospect of a brilliant and successful career." The eulogy was reported in the local newspaper, *Yass Courier*. Such events indicate how much the local communities recognised the potential of many lawyers as future leaders in a variety of spheres.

Such memorial services were a depressing feature at the end of 1916. They were often held very near the law courts and legal offices in Pitt and Phillip Streets. They certainly would have gained the attention of the legal community. A similar service to Coen's was held for the barrister Bert Norris. There were other services at St James and St Andrew's Cathedral. Solicitor Charles Melville Macnaghten had returned home in 1916, wounded and damaged in other ways. He wrote of attending a "memorial service at the Cathedral – the place was packed – alas with very many women in black. People were sobbing all round and it was very harrowing. It brought

back memories of all those gallant officers and men of the dear old 4th, every one of whom I think was personally known to me.”

Macnaghten’s comment shows how hard he took the experience of war as well as how strongly he identified with his men. The battalion community extended to the home front. Macnaghten was a long way from the firebrand leader who had charged at the head of his men into enemy gunfire. This attachment to a unit was typical of the men. The son of Justice Charles Heydon, Doctor George Aloysius Heydon “obsessed by the fear that in leaving (his unit) it would be deserting friends who needed him.” The war gave rise to powerful emotions among the legal community.

Another man to have the profound mourning of his death recorded by his old school was Desmond Gavan Duffy. In a tribute written in Riverview’s *Our Alma Mater*, RJ Little SJ wrote of him with deep grief, commenting personally:

I can recall in the school debates his ‘kindling mien’, his eye of sombre fire, his nobly serious tone, deep and deliberately measured, trembling with the gift of the orator, hereditary in his race; and I grieve to think of that voice stilled even by a most noble death.

Father Little’s comments clearly indicate the loss of a great talent, but also contains a suggestion that perhaps the Jesuit was not quite as convinced as others of the worth of the sacrifice.

Thus 1916 ended. Winter claimed the battlefields. In Australia the hot, humid weather caused itchy discomfort to the legal practitioners stoically enduring their wigs and gowns. Barristers, solicitors, judges and clerks could not go to work without coming across: flower stalls; Red Cross Nurses in Martin Place; an endless program of fundraising “Days”; the steady flow of packages and telegrams into the offices of the Comforts Fund or the Red Cross; departing troops Macquarie Street, or the sight of those wounded limping back home - and always the news of more and more dead, so often men they knew from work, sport, school, university, church and suburb.

One tangible reminder of dead loved ones were the return of their effects. Within a few weeks of his death the family received the last tangible link to Roger Forrest Hughes – a bundle of his belongings: six khaki shirts a balaclava, fountain pen, clothes brush, his shoes, medical instruments, cufflinks, underpants, singlets, enamel mug, eighteen handkerchiefs, books of poetry, his prayer book, razor, flask, pipe, wrist watch, hair brush, coins, photographs, letters, pocket knife, travel rug, field glasses, whistle spurs, two tooth brushes, badges, diaries, and locket on a chain and what was quaintly called a “religious charm.” Everything came back. All that was missing was the man Roger Hughes’ wife Eileen was pregnant with their first child when he died.

Peter Roger Forrest Hughes was born 4 February 1917. He too went to St Ignatius College Riverview and followed his father into war when the second great conflict rolled around in 1939. On 3 October 1942 Peter Hughes was flying with 12 Squadron in the Northern Territory of Australia when he too lost his life, age 27, around the same age as his father had been. In a terrible twist of fate, Eileen Hughes was killed in a car accident on her way to see her son’s grave.

Sir Thomas Hughes MLA was a little like Judge David Ferguson of the Supreme Court, whose fascination with his son's Gallipoli battlefield led to the detailed construction of a model of the Gaba Tepe and the beaches. In this way Ferguson had tried to understand the experience of war. In Hughes' case it was through the collection of artefacts. Sir Thomas Hughes assembled a large collection of medals from the war. He later presented them to the Australian War Memorial in memory of his son Roger, and grandson, Peter.

At the end of 1916, the Universal Service League was trying to come to terms with the "No" Vote of the first conscription Referendum at the end of October. The result dismayed many lawyers. It provoked a particularly angry letter from Adrian Consett Stephen written as he was shivering through December in France:

All the arguments about conscription seem to me to have missed the point. There is only one argument – War! There is only one reason – War! . . . no man is *virile* who is not *willing* to fight. The virile men have all come over – all the more reason why the remainder should be made to come over to relieve the pressure on the *virile* men It is a question of right or wrong, of patriotism or unpatriotism – which is beyond argument. . . . Australia has at last found a 'soul' . . . before the war we were the most soulless people alive as a nation." The conscription issues was "a chance . . . of realising and cementing their nationhood, of showing their reverence for the newborn soul of their own nation, and their determination at all costs, to sacrifice everything to keep that soul unsullied and place their nation in the forefront of all the nations." The no vote was the result of "ignorance pure and simple. The issues were not explained to them. . . The life of a man is as nothing compared to the continuity of a nation, to the greatness of its soul. . What does it matter how many men we send? To me the whole question is spiritual.

Consett Stephen's reference to virility and war echoes throughout the rhetoric of those lawyers who supported the conflict. EJ Loxton KC, in his speech to the Grammar Old Boys' Union spoke of those who had been killed that "They have shown to men that they are men" Furthermore he said of soldiers that "by preparing to take up their battle cry are helping to fulfil their life's purpose." These comments, which may seem overblown rhetoric to modern eyes, were fundamental ideals to many in the legal profession in World War One.

Another hundred legal professional had enlisted in 1916; more dead were mourned. The year ended. The law went into recess. The families slipped away for holidays by the sea, and on 30 December the Reverend Ogilvie settled into the hot seat of his carriage in Mary Street Beecroft and set off up the hill towards one of the highest points in Sydney. He passed the new bowling club, whose members could tell from past experience that because of the expression on his face he carried death in his pocket.

He passed streets where the dead were already the cause of great grief and other sons were absent in the dark mystery of the war. The horse no doubt sweated and strained up the last pinch to one of the grandest houses in Sydney. He would have left the

carriage in the large yard, passed the stables and gone to the door. “I’m sorry Mrs Blackwood. I have some bad news . . .” James Blackwood, one of the many promising young law students who had gone away, who had written such marvellous letters describing his experiences, who had finally seen the history he had learnt about at Shore, had died as the result of a wound to his leg that he had received just four weeks earlier. His mother never recovered. Locals remember her as a sombre, difficult lady, dressed in black, attending the endless Anzac services after the war – a lifetime of grief for her darling boy, who wrote so fondly of being with her in the house overlooking Sydney. A stone memorial to Blackwood at Shore marks the promise that died with him. There are no more Blackwoods in the firm that still bears their name.

James Blackwood was one of many whose legacy, like that of Francis Coen, Bert Norris or “Nulla” Roberts, is in the nothingness of unfulfilled promise and whose memorial stones are always at risk of being swept aside in the urge to “clean up the place” or simply through sheer neglect. He had so much promise The Wobblies had it wrong. The law was giving its future to the war. James Blackwood was one of 15 lawyers to die in 1916. Many more would fall. The worst was yet to come.

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- *Unit War Diaries*
- *Who's who in Australian Military History*

Each man mentioned in the article has been confirmed as being a member of the AIF by sighting his Attestation papers online, and his service on Gallipoli confirmed in his Record of Service available through the National Archives of Australia - *Service Records for Soldiers of World War I. Series B2455* www.naa.gov.au

There are a number of Websites concerned with military history, which contain biographies and other items concerning The First World War. The websites accessed in the course of this research were:

www.unsw.adfa.edu.au

www.anzacs.org

www.anzacsite.gov.au

www.theage.com.au/articles

www.digerhistory.com.au

www.parliament.nsw.gov.au

Website of Linley and John Hooper

<http://www.linleyfh.com/oursecondsite-p/p586.htm>

My thanks go to all these organisations for the excellent service they provide.