5/04/2018

Commissioners.

Mr Robert Fitzgerald
Mr Richard Spencer

I have forwarded to you two submissions regarding National Service Infantry volunteers sent to the 4th Battalion Royal Australian Regiment Malaysia 1966/1967.
These men were all volunteers for Operational Service at the time for Malaysia or Vietnam.
They were sent from Singleton infantry training battalion to reinforcement Wing Ingleburn Sydney to await deployment to one of these areas.
The reason these men volunteered was for a service medal and War Service Entitlements.
These men were a new kind of soldier at the time most did not want to be conscripted however when put into service they asked questions and what is in these two submissions are the facts and truth.
It is now history what has happened to the men sent to Malaysia 1966/1967.
Sir please take this as the honest truth.
These men were told before deployment that they would qualify for all entitlements.
The cut off date in August 1966 did not exist then it only became important years later when all this negligence was exposed at the Mohr/Kennedy Review (SE ASIA REVIEW) 1999.
Sir please accept this at the time Reinforcement Wing did not send soldiers to Peacetime postings.
Sir these men have slipped through the cracks the ACTs have been amended and only recently as 2014 DVA minister Ronaldson and MP Stuart Robert had the Operational Act amended back from the 30th of September 1967 to August 1966.
As stated by the Minister to us the Operational Date confused the issue so they had it changed Fifty years later.
This was a shameful thing to do to these remaining men as it was done solely to shut these men up.
Please have a look at the debacle Defence made that time 1964 to 1967.
It did not Allot any army from that time it only changed after Mohr's recommendation to Allot up to the 30thof September 1967 and that was hundreds of men Army, Navy,Air Force.
So it wasn't if it was just a minor error it was huge.
But as we all know Governments just don't get it right and so Defence set about putting it right even though they got it totally wrong in the first place even with the SE ASIA Review who by the way was a retired Major General plus a Judge of the South Australia Court, Defence even had the laughable reply Major General Mohr/Rear Admiral Kennedy got it wrong.?
Men's qualifying service depended on this rubbish.

So this is how these reinforcements are now denied many are now dead and there are approximately eighty left they did their job in the jungle on the Malay Peninsula they did not know what to expect the Battalion Operated as any Infantry Battalion would in a designated Operational Area and at the time it was not informed it was a peacetime service.
Sir it's many years now however these men should be accepted by what was in at the time Defence made a huge error back then history shows that please read these submissions written by Roger Wickham assistant Adjutant at the time they are the facts.
There should be some thought into these men being accepted for DVA if needed.

Robert Manning

SUBMISSION FOR RECOGNITION OF SERVICE IN THE MALAY PENINSULA

September 15 1966 – 30 September 1967

AS QUALIFYING SERVICE

UNDER THE SPECIAL OVERSEAS SERVICE ACT 1962

The Directorate of Honours and Awards Tribunal (DHAT) previously heard this matter after explaining that it was the incorrect forum to hear repatriation matters. It rejected the claimants' case from a medals' aspect, on 5 February 2009. As both Defence and Department of Veterans' Affairs (DVA) have closed their books on the matter and DHAT has said it does not intend to revisit the matter, the veterans are now left with only two recourses – this new DHAT enquiry or the Media. They are trying DHAT first.

THE ISSUE

150 National Servicemen served in 4 RAR on the Malay Peninsula for periods of 4 months to 12 months from **15 September 1966 to 30 September 1967**, while it was **a declared "special area" area for repatriation benefits**, under the Special Overseas Service Act 1962.

The Department of Veterans' Affairs (DVA) **denied** their subsequent applications for repatriation benefits, because the records showed that they had **NOT been "allotted for special duty"** in that "special area" and therefore, **they did not qualify for repatriation benefits**.

The National Service veterans had never heard of the requirement to be "allotted for special duty" in a "special area". All they knew was that it was a "special area" when they arrived to serve their country as ordered and it was still a "special area" when they completed their service and returned to Australia. They were not informed of any conditions of qualifying service in the Malay Peninsula "special area" other than the service they performed.

So they appealed to various Ministers for DVA, who upheld the DVA's rejections with added emphasis.

However, in his comprehensive **REVIEW OF SERVICE ENTITLEMENT ANOMALIES IN RESPECT OF SOUTH-EAST ASIAN SERVICE 1955-75,** released in **February 2000,** Major-General Justice Bob Mohr ED RFD, **made the startling revelation** that **the sole reason** they had **NOT been "allotted for special duty"** in that "special area", was because **the Army, whose duty it was to allot them, had failed to do so.** Justice Mohr reported:

> *"'A search of records indicates that no Army or RAAF member was allotted for service in the Malay Peninsula during Confrontation.*

*The period of operational service during the Indonesian Confrontation against mainland Malaysia extended from **17 Aug 64 until 30 Sep 67**. At present, no Army or RAAF personnel have been allotted for service during this period."*

This was an extraordinary allegation with massive implications.

Justice Mohr described the exact experience of these National Servicemen, when he noted that many members of the ADF:

> *"....now find themselves disadvantaged years later **because those who ordered them to do their duty, which they did, took no steps to ensure that the required allotment procedures were attended to, when quite clearly they should have been**."*

No ambiguity there. He names **WHO** was responsible and **WHY**.

Justice Mohr was withering in his censure of the Services. He even included the Navy, which had allotted ships but couldn't remember which ones:

> *"It is axiomatic that one must get the facts right in an area as sensitive as Honours and Awards. This, however, was not always the case. A prominent example is the official distribution of a flawed table of ships allotted to the Far-East during the Indonesian Confrontation. This flawed list has, until now, denied some personnel being awarded campaign medals and repatriation benefits. **It behoves the Services to get it right the first time, an error such as this is indefensible**."*

Indefensible = **Cannot be defended**.

No ambiguity. No uncertainty. No room for discussion. **Axiomatic**.

So the fact of the matter is that the government, via DVA, denied earned repatriation benefits to these 4 RAR veterans - conscripted National Servicemen at that - for service rendered faithfully in an operational area, because the government, via Defence, through the Military Board, neglected to allot them for special duty, as it was required to do.

Not surprising that neither DVA nor Defence wishes to deal with it.

The Proof of this egregious negligence?

After this explosive disclosure, a **retrospective Instrument of Allotment** was quietly announced on **28 December 2000**, when the public's attention was elsewhere, effective from **1 January 2001.**

A total of **47** **Army units**, **RAAF squadrons** and **RAN ships** were "allotted for special duty", back to **17 August 1964**, 36 years earlier, in the Malay Peninsula, Sarawak, Brunei and Sabah. This involved thousands of men and their families.

From any military perspective, this negligence was an egregious dereliction of duty on a breathtaking scale at the highest military

levels. The consequences however, were laid at the feet of men who were conscripted but served their country with honour.

They have not only been penalised for their outstanding service but for good measure, they have been made to appear responsible for the entire debacle, perpetrated on them by the Military Board.

They are blameless. Why have they been penalised by the Government, the party at fault, for 46 years and counting?

Interestingly, DHAT's take on the debacle was: **"The Tribunal recognises that there may have been shortcomings in the allotment process which included 4 RAR's service in Malaysia."**

"May have been shortcomings".

Nine years after the retrospective Instrument of Allotment removed all doubt about any "shortcomings" in the allotment process, DHAT was still NOT certain.

And who now convenes this inquiry? DHAT.

http://www.smh.com.au/national/truth-comes-for-vietnam-vet-after-department-played-god-with-famous-photograph-20140301-33soo.html

THE ESSENCE OF THE ISSUE

Stripped of all the legal machinations and barren polemics, all of which occurred decades after the events in question, the essence of the issue is simply this:

> ***On any moral and equitable grounds, can the government, 34 years after the event, legally deny repatriation benefits to conscripted National Servicemen, who were forced by government fiat to risk their lives and limbs in a current operational area declared by the government to be a qualifying area for repatriation benefits, on the grounds that their service was not performed with the correct paperwork, when the government itself, through its Military Board, whose duty it was to provide the proper paperwork, had failed to do so?***

Much smoke has since been thrown and red herrings drawn to obfuscate this fact but in the end, THAT, is the issue.

PLAYING THE GAME FOR FORM

If the Military itself was not totally to blame for this entire mess and then had the unmitigated gall to claim that to award these veterans the AASM 1945-75 with Clasp *Malaysia,* would require rewriting the history of the conflict and threaten relations with Indonesia and require the need to ask allies such as Great Britain and Malaysia to amend their criteria for medal awards for the period, some of the points raised by DHAT in its findings, might have some merit.

But the Military was to blame. It was the 800lb gorilla in the telephone booth. That fact cannot be ignored let alone dismissed or hidden or camouflaged, by introducing red herrings such as **Divisions of Responsibility** and **Allotment Concepts** and **Certificates of Allotment** and **Qualifying Requirements** which **were not met at the time** and **Closing Dates** and **Definitions of Warlike** and **Non-Warlike,** all introduced decades later.

The other facts which cannot be avoided, are that they served in the "special area" while it was a "special area" and it remained a "special area" until **30 September 1967**.

For the exact same service and very much less demanding service in many cases in Terendak Garrison and Singapore, others were awarded the AASM 1945-75 with Clasp *Malaysia* **retrospectively 34 years later,** on the basis of a **cut-off date arbitrarily decided In 2000** by a Naval officer as Vice Chief of the Defence Force and three Service Board Chiefs, none of whom had any experience in the area at the time and most likely zero personal experience in jungle operations.

So the entire retrospective Instrument of Allotment should be retrospectively consigned to the shredder and replaced by proof of service in the Malay Peninsula "special area" prior to 30 September 1967, for the same time period as governed qualifying service in the Sarawak or Vietnam "special areas".

For this submission, all that remains is to discredit the validity of the Instrument of Allotment 2000, which is merely a matter of form, because we already know that the basis on which it was put together, was a sham.

Instrument of Allotment of 28 December 2000

CABINET'S 1965 CONDITIONS FOR "ALLOTMENT FOR SPECIAL DUTY"

According to various government Ministers and DHAT, who have access to records and government archives, Cabinet issued tightly-circumscribed conditions which had to be met by the Naval, Military and Air Boards at the time, BEFORE members could be "allotted for special duty" for operational service in the Malay Peninsula "special area", to qualify for "full" repatriation benefits. These conditions we are told, were clearly defined in **Cabinet Decision 1048 of 7 July 1965**.

A queue of government Ministers over the years advised 4 RAR members who served in the Malay Peninsula *"special area",* that there were **three** requirements to qualify for repatriation benefits:

1. A "special area" had to be declared.
2. The member had to serve in the "special area"; and
3. The member had to be "allotted for special duty" in the "special area".

NO other requirements, including a closing date, were listed in any correspondence.

Ministers were inexplicably emphatic, that #3 - ***"allotted for special duty"***- was the "key" requirement.

Why one was more important than the others when ALL three were required and why the paperwork for the service was more important than the service itself, was not explained. One would have thought that the service without paperwork was a long way ahead of the paperwork with no service.

Minister Bruce Billson advised **Mr. Bob Manning of 4 RAR** on **25 Jan 2007**:

"The Naval, Military and Air Boards chaired by the respective Service Chiefs were responsible for deciding if an operation on which their units deployed was sufficiently hazardous to warrant allotment for special duty.

If they decided it was sufficiently hazardous a representative of the relevant Board would then sign the necessary certificate."

"*Cabinet made it clear to the Service Chiefs that allotment should only be made where they considered the service to be sufficiently hazardous to warrant the award of full repatriation entitlements."*

DHAT's February 2009 report of its Inquiry, listed the requirements thus:

"…Cabinet decision 1048 clearly directed the Service Chiefs that Allotment for Duty should be confined to personnel specifically Allotted for Duty in relation to Indonesian infiltrators or communist terrorists in circumstances where there had been a specific request for the assistance of Australian forces and where the task had been clearly defined. Simply serving within the designated Special Area did not automatically establish eligibility to full benefits."

These directions were issued by Cabinet to the three Service Boards in **July 1965**. They refer specifically to ***"Indonesian infiltrators or communist terrorists"***. So clearly, those directions were intended to be implemented for operations to be conducted **AT and FROM 7 July 1965**, until the Malay Peninsula was declared to be no longer a "special area".

Item 7 of **Schedule 2** of the **Veterans' Entitlement Act 1986,** defines the period of Confrontation as concluding on **30 September 1967.**

We have now known since February 2000, that the conditions contained in **Cabinet Decision 1048** of **7 July 1965 were never met. Not one.**

They couldn't be met, because the Army in this case, **never passed them down the chain of command**. Units cannot obey orders they are not given.

Yet Minister Billson's letter dated **25 Jan 2007,** to Mr. Manning advised:

> *"The Instrument of Allotment of 28 December 2000, listed all the units that the Service Chiefs of 2000 **believed fulfilled the "allotted for special duty" criteria**. None of the units listed were allotted for the period after 14 September 1966."*

This means that units which served in the Malay Peninsula "special area" **AFTER 14 September 1966**, did **NOT** meet the "allotted for special duty" criteria, so members posted to those units after that date did **NOT** qualify. **4 RAR** served in the Malay Peninsula "special area" **AFTER 14 September 1966.**

By the formal act of retrospectively "allotting units for special duty" in the Malay Peninsula "special area" from **17 August 1964 – 14 September 1966**, the Service Chiefs of 2000, **substituting for the Naval, Military and Air Boards of 1965** as the responsible authority appointed by the Cabinet, **certified** that:

1. A **specific request was received** from the host nation, in this case the Government of Malaysia, for the assistance of Australian forces for each and every operation.
2. **Each and every task for each operation was clearly defined** by the Malaysian government.
3. The Service Chiefs of 2000 examined each and every clearly defined task, before deciding it **was sufficiently hazardous** to warrant retrospective "allotment for special duty", **for that task only**.
4. When they considered the operation was sufficiently hazardous to warrant the award of full repatriation entitlements, **a representative of the relevant Board signed the necessary certificate**.

The following two units were retrospectively "allotted for special duty" on the Malay Peninsula by the Instrument of Allotment dated 28 December 2000. So both were believed by the Service Chiefs of 2000 to meet the "allotted for special duty" criteria:

3 RAR had contacts with Indonesian forces on the Malay Peninsula in **October 1964. It was NOT a declared "special area".**

The Federation of Malaysia was not declared a security area under the Malaysian Internal security Act until **May 1965** and the Australian government did not declare the Malay Peninsula a "special area" for repatriation purposes, until **7 July 1965.**

None of the three absolute requirements nominated by Ministers applied:

1. A "special area" had **NOT** been declared.
2. 3 RAR members did **NOT** serve in a "special area"; and
3. 3 RAR members were **NOT** "allotted for special duty" in a "special area".

We know there was **NO specific request** for Australian military support from the Malaysian government with a **clearly defined task** for this **October 1964** operation, because the requirements never existed until **7 July 1965.**

We know there was **NO assessment** by the Military Board to determine the degree of hazard for the operation and we know there was **NO certificate** signed by the Military Board to allot 3 RAR for special duty.

We know that 3 RAR served continuously on the Malay Peninsula for 23 months **before** and for only **2 months after** it was declared a "special area" but was **never** "allotted for special duty" **while it served there**.

Clearly, 3 RAR's service in the area could not possibly have met the conditions for qualifying service under Decision 1048.

4 RAR served on the Malay Peninsula for 25 of the 26 months that it was a declared "special area".

1. The battalion was **never** "allotted for special duty" **during its service there**.
2. It conducted fully-armed nightly beach patrols of its sector of Terendak Garrison with specific Rules of Engagement (ROE) to intercept any Indonesian insertions by sea. **None of these operations was at the request of the host government.**
3. It provided Ready Reaction Platoons (RRP) on 5' notice to move and rifle companies on 30' notice to move, to meet incursions by Indonesians by sea or air; or activities by communist terrorists (CT), taking advantage of the heightened security situation. **It was impossible for the host nation to have submitted a clearly defined task, when nobody even knew if there would be a task.**
4. We know there were **no specific requests from the Malaysian government** for those operations to be conducted.
5. We know there was **no degree of hazard assessment** of those operations by the Military Board. That would have been an impossibility.
6. We know that **No certificate was ever issued by the Military Board.**
7. We know that the two critical qualifications for repatriation benefits were met: **It was a "special area" and the service was performed in the "special area".** The so-called "key" #3 requirement "allotted for special duty" was **never met because of negligence by the Military Board.**

Clearly, 4 RAR's service in the area could not possibly have met the conditions for qualifying service under Decision 1048.

The same is almost sure to have been the case for every other unit, squadron and ship which was retrospectively "allotted for special duty" under the blanket Instrument of Allotment dated 28 December 2000.

The absurdity of insisting that these conditions be met in 2000, when they couldn't be met in 1965, is stark. Yet the fact that they were not met in 2000 is used as the basis for rejecting the repatriation applications of these National Service veterans.

Where does that leave the veracity and the validity of the retrospective Instrument of Allotment?

THE CLOSING DATE

The Malay Peninsula remained a "special area" for repatriation purposes until 30 September 1967 as is recorded in Schedule 7 of the Veterans' Entitlement Act 1986. Justice Mohr recommended 30 September 1967 as the closing date,

However the then Vice Chief of the Defence Force, in consultation with the Service Chiefs of 2000, disagreed with Justice Mohr and the VEA1986 that units be allotted for the period to end of September1967 and instead chose 14 September 1966.

DHAT commented as follows :

*"The cut off date of 14 September 1966 in the instrument of allotment for duty **seems** to be a date chosen to allow for the withdrawal of all Australian service personnel from Borneo. It is a date a little later than the return of all members of 4 RAR to Terendak."* (Emphasis added).

"Despite inquiries, the Tribunal was not provided with information as to why the date 30 September 1967 was chosen as the cut off date for the designation of Malaysia as an operational area."

Both these are critical dates and DHAT is not sure of either but strangely, the Tribunal decided not to enquire further about either and made its ruling anyway.

As all the other conditions of Decision 1048 of 7 July 1965 were never applied **and affected none of the operations to which they were meant to have been and should have been applied,** then the Closing Date has no more validity or importance than the other non-applied conditions and should be as recorded in the VEA 1986 and as recommended by Justice Mohr.

Yours sincerely,

Roger J Wickham

For :
Robert Manning
Walter Heagney

28 February 2014

Cover Sheet

INQUIRY INTO SERVICE BY 4RAR MALAYSIA 1966 -1967

Submitted by : Roger J. Wickham
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NOTE:

It is not possible to provide *"Fully-documented evidence in support of this submission"*. To supply it would require access to all relevant Government material, which would include Cabinet records and other sensitive material. It would also take a long time to sift through the irrelevant material to reach the relevant.

Nobody from Defence, Army, DVA or any other agency of government has been able to provide fully-documented evidence to support the previous government's case against recognising the 4 RAR service in Malaysia during its tour of duty 1965-1967 and that of the reinforcements involved.

I accept that this submission may be made available to Defence or any other organisation or individual as deemed fit by the Tribunal.

Roger J Wickham
Brisbane
7 November 2008

SUMMARY OF THE ISSUE

4 RAR ALLOTMENT FOR SPECIAL DUTY - MALAY PENINSULA 1965 -1967

A queue of government Ministers over the years has advised 4 RAR members who served in the Malay Peninsula prescribed *"special area"* after 14 September 1966, that there were three requirements to qualify for repatriation benefits for this service :

1. a "special area" had to be declared.
2. the member had to serve in the "special area"; and
3. the member had to be "allotted for special duty" in the "special area".

Those members were denied repatriation benefits because they were not *"allotted for special duty"*, while others in the same unit, who were also not "allotted for special duty" in the Malay Peninsula "special area" at that time, later qualified for full repatriation benefits for that then unallotted service. 3 RAR before them, was also not "allotted for special duty" on the southern Malay Peninsula when it served there but also qualified for full repatriation benefits. This is anomalous and needs to be corrected and since it is now 42 years later and the last attempt to correct it was after 34 years, it should be corrected promptly.

3 RAR was stationed in Malacca on the southern Malay Peninsula from July/August 1963 – September/October 1965. 800 soldiers and their families do not swap with 800 other soldiers and their families in a single day, as government records suggest. The battalion, or detachments of it, was "allotted for special duty" from Feb-April 1964 and from Sept-December 1964 on the Thai/Malay border in the northern Malay Peninsula, which was a prescribed "special area", when they served in it.

On 29 October 1964, 3 RAR was deployed south of Malacca on the southern Malay Peninsula, against Indonesian soldiers who had infiltrated by fishing vessel across the Straits of Malacca. The southern Malay Peninsula was <u>not</u> a "special area" at that time and 3 RAR was <u>not</u> "allotted for special duty" at that time but it was awarded the Campaign Service Medal 1962 with clasp *Malay Peninsula* and full repatriation benefits. In that instance, contrary to Ministerial understanding and advice, there was no "special area" declared and members who served in it, were not "allotted for special duty".

It needs to be noted, that there were three prescribed *"special areas"* at that time – South Vietnam, Thai/Malay Border and Borneo (Sarawak/Sabah and Brunei), and two of them were in Malaysia. So it was not as if Malaysia was a bastion of peace in SE Asia or the southern Malay Peninsula had not already been invaded. Indonesian commandos had landed in southern Johore on 17 August 1964 and 100 paratroopers dropped into Labis in northern Johore in early September, followed by the Malacca landing in late October. The surprise was that it took the Australian government another 9 months to react to the urgency of the security situation at that time.

The "*Malay Peninsula/Singapore and adjacent waters"* was finally declared a "special area" on 7 July 1965, on this May 1965 advice from the Defence Committee:

1. The entire Federation of Malaysia had just been proclaimed a security area under the Malaysian Internal Security Act.
2. Indonesian troops had landed by sea and parachute into Malacca and Johore on the Malay Peninsula and Singapore.
3. Australian ground forces had already been engaged against infiltrators in Malacca, the Thai/Malay border and Borneo.
4. The Joint Intelligence Committee believed the infiltrations would continue and not be confined to any particular areas.

As at 7 July 1965, 3 RAR alone had been in action in all three Malaysian *"special areas"* – Thai Border, Borneo (Sarawak) and the new Malay Peninsula. Based on the Defence Committee's advice and the JIC's predictions, one could reasonably presume that 3 RAR at least, would have been immediately "allotted for special duty" in the new "special area" and retrospectively to at least 17 August 1964 in that area. On 7 July 1965, 3 RAR was on "special duty" in the Borneo (Sarawak) "special area" but its rear echelon was in the new Malay Peninsula "special area". In spite of the threatening operational situation there, those rear echelon members were not "allotted for special duty" at the time. No explanation was given by Army HQ (AHQ) Canberra.

The 4 RAR advance party arrived in the Malay Peninsula "special area" on 15 August 1965 and the battalion was complete in Terendak Garrison, Malacca, the following month. 4 RAR was sent into a new-declared "special area" (note again the Defence Committee's advice) but was also not "allotted for special duty". Again, AHQ Canberra was silent and another 35 years was to pass before the reason for the silence emerged. In February 2000, Justice Mohr in his Review of Service Anomalies, made the startling disclosure - in light of the Defence Committee's advice and Cabinet's declaration, that neither the Military Board nor the Air Board had allotted any members for duty in the Malay Peninsula at any time, after it was declared a "special area" on 7 July 1965. These were not considered decisions by those two Boards, just extraordinary administrative oversights.

So for over 30 years, veterans were denied repatriation benefits because they were not "allotted for special duty", solely because of negligence by their respective Service Board. It fell to a Justice of the Supreme Court of South Australia to dig out this truth. Many veterans died during this period, without being able to access their repatriation entitlements but not a word of apology, let alone compensation, was forthcoming after the truth was out. To the contrary, in an unhurried attempt to correct this inexcusable error, an Instrument of Allotment was signed on 28 December 2000, retrospectively allotting a combined total of 47 Army units, RAN ships and RAAF squadrons for special duty in Malaysia, Singapore and Brunei, for varying periods between 17 August 1964 and14 September 1966. Even that document was not without error.

To add to the grave injustice, the Defence Chiefs in 2000 took it upon themselves to assess the danger of the situation 34 years previously, based on anecdotal and government records. They then matched their assessment against definitions of "warlike" and "non-warlike" which were created and adopted almost 30 years after the events. On that basis, they selected 14 September 1966 as the closing date and that is how 4 RAR members qualified for repatriation benefits before 14 September 1966 and those after that date, did not. In 2007, Minister Bruce Billson admitted that Defence had by then deemed it inappropriate to assess service from another era, using later definitions which were not in force at the time but they were applied to 4 RAR for 1965-1967, a double standard and one of a number of self-contradictions in ministerial correspondence.

Had 4 RAR been "allotted for special duty" in the new "special area" in July 1965, as the retrospective allotment concedes it most certainly should have been, its "allotment for special duty" would only have ceased when the Malay Peninsula ceased to be a "special area". This would have followed the Defence Committee's advice to Cabinet, that the security situation warranted the downgraded classification. The date the Malay Peninsula officially ceased to be a "special area" needs to be tabled. No date can be validly selected 35 years after the events, on the whim of some individuals who were not there at the time and more than likely had nothing but a superficial knowledge of Australia's commitments and involvements there. They certainly could not rely on government records as the basis for their decision. They are notoriously unreliable when they are available, let alone when they do not exist or can't be found.

Justice Mohr observed in 2000 : *"I believe that in making retrospective examinations on the nature of service many years after the event, as is now the case, the concepts and principles involved should be applied with an open mind to the interests of fairness and equity, especially if written historical material is unavailable for examination or is not clear on the facts."* In this matter, written historical material is unavailable and is not clear on the facts. That leaves fairness and equity, also unavailable in the last 42 years.

It is highly improper, with no redeeming moral value, for soldiers who served as ordered with laudable efficiency, risking life, limb and health under appalling conditions for the '*Queen's very modest shilling*', to be denied their earned repatriation "entitlements" for 40 years, because of some hair-splitting legal points, about which some of Australia's finest legal minds could never agree.

DESIRED OUTCOME

The closing date of 14 September 1966 is fictitious and was arbitrarily selected 34 years after the events in question. It's only significance in Australian military history in Malaysia, is that it fell between 13 and 15 September 1966. It should be replaced by *([date the member returned to Australia];* or [*date the "special area" status was revoked];* or *[date the Far East Strategic Reserve {FESR} was terminated])",* whichever was the earlier.

16900 Wickham, Roger J,
Foundation Member 4 RAR, January 1964 – January 1968

Roger J Wickham 7 November 2008

4 RAR ALLOTMENT FOR SPECIAL DUTY - MALAY PENINSULA 1965 -1967

ALLOTTED OR NOT ALLOTTED

In his book "*NOTHING SHORT OF WAR*", Lt Col Neil Smith AM wrote:

"*To the researcher, medals, in terms of qualification, entitlement, award and retention, represent a veritable quagmire*".

Lt Col Smith noted that men were listed as having served in areas they swore they never set foot in, while others who swore they did, were not listed.

In his February 2000 *Review of Service Entitlement Anomalies In Respect of South-East Asian Service 1955-1975,* Justice Mohr noted:

"There has been no single topic which has affected so many possible anomalies as the matter of "allotted" or "not allotted"".

WHO WAS RESPONSIBLE ?

The Malay Peninsula 1965-1967 service episode is already a veritable quagmire and spiralling, ever since the recommendations of Justice Mohr on the matter were ignored or dismissed by the Defence Chiefs of 2000, almost 8 years ago. Justice Mohr had made these startling revelations in his Review:

"*A search of records indicates that no Army or RAAF member was allotted for service in the Malay Peninsula during Confrontation."*

"The period of operational service during the Indonesian Confrontation against mainland Malaysia extended from 17 Aug 64 until 30 Sep 67. At present, no Army or RAAF personnel have been allotted for service during this period."

"On the other hand, HMA Ships involved in the operational area during Confrontation were 'allotted' and therefore all crew members are eligible for the full range of repatriation benefits and medals."

While the Army and the RAAF failed completely, according to Justice Mohr, the Navy managed to get it half right. Some sailors were told on applying for repatriation benefits, that ships they served on in the area at the time were not there. Ghost ships.

Justice Mohr gave examples of this slipshod administration :

"Cases arose of Navy personnel being attached to ships or shore stations in operational areas but this service was not clearly evident on their records yet the service was undertaken. Similar cases arose among veterans, especially some employed on 'special operations', not having the service reflected somehow, on their service documents. The service records of those personnel engaged in 'special operations' should be annotated in such a way that many years after the events their service can be readily authenticated."

Surely the responsibility for ascertaining the precise whereabouts of its people during conflicts both past and present, lies with each of the Services. This responsibility should not be transferred to the veteran who may not have the knowledge or capacity to access official records to ensure the appropriate information is elicited, nor be aware at the time that a record of his activities was not being maintained." (Author's emphasis)

INDEFENSIBLE ERRORS

Justice Mohr censured the Services :

"It is axiomatic that one must get the facts right in an area as sensitive as Honours and Awards. This, however, was not always the case. A prominent example is the official distribution of a flawed table of ships allotted to the Far-East during the Indonesian Confrontation. This flawed list has, until now, denied some personnel being awarded campaign medals and repatriation benefits. It behoves the Services to get it right the first time, an error such as this is indefensible."

"Indefensible" – not "understandable". Cannot be defended. No possible excuse.

Justice Mohr pointed the finger :

I am fully conscious of the provisions governing the award of medals, qualifying service, etc, in Warrants, Acts and guidelines. The point is however, that so many members of the ADF served in South-East Asia during the period of the Review, had no idea of the necessity for themselves or their unit to have been 'allotted' before they received qualification for a medal or repatriation entitlements and now find themselves disadvantaged years later because those who ordered them to do their duty, which they did, took no steps to ensure that the required allotment procedures were attended to, when quite clearly they should have been."

".. those who ordered them to do their duty...and took no steps to ensure the required allotment procedures were attended to when quite clearly they should have been.. " were the Service Boards, in particular the Military and Air Boards.

THE SERVICE CHIEFS WERE RESPONSIBLE

In their correspondence with veterans explaining the rejections of the repatriation applications, Ministers drew specific attention to the fact that the Cabinet had delegated authority to the Service Boards:

"The Naval, Military and Air Boards chaired by the respective Service Chiefs were responsible for deciding if an operation on which their units deployed, was sufficiently hazardous to warrant "allotment for special duty". If they decided it was sufficiently hazardous, a representative of the relevant Board would then sign the necessary certificate."

It seems no operation was assessed for 'hazard sufficiency' and no certificate was signed.

THE CONSEQUENCES FOR VETERANS

As a result of this administrative negligence, veterans were denied repatriation benefits for decades on the sole ground that they had not been "allotted for special duty". These veterans served their time as ordered. They did not know they had to be allotted and no one told them that they were not allotted because their Service Chiefs failed in their duty of care to them.

This terrible breach of trust cannot be ignored as though it never happened, which is exactly how it has been treated. It caused endless confusion, which led to frustration, disbelief and anger. This is why veterans won't let this case alone. Justice Mohr offered the simple, just, fair and equitable solution, which was rejected by another generation of Service Chiefs, resulting in more confusion, frustration, disbelief and anger.

ACKNOWLEDGEMENT OF GUILT

No attempt was made by Defence or the government to defend these pointed unambiguous charges and censure. Instead, acknowledgement came by way of an Instrument of Allotment signed by Vice-Admiral Christopher Ritchie AM, the Acting Vice Chief of the Defence Force, on 28 December 2000, effective 01 January 2001. It allotted a combined total of 47 Army units, RAN ships and RAAF squadrons for special duty in Malaysia, Singapore and Brunei, for varying periods between 17 August 1964 and 14 September 1966.

This document was issued to redress some major wrongs and injustices. Given the administrative ineptitude and bungling at the highest levels and the stinging rebuke by Major-General Justice Mohr which eventually led to the retrospective allotment instrument, it would seem "axiomatic" as Justice Mohr put it, that this time, the Service Chiefs would leave no stone unturned, to get it right.

Roger J Wickham 7 November 2008

STILL INACCURATE 34 YEARS LATER

The document states clearly in paragraph 1 on the front page : "*This instrument is issued by the Defence Force under subsection 5B(2) of the Veterans' Entitlements Act 1986 ("the Act") for use by the Repatriation Commission in determining a person's eligibility for entitlements under the Act.*"

The acceptance or rejection of a veteran's claim depends on the accuracy of this document. It has to be right. Inaccuracy, to use Justice Mohr's term, is indefensible, in which case, the following extract from the document is noteworthy :

> 105 Field Battery RAA was allotted to Sarawak from 01 August 1965 – 11 August 1966. My brother, Gunner Jon E. Wickham served in that battery in Vietnam, from September 1965 - September 1966, and it was heavily involved in the Battle of Long Tan on 18 August 1966. He left for Vietnam in September 1965 just as I left for Malaysia. When I was wounded in Vietnam on 2 April 1966, my wife in Terendak Garrison Malacca, was told it was my brother Jon with 105 Field Battery. So we know 105 Fd Bty was in Vietnam at that time and not in Malaysia but the document provided by Defence to DVA "*..to be used to determine a person's eligibility for entitlements under the Act*", says it was in Malaysia. Another "flawed table of ships"? Ghost batteries and phantom gunners?

There is even disagreement within the government about who signed the Instrument. A copy of the document itself bears the signature of Rear Adm Christopher Angus Ritchie AM, Acting Vice Chief of the Defence Force on 28 December 2000. Minister Bruce Billson advised a veteran on 20 August 2007, that it was signed on 28 December 2000 by Lt Gen Des Mueller AO, Vice Chief of the Defence Force.

This Instrument of Allotment is headed:

Malaysia, Singapore and Brunei 17 August 1964 to 14 September 1966
Schedule 2 Item 7.

It groups under "Malaysia", the separate "special areas" at that time in Malaysia, – the "Thai Border", later incorporated into "Malay Peninsula", "Sarawak" and "Sabah" in East Malaysia.

THE OPENING DATE

17 August 1964 was probably selected because it was the date of the first known landing of a significant body of Indonesian troops in Johore on the southern Malay Peninsula in West Malaysia. If that occurrence was meant to signify the beginning of Confrontation, it is not correct. No Australian unit was involved on that date in West Malaysia, while there were Australian units involved in Confrontation before that date, in Sarawak and Sabah.

Almost a dozen units retrospectively allotted by this instrument from 17 August 1964, had already been "allotted for special duty" in the Thai Border and/or Sarawak and Sabah as early as February 1964 and in one case in East Malaysia, back to November 1963. So how do those allotted in "special areas" from November 1963 – 16 August 1964 make their case, when the Defence "bible" says it all started on 17 August 1964?

"ALLOTMENT FOR SPECIAL DUTY"

THE REQUIREMENTS TO QUALIFY FOR REPATRIATION BENEFITS

Ministers advised there were three requirements and special service was achieved when all three were met but #3 was the "key" element. (One can only shake one's head!)

1. a "special area" had to be declared.
2. the member had to serve in the "special area"; and
3. the member had to be "allotted for special duty" in the "special area".

THE MALAY PENINSULA "SPECIAL AREA" DECLARATION

In Decision No 1042 of 7 Jul 65, Cabinet approved the whole of the Malayan Peninsula and Singapore being declared a 'special area' under the SOS Act 1962. Eligibility for repatriation benefits arising from this decision was to be confined to those personnel who were specifically allotted for special duty in relation to Communist terrorists in the Thai/Malay border area and Indonesian infiltrators.

THE MINISTER'S INTERPRETATION OF CABINET'S DECISION

Minister Bruce Billson wrote to a veteran who served with 4 RAR in the Malay Peninsula after September 1966: *This is interpreted to mean that "allotment for special duty" was only to be made where Australian forces were called out to conduct operations against hostile forces at the request of the host nation; which in this case was the Government of Malaya (sic)".*

This seems to introduce a 4th requirement viz., a request from the host nation, which is not listed among Cabinet's three requirements as specified by the Minister. But the allotment hurdles did not end there, as Minister Billson explained:

The Naval, Military and Air Boards chaired by the respective Service Chiefs were responsible for deciding if an operation on which their units deployed, was sufficiently hazardous to warrant "allotment for special duty". If they decided it was sufficiently hazardous, a representative of the relevant Board would then sign the necessary certificate.

This seems to introduce a 5th requirement viz., hazard assessment by the respective Service Board. Of all these requirements, the veteran was responsible for one only – to serve as ordered.

WHAT ACTUALLY HAPPENED

3 RAR was in action against Indonesian troops on 29 October 1964 in Malacca, an area which had not been declared a "special area" and no member of the battalion was "allotted for special duty" at the time. It became a "special area" 9 months later but the battalion was still not "allotted for special duty" in that "special area" until 36 years later. None of Cabinet's three (or five) requirements was met at the time but the service was still rendered. So clearly, none of Cabinet's requirements was necessary to render the service. The real "key" element was, rendering the service.

4 RAR arrived in the Malay Peninsula "special area" in August/September 1965 and was on operations there until April 1966, when the Forward Echelon left for Borneo. It was not "allotted for special duty" in the Malay Peninsula "special area" for another 35 years. Again, the service of helping to keep Malacca free from the dangers posed by hostile forces was rendered without any one of Cabinet's requirements being met. So the real "key" element was, rendering the service.

SPECIFIC REQUESTS FROM THE HOST NATION

If there was even one specific request for assistance from the Malaysian government* with a clearly-defined operational task which was then assessed by the Military Board to determine whether it was hazardous enough to qualify for repatriation benefits, it should be tabled for examination. If none can be tabled, then it never happened that way at that time. So on what basis was it demanded 34 years later only for the period after 14 September 1966?

* The Menzies government introduced conscription in 1965 to provide troops for Vietnam under commitments it gave to the US long before it supposedly "received a request" at end April 1966 from a very unwilling South Vietnamese government, which did not want any foreign troops in the country at all. Prime Minister Robert Menzies refused to table a request from South Vietnam for Australia's largest and longest military commitment since World War 2, despite repeated demands from the Opposition. After it was elected and gained access to the records, the Whitlam government claimed there had been no "request" per se.

NOT DECLARING A "SPECIAL AREA" RETROSPECTIVELY

3 RAR was retrospectively allotted in 2000, for special duty in "Malaysia" from 17 August 1964 – 30 September 1965 but Cabinet did not declare the entire Malay Peninsula a "special area" until 7 July 1965.

This meant that 3 RAR was retrospectively "allotted for special duty" from 17 August 1964 to 6 July 1965 in an area which was not a *"special area"* during that period. Unless it was declared a "special area" retrospectively by Cabinet, the first requirement for qualifying service for repatriation has still not been met, 42 years later and eight years after 3 RAR was retrospectively "allotted for special duty".

While there may be a provision in some Act for retrospective "*allotment for special duty*" (in perpetuity) by the Service Boards who were delegated with the authority to allot individuals and units for special duty, it is unlikely Cabinet also delegated the Service Chiefs the authority to change its decisions retrospectively, by retrospectively allotting troops for special duty. If it was not necessary to have the Malay Peninsula declared a "special area" retrospectively by Cabinet in 2000, to meet Cabinet's requirements in 1965, why was it necessary for a special area to be declared at all in 1965?

DECISIONS BY HINDSIGHT

The opening and closing dates are both contentious but it is the closing date of 14 September 1966 which is currently causing all the trouble. These dates were selected by the Service Chiefs in 2000. The problem with that closing date is that it appears to have been based on hindsight and personal opinion.

On the Channel 9 *Sunday* program on Sunday 28 October 2007, the then Prime Minister of Australia, John Howard was asked if he would change his decisions about sending Australian troops to Iraq, if he had his time over again. He replied :*"You can only do what you do, based on what you know at the time."*

The current Prime Minister would dearly love the luxury of hindsight used by the Service Chiefs to make a decision in 2000, applicable to 1966 but that won't be available for an unforeseen period into the future. In the meantime, he has to make decisions about Iraq and Afghanistan based on the best advice available to him today.

DECISIONS MADE ON INTELLIGENCE AVAILABLE AT THE TIME

The date selected to close special duty in the Malay Peninsula "special area" has to be the date which would have been selected, based on the intelligence available at the time.

It would have been highly unlikely that would have been just four weeks after a peace treaty was signed. One does not down weapons immediately some politicians sign a peace agreement. A lot of armed people, especially those in the jungle with limited or no communications equipment, don't hear about peace accords for some time. 4 RAR had that very experience in Borneo. From a previous war in the same geographical area, Japanese soldiers who hadn't heard the war was over, were still coming out of the Philippine jungles 40 years later.

Minister Bruce Billson notes that 14 September 1966 was "considered" (he does not specify by whom), to be the end date of military operations between the two parties and *ipso facto*, the end date of "*allotment for special duty*". If there is documentary evidence marking 14 September 1966 as being the official end of military operations between Malaysia and Indonesia, it should be tabled for examination. If it is merely the opinion of one or more people 34 years after the events in question, the Minister should say so.

The declaration of the *"special area"* on 7 July 1965 was made on specific current intelligence advice. The following is a synopsis of that advice :

1. *The whole of the Federation of Malaysia had been proclaimed a security area under the Malaysian Internal Security Act.*
2. *Indonesian infiltration/invasions had occurred in various places on the Malay Peninsula, including Malacca, Johore (Labis and Pontian) and Singapore.*
3. *The Joint Intelligence Committee's view was that those activities would continue and not be confined to any particular areas.*
4. *Australian ground forces had already been engaged against infiltrators/invaders in Malacca, the Thai/Malay border and in Borneo (Sarawak, Sabah & Brunei).*
5. *The Defence Committee's view was that having regard to:*
    a. *the continued activity in the sphere,*
    b. *the inability to predict in what areas infiltrators/invaders would operate,*
    c. *and the declaration of the whole Malay Peninsula as a security area,*

it would now be appropriate to declare the Malayan Peninsula (including Singapore and adjacent waters) a special area for the purposes of eligibility for repatriation benefits.

It would only have been revoked on current intelligence advice of a similar nature. After a sufficient time had elapsed with no evidence of dissident or other activity, the Joint Intelligence Committee would have advised the Defence Committee that it could advise Cabinet that the "special area" status could be downgraded because any threat was potentially assessed as no longer existing.

If there is documentary evidence from that time, that Cabinet revoked the "special area" status and cancelled the "allotment for special duty" with effect from 14 September 1966, it should be tabled for examination. If there is none, then it is merely the opinion of those who selected the date 34 years later, based on what they then knew historically had happened. And as Prime Minister Howard explained, you can't do that without opening "Pandora's box" of waiting for history to determine what judgements should have been made.

THE CLOSING DATE

Justice Mohr wrote : "*The period of operational service during the Indonesian Confrontation against mainland Malaysia extended from 17 Aug 64 until 30 Sep 67".* He recommended the closing date be 30 September 1967.

Minister Billson wrote that the Malay Peninsula was a "special area" until 28 September 1967. He also acknowledged that Schedule 2 of the Veterans' Entitlements Act 1986 listed Malaya (sic) as a *"special area"* until 30 September 1967. However he advised:

"..the Vice-Chief of the Defence Force in consultation with the relevant Service Chiefs did not agree with Justice Mohr on the basis that the Cabinet submission of July 1965 had not been met. In other words, no operations against hostile forces were conducted following the end of the Indonesian Confrontation."

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He continued:

"It is essential they be "allotted for special duty" during the period by the relevant Service Chief because that the service was deemed sufficiently hazardous to warrant the full package of Repatriation benefits." (sic)

This is a rather extraordinary statement considering no Army member or unit was "allotted for special duty" at the time and no operation was assessed for hazard sufficiency by the relevant Service Chief. Not a single aspect of the July 1965 Cabinet submission was met at the time. It only became necessary after 14 September 1966 in 2000. There was no valid reason to reject Justice Mohr's recommendation.

WHY WAS 4 RAR KEPT IN MALAYSIA AT FULL STRENGTH?

A critical point lost on the Service Chiefs of 2000, was that 4 RAR was kept up to full strength after its return from Sarawak, because the Malay Peninsula was still a *"special area"*, and the battalion was on standby for Far East Strategic Reserve (FESR) operations, its *raison d'être* for being there. That is why these NS reinforcements were sent to the battalion at that time.

WHY WAS 8 RAR SENT TO MALAYSIA AFTER 4 RAR?

If all the intelligence agencies at the time considered there was no prevailing threat after 4 RAR returned from Borneo, as the latter day Service Chiefs believe with the benefit of hindsight, there was no need for a full strength 4 RAR. In fact there was no need for a presence in Malaysia at all. 8 RAR could have been diverted to Vietnam where it was needed more and 4 RAR could have returned immediately to Australia to prepare for Vietnam. So if repatriation policy is to be set solely from hindsight, then operational accountability should also be assessed from hindsight.

With not the slightest disrespect intended whatsoever, it needs to be remembered, that it was the Service Chiefs who caused this significant problem with an egregious error in the first place. While those who tried to correct the error were also experienced military men and the nation should be deeply indebted to them for their long and selfless service, they, like politicians, are not infallible even in military matters and the track record of Generals and Admirals throughout history is testimony to that. In this case, if their opinion is not backed by documented evidence, it should be disregarded.

THE PROPER PERSPECTIVE

Had 4 RAR been "allotted for special duty" in the new "special area" in July 1965, before it departed for Malaysia as the retrospective allotment concedes it most certainly should have been, its "allotment for special duty" would only have ceased when the Malay Peninsula ceased to be a "special area" which subject to documentary evidence, can be taken as 30 September 1967.

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THE REAL KEY ELEMENT

All else aside, the undeniable pivotal fact, which government Ministers do acknowledge because they can't do otherwise is : **the service was rendered as ordered**. This is not just another unremarkable fact among many for assessment. It is the benchmark fact, against which all other facts or would-be facts must be assessed.

Using legal technicalities and plentiful legal resources and unfettered access to taxpayer dollars, the government has been denying soldiers repatriation benefits AFTER it has used and taken advantage of their service for decades. It is reprehensible. This is why veterans will not allow this matter to die. They know they have been treated unjustly.

A highly-respected warrior who served his country faithfully in three separate theatres of war as an Infantryman, the hardest military job of all, did not blow his brains out in front of staff in DVA offices in Melbourne, because he had been rejected for some free ride he tried to obtain. These entitlements were earned.

THE NATIONAL SERVICEMEN

Prior to 1966, a soldier volunteered to join the Army. He then went where he was ordered to go and did what he was ordered to do when he got here. It was solely his choice. It was what he wanted to do. In 1966, a new soldier appeared. He was conscripted into the Army without his consent at a time and place convenient to the Australian government. He was drafted without his consent or consultation to meet Australia's voluntary commitment of troops to Vietnam. How it affected his plans for his own life were irrelevant.

At that time, Australian combat troops were or had recently been engaged in active service on the Thai/Malay border, the Malay Peninsula, Sarawak and Sabah (all of which were in the Federation of Malaysia), the sultanate of Brunei and South Vietnam.

In mid-1966, the first National Servicemen were sent to Malaysia and Vietnam. Those who came to Malaysia arrived either directly into Sarawak or the Malay Peninsula, both of which were prescribed "special areas" for repatriation purposes. The declaration that Sarawak in East Malaysia ceased to be a "special area" was made on 19 October 1966. If such a declaration was made for the Malay Peninsula "special area", it should be tabled, otherwise it remained a "special area" until 4 RAR had mostly returned to Australia at the end of September 1967. These soldiers served from September 1966 - September 1967.

WHAT THEY SAY THEY WERE TOLD

In this particular instance, these National Service soldiers were told by their Corps training instructors before they shipped out for Malacca during the period June 1966 - May 1967, that they were going to an active service theatre and they would earn repatriation benefits and a campaign medal. This was a true statement and an entirely credible claim that that is what they were told.

The Malay Peninsula was a "special area" for repatriation purposes at that time and all those who arrived before 14 September 1966 did earn a campaign medal and repatriation entitlements and their training instructors in Australia in 1966/67 could not possibly have known the cut-off date would be 14 September 1966, because it was not set as the cut-off date until 2000! How can a ruling be made against the veteran in those circumstances?

WHY SHOULD THE VETERAN HAVE TO EXPLAIN?

If their superiors were not authorised to tell them what they told them or gave them wrong information, it is they who should explain their actions before a tribunal. The soldier has nothing to explain. If those responsible are not questioned and no documented evidence can be produced in lieu to disprove the soldiers' claims - and there are still at least 86 of them, down from 140 odd a few years back - and no eye-witnesses to deny their claims come forward, and the record shows they did their duty as ordered, that should be the end of it. Against the benchmark fact, what else is there?

FAIRNESS & EQUITY

Justice Mohr summed up the situation :

"I believe that in making retrospective examinations on the nature of service many years after the event, as is now the case, the concepts and principles involved should be applied with an open mind to the interests of fairness and equity, especially if written historical material is unavailable for examination or is not clear on the facts."

Written historical material is unavailable for examination and what is available is not clear on the facts, which in Justice Mohr's opinion, leaves fairness and equity, neither of which has been displayed over the last 42 years.

This is not about the rights to fair treatment of criminals in jails. If it was they wouldn't have had to wait 42 years to get them. This is about an undischarged debt to our veterans who put their lives and limbs on the line for their country and in this instance by government fiat, so that criminals in jails can destroy public property and sit on jailhouse roofs with no shortage of publicity willingly supplied until they get what they want. These National Servicemen had no say in the matter. If anyone has earned the right to fairness and equity, they have.

Roger J Wickham 7 November 2008

"WE SLEEP PEACEABLY IN OUR BEDS AT NIGHT"

George Orwell of "1984" and "Animal House" fame, wrote:

"People sleep peaceably in their beds at night only because rough men stand ready to do violence on their behalf."

Whatever political and technical legal considerations might be argued endlessly decades later, based on destroyed, missing, incomplete, inaccurate and otherwise unreliable records of how Australian forces were requested or employed in the Malay Peninsula "special area", or on what side of midnight something did or did not happen on any particular date, there was one constant:

> The soldiers of Australia's infantry battalions in Malaya and then Malaysia, spent the bulk of their time bashing through its hot steamy jungles, with all their concomitant discomforts and dangers, man-made and natural, to keep communist terrorists, Indonesian invaders and infiltrators, bandits and other dissident anti-government elements, hungry, miserable, uncomfortable, unhealthy, off-balance and on the run. They were also there to discourage others from trying their luck. And all of that is precisely what they did and accomplished, together with other Commonwealth troops.

That is why the Pontian, Labis and Malacca landings by Indonesian soldiers in August, September and October 1964, were cleaned up so quickly and efficiently and why Indonesian soldiers in Sarawak, Sabah and Brunei were put to the sword if they did not stay on their side of the border – and even then they weren't safe. Those were not flukes or accidents. They were the results of years in the jungle for interminable weeks at a time, before anything happened, so if it did happen, it would be fixed quickly. That was part of the *raison d'être* for Australia's joining the Far East Strategic Reserve in 1955.

That is why people like Justice Clarke were able to report that nothing happened after 14 September 1966 in Malaysia or whenever and wherever else nothing happened, because rough men were patrolling the ramparts and the jungles to make sure if at all possible, that nothing did happen.

THE CURRENT SYSTEM IS SYSTEMICALLY BROKEN

It is quite clear from all the reviews of service and entitlements and the hundreds of courts cases and thousands of Veterans' Review Board and Administrative Appeals' Tribunal cases, that the present system is chronically and systemically broken. Nothing slightly or temporarily broken requires constant fixing. It doesn't work because it can't work because the principle is wrong. The service is required before the specific rules are set and agreed upon and signed off by both parties. The government can always renege on its obligations with some legal technicality in a completely unequal contest. The veteran on the other hand cannot renege on or recall his completed service. It is a spent round.

THE ONUS SHOULD BE ON THE GOVERNMENT NOT ON THE VETERAN

The onus has always been on the veteran, the only one without the resources and the only one who fulfilled his end of the agreement, to prove his case. It is completely back-to-front and allows the government to welch on its agreement. There can be no argument about this. It is absolutely fundamental. Any government knows that no soldier would agree to go to an operational area knowing that he was either not covered for repatriation benefits or may not be covered for repatriation benefits. He ships out on trust that his government will meet its obligations after the service is rendered – and the government knows this.

The onus should be on the government to produce signed documents from the veteran BEFORE he was sent overseas, acknowledging that he has been fully briefed on the conditions he was being asked to serve under and that he thoroughly understood what would or would not qualify him for repatriation benefits and that he had been shown that his superiors had taken whatever administrative actions on his behalf they were required to take. If the government cannot produce those written consents from the veterans, it has failed in its duty-of-care and/or has another agenda.

Respectfully submitted,
Roger J. Wickham

Roger J. Wickham
4 RAR 1964-1968