

The war experiences of Justice Edward (Ted) Parnell Kinsella

By Tony Cunneen

Introduction

The material used to compile this article came from research into the experiences of barristers who served in the First World War. The short biographies of these men are available on the website of the New South Wales Bar Association at <http://www.nswbar.asn.au/the-bar-association/first-war-world-war>. The research into the life of Edward Parnell Kinsella uncovered some fascinating material which allowed for an unusually detailed insight into experiences on the battlefield and the effect of these on the individual and his family during and after the war.



hand unpicking the lock of what lay beneath the surface. Edward Kinsella was lucky to survive at all. His story started in country New South Wales.

Early Life and Enlistment

Edward Parnell Kinsella was born in Glen Innes in 1893. His father, Patrick, was the Sherriff's officer in Western New South Wales. Edward was educated at Patrick's College, Goulburn and joined the Lands Department in Moree as a cadet draftsman. In the 1910 Federal Public Service examination he was ranked fourth in New South Wales. On 2 August 1911 he moved to the Miscellaneous Contract and Noting Branch, Sydney, and on 11 June 1913

he moved to the Local Land Board Office at Moree.

Encounter in No Mans' Land

During the winter of 1917–1918 Edward Parnell Kinsella, later to be a judge of the Supreme Court of New South Wales, was leading a night time reconnaissance patrol for the 54th Battalion in No Mans' Land between the Australian and German front lines in France. Kinsella was armed with a Webley pistol and his men had only their rifles. They scouted the German lines, then on their return to the relative safety of their own trenches, a German patrol came towards them through the darkness. Kinsella made his men lie flat in the mud. The German officer leading his soldiers passed so close to Kinsella that he stepped on the Australian's outstretched hand. The German's boot laid open Kinsella's skin and flesh above the thumb and left a scar that would last for the rest of his life.

Edward Kinsella told his grandson, Brian, the story of what transpired on that patrol many years later, when the boy ran his finger along the white scar and asked the man he knew as 'Pop' how the mark had come to be there. Brian Kinsella knew that his grandfather had been in the war, but rarely spoke of it. On this rare occasion his 'Pop' described this encounter with the German patrol and its outcome.

Kinsella knew they had to fight, so the Australians rose up against the Germans, and, careful not to fire any shots that would give their position away, they used their bayonets to kill their enemy. Kinsella kept the German officer's luger pistol and ammunition as mementos and showed them to his awestruck grandson. It was not the only time in the war that Kinsella was involved in the gruesome business of a bayonet fight. He had a very adventurous war, most of which he kept locked away in his memory, only the long silences and gentle touch of a grandson's

War broke out on 5 August 1914 and Kinsella travelled to Sydney and enlisted, aged 21, on 28 August at the Royal Agricultural Showground at Kensington in Sydney. His Battalion commander who signed his papers was Lieutenant Colonel Braund, a member of the New South Wales State Parliament. Kinsella trained with the 2nd Battalion of the 1st Brigade in the Kensington sand hills. There were a number of lawyers in the unit, including the mercurial warrior and solicitor, Charles Melville MacNaghten. The men of the 1st Brigade marched in great ceremony through the streets of Sydney under the overall command of the Sydney barrister, Lieutenant Colonel Henry Normand MacLaurin, who, along with Lieutenant Colonel Braund would be killed in action within a few days of landing on Gallipoli.

Gallipoli

Kinsella embarked for his very eventful war on *Suffolk* 18 October 1914 – part of a great send-off for the 2nd Battalion as a unit in the First Contingent of the AIF. He disembarked at Alexandria on 8 December 1914 and endured MacLaurin's 'severe training' in the desert around Mena Camp beneath the Egyptian pyramids before embarking on 5 April on *Derflinger* for Gallipoli. Kinsella was in the third wave of men from New South Wales that went ashore on Gallipoli in the late morning of the first day. He fought with the 2nd Battalion through the Gallipoli campaign to the evacuation in December 1915 – one of the relatively few ANZACs to do so.

The 2nd Battalion were in the thick of the fighting, particularly

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in the opening weeks: charging against the Turkish defenders on the slopes above ANZAC Cove as well as withstanding the Turkish counterattacks in May. Sickness raged through the troops and the men were kept constantly working on 'fatigue' duty. Kinsella was promoted to corporal 6 August 1915, around the time of the great attack on Lone Pine; then to sergeant on 28 November 1915. Kinsella recounted his experience of one attack to his grandson, Brian, who described it in the following manner:

In an incident which occurred during one attack on the strong Turkish trench lines, the soldiers of his battalion had been ordered to make a frontal assault on a particular length of trench and in an attempt to prevent unnecessary casualties to their own troops from accidental discharges of their weapons they had been ordered by their officers, in their wisdom, not to have rounds of ammunition in the breeches of their .303 Lee-Enfield rifles, but to use bayonets only. With an admirable sense of self-preservation, Edward Kinsella and other diggers ignored this order and made sure they had one 'up the spout' and ready to fire when they clambered from their own trenches and attacked. They reached the enemy trench, which was covered with logs and earth for protection from artillery fire. They threw grenades down into the trench among the Turks wherever there were apertures. Some of the Australians were able to break holes in the roof and drop through into the trench

itself. My grandfather was one of those who did so, his bayonet fixed to the muzzle of his rifle and ready for close quarter combat. As he dropped he was immediately confronted by a large Turkish soldier. 'He was well over six foot tall. In the confined space he looked huge. More importantly he was raising a rifle to point at me,' my grandfather said later. His rifle at the ready, his bayonet was pointing at the Turk but too far from him to reach him in time. My grandfather pulled the trigger and shot him in the chest, killing him instantly. He killed another two Turks with his bayonet before the trench was won. If he had not disobeyed that order he would probably have been killed.

The killings with the bayonet obviously affected Kinsella and Brian, recalls, years after the conversation, the pauses that followed the story and how his grandfather reached out to hold his hand in silence for a long time afterwards.

Alfred Kinsella, Edward's brother, arrived on Gallipoli with the 17th Battalion in late August 1915. The 17th Battalion escaped the worst of the action but the strain on any families in Australia with boys on Gallipoli was immense. Edward Kinsella wrote to his parents telling them of a lucky escape when a Turkish artillery shell landed in the earth next to his dug-out but failed to explode. As was common with proud parents at the time, his father passed the letter onto the local paper for publication.

Kinsella was among the last troops to leave Gallipoli and recalled setting up the last ruse to fool the enemy – the famous construction of jam tins filled with water that dripped from one to another and by being attached with a piece of string to the trigger of a fixed rifle fired shots at random to give the impression the Australians were still occupying the trenches. He told his grandson that he was one of the last to leave the beach.

The Western Front

Kinsella returned to Alexandria in Egypt on 28 December 1915. He transferred to the Camel Corps from 29 January to 9 February then went permanently to the 54th Battalion along with a number of other men from the 2nd Battalion on 14 February 1916, at Tel-el-Kebir in Egypt. These movements were part of the 'Great Reorganisation', or 'Doubling' of units, when the original ANZAC Battalions were halved and their experienced men used as the core for newly formed units which included new recruits from Australia. The process was not without bitterness among those men who left their comrades to be among the newcomers. Kinsella helped train the new men in the 54th Battalion then crossed with them on *Caledonian* to Marseilles in Southern France 29 June 1916. While the

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voyage passed without incident it was not without its hazards – German submarines were active in the Mediterranean and a number of ships were lost.

The 54th Battalion travelled north by train with glimpses of the Alps, the Eiffel Tower and other sights provoking much interest among all those on board. The unit was then in action on the Western Front. Kinsella's service record indicates that he was serving with the 54th Battalion in its first major battle, at Fromelles, on 19 July 1916. According to the Australian War Memorial, the night attack 'was a disaster'. The 54th was part of the initial assault and suffered casualties equivalent to 65 per cent of its fighting strength – although Kinsella's exact experience of it was one of the silences which shrouded his war service, but it was clearly an intense time. His brother, Alfred, had travelled to France and was wounded in action 26 July 1916.

The Australian army was keen to promote men from the ranks. Kinsella obviously displayed his leadership ability as he was promoted Second Lieutenant 23 August 1916. He was granted leave in London in November 1916, but soon entered hospital. While hospitalised he was promoted to Lieutenant on 11 January 1917. Just after he was released from hospital, his father, Patrick, died. It was to be a very harrowing year for the Kinsella family.

Kinsella was transferred to the Command Depot in Perham

Downs, England, when discharged from hospital on 26 January 1916. His general health was not good and there was much concern for his family. His brother, Grattan Kinsella was serving with the 3rd Infantry Battalion and disappeared 2 March 1917 and there was much understandable concern as to his fate. There was some relief to know he was captured. The Red Cross inquiry into the incident uncovered the following account:

Edward Kinsella was attached temporarily to the 66th Battalion and his record indicates that he attended a course of instruction at the Clapham Bombing School from 21 May to 2 June 1917. He was then an instructor at the school until finally re-joining his old unit, the 54th Battalion on 7 September 1917. It was a difficult time in the war and for the Kinsella family. Alfred Kinsella was wounded in action for the second time on 20 September 1917. Also, during 1917, Edward's brother, John, became seriously ill and was hospitalised for five months in Australia, and their father, Patrick, had died.

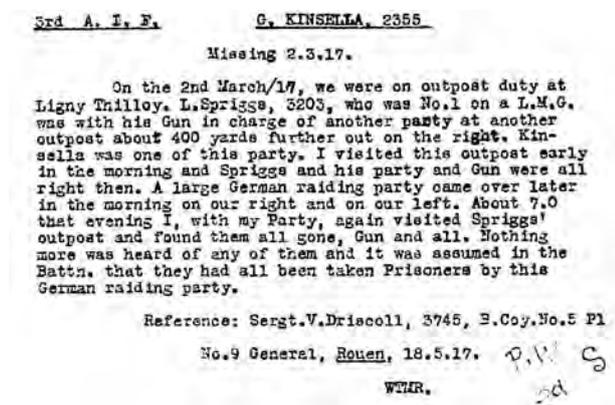
Kinsella served with the 54th Battalion in the trenches from late 1917 throughout the winter and into spring 1918. On 3 January 1918 Kinsella was appointed Lewis Gun Officer and spent time training the men in the use of this weapon. Other duties included supervising the men in salvage operations on the battlefields and maintaining their health and wellbeing through such activities as establishing bathing stations. His unit was involved in a series small, but often lethal, engagements around the Somme River – a much contested area, but events from home interrupted Kinsella's war and on the request of his mother he applied for compassionate leave to return to Australia.

Compassionate leave

The Kinsella family had had a difficult war. Two of Edward Kinsella's brothers had suffered severe hardship: Grattan was a Prisoner of War and Alfred had been wounded in action twice. Edward had been lucky to survive and had been ill himself. His distressed mother was desperate for him to get home and help sort out the situation. In her own words, she was in 'difficult circumstances', which included educating Edward's two younger sisters. As a result he was granted compassionate leave. He disembarked in Sydney from *Borda* on 1 June 1918. He had two month's leave on half pay, including a visit to Wagga, then re embarked on *Gaihi* on 30 July 1918 as an 'Indulgence Passenger' and ship's Adjutant. Edward's experience as an ANZAC and Western Front veteran gave him considerable status at home and on board ship. Perhaps his presence encouraged his brother James to enlist on 25 June 1918. James

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Kinsella sailed in September but arrived in England three days after the war had ended.

Edward Kinsella moved through a variety of postings on return to the United Kingdom and France then was granted leave from 16 July to 16 October 1919 to attend a course in Motor Instruction. He married Marie Louise Josephine nee Graff, whom he had met previously on leave, at the Town Hall, Marchienne Au Pont, Belgium, on 9 August 1919.

Post war career

Kinsella returned to Australia on *Wahebe* 15 December 1919 and was discharged 25 July 1920. He returned to work in the Land Department and studied law part time, graduating in 1927; his health still affected by his war experiences. His fellow war veteran and law student from the 1920s, Vernon Treatt, recalled the men in the Law School whose nerves and general health were clearly affected by their experiences at the front.

Kinsella was admitted to the bar 5 May, 1927, but remained working with the Lands Department until 1930 when he began a very energetic public and professional life. He was elected to the seat of George's River for the Australian Labor Party in 1930 but lost the seat in the general election of 1932 and returned to the bar. He practised out of 170 Phillip Street in all jurisdictions but particularly in Common Law and was retained by the Railways Department for its Common Law work.

The *Australian Dictionary of Biography* summarises Kinsella's judicial career as starting with being appointed District Court Judge and Chairman of Quarter Sessions 19 January 1943. He joined the Industrial Commission of New South Wales from 7 October; his work included chairing the Crown Employees'

Appeal Board. On 18 January 1950 he was elevated to the Supreme Court bench. He was described as 'austere and dignified, with a passion for justice. He ran a tight court and wrote careful judgments.' Kinsella twice served as royal commissioner, inquiring in 1951–52 into Frederick Lincoln McDermott's conviction for murder and in 1962–63 into off-course betting. He was also judge in Admiralty from 1961 until he retired on 6 June 1963. Kinsella's tipstaff for ten years was John Adams, MC and Bar as well as Mentioned in Despatches, a wounded veteran of the First World War. Adams had also served in the 54th Battalion at the same time as Kinsella. It is almost certain the men knew each other from that time. The 1960s' decade was a period in which there were many war veterans of both the First and Second World Wars at both bench and bar.

Kinsella was a leading Catholic layman, and was a foundation member (1952) and chairman (1961–67) of St Vincent's Hospital's advisory board and president of the Anti-Tuberculosis Association of New South Wales. He was appointed C.B.E. in 1964 and died on 20 December 1967.

Edward Kinsella had a remarkable life, which took him from country town New South Wales to the slopes of Gallipoli, followed by the Western Front; then the long mental and physical recuperation from all that he had seen and done, into a legal career that led to the Supreme Court Bench. He became one of the leading legal figures in New South Wales and only rarely allowed his demeanour to shift to reveal the store of memory which covered the battlefields of the First World War.

Anyone with further information on Edward Kinsella or other war veterans at the bar is invited to contact: acunneen@bigpond.net.au. The researcher is particularly interested in any personal memories people may have of dealing with war veterans in the law.

Further details and sources

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6. Kinsella Family website: http://www.nicolakinsella.com/familytree/kinsella_edward_p.html
7. The author gratefully acknowledges the support of the Kinsella family, particularly Brian Kinsella who generously provided his memories of his 'Pop' for the writing of this article.