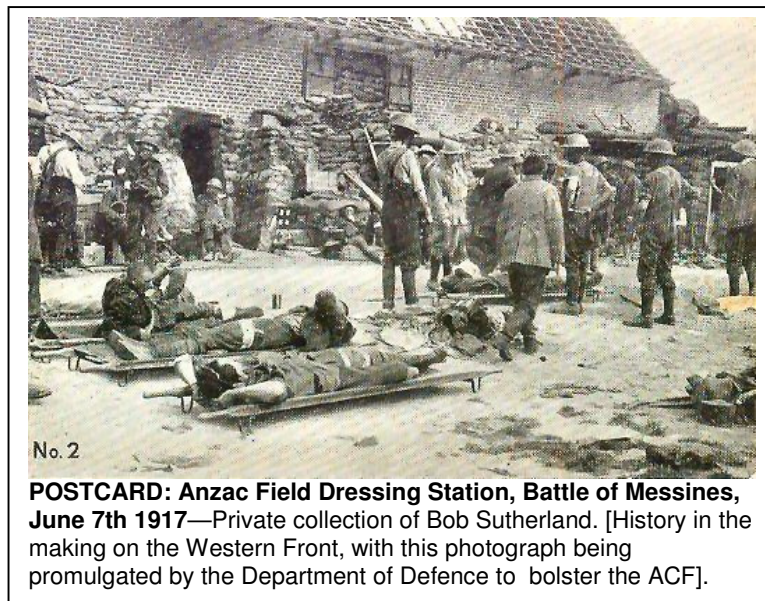




Missing Soldiers of Fromelles Discussion Group

Loyalty deserves our unending vigil

18,450 Australian Diggers from the Great War have no known grave, while a further 7,000 were recovered and buried in cemeteries on the Western Front before the official cut off date of the 31st of August 1921. Their headstones bear the inscription 'Known Unto God' and the sacrifice of these soldiers and the sacred duty performed is still for many in living memory, and that is why there is such a proliferation of memorials, cenotaphs and honour boards in cities and country towns throughout Australia.



Military law has long recognized the need to ensure the war dead of belligerent nations are honourably interred and this was generally the case during the Great War where a complex set of customary rules and conventions attempted to curb the savagery of combat and in practice at least, bind the protagonists to a number of important humanitarian considerations, including giving care and respect to the sick and wounded, succor in the form of medical treatment to prisoners and protection to the dead. Based on fundamental Christian tenets and notions of chivalry, these usages and rules of warfare were becoming increasingly codified in various international conventions like The Hague Rules, 'The Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field' (*otherwise known as the Geneva Convention*) and the Red Cross which was a tangible expression or form of these ideas, and such agreements had been applied with increasing commitment since 1870, when the Franco-Prussian War divided Europe and inflamed traditional enmities. The Franco-Prussian War represented a high point in international relations as this conflict according to Caroline Moorehead in **Dunant's Dream: War, Switzerland and the History of the Red Cross**, saw the Red Cross as an organization and the aforementioned agreements coalesce to shape thinking for the next 120 years.

Moorehead tells us that much of the work performed by the Red Cross during this period and the humanitarian programme that supported it, "would be explored and developed on and around the battlefields." By the time war broke out in 1914 these protocols were well honed,¹ understood by the combatants and had been formalized

in official documents and agreements, as shown by the development of the **Manual of Military Law**, published by the War Office in London. First published in 1884, the Manual has relevance to our discussion as it followed the second International Red Cross Conference which was held in Berlin in April 1869 and shows how much the movement had grown. Convention guidelines and principles were generally accepted by governments, information about the procedures expected and the conduct necessary to fulfill obligations was clearly defined and well known, as was the importance for intercourse between the belligerents. This was illustrated during the Battle of Fromelles where the enemy offered a truce for the collection of casualties (which was turned down) and then set about collecting, examining and burying the dead from both sides.

The Germans meticulous in their approach in this case, not only fulfilled their reciprocal obligations, but acted in an exemplary manner with respect to the task of burying and documenting deceased members of the British forces, as this was done in such a way as to permit intercourse and eventually to allow for their rediscovery. In fact in the aftermath of the Battle of Fromelles the enemy organized what constituted a grave registration service to support this process, although it should also be said this did not always occur and there were probably exceptions to the magnanimity of the Germans.

Major-General Julius Ritter von Braun of the 21st Bavarian Infantry Regiment apparently assigned men from the unit's medical company to rescue the injured and recover bodies. While doing this 21BRIR collected the remains, checked the identity of corpses, and German command then prepared death cards, reported on the battle in the international media, returned personal belongings and presumably, provided the British and thereby the Australian authorities with a list of the dead. Later on the British Red Cross Society—Berlin Branch transmitted information to the British and Australian authorities about reports of death in answer to relative enquiries.

No wonder Patrick Lindsay in his book on *Fromelles* so assiduously suggests there has been a cover-up relating to what is known as this country's worst military disaster. Rightly Lambis Englezos has been credited with discovering what has been described as the forgotten burial pits at Pheasant Wood, but it must be remembered the Australian Government has always known of the reports of burials in this location and had the knowledge to trace the soldiers lost outside Fromelles, as shown by the concise number it was able to produce when forced to do so prior to the establishment of the panel set up by the Army History Unit to investigate and examine claims there was a mass grave situated at Pheasant Wood.

In other words, the Federal Government during this period of the war would have been told through official channels that the Germans had notified the British of these details and subsequently, the Commonwealth would have had the capacity to establish the *bona fides* of the reports and thus the whereabouts of the deceased soldiers, especially when the co-author and editor of Australia's official war histories himself knew of the German records and had access to the other material, including documentation that has come to light more recently about the existence of a mass grave at Pheasant Wood. Fair enough subsequent inquiries and official investigations bogged down and became inconclusive, however a more vigorous approach by the authorities might have clarified the situation and produced better results. As we have already indicated, the history of the 21st Bavarian Regiment specifically refers to a

particular area and in a letter answering an enquiry in September 1927, Bean points to the possibility of a burial ground adjacent to the wood.

Bean was instrumental in establishing the Australian War Memorial, had the imprimatur of the government, was in charge of the process of retrieving battlefield artefacts through the Australian War Records Section and had the power to requisition and access any documentation he required. Pheasant Wood should have been investigated more fully in the post-war period when questions were first being raised about the prospect of a trench or common grave site at Fromelles but instead, seems to have been lost in bureaucratic fog.

This in itself though does not explain decades of inactivity. Team Lambis struggled for years to have their views accepted. Struggled against government inaction and lack of response from officialdom and what appears in retrospect, to be an unwillingness to even consider the facts when put before them. Consequently the Fromelles Discussion Group wants to remind the Australian Government that by the law of England (and of Australia obviously), a person who joined the army to fight during World War One —whether as an officer or as a soldier, does not cease to be a citizen. On the contrary, according to the Australian Edition of the Manual of Military Law which was published with amendments in 1941 by command of the Military Board, with only a few exceptions, his civil rights and privileges remain unaffected.



POSTCARD: Group of 57th Battalion officers and men—
Photograph taken in France on 29th January 1918. Courtesy,
Alan Bennett.

Whether at home or abroad, what is described as ordinary law applies to him and thus, it would be morally wrong and ethically derelict for the Commonwealth Government not to recognize its responsibilities with respect to the missing, or extend to them the basic fundamental right of recovery. If the German army as an occupant of the field of battle could attempt to arrange a suspension of hostilities and collect and transmit articles of a personal nature which were

found scattered after the battle or on the dead, then surely the Australian and British authorities can accept their part in the process. From our point of view most Australians would agree with this, that the recovery and identification of remains is of paramount importance at Pheasant Wood and to echo the words of Kokichi Nishimura who dedicated most of his life to locating the remains of Japanese army personnel killed in New Guinea, *“Why don’t we retrieve them?”* Nishimura went on further to ask something which has relevance to this discussion of the missing. *“Why aren’t the bereaved families urgently concerned about the bones of their relatives?”* Justin Norrie, a correspondent with The Age who lives in Japan, felt that *“Nishimura was sure the families did care. But he knew most felt helpless to do anything without government assistance”* and, of course, the problem is the government usually has its own agenda.

Though not directly relevant to the case at hand, Nishimura's experience certainly speaks to us about how government works. Nishimura found the Japanese Government was not interested in helping in the search and recovery of his fellow soldiers left over from World War Two and actively sought to place obstacles in the path of his quest. During the interview with Norrie Nishimura said in part, Japan either showed "*neglect for the thousands of young men who died in its name, or deceit. It brought tears to my eyes that my country could do this.*" And according to a Japanese professor of humanities by the name of Utsumi Aiko quoted by Norrie, there are upwards of 2.1 million military Japanese war dead, of whom she said 1,160,000 are still not repatriated. Of these, 600,000 are said to be retrievable even though they lie in overseas battle zones.

The Japanese Government faced with Nishimura's zeal offered to repatriate the remains of the 200 Japanese soldiers he had collected.² and when Nishimura gave his consent thinking the remains would be DNA tested and identified, the bones were promptly cremated and interred at a cemetery in Tokyo and there are obviously similarities between the way the Australian Government is stage-managing Pheasant Wood.

Currently the Army History Unit is attempting to take the high ground with respect to its verification of Pheasant Wood as a possible mass grave site with the recent decision to support Lambis Englezos, although it is attempting to do this by arguing that the CWGC is not responsible for the search for remains thus suggesting the government can be trusted to do the right thing.

Information though is still being selectively promulgated and the public is being assailed by platitudes about reverence and compassion, and the media is also being used to quietly condition people to accept current policy about the role and powers of the Commonwealth War Graves Commission.

In an effort to forestall public criticism about the failure of the CWGC to act decisively in this matter, the Army History Unit is now speaking for it. The Unit has become an apologist for the Federal Government on the one hand and startlingly proficient at spin-doctoring on the other. Details about what is actually going to happen during the proposed trial dig are still contradictory and sketchy although interestingly, some vested interests seem to be able to insinuate knowledge that is not in the public arena and although the Fromelles Discussion Group is not prepared to comment at length on the work of the army graves recovery units or how systematically this work was undertaken at the end of WWI, we do say that public administration in this country leaves a lot to be desired if the processes being followed can not be clarified and made much more transparent.

The perfect example of this was a presentation titled '*The Re-Interment of Australian Soldiers of the First World War from Belgium and France*', hosted by the Shrine of Remembrance at its Visitor Centre on Thursday, 20 March, 2008. Delivered by the Army History Unit, the address was meant to inform interested members of the public about the work that would be involved in the possible excavation, identification and re-interment of remains as well as the responsibilities of the Australian Defence Force, the Commonwealth War Graves Commission, the Office of Australian War Graves and the various national authorities in the process, were also supposed to be discussed. Opinion varies as to whether this was achieved, although a member of the Fromelles

Discussion Group who was present, noted the use of audio visual materials and the amount of discussion which focussed on the retrieval of remains from Polygon Wood, which in itself was not relevant to the published agenda or topic.

The Polygon Wood segment was disappointing because it seemed to create an expectation in the public's mind that remains at Pheasant Wood would be recovered and DNA tested and little information was disseminated about the role and function of the Commonwealth War Graves Commission, although the Army History Unit finally acknowledged there were treaties in effect which covered mass graves like those at Fromelles. Importantly the public needs to remember that DNA testing has not been flagged yet in the case of Pheasant Wood and the spokespersons for the AHU immediately indicated that the present Government was only going to conduct a trial dig and, in keeping with the snail pace of the operation, they suggested the results would then only be discussed by the various inter-governmental departments involved and a decision formulated. Already the cost of this project probably exceeds three hundred thousand dollars or more and this figure does not include any of the costs associated with exhumation, reburial or commemoration, or the expenses incurred by the AHU or its staff when conducting lectures and disseminating information around Australia.

If this doesn't ring alarm bells for the Australian public then nothing ever will. The role and powers of the CWGC was not fully canvassed from what the discussion group was told and contrary to the impression given about the potentiality of DNA testing, the AHU then plainly stated by means of computer-generated imaging equipment under the misleading heading of 'Responsibilities of the CWGC', there would be no disinterment of those buried in CWGC cemeteries (even though nobody had suggested this) and in addition, there would be no [further] search for missing throughout France and Belgium.

Contrary to established principles and protocols as embodied in the various treaties which govern the work of the CWGC, visitors were also told the organization is not empowered to search for bodies. Now if this is not the case and the treaties are not being followed then the Fromelles Discussion Group is perplexed. Not only does the AHU's talk beg the question as to why these international agreements are not being adhered to, the pronouncements espoused on this occasion also cause us concern as to how this work will be undertaken in the future since further exploration by private individuals is being officially discouraged.

Clearly in spite of what was said at the Shrine this is the responsibility of the Commonwealth War Graves Commission and if the Australian and British governments continue to maintain that it is not, then they had better take immediate steps to put in place procedures and a more suitable international apparatus to ensure this power is divested from the CWGC and the weakness in the system ameliorated.

Having some understanding of the workings of government, the Fromelles Discussion Group are disappointed the presenters did not respond to the many questions it submitted to the Shrine before the presentation or bother to properly address a specific question about the composition of the AHU, which was raised by one of our members at the gathering, but this is fairly typical of an organization that thinks it is beyond criticism.

Although the presentation was filmed by ABC TV and will probably be screened by the stage this commentary is placed on the internet, we believe the CWGC should be more receptive to correcting errors and omissions in its registers and organize and conduct itself as it was originally intentioned. This includes maintaining the unending vigil of looking for and laying to rest the remains of the missing and, therefore, living up to the expectations of the general public. Similarly the AHU should understand there is a role for private research and exploration in France and Belgium or any other place for that matter and it is not solely up to the authorities to determine what happens at Pheasant Wood. Australia is a rich country by world standards and besides funding organizations like the AHU, the community can afford to investigate possible sites of interest insofar as the missing are concerned, as well as fund world's best practice excavating sites that might need to undergo verification.

The AHU should remember the burial pits at Pheasant Wood were not discovered by its personnel and instead, were found by an amateur military historian acting in a private capacity and the mass graves have never been formally incorporated into the CWGC permanent cemetery system.

If the AHU and its representatives insinuate as they did at the presentation held at the Shrine of Remembrance in Victoria, that the CWGC is not obligated to search for the missing or uphold the international treaties it negotiated with the respective governments at the end of the Great War and subsequently revised in 1951, then will the Australian Government permit the remains to be repatriated to their homeland? Of course not, because when it suits the authorities to prohibit disinterment the bureaucrats apply the treaties but when faced with the public espousing legitimate options, the government machinery shifts position refusing to countenance change or allow statutory directives to be applied.

That's the problem with dealing with bureaucracy. One can easily become disillusioned with the whole situation and the public often does and feels helpless. The most disconcerting aspect about international relations, is that most people tend to exhibit a disturbing willingness to trust those in positions of authority who say they should be trusted, and these governments in turn, tend to sacrifice those who have demonstrated a selfless loyalty in their cause and have nothing to gain. If there is any doubt about this one only has to look at the appalling delays in recovering the missing at Pheasant Wood and the obstacles being placed in the way of a long, established process which was introduced primarily for humanitarian reasons as shown by the Manual of Military Law which has been continuously modified and adapted since 1903.

Here we have a situation where in August 1914 Australia and other Commonwealth dominions joined Britain in going to war with Germany in support of Belgium, France and Russia and again we find Australian and British war dead are being sacrificed to political expediency. That is why this group is highlighting the fact that the CWGC's powers have been curtailed since inception . . . and, that the organization's vitality and vigor has been compromised in recent decades by national interests which have seen the organization become a large, impersonal corporation.

Telling the Australian community through the Army History Unit that the organization does not search for bodies clearly ignores the discretionary power the organization³ has in its Charter and Supplement and completely misses the point. Our government

in raising the expeditionary force, asked its citizens to serve the Sovereign King and Country and now is too miserable to honour that pledge in return. Years of bloody warfare, inadequate training and suffering and for what, to have the Army History Unit and the Federal Government, procrastinate and denigrate their memory by arguing that it is not current practice to search for their remains, even when reliable sources provide a framework and guide for exploration.

That is not to say excavating human remains from the Great War is not emotive or that the issue should not be handled sensitively, because, as Environmental Adviser Martin Brown said in an abstract titled 'All Quiet on the Western Front? Excavating Human Remains from the Great War 1914-1918', archaeologists try to work rationally, ethically and professionally. Produced for a session hosted by the Department of Archaeology from the University of York on the subject **When Data Are Human: Repatriation, Physical Anthropology, and the Interaction of Science and Belief** held in December 2007, Martin points out that, *"In the years following the First World War the missing became a community within the fatalities of war. Exploded by shells or sunk in the mud of the Western Front thousands were lost. While some were recovered from the battlefields and buried in cemeteries across the former Front many more still lie in Flanders' Fields. Since 1918 bodies have periodically been discovered and recovered by farmers or during building works but in recent years archaeologists have begun to study the conflict and explore its physical remains. Inevitably excavations on the battlefields have encountered the remains of the Fallen. However while excavation processes for these people may be similar to those for human remains of other periods the background against which they are excavated is very different because here one is excavating the Missing. They are described above as a community and they are still regarded as such by Great War interest groups, all of whom have agenda and opinions on the exhumation of the dead."*

Obviously the archaeological investigation of Pheasant Wood has attracted a great deal of recent attention. However the truth about the powers of the CWGC as outlined by the Army History Unit (as opposed to what is contained in the treaties) and the inclination of the authorities to stonewall further research and investigation, is that national entities like the Commonwealth of Australia do not provide the Commission funding to search for remains. For, as Major-General J. P. Stevens, AO (Retd) of the Office of Australian War Graves advised, in part, in a letter dated March 27, 2008 while responding to an Email sent to the Minister for Foreign Affairs which was passed to the Minister for Veteran Affairs: **"Further, whatever its purposes and powers, the Commission is in practice limited to carrying out the operations for which it is funded by the Member Governments. These Governments do not provide funding to search for remains."** Thus, in this context it is quite right to describe the missing of Fromelles as the forgotten and as a result, all Australians should be dismayed by the position being adopted by Government.

Just as inhumanity on the battlefield is considered repugnant by the Manual of Military Law, so too is the failure to respect the rights of the missing. Though lying in foreign soil the missing of Fromelles require more than mention on a disassociated, cold impersonal panel and lip-service or mention on a computer-generated list with all its errors and omissions, when it comes to recognizing their contribution to the war effort. The new Minister for Veteran Affairs stated in an article titled 'Vietnam veteran returns' which was published in *Vetaffairs* in March 2008, the Government is committed to honouring the memory of those who have made the ultimate sacrifice to the nation,

but in saying this completely ignores the quagmire that has developed over the missing of Fromelles.

Contrary to the views of the Army History Unity, considerations of humanity dictate all the relatives and descendants of these men are fully involved in decision-making concerning the fate of any remains that might be found, and it would be a sad indictment and shameful for the nation not to learn from the obvious mistakes of the past, where insufficient funds were allocated to complete the tasks of research, recovery, identification, reburial and commemoration of these casualties.

It is the view of the Fromelles Discussion Group that the Australian Government should form, in collaboration with British and French authorities, a permanent body comprising world renowned military historians, forensic archaeologists, archivists and proven military leaders, sympathetic to the cause and give it sufficient funds to streamline procedures which cover the search and retrieval of the missing well into the future. Perhaps with this in mind the international community should remember the Commonwealth War Graves Commission has over a long period frequently had to deal with the remains of fallen 1st World War soldiers which are discovered by landowners, contractors, battlefield archaeologists, private researchers and other interest groups, and the organization does this by using the powers invested in it and applying the latest identification processes and procedures as was shown at Arras in 2001 and subsequently at Polygon Wood.

Significantly in April 2006 a group of amateur historians were credited with finding the remains of three 1st World War soldiers presumed to be from the Lancashire Fusiliers in a farmer's field near Ypres, a salient which covered 25 square kilometres and saw bitter fighting throughout the Great War. Alix Kroeger for BBC News reported in an article titled 'The ghosts of Ypres past return' that more than 250,000 British and Commonwealth soldiers died in the three major battles in this sector and records that more than 90,000 of those were officially listed as missing. Poignantly Kroeger highlights the problem because as one would expect looking at the casualty statistics, such finds are not uncommon. But the problem for the Commonwealth War Graves Commission is not just mopping up and processing the remains of missing soldiers left over from places like the area around Ploegsteert and regularly updating plaques to take into account newly identified bodies, it is dealing with the fact that some of the largest mass graves left over from this period containing unidentified remains are within the permanent cemetery system controlled by the organization itself. And perhaps it is because of this that the last word should be given to Associate Professor Bruce Scates⁴, author of **Return to Gallipoli: Walking the Battlefields of the Great War** as he is a respected member of the Army History Unit and conversant with the powers and responsibilities of the Commonwealth War Graves Commission.

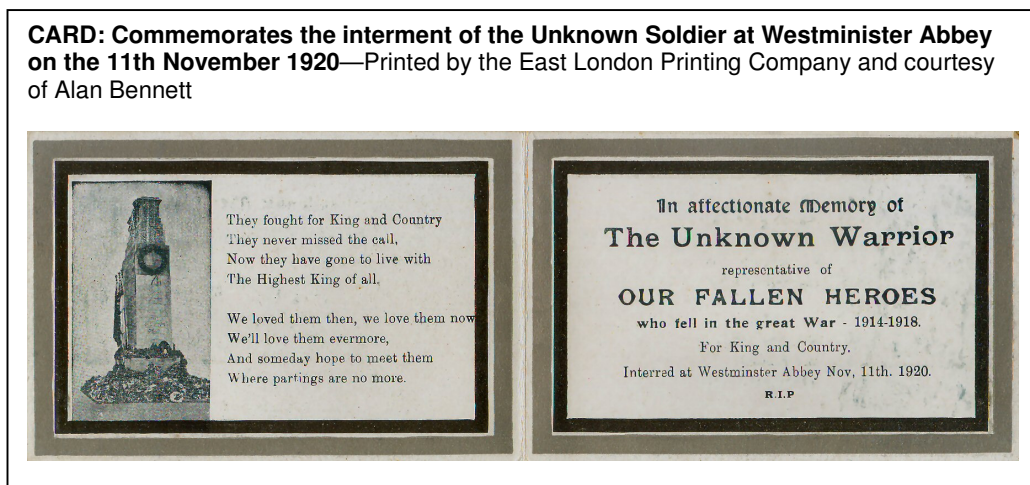
In an article published by the Sydney Morning Herald on July 17, 2006 titled 'Unknown then, and even more so now', Scates expressed the view that the unburied dead of the Great War still haunt us. Plainly and sympathetically Scates reported on the horrifying reality of soldiers vanishing without a trace, he characterized the carnage of the Western Front and contextually focussed on what he described as the costly, ill-planned diversion at Fromelles, a battle which took place at the height of the Somme offensive and he referred to the Australian Government being forced to reconsider the evidence tabled in this particular case, where the missing are still waiting to be unearthed.

As early as July 2006 Scates indicated “The evidence that a mass grave exists is substantial.” Succinctly he reflected upon the feat, its many casualties being buried in hastily dug mass graves by the enemy, and the obvious fact the fields of Fromelles are strewn with the dead. Indeed, the whole of the Western Front is littered with German, British, Algerian, French and, of course, Australian as well. But perhaps the most interesting aspect of Scates written newspaper account was not him mentioning that only one in five bodies wrested from the ground by the graves detachments could be identified, but his commentary on the aspect of commemoration.

Importantly Scates suggested, “Finally there is the question of commemoration. Many would prefer the Australian dead rest where they lie, marked by a border of gum trees. **But the charter of the War Graves Commission makes no such concessions.**”

Serving on the national committee inquiring into the missing of Fromelles, Scates added: “Each war dead must be individually recovered, identified if possible, buried as an ‘unknown’ if not. Exhuming the missing of Fromelles, disentangling long-comingled bodies, will be a grim, lengthy and inconclusive enterprise.”

But he said, “long, grim and inconclusive is an apt description of the Great War. There should be no easy answers for the dead of Fromelles, no simple solution that literally buries the problem and that is exactly where the Fromelles Discussion Group stands on Pheasant Wood.



FOOTNOTES:

1. The Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field (*otherwise known as the Geneva Convention*) was originally formulated at the Geneva Conference on the 8th August 1864 and afterwards ratified by the countries which attended, undergoing regular modification and refinement in the lead up to the First World War by which time the Red Cross network had already been pioneered. It predated the attempt to establish a League of Peace which was first outlined in 1896, and the various conferences and declarations which emanated from the Hague including the agreements of 1899 and subsequently 1907. The French Red Cross was launched in 1864, while the British Red Cross which was formerly known as the British Aid Society, began its work in 1870, the same year the Franco-Prussian War began—although a permanent Central Red Cross Committee was not set up for the British Empire until 1899. The Red Cross Society in Imperial Russia was formed in 1867 and its sister organization in Prussia, developed within three years of the Geneva Convention.

2. Nishimura belonged to Japan's 144th Regiment which gained notoriety in Guam, New Britain and New Guinea, which included the Kokoda Track, during the Second World War.
3. Several parts of the original Charter gives the CWGC discretion. Under Section 2 titled *The Commission is hereby authorized and empowered for the purposes aforesaid from time to time*—Ss. (iii) states the Commission is shall have responsibility "To provide for the burial in any such cemetery of any such officers and men of Our forces as aforesaid, and to exercise such powers of exhumation and re-interment as may appear to the Commission to be desirable, and as may be approved by the duly constituted local authority in the territory or territories concerned." The Supplemental Charter holds that "The Commission, if in their absolute discretion they deem it desirable, may at the request or on behalf of any Government of, or any Authority, person or body in, any country whose government is represented on the Commission, or any other country or territory within the Commonwealth, or any Foreign State, responsible for or desirous of maintaining any place of burial or memorial whether or not of or relating to such officers or men as may fall within the descriptions contained in the Original Charter and this Our Supplemental Charter, or of or relating to such officers, men or civilians whatever, exercise with regard to such place of burial or memorial aforesaid and the graves in such places of burial all or any of the powers (*mutatis mutandis*) given to the Commission ...", provided of course the cost is covered by the Government, Authority, person or body concerned. Thus, the CWGC is empowered to search for, exhume and re-inter the missing, but the problem is what affiliate nations fund the organization to do. In other words, the application of the treaties has been crippled by inadequate funding which, in turn, has restricted the role, function and activities of the CWGC.
4. Professor Bruce Scates now holds the Chair of History and Australian Studies in the Faculty of Arts at Monash University, and is Director of the National Centre for Australian Studies, School of Humanities, Communications and Social Sciences.



POSTCARD: "A Mournful Sight"—German soldier paying his respects to a fallen comrade. Battlefield graves and there surrounds were often damaged by shellfire as shown by this photograph.