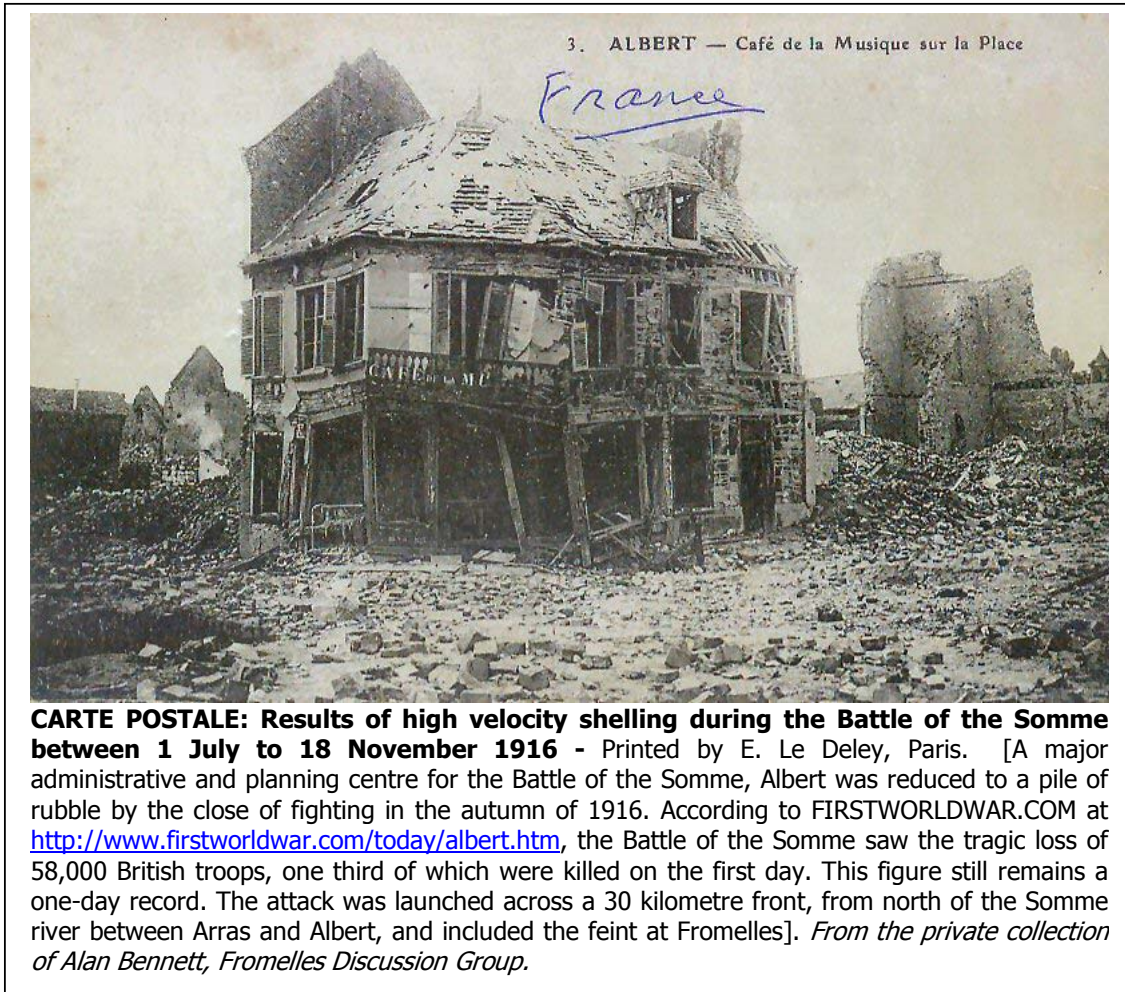




Missing Soldiers of Fromelles Discussion Group



Identifying and Memorializing Australia's War Dead

Skeletal remains have been confirmed at Pheasant Wood and the House of Lords and the Commonwealth Government are now considering the most fitting way to commemorate the Great War soldiers recently discovered at Fromelles. Hundreds of Australian and British First World War dead are known to lie in what has been described as one of the largest mass burial sites uncovered in Western Europe and the controversy surrounding the limited archaeological dig and the processing of bodies, threatens to further embarrass the Federal Government which has thus far adopted a fairly paternalistic approach to the fallen.

Having limited media access to the burial pits, stage managed the trial dig and permitted the AHU and GUARD to undertake 'sensitive' work on the remains, the Rudd Labor Government is going to be very hard pressed not to allow the soldiers to be identified, particularly when a major group like Families and Friends of the First AIF

have disclosed that in 2003, the then Prime Minister of Australia, The Honourable John Howard indicated he would support identification, if reports of a mass grave containing Australian soldiers could be substantiated.

Consequently it would be prudent for any government claiming to be part of the liberal democratic tradition in this country and to represent and serve the people as the present administration does, to work toward securing the bodies of these men and to enlist the support of a major forensic laboratory, with a view to initiating a fully-fledged archaeological survey in order to start the identification process. Indeed, rather than go down the road of restricting the rights of these men who fell as part of an ill-conceived Allied offensive on the night of 19/20 July 1916, the authorities should fulfill their international obligations and do the preparatory work needed to produce BIOLOGICAL PROFILES of the missing. Of course, this means offering to take family reference samples which can assist mitochondrial DNA analysis.

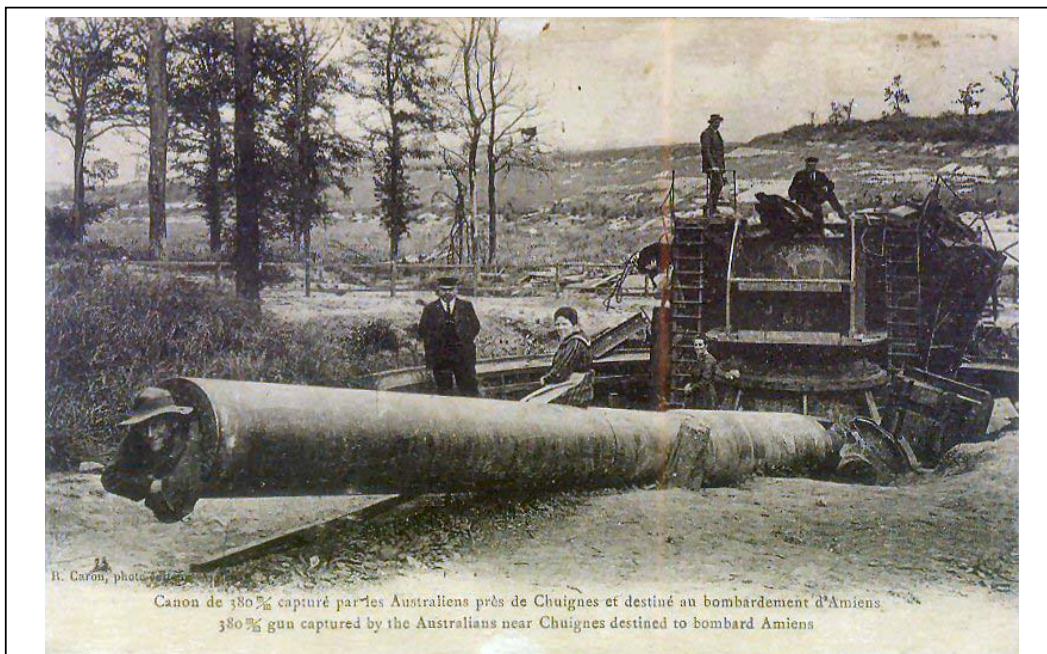
Besides needing to account for the Howard Government's policy with regard to Australia's war dead at Pheasant Wood and the debate being recorded in the Daily Hansard of the British Parliament, the Rudd Labor Government should also take a good look at extant Defence Force Instructions. If the Commonwealth Government is going to argue the Australian Defence Force (ADF) has responsibility for the investigation, recovery and reburial of soldiers lost during World War One and that it has the discretion to decide whether or not to forensically analyze the recovered remains of military personnel from this era, then it should reconsider its position and acknowledge the fact the missing soldiers of Fromelles have rights and that those rights are enshrined in the various international treaties negotiated by the Commonwealth War Graves Commission (CWGC) with Commonwealth nations, including countries like Australia which is politically and morally bound where possible to identify, record and mark the graves of its fallen soldiers.

Contrary to the myopic views currently being promulgated by the public bureaucracy, these forgotten Great War soldiers are not the property of State and even defence force instructions require the ADF to ADHERE TO AND ABIDE BY PRINCIPLES EMBODIED IN INTERNATIONAL LAW. Both the Government and the ADF are aware of this and this is why there has been so much spin-doctoring, selective reporting and secrecy over Fromelles.

Obviously there is little point exhuming and re-interring the fallen soldiers beneath a headstone that maintains their anonymity. That does not represent equality of commemoration or an appropriate method of honouring the dead regardless of what government minders say. If the Commonwealth Government requires the ADF to implement the policy titled **The Defence Instructions (General) Missing In Action Presumed Killed: Recovery Of Human Remains Of Australian Defence Force Members**, Issued on 12 December 1996 long before the limited excavation and posted on [http://austmia.com/DI\(G\)PERS20-4.htm](http://austmia.com/DI(G)PERS20-4.htm), then the fallen of Fromelles require the same rights and entitlements as those Australian service personnel lost in more recent conflicts like Vietnam when finally being laid to rest. Although members of this group are not convinced the Defence Force Instruction relating to MIA members of the armed forces is meant to be given effect in the context of the Great War or designed to invalidate the various charters and treaties which underpin the

CWGC, the document is worth further investigation. Signed by J. S. Baker, General, Chief of the Defence Force, **Defence Force Instruction (General) PERS 20-4** which was given to Operation Aussies Home after the group submitted an FOI Application, was apparently issued pursuant to Section 9A of the Defence Act 1903.

As one would expect the Instruction when first promulgated aimed to *"state ADF policy on the recovery and burial of human remains and to provide guidelines for authorities receiving information on the location of possible human remains of ADF members."* In actuality it provides a summary Background on the establishment of the Imperial War Graves Commission (which ignores powers given the body upon incorporation), and almost incidentally refers to the fact that in 1966, the Australian Government unilaterally authorized a variation to the burial policy which the ADF had been following. That variation meant the remains of Vietnam casualties could be repatriated to Australia, if the Next-Of-Kin (NOK) so desired.



CARTE POSTALE: Large-calibre mounted artillery pieces like this dominated Great War battlefields - Printed in France near the end of World War One this original postcard shows the extent to which long-range heavy field guns developed to macerate and crush the enemy during the impasse which resulted from trench warfare, particularly on the Western Front where the infantry was bogged down in mud. This image was taken near Amiens from a later period than the Battle of Fromelles. The Allied offensive at Amiens (which began on 8 August 1918) ultimately led to the beginning of the end of WWI. Earlier German advances in this area had been smashed by the BEF and finally halted at Villers-Bretonneux by the Australians on April 4. From this point onwards the Germans lost the tactical advantages of their previously entrenched positions and in general terms were in retreat, with subsequent advances elsewhere failing to achieve any goals, including the containment of allied forces. [Picture courtesy of Alan Bennett].

Designed primarily as a guide to cover the missing of more recent conflicts, there is **nothing in the Instruction being referred to, which specifically rules out or prohibits the identification of military personnel who served during World War I or World War II**, although the document does preclude the disinterment of ADF personnel for reburial in Australia, where they have already been buried

overseas. Presumably this part of the regulation relates to the permanent cemetery system established and maintained by the CWGC. Since the lost mass grave at Pheasant Wood is outside the jurisdiction of that corporation, this regulation does not necessarily apply in the case being considered.

Especially important also are other precepts contained in the Instruction. For example, besides those aspects dealing with the need for the military to investigate the discovery of human remains allegedly involving members of the ADF and a set of loosely-based evidentiary principles which suggest the ADF needs to support allegations by corroborating claims, there are 'Coronial Requirements', specific forensic considerations, a mention of responsibilities in relation to the transportation of remains and the burial of the deceased, as well as stipulations about funding, funeral arrangements and the attendance of the Next-Of-Kin at any funeral service. CLEARLY THERE IS NO AMBIGUITY IN THIS POLICY WHICH REFLECTS MANY OF THE ASPECTS DISCUSSED BY FROMELLES DISCUSSION GROUP SINCE THE BEGINNING OF 2008.

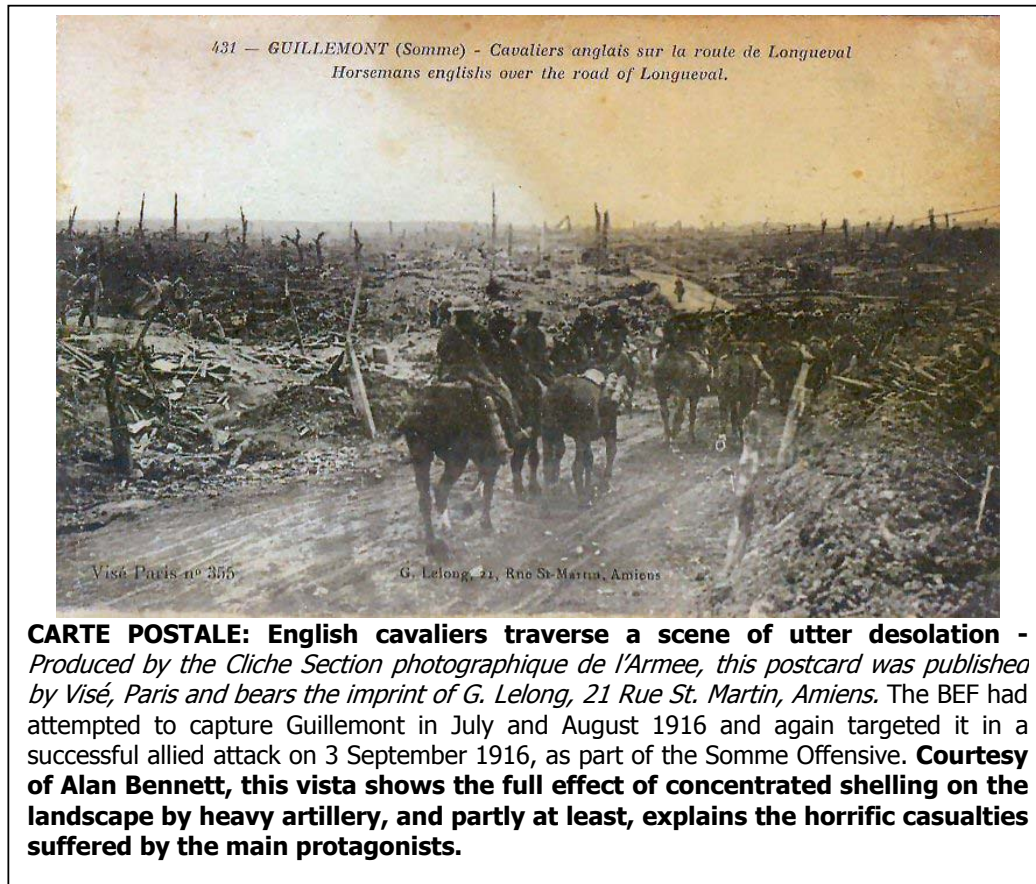
Supposedly designed to replace the international treaties being upheld by Fromelles Discussion Group as a result of the disempowerment of the CWGC, the policy allows for repatriation in certain circumstances and specifically says in Ss. 13: *"Notwithstanding the provisions of Defence Force Regulations Part VI, 'Disposal of Dead Bodies of Members of the Defence Force', investigations by the ADF must comply, unless appropriate exemptions have been obtained, with the coronial requirements of the Governmental authority for the area in which the remains are recovered."* The Instruction also refers to DI(G) PERS 20-3: Post-Mortem Examination and Certification of Death Due to Natural Causes and Defence (Certification of Deaths) Regulations which provide guidance for the conduct of post-mortem examinations and the issue of Certificates of Death for members of the ADF who have died on service."

In other words, **the ADF is required to process and identify Australia's war dead at Fromelles**. Skeletal remains need to be exhumed, undergo forensic and post-mortem examination and to achieve this and to meet coronial requirements, the ADF will need to produce biological profiles of these previously unaccounted for soldiers and this must be supported by the Australian Government initiating a programme to take family reference samples for mitochondrial DNA analysis.

Short of asking a prominent Australian with international credentials like former Prime Minister John Howard to use his considerable influence with the British to work toward identifying the remains, Fromelles Discussion Group members suggests the Commonwealth Government learn from the commitment and activities of the US Joint POW/MIA Accounting Command (JPAC) and utilize 21st-Century advances in technology to resolve the mystery surrounding these particular individuals, especially when provisions incorporated in the new Defence Force Instruction dated 12 December 1996, directs the ADF to liaise with the Surgeon General ADF (SGADF) for the provision of medical/dental records and the appointment of forensic experts to examine any remains found.

Like other groups involved in the debate about what should happen with the remains of those members of the Commonwealth Armed Forces who died at Fromelles,

including Lambis Englezos, Patrick Lindsay and Tim Whitford, Fromelles Discussion Group respectfully urges both the Australian and British governments to individually memorialize the fallen, by supporting identification through the voluntary collection of Mitochondrial DNA from eligible surviving family members.



During a debate in the House of Lords on the 5th June 2008 Lord Ramsbotham declared a past interest in the subject of war graves and asked about CWGC funding should a new cemetery be created for the interment of remains of those buried at Pheasant Wood. According to the Daily Hansard, Lord Ramsbotham is a one-time ex officio commissioner of the Commonwealth War Graves Commission (CWGC) and he is recorded as remarking the CWGC subvention was already severely constrained. Since the Fromelles Discussion Group had previously learned from the Director of the Office of Australian War Graves the OAWG is not funded to search for the missing and came to the conclusion the CWGC had had its powers emasculated, this came as no surprise. In reply, Lord Ramsbotham was assured by the Parliamentary Under-Secretary of State, Ministry for Defence, Baroness Taylor of Bolton, who actually confirmed that human remains had been found in the burial pits being investigated by GUARD, that “. . . the budget of the Commonwealth War Graves Commission is currently provided by all the countries concerned on a pro rata basis depending on the number of bodies they are looking after. The UK currently provides 78 per cent of the funding, more than £34 million a year. We all admire the dedication of those involved in the care of those cemeteries. If we go down the route suggested [to establish an additional cemetery at Fromelles], we would have to make sure that the resources were available.”

Found at <http://www.ojc.org/oah.htm> Operation Aussies Home is a non profit association. It focuses on collecting information about Australian servicemen who were either killed or went missing during the Vietnam War between 1962 and 1972 and the group shares that information with other interested parties, as a means of lobbying Federal decision makers to account for these members of the armed forces to gain support for recovery. Operation Aussies Home was incorporated in the State of Victoria on 22 September 2005 and is well worth supporting, as is the campaign to recover and individually re-inter the bodies of the soldiers of Fromelles after appropriate forensic and coronial processing, although strictly speaking they were not members of the ADF but an expeditionary force sent to help defend the motherland.