Barristers in the First World War: Taking up the cause: Rabaul, Gallipoli and the Home Front

By Tony Cunneen

Writing for the Law and War Conference in 2012, Justice Brereton commented that both the legal profession and the profession of arms ‘provide its practitioners with skills and experience that serve them well in the other.’ Considering this complementary skill set, it is not surprising that such a large number of Sydney barristers served with distinction in the First World War. The combination of a sense allegiance for the British Empire reinforced by education, close personal connections and a generally favourable attitude towards military service made the community of the bar predisposed for war when the opportunity finally came. It is perhaps less widely known that barristers and their families had a significant role well beyond the battlefield, where they were active in a variety of war-related organisations and campaigns, including the Red Cross, the many unit-related Comforts’ Funds, recruiting activities and politics. The legal profession’s social leadership in these areas during the First World War was a unique phenomenon in its history. Furthermore, the extensive involvement of judges’ and barristers’ wives in many of these activities was a determining factor in parliament’s decision to pass the Women’s Legal Status Act in 1918 which gave women the right to become lawyers.

A complex web of family, shared interests and education connected barristers in 1914 – both within Australia and as part of the British Empire. Shared values of service were inculcated through using the exploits of heroic men as models of proper behavior. Heroic men were eulogised in education and everyday life through books such as Deeds that Won the Empire and many other boys’ annuals and patriotic texts. With this constant promotion of martial values it is not surprising that barristers had a shared interest in military matters, whether as members of the locally based militia units or a more generalised support for the belief that martial activities underpinned patriotic duty.

A significant number of barristers had combined their professional lives with an active involvement in the formation of the embryonic armed forces before the war, particularly since compulsory military service had been enacted in 1911. One of the leading lawyer-soldiers was Colonel James Gordon Legge who had been admitted to the New South Wales Bar on 6 March 1891 and practised for three years before joining the permanent forces. Legge had served in the Boer War with distinction and had been instrumental in implementing the defence plan adopted in 1909 known as the Kitchener Scheme. He would have a varied and often controversial career in the war, and, while a member of the legal community, was more a soldier than a lawyer. Another well-known soldier who fully combined his legal and military careers was the barrister Henry Normand MacLaurin.

MacLaurin had been a well-known personage before the war. He had a thriving legal practice but also worked closely with solicitor Charles MacNaghten to shape ragged clumps of inner city youth into functioning soldiers as part of the prewar militias. Idealistic professionals such as MacLaurin and MacNaghten often met socially in the Australian Club or the newly established University Club. This close-knit professional society provided the leaders of the first units formed in response to the dramatic call to arms in August 1914. The central location of the Supreme Court and attendant chambers gave both bench and bar a close involvement with the excited atmosphere in the heart of the city at the outbreak of the war. The Sydney German Club was a short walk down Phillip Street...
and provided a galling reminder of how close to home the supposed enemy were.

The six weeks before the outbreak of war in August 1914 had been a particularly patriotic time in Sydney. The newly appointed governor-general of Australia, Sir Ronald Munro-Ferguson and his equally imposing partner, Lady Helen, had arrived for his first official visit to the city on Friday 10 July. Their stately progress through local society matched the growing excitement as the prospect of war moved from a news story about events in a remote corner of the world to a more personal threat to the safety of the citizens of Sydney. The Munro-Fergusons were aristocratic manifestations of the British Empire: he would inherit the title and lands accorded to Viscount Novar; and Lady Helen was the daughter of a former viceroy of India, the Marquess of Dufferine and Ava. New South Wales’ judges and barristers, led by Chief Justice Sir William Portus Cullen, had made repeated public assertions of their loyalty to that empire in elaborate acts of obeisance reminiscent of medieval oaths of fealty, which the visiting viceregal family solemnly accepted on behalf of the royal family. By the end of the viceregal visit, culminating in the formal garden party at Yaralla on the Parramatta River on Friday, 31 July, the local legal community had made commitments that proved too strong to break. The war would become a holy crusade where, according to Chief Justice Sir William Portus Cullen, the giving of a man’s life for his country was ‘the best gift’ a man could give. The rhetoric of the war as a ‘Holy Crusade’ resonated throughout the public and private discourse of both bench and bar for the duration of the conflict.

As the first recruits for the armed forces crowded into Victoria Barracks and the Red Cross started its operations, the bar was galvanised into support of the war in all its forms. Barrister Geoffrey McLaughlin was one of the first four men to enlist in the state. Another barrister, Hanbury Davies was chairman of the first General Committee of the Australian Red Cross formed in August 1914. He was ably assisted by a number of women whose husbands were at the bar or on the bench. Mary Langer Owen, the wife of Langer Meade Loftus Owen KC, and their daughter Gladys, were passionate supporters of the Red Cross and many other causes. Their son and brother William Francis Langer Owen would serve in action. Among the others on the inaugural war committee were Mrs Archibald Simpson, wife of Mr Justice Simpson, Lady Cullen, wife of the chief justice, and Ethel Curlewis (nee Turner), the wife of barrister Herbert Curlewis (and mother of Judge Adrian Curlewis). The latter pair of friends were particularly energetic supporters, opening their homes in Mosman from the first days of the

The first recruits from the ranks of lawyers in August 1914 tended to be adventurous types with some militia experience in either the school or university cadets. They went into the Australian Naval & Military Expeditionary Force (ANMEF) – organised by Colonel Legge, who was chief of the Commonwealth General Staff at the time. The ANMEF was a rapidly assembled and woefully ill-trained group formed to take over the German wireless station in Rabaul. They embarked on their Quixotic quest at Man o’ War steps in Sydney on 18 August 1914 happily singing ‘Rule Britannia’ and ‘God Save our Gracious King’ in tune with an enormous crowd of well wishers – then somewhat anti-climactically spent the night on board the transport Berrima at Cockatoo Island before a most public procession down the harbour on 19 August.

Among the officers of the ANMEF were: Lieutenant Cecil Rodwell Lucas, a 27-year-old barrister from Waverley and Major Windyger Alexander Ralston, a 29-year-old barrister from Strathfield. Ralston was the son of Alexander Gerard Ralston KC. Commanding the machine-gun section was a 33-year-old Scottish barrister living in North Sydney, Captain James Logie Harcus from University Chambers. Another captain was the 35-year-old Sydney barrister, Charles Edye Manning from Hunters Hill. Captain Harcus, in particular, is recorded as having led his men in a number of important engagements on the Bitapaka Road, displaying the kind of willing aggression in battle which would be the hallmark of barristers in the frontline during the war.

The limited action in New Guinea resulted in a small number of casualties – one of whom was Captain Brian Pockley, the nephew of barrister, Herbert Curlewis. Curlewis heard of his nephew’s death early one morning and then raced around central Sydney trying to find the young man’s father to tell him of the loss so he would not read of it in the evening news. This was a foretaste of many dramas concerning notifications of casualties where the close proximity of the law courts, the cable offices, gentlemen’s clubs, government offices and the local headquarters of the armed forces in Sydney allowed for news to spread via unofficial networks faster than any formal process.

Once the German Wireless Station at Bitapaka was captured the expeditionary force had completed the bulk of its work. Some of the law professionals were employed in the newly established British legal system in what was previously German
held territory. Charles Edye Manning was appointed assistant judge-advocate general for New Guinea on 12 September 1914 – thereby becoming that country’s first British judge. Manning worked hard to solve the difficult legal problems of the first few months and administer German law. The official historian for the Australians in Rabaul, Seaforth Simpson Mackenzie, was himself a barrister. He wrote that Manning carried ‘out his duties with great legal ability’, but, like most legal people who had enlisted he was also ‘anxious to be gone, and did not conceive himself bound to do more than cope with the existing situation.’

There was little for Manning to do as the German population was not keen on bringing actions before a British judge, but he became entangled in one of the first scandals of the war when Colonel Holmes took it upon himself to order the public flogging of some Germans who had mistreated a local missionary. Manning, along with the other law professionals in the ANMEF, returned safely and re-enlisted for service overseas. By the time most of them were back in Sydney looking for further postings the focus had turned to Gallipoli.

While the men of the ANMEF had battled the few Germans in Rabaul during August/September 1914, Sydney had been dominated by preparations of the first contingent bound for war in what they assumed would be Europe – fighting for justice against the increasingly demonised ‘Huns’. The accusations of sinister intentions which focused on the German Club in Phillip Street were becoming increasingly strident. The previously popular German ‘Oompah’ bands which plied their trade in the streets around Martin Place and the Supreme Court precinct found themselves in an exquisitely awkward situation while their audiences oscillated between sympathy and suspicion. The choice of the wrong piece of music by the band could lead to lurid accusations of deliberately offensive behaviour. Against this bellicose, paranoid background barrister Colonel Henry Normand MacLaurin oversaw the formation of the New South Wales 1st Infantry Brigade – a force of some 4,000 men made up into the 1st, 2nd, 3rd and 4th Battalions.

MacLaurin was a central figure in the country’s response to the war in the last months of 1914. Official historian, CEW Bean was one of many who were greatly impressed by the energetic, patrician, MacLaurin, describing him as a person of ‘lofty ideals, direct, determined . . . an educated man of action of the finest type . . .’ MacLaurin and his 1st Brigade became a familiar sight around Sydney: in camp at the Showground; training in the sand hills around Kensington; or marching in pomp and splendour along Macquarie Street. He was photographed for the Evening News seated on his horse with other leading officers in the 1st Brigade. The straight backed powerful men epitomised the strength of purpose felt across the country.

MacLaurin’s boundless enthusiasm continued throughout training in Egypt and he vaulted excitedly up the stairs of his hotel in Cairo when told of the opportunity to land on Gallipoli. He had maintained his connections with his fellow lawyers at home and had been a regular correspondent with Justice Ferguson, who presciently wrote a letter to MacLaurin on the 25 April 1915 that just such a landing was more than likely. Ferguson was of course correct and quite possibly posted the letter the following days, by which time MacLaurin was dead, shot down by a sniper on the ridge just beyond the beach. His active service had lasted barely two days. MacLaurin Hill on Gallipoli became his legacy. Gallipoli became a source of obsessive interest for the Sydney legal community – to such an extent that Justice Ferguson made a scale model of Gallipoli’s hills and gullies, which he kept for reference in his chambers.

The grief over MacLaurin’s death was keenly felt among the community of the bar. Leading lawyers gathered in the Supreme Court on 5 May 1915 to hear the chief justice, Sir William Cullen speak at a memorial service for their fellow barrister. It must have been a fearful time as there were many lawyers present who had sons, cousins and brothers on Gallipoli and the news was becoming increasingly ominous.

There were many attacks and counterattacks by Turks and Australians in early May. A focal point of attack was the tenuous hold on a high point known as Quinn’s Post. On 10 May a Turkish attack found its way into the post and occupied a short stretch of Australian trenches. A group of about 40 West Australians from the 16th Battalion were ordered to charge the Turks and regain the position. A 29-year-old barrister, Captain Samuel Edward Townshend, who had only arrived on Gallipoli a few hours earlier, led the charge. Townshend had studied law at the University of Sydney and his family lived in Randwick. He had practised in Western Australia as well as New South Wales. At the time of his enlistment he had recorded his occupation as registrar of the University of Western Australia. CEW Bean described his actions in the final charge in some detail. With officers being shot all around Townshend led the men over the parapet in the dark. He shouted to them ‘Fix your bayonet,’ then told them, ‘When I call ‘Australia for ever’, charge boys.’ Some were killed immediately. Townshend was wounded and then killed outright as he was carried out of the fight. His body was not located until after the war. The battle was one of extreme violence, unique even on Gallipoli as the Turks and Australians were so close together. The tragic news of deaths in action spread throughout the profession. On 19 May young Laurence Whistler Street, the son of Justice
Phillip Whistler Street, was killed in a similar action. The sons of Justice Simpson and Justice Rich would also fall. Gallipoli would take a fearful toll. The sudden influx of notifications of casualties overwhelmed the army’s ramshackle system for informing relatives of the fate of their loved ones. People were lucky if they received a telegram. A well known silk, Langer Meade Loftus Owen KC, following the urging of his wife Mary, established the Red Cross Missing and Wounded Enquiry Bureau as a vehicle for collecting information concerning men who were lost in action. The bureau applied legal protocols to sifting through the mass of rumours surrounding the fate of men who were missing or killed. Specifically designated searchers, often barristers of high standing, scoured camps and hospitals then sent reports of interviews to Owen KC who compiled an account as to the likely fate of the casualty, whose family were then invited into the offices at Dalton Chambers to be told the details of the investigation. Families could come in as often as they wanted and stay as long as they needed. Langer Owen advertised his private phone number if people needed emergency contact. His motto was ‘Trouble does not exist’. The Enquiry Bureau was, deservedly, held with something approaching reverential respect in the country. It was a fine example of the legal profession using its skills to assist the community. Lawyers of high standing willingly interviewed soldiers for the bureau.

Senior silk, Adrian Knox KC, was one who visited hospitals when he was in Egypt seeking out details of the fate of lost men. Adrian Knox’s widely reported trip to the Middle East, which included a brief landing on Gallipoli, was to personally oversee the system for delivering the tons of donations known as ‘Comforts’ to soldiers at the front. It was an important mission as the alternative was to see the carefully collected supplies decay and disappear while being stockpiled on Egyptian wharves. Other barristers involved themselves at home through passionately advocating recruiting, following the lead of the chief justice, Sir William Cullen, who was similarly determined in his approach, although in the early days there was little need to work hard for volunteers.

Major General James Legge landed on Gallipoli to command the 1st Division on 24 June after its previous commander, General Bridges, had fallen in action. Legge arrived on Gallipoli to be greeted by protests from generals Hamilton M’Cay (himself a Melbourne barrister), Monash and Birdwood concerning his appointment. Legge was only on Gallipoli for a month and according to Charles Bean ‘his short tenure (was) not unaccompanied by difficulties.’ One area of disagreement was over the tactics for the impending attack on Lone Pine in August. Whether he was right or wrong, no doubt many people were relieved when he left in late July to organise the 2nd Division in Egypt.

A variety of barristers served on Gallipoli as reinforcements were fed into the Gallipoli campaign to try and break the deadlock. ANMEF veterans such as Cecil Lucas, and Henry Gordon Liddon Simpson, a 39-year-old barrister from Warrawee arrived to join battle. Simpson was one of those barristers who served as a private soldier, despite his professional standing. Barrister, Geoffrey McLaughlin, served throughout the campaign, was wounded and contracted jaundice. He was eventually awarded the Military Cross and mentioned in despatches by Sir Ian Hamilton for his service on the peninsula. Charles Gavan Duffy, the 32-year-old barrister son of Justice Gavan Duffy of the High Court, travelled to war in mid 1915 with fellow barristers Bert Norris and Francis Coen. Many men who enlisted at that stage went into the New South Wales 20th Battalion. This unit had a particularly close link to the Sydney legal profession – Justice Ferguson was president of its very active Comforts Fund. His son, Arthur was in the unit along with the ANMEF veteran Scottish barrister from North Sydney, Major James Logie Harcus. These men all served on Gallipoli. Some barristers were involved in particularly tragic events such as the fate suffered by the 18th Battalion.

The commanding officer of the 18th Battalion was a 46-year-old...
police magistrate, Lieutenant Colonel Alfred Ernest Chapman from Crows Nest. His second in command was a 45-year-old solicitor, Major Arthur James McDonald of Double Bay. Also in headquarters was a 36-year-old Sydney barrister, William Samuel Hinton. The 18th Battalion landed on Gallipoli on 19 August. Within a few days it had lost over 600 of its men out of a total of around 900 in a little known series of tragic attacks on a lump of land known as Hill 60 to the north of the ANZAC position.\footnote{Arriving at the same time as the 18th Battalion was another New South Wales unit – the 19th Battalion which also had a number of barristers in its ranks. It was commanded by the 43-year-old barrister, Lieutenant Colonel William Kenneth Seaforth MacKenzie. MacKenzie’s second in command was Major James Whiteside Fraser McManamey, a 53-year-old barrister from Milsons Point with Chambers at 8 Wentworth Court. McManamey was a well-known personage. He had been admitted to the bar in 1892 and was president of the Australian Rugby Union and active referee at the time war broke out. He had played in the first NSW – Queensland interstate game. In addition the ANMEF veteran, Major Alexander Windeyer Helsham who embarked with the 1st Light Horse Field Ambulance on Southern on 23 September 1914. At the time of his enlistment he was the secretary of Sydney Hospital. His age is a mystery. On his August 1914 enlistment paper he wrote that he was 39 years old. A year later, when he applied for a commission he admitted to being 47. Also coming into service in the Middle East was Major Ignatius Bertram Norris, a 34-year-old barrister of University Chambers in Phillip Street. He acted as judge advocate in courts martial in Egypt but was desperately keen to see action and would travel to his death in France in 1916. Other barristers were enlisting overseas. Beaufort Burdekin, son of an Australian family, but born in England, was serving on the Western Front in 1915 with the Royal Field Artillery. He would come to Australia after the war and have a long career, particularly in maritime-related cases.}

One barrister had a lucky escape from death in battle late in the campaign. The ANMEF veteran, Major Charles Edye Manning, was serving with the Victorians in the 24th Battalion in the deep, narrow trenches at Lone Pine in the ice and snow of 29 November. Unexpectedly there was a new, heavy artillery barrage which turned these trenches from safe refuges into death traps. Manning’s section on the northern part of the line bore the brunt of the attack and he was wounded. Many men were badly shocked and others were buried alive. There were 130 casualties in his unit, but he soon had the section in action and ready to defend against a possible attack. Manning was badly hurt. His records show that he had suffered head wounds when he had been buried by the exploding artillery and was soon diagnosed with shell shock. He was evacuated to Malta where he was also diagnosed with jaundice. Within a few months he contracted mumps, but still went to war in France. Manning was a respected leader. He was described in General Haig’s despatches as ‘a most reliable and valuable officer whose steadfast devotion to duty was as conspicuous as his cheerful gallantry in action.’ He was later killed in action in France on 7 August 1916.

Other barristers on Gallipoli included: Charles Howard Helsham who embarked with the 1st Light Horse Field Ambulance on Southern on 23 September 1914. At the time of his enlistment he was the secretary of Sydney Hospital. His age is a mystery. On his August 1914 enlistment paper he wrote that he was 39 years old. A year later, when he applied for a commission he admitted to being 47. Also coming into service in the Middle East was Major Ignatius Bertram Norris, a 34-year-old barrister of University Chambers in Phillip Street. He acted as judge advocate in courts martial in Egypt but was desperately keen to see action and would travel to his death in France in 1916. Other barristers were enlisting overseas. Beaufort Burdekin, son of an Australian family, but born in England, was serving on the Western Front in 1915 with the Royal Field Artillery. He would come to Australia after the war and have a long career, particularly in maritime-related cases.

As the final stages of Gallipoli unfolded, barrister Captain Cecil Lucas was in charge of the last party to leave Quinn’s Post in the early morning of 20 December. Lucas shook hands with his commanding officer then set a gramophone playing the piano march Turkish Patrol as ‘a graceful compliment to a chivalrous foe’\footnote{Lucas, whose nickname from Sydney Grammar School was ‘Caesar’, was known to always do things with a certain panache. On the same day as the ANZACs withdrew from Gallipoli at last, Suevic left Sydney Harbour once again with another load of men for the war. Two young University of Sydney law students were lieutenants onboard, in charge of the 7th Reinforcements for the 19th Battalion. One young man, Alan Russell Blacket, would be killed in the fierce artillery barrage at Pozieres just on nine months later. The other, Percy Valentine Storkey, would win the Victoria Cross for an action in Bois de Hangard in France in April 1918 and return to Australia to become a judge of the District Court.\footnote{Men who had survived Gallipoli died in later battles in France and Belgium. In May 1916 Judge Ferguson’s son, Arthur, fell in action in France as his younger brother, Keith, was sailing over to join him in war. On the same ship as Keith Ferguson was}\footnote{Men who had survived Gallipoli died in later battles in France and Belgium. In May 1916 Judge Ferguson’s son, Arthur, fell in action in France as his younger brother, Keith, was sailing over to join him in war. On the same ship as Keith Ferguson was}.

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another judge’s son: Desmond Duffy – a 26-year-old barrister. Desmond Duffy was the brother of Charles Duffy who had survived Gallipoli. Desmond Duffy was yet another lawyer sailing to his death. There are many more stories to be told from the Home Front – with Prime Minister William Morris Hughes and Premier William Holman still listed as barristers during the war. The war spared no one – at least six judges: Simpson, Higgins, Street, Rich, Ferguson and Duffy, would lose a son in the conflict. Gallipoli was only the beginning.

Endnotes

1. The bulk of the material in this account is taken from newspapers of the period as well as the War records of the men concerned, available through the National Archives online at www.naa.gov.au and the Australian War Memorial: www.awm.gov.au. This research is continuing. Anyone with an interest in the topic or with further details is invited to contact the author on acunnenebigpond.net.au.

2. Major General the Honourable Justice Paul Le Gay Bererton AM RDF, ‘Not so Strange Bedfellows: The Professions of Law and Arms’. Paper written for The Legal Profession and the Defence Forces: Historical Connections Conference held at the University of Technology Sydney, 24 March 2012. Bererton’s opinion was shared by many others at the Conference.

3. The author has written a number of articles on lawyers in the First World War. Copies of these articles and other items on the topic of lawyers in war can be found on the website of the Francis Forbes Society for Australian Legal History.

4. The legal network across the British Empire existed in many forms. Many lawyers were educated at least in part in England and there were many unofficial links. See for example Knight, H. ‘The organisation of the Bar in the British Empire’ Journal of the Society of Comparative Legislation New Series. Vol. 15, No. 2 (1915) 161 – 170.


7. Fitchett, WH ‘Deeds That Win the Empire’ First published in 1896, it ran to 36 editions and sold over 250,000 copies.

8. While in practice Legge had compiled A Selection of Supreme Court Cases in New South Wales from 1825 to 1862, generally known as The Legge Reports. His career is well covered but one source is Clark, C. ‘Legge, James Gordon,’ Australian Dictionary of Biography, http://adb.anu.edu.au/biography/legge-james-gordon-7160


12. Appointed a judge of the Supreme Court of New South Wales in 1919.

13. Later a judge of the Supreme Court of New South Wales and the High Court of Australia.


15. Ethel Carlewis’ diary reveals that she was much distracted by the dispositions among her domestic workers in her household as the servants suffered from an excess of patriotic zeal and refused to work with the young cook, who was of German background. See the Ethel Turner Diaries, 1914.


18. Luckily for Holmes, Professor Pitt Cobbett, then in retirement from the University of Sydney, wrote an opinion that maintained that the action was legal in international law. See the author has written a number of articles on lawyers in the First World War. Copies of these articles and other items on the topic of lawyers in war can be found on the website of the Francis Forbes Society for Australian Legal History.


20. Ferguson J to MacLaurin 25 April 1915, Ferguson Papers Mitchell Library. MLLMS 2858 Box 1 Folder 1

21. The speech and service were widely reported in the press.


23. The searchable online records of its many investigations are an invaluable resource in the Australian War Memorial Website: www.awm.gov.au

24. There were multiple references and advertisements for the Bureau during the war. The motto came from the oft repeated introductory remark from worried relatives: ‘I don’t want to trouble you but . . .’

25. Later chief justice of the High Court of Australia.

26. Adrian Knox’s visit to the Middle East was widely reported in the press, as was his own report on the state of the Red Cross and charitable activities from the front line.


28. They had also attended St Ignatius Riverview together and made a point of organising prayers onboard ship. Their stories are told in Rodgers, J To Give and Not to Count the Cost: Riverview and the Great War (St Ignatius College, Riverview, 2009).

