

[FESR Submission](#)

Review of Service Entitlement Anomalies in South-East Asian Service 1955-1975.

Russell Offices

CANBERRA ACT 2600

20 June 1999

Re: ROYAL AUSTRALIAN NAVY SERVICE FAR EAST STRATEGIC RESERVE
MALALAYA EMERGENCY 1955-60

We tender this submission on behalf of 400 members.

The majority of our members served in the above conflict. It is with their help, through the contribution of first hand accounts regarding duties and conditions, that the authors are able to compile this submission.

The British Commonwealth Far East Strategic Reserve (FESR) existed between 1955 and 1971. This submission is confined to service rendered by Royal Australian Navy (RAN) personnel between 1 July 1955 and 31 July 1960, being the period of the Malaya Emergency. At the outset it should be noted that there has been considerable confusion in the past when focus has been directed to this issue.

Many contributors to the debate have confused the period of operations in the Malaya Emergency with that of the total period of FESR (1955-1971) and various Operational Service periods within that time frame. For example: Malay Peninsula Operations 1960-1963 and 1963-1967, Borneo/Indonesian Confrontation 1962-1966 etc. The period to which this submission refers is that of the Malayan Emergency 1 July 1955 and 31 July 1960.

Our submission focuses on the inequity in treatment of the three arms of the Australian Defence Force in relation to service in the Malaya Emergency. We will examine the reasoning behind the initial exclusion of the RAN from benefits and entitlements when the FESR Act was presented to Parliament in 1956. We will show that it is this flawed action alone which has led to the continuing denial of this group in relation to recognition. We will identify the various irrelevant and confusing contributions, both for and against, to the debate regarding this ongoing issue.

We recommend that this group of RAN personnel, who served in the FESR during the Malayan Emergency 1 July 1955 - 31 July 1960, be granted recognition and entitlements in line with their Army and RAAF colleagues who served in the same area during the same period. That is:

- a) Issue of the Naval General Service Medal (Malaya) – (NGSM).
- b) Issue of the Australian Active Service Medal 1945/75 (Malaysia) – (AASM).
- c) Issue of the Returned from Active Service Badge – (RAS Badge).
- d) Eligibility to apply for Service Pension by the granting of Qualifying Service.
- e) As a consequence of the above, the names of those Navy personnel killed during this period to be placed on the Honour Roll at the Australian national War memorial.

It is an honour to submit the following on behalf of our members.

Yours sincerely,

Noel Payne
NATIONAL PRESIDENT

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History

Chinese communist groups had been active in Malaya and Singapore since the early decades of the twentieth century. The British banned Communism in 1930, and the Malayan Communist Party (MCP) emerged as an illegal organisation in the late 1930s.

Between 1945 and 1948 Malaya was in almost constant political, industrial and communal turmoil. When Britain declared the State of Emergency (the Malayan Emergency) in 1948, the MCP and MPAJA Old Comrades' Association were declared illegal organisations. The emergency lasted until 31 July 1960; when it ended Malaya and Singapore had been independent for three years.

In June 1950 North Korea invaded South Korea. Korea and Malaya were treated as identical manifestations of the same root cause, that of communist expansionism. Two days after the Korean War began Australia sent a squadron of Lincoln bombers to defend Malaya.

In 1952 the Governor General declared an Active Service area in Malaya for persons subject to Military Law: "including the waters contiguous to the coast of Malaya for a distance of ten nautical miles seaward". (Commonwealth Gazette No. 40, 5th June 1952, 2716) (Attachment 5a to 5c).

By the end of 1955, Australia had committed forces from all three services to the Malaya-Singapore region, primarily as part of the strategic reserve but also to assist in the regional fight against communist insurgency. The importance that Southeast Asia then carried in Australian strategy and diplomacy was marked by the dispatch there of troops and other service personnel, the first such overseas commitment by Australia in peacetime.

Malaya attained independence on 31 August 1957. The Emergency continued until 31 July 1960. Australia remained committed to the defence of an independent Malaya from 1957 until 1960 under the terms of the Anglo-Malayan Defence Agreement (AMDA) (Attachment 7a to 7ah).

Australia's principal concern at the time was to ensure that the FESR would be permitted not only to stay in Malaya, but would also be able to move freely in accordance with ANZAM strategy. The term ANZAM stood for Australia, NZ and Malaya, but referred to British, Australian and NZ forces within the boundaries of the ANZAM area. In effect, Australia's strategic planning responsibility for the ANZAM region was primarily to defend sea communications, which included naval blockades, and the blockade of Malaya was a vital role for the RAN and other Commonwealth navies. The blockade deprived the Malayan Communist forces of resupply by sea. It was as vital a vital integration of land and air operations in the guerrilla war (Attachment 6a to 6i).

On 31 December 1954, the Australian Prime Minister, Mr Menzies, in briefing his cabinet on a forthcoming visit to the UK and USA, stated: "We must face the probability that the next decade at least, the present policy of the Western democracies towards communism must continue unchanged and unabated, with its high level of defence preparedness and its constant combating of the non-military activities of the Communists. Only when the Communists genuinely tire of their cold war and patently reject the alternative of all-out war, can peaceful co-existence in its ordinary meaning become a possibility".

At the Cabinet meeting on 31 March 1955, Prime Minister Menzies told the Cabinet that, in Washington he had; obtained general agreement that the US would co-operate in the plans for the defence of Malaya. In the event of war, the US would bomb deep into China, using the atomic bomb, and thus interdict an advance into Malaya. The Cabinet is reported, in the Official History, as deciding that "...the general public had to be made aware of the seriousness of the situation and the need to increase Australia's military obligations" (Attachment 8a to 8b).

Planning for the Strategic Reserve had been progressing for two years. It was a response to the communist insurgency of 1948.

When Prime Minister Menzies announced the FESR on 1 April 1955 he said, "The world was full of danger". The threat to Australia was seen as emanating from an expansionist and aggressive communist China, as demonstrated first by the conflict in Korea, then by that in Indochina, followed in turn by the crisis over the off-shore islands. The countries of Southeast Asia were exposed to attack either from without or from within and, if the communists overran Southeast Asia, Australia's existence as a free country would be at risk. The battle against communism had to be carried on 'as far north of Australia as possible'. Australia could not be defended from its own soil or by relying on the United Nations; it required co-operation with allies, especially the UK and the US. He paid glowing tributes to both these powers, which he called Australia's 'great friends' and 'powerful friends'.

Against this background, Menzies announced that Australia, together with the United Kingdom and New Zealand, would contribute forces to a strategic reserve in Malaya, 'a very important portion of the Manila Treaty area (SEATO)'. Australia's contribution would be naval forces, consisting of two destroyers or two frigates, an aircraft-carrier on an annual visit, and additional ships in an emergency, ground forces, comprising an infantry battalion with supporting arms and reinforcements in Australia, and air forces, consisting of a fighter wing of two squadrons,

a bomber wing of one squadron, and an airfield construction squadron. These were not, he said, "a massive force, but they would help to assure the people of Malaya that their progress towards democratic self-government would not be interfered with by 'dictatorial Communist aggression'".

Allotment

In 1951 the Australian Government declared Korea and Malaya an "Operational Area", the following note was included in their considerations by Department of Defence

"there appears to be no necessity to declare a wide stretch of waters for the forces in Malaya, the Repatriation Commission is informed that the enemy has no planes and the Navy has not been involved thus far".

This statement, and interpretations of it, would form the basis on which the exclusion and denial of rights for the RAN component has continued.

In 1997 Vice Admiral Taylor advises that "subject to Military Law" in the Governor-General's Declaration, applies only to the Army. He was asked to explain how the RAAF got on Active Service and received full Veterans Entitlements if the Declaration only applied to Army. He did not answer. There was no need for the Declaration, if it only applied to Army, as the Defence Act 1903, in effect at the time (1952), deemed that any overseas service by the Army was Active Service, (JSP (AS) 201 Vol. 1 at Paragraph 4) confirms this fact.

A letter written in 1954 from Secretary of the Navy to the Repatriation Commission and the Treasury (Defence) asked for a specific Maritime area to be declared: "since RAN personnel qualify wherever naval warlike operations are in being". In reply, a note from the Secretary of the Navy to Repatriation stated: "discussed with Cogan of Treasury (Defence). It is understood that treasury have agreed in principle and the matter of an operational area for the Navy is in the hands of the Parliamentary Draftsmen". (Attachment 13a to 13d).

The Naval General Service Medal (Malaya) and Returned from Active Service Badge approved for the Navy, (CIDA Report 1994 page 49). This was never acted upon.

A letter from Jos. Francis, Minister for the Navy, to the Prime Minister, and sent for information to Sir Philip McBride, Minister for Defence, said in part, ".....in respect of the units at present allotted to the Strategic Reserve, but this will vary dependant on the class of ships present in the area and on their complements". (Attachment 12a to 12c).

In a letter from the Assistant Secretary of Treasury (Defence) on 11th November 1955, G.H. Vivian for the Secretary of the Navy wrote: "the date on which the RAN ships were allotted for duty as the RAN component of the Far East Strategic Reserve was 1st July 1955". (Attachment 14a to 14b)

In 1990, two sailors, Davis and Doessel, took their cases to the Federal Court. They acted independently and the cases were heard separately, one in Perth, the other in Brisbane. Both Divisions of the Court found that they had been 'Allotted for Duty', thus making them eligible for full Veterans Entitlements.

Immediately after the Federal Court decisions, and on advice from Defence, Minister Humphries amended the Veterans' Entitlements Act to negate the Federal Court decisions, and to specifically exclude the Navy FESR Malaya 1955/60. He said at the time: "to maintain the original intent of the exclusions. This statement appears to be influenced by the 1951 statement – (refer para. 2 of the previous page)". This is the only retrospective removal of a right established by two independent Australian Courts.

In 1995, former Chief of the Naval Staff, Vice Admiral Sir Richard Peek, KBE, CB, DSC, RAN (Rtd.), the senior officer of the Australian naval force in Malaya during periods between 1955/1960, and Commanding Officer of HMAS TOBRUK when Able Seaman Robert Spooner was killed in 1957, said that he believed then, as he did now, that his ship was on Operational Duty during the whole time it was in the area of Malaya and Singapore. He has strongly recommended recognition for the RAN FESR (Malaya) 1955/60. Admiral Peek's recommendation has the full support of many ex service organisations and senior military officers.

On 8 March 1995, K. R. Freemantle, writing for Director of Personal Services, wrote to Commander M. Robbins, c/- 2nd Sea Lord, Royal Navy, at Ministry of Defence, Britain. At para. 7 we find: "Another suggestion from ex-RAN members is that the RAN draft an instrument of issue, issue the medals and simply advise MOD (UK) of what has occurred" (Attachment 30a to 30d).

On 27 April 1995, Commander Robbins in part, replied: "My only suggestion, much in the same vein as that mentioned in your Paragraph 7, is that if the RAN is prepared to verify the claims of the Australian units involved against the criteria in the AFO, it should go ahead and issue the medals" (Attachment 31a to 31b). However, Navy ignored this and continued to suggest that they cannot issue the medal.

The British Ministry of Defence, advise Mr. J. Carlyon by letter dated 21 October 1996, that; “..... due to space, only 5% of records over 30 years old are retained”. As a result they were unable to confirm whether the Australian Ships qualified or not.

In a letter to Mr. A. Schultz, from Mr C. Bradshaw, Head of NPP British Ministry of Defence dated 1 October 1996, Mr Bradshaw said that if a person thought they were eligible they should apply to the RAN for issue of the Medal. (Attachment 37a to 37b)

Some interesting points regarding the need for “Allotment”, and the Governor General’s declarations being only applicable to the Army. Defence Act Section 5 reads (Attachment 57a to 57c) :

This Act shall apply to the provisions of the Naval Defence Act 1910-1949 and the Air Force Act 1923-1950, to all the Naval, Military and Air Forces of the Commonwealth and to all members thereof whether appointed or enlisted or deemed to be enlisted under the Act or under any other Act and whether serving in or beyond the territorial limits of Australia.

With regard to the necessity for allotment, for one to be considered on Active Service and be eligible for the Returned from Active Service (RAS) Badge. Document 3838/1/33, from the Secretary to the Navy, was received from DNPS on 25 November 1993. It contains the rules applicable to the award of the RAS Badge to Naval Personnel. At Para. C:

OPERATIONS IN MALAYA

For service in Malaya, the conditions of issue are that a member of the Royal Australian Navy must have been on permanent assignment to a unit participating in the anti-bandit operations in Malaya and served within the limits or the waters immediately adjacent thereto, or the air over, the federation of Malaya or the Colony of Singapore for any period from 19th June, 1950 to 31st July, 1960.

NOTE: This document does not say ANYTHING about “Allotment”.

Department of Defence (Navy) should follow CIDA’s recommendation and recommend the issue of the Medal.

Navy Office, through Rear Admiral M. Forrest, then amplified the claim bombarding ships may have provided qualifying service by claiming those ships were on “active service” whilst bombarding but not when the bombardments stopped. Which means a soldier or airman shooting at an enemy was only on active service whilst shooting, and not when being shot at. (Attachment 38a to 38b)

“Active Service” has four criteria for “persons subject to military law”:

1. attached to or part of a force engaged in operations against an enemy;
2. or engaged in military operations in a country or place wholly or partly occupied by an enemy;
3. or in military occupation of a foreign country;
4. or service rendered by a person during a period, or in an area proclaimed by the Governor-General to be active service.

There has been no reference in previous reviews to the fact that all R.A.N. ships deployed to the Strategic Reserve during the Emergency were on Active Service. They met the first, second and fourth criteria but needed one.

Subsequent advice from the Information and Research Services Office of the Department of the Parliamentary Library, dated 15 May 1997, has explained in detail the role of the Commonwealth Gazettes and Army service. After deeming the Navy Office opinion wrong and fully explaining why, the advice said “A court could reasonably form the view that the expression ‘military law’ in 1957 included all defence personnel in any of the three services.” (Attachment 47a to 47b).

The office of the Minister for Defence Industry, Science and Personnel was also asked, in April 1997: how the RAAF qualified for Active Service if the proclamations only applied to the Army? How the RAAF and Navy qualify for Active Service in campaigns before and after Malaya? And, when was the Navy removed from the Active Service provisions in the Defence Act? No reply has been received.

Navy advised that, Reports of Proceeding and log books of the relevant vessels for the period May 1955 to July 1960 also indicate that HMAS QUIBERON conducted a search from Johor Shoal Buoy to Lima Island on 12 January 1959 (the result of the search is unknown), and that HMAS WARRAMUNGA conducted a patrol off Pulo Padang on 4 March 1958. It was found however, that RAN ships deployed to the FESR were employed for much of the period conducting exercises with the Far East Fleet and on goodwill port visits.

It would appear that these references are intended to denigrate R.A.N. service by suggesting that the only actions, which might further constitute Active Service occurred on the above dates. Perhaps that paragraph best shows the

breadth of ignorance. Details about blockading patrols do not appear in RoPs, logs show where a ship is at a particular time, however, they do not record any orders the ship may be under.

The alleged search, the result of which was unknown, is irrelevant. So too is the alleged patrol of Pulo Padang because that island is adjacent to Sumatra in Indonesian waters. Navy Office could be expected to know which country had sovereignty over Pulo Padang, simply by looking at a map. The inclusion of that irrelevant information appears to be a 'red herring' when considered against the primary role.

Perhaps, by introducing this information, Navy Office wished to convey that the only incidents worthy of reporting over a five-year period were two in number.

The fact is that RoPs do not record everything that happens to a warship during the month, which they cover. For example; the Captain of HMAS WARRAMUNGA, in 1955, embarked an Australian who had been working as a military adviser in the Home Guard of the Malayan State of Negri Sembilan and brought him back to Australia, but that does not appear in WARRAMUNGA's RoPs. Whilst ashore in Negri Sembilan with the Australian District Army Commander, the Captain and several officers travelled by jeep along a jungle road. On the following day others were ambushed, hamstrung and incinerated in their vehicle, on the same road. Neither incident is not recorded in the RoPs, nor would an experienced person expect them to be.

Twice in the last five years Navy Office received approval from the Ministry of Defence UK to verify R.A.N. eligibility for the Naval General Service Medal clasp 'Malaya' and issue the campaign medal. On both occasions the approval to verify service and issue the medal was ignored. Finally Navy Office refused to verify evidence of eligibility placed before it and over-rode the Conditions of Award for the medal, Why? What part did qualifying service play in the denial? (Attachment 31a to 31b).

There is no need to change the conditions of award for the NGSM. If Australian authorities deem that Australian ships were conducting "operations against bandits", they then only need to apply the conditions for award as they stand.

In 1997, Vice Admiral Taylor, Chief of Navy and the Minister for Defence Industry, Science and Personnel, Mrs. Bishop, declared that they had 'authoritative advice' from the British that no Australian Ships qualified for the award of the NGSM. They refused to release a copy of the 'authoritative advice'. (Attachment 48). The FESR Association (Australia) took an action through the Commonwealth Ombudsman, who ordered the document to be released. The first paragraph of the letter to Vice Admiral Taylor from Admiral Sir Jock Slater, First Sea Lord, Royal Navy, stated:

"we will be unable to let you have the definitive advice you are seeking"

Thus, exposing navy and the minister's office for misleading the veterans, once again. A further example of the excessive measures taken by those in authority to deny the RAN Malaya their proper recognition and entitlements. For what reason?

Operational Planning & Duties

Prime Minister Menzies deployed all three Services to Malaya in 1955. The Commander in Chief requested that he: "be permitted to use the Australian ships to bombard enemy positions, and where a real operational need can be sustained". Menzies in reply, "agreed".

Not every member of the Australian forces ashore was required by nature of their trade or tasks to encounter the enemy. No recognition has been made of the so-called "race riot" in Penang on 3 January 1958 when crews of HMAS QUEENBOROUGH and HMAS QUICKMATCH had their shore leave terminated. British Military Police escorted them back on board, presumably to protect them from danger.

In 1959, HMAS QUIBERON was prevented from sailing out of a port in Malaya due to sabotage to one of its deck-gun sights. The perpetrator was not identified, however, the suspicion was that communist sympathisers had attempted to disable the ship's combat capability.

On 15 June 1955, HMAS ARUNTA and HMAS WARRAMUNGA began their tour of duty on the FESR.

In September 1955, the advance party of the army contingent arrived. Between the time the battalion arrived and the time it was allowed to seek and engage the enemy in Malaya, Menzies announced an election for 10th December. It was only after he had won the election and three months after the army's arrival in Malaya, that Australian troops were deployed into the jungle.

Even though the army was withheld from active service, most probably against their own wishes, all members had qualified for the GSM, the RAS Badge and repatriation benefits 24-hours after their arrival in Malaya. There is no intent to disparage service by the other two forces; this is only one example of a lack of equity and comparative treatment.

DVA now bases the exclusion of RAN FESR crews from Service Pension benefits on the grounds they did not take part in land-based "operations" or experience "personal danger". Those elements of the army, deliberately kept from engaging the enemy for 3 months after arriving in Malaya, were clearly not involved in "operations" or exposed to "personal danger" during those three months.

When HMA Ships, ARUNTA and WARRAMUNGA arrived at Singapore Naval Dockyard all personnel were confined to the dockyard due to communist insurgent activities. Three Royal Navy personnel were killed in a grenade attack on the dockyard. All ships alongside immediately put sentries on the wharf and divers in the water for anti-sabotage protection. The protective measures remained for about a week.

The quickest way to understand the primary and secondary roles of the R.A.N. is to look at the principal planning document for the Malayan Emergency (Attachment 7a to 7ah). That document is the, 'Top Secret' General Directive to the Commanders-in-Chief Committee (Far East). The General directive is now declassified and both departments were made aware of the relevant contents well before the last Review was carried out.

The General Directive is, as would be expected of a document preparing for war, a comprehensive set of requirements. It applies to: "Her Majesty's Governments in the United Kingdom, Australia and New Zealand...." And the R.A.N. is included as an integral component throughout the Directive and the appended Order of Battle.

The "primary role" of the Strategic Reserve (Attachment 18a to 18c), found in the General Directive, was:

".....to provide a deterrent to, and to be available at short notice to assist in countering, further communist aggression in South East Asia. Within this role it will form part of the forces required for the external defence of Malaya and Singapore."

As warships are mobile guns and weapons platforms, it should be apparent that naval forces were the primary means of providing "external" defence of Malaya and Singapore. Which means that of the three forces committed to Malaya by the Australian Government, all Australian naval ships had the primary role of securing the Malayan peninsula by blockade, which they did successfully.

The primary R.A.N. role of blockading was the most important role of all the Australian forces, because; had the blockade not been as successful as it was, enemy forces would have been able to infiltrate Malaya by sea, with subsequent greater loss of life.

Only when that fact is understood by all involved, can the R.A.N. role in the Malayan Emergency be understood. This understanding will lead to equity and justice for the Australians who served at sea.

On 21 February 1997, DVA acknowledged that any ship within three nautical miles to seaward from the Malayan coast was operating in the Malayan territorial/operational area. As a result, the DVA have acknowledged that RAN ships were legitimately on Active Service in the Malayan operational area. (Attachment 43).

A previous Review quoted that: on 7 June 1955, the Prime Minister wrote to the Minister for Defence advising that; "pending a Government decision on the role of the Australian Forces, the RAN units should not be employed in operations against the Communist terrorists". This paragraph mentions a June 1955 reference that the R.A.N. should not be employed in operations against the Communist terrorists and then ignores the widely publicised approval, retrieved from the archives and sent to both departments, from the Prime Minister for R.A.N. bombardments in November 1995:

"With reference to the Prime Minister's views on the proposed employment of HMA ships in the Commonwealth Strategic Reserve on anti-terrorist bombardment, you are authorised to inform the Commander-in-Chief, Far East Station, that, provided they are not used except in case of real operational need, the use of the ships for his purpose is approved."

Therefore, the Prime Minister approved the use of Australian sailors and warships against the enemy before he authorised the use of the Army.

"Exercises" and "Goodwill Port Visits" fiction or. The implied denigration; that ships were employed for much of the time conducting exercises and "goodwill port visits" is amazing when the importance of exercises is considered and the visits compared with the requirement in the Naval Directive. Did not the Army and RAAF also exercise as required by the General Directive?

Exercises are essential when operating with other navies. Only by exercising can ships of different navies, fitted with different equipment and using different procedures function properly together at all times. Exercises on the Far East station were considerably different from those on the Australian station. The best example being Exercise Astra in which one Australian sailor was killed and another maimed for life. The purpose of the exercise was to prepare for an invasion of Malaya by sea. Such exercises would not have occurred in Australia.

What must also be kept in context, is the General Directive requirement for ships in the Reserve to fit in with the State of Readiness, which specified:

“The Strategic Reserve is to be equipped and trained to a level at least sufficient to enable it to participate in operations at short notice against the forces of a first class Asian Power.” (Attachment 6a to 6i).

Thus attempts to denigrate R.A.N. exercises must be coming from those who are not familiar with the facts, or who choose to ignore them.

The requirement for “goodwill port visits” is to be found in the Naval Directive:

“It is requested that, as far as possible, H.M.A. ships allocated to the Strategic Reserve be detailed for flag showing duties in South East Asian waters in order that their participation in the Strategic Reserve may be fully appreciated in the countries in this area.”

R.A.N. vessels were implementing ‘gun boat diplomacy’ on behalf of the Australian Government, which was promoting the South East Asian Treaty Organisation [SEATO] presence. .

Difficulty is always experienced when attempting to ascertain numbers, particularly when no accurate database exists and where kept records are unreliable. A logical breakdown of the figures, gained from knowledge of the numbers in each ship’s company, is as follows:

- Total of all ship’s companies deployed to FESR = 14,000
- Less 50% as each member completed two tours = 7,000

The figure of 7,000 is the approximate number of navy personnel who would qualify for the Naval General Service Medal, with the clasp Malaya and the Returned from Active Service (RAS) Badge, should the government decide to meet its obligations to these Servicemen.

The basic number of 7,000 will require further refinement when seeking to estimate the number of personnel who may be eligible for repatriation benefits, including the Service pension; remembering that the youngest serving member then would now be 57 years old. Personnel who fall into the following categories should be excluded from the base number of 7,000:

- Personnel with World War II qualifying service;
- Personnel with Korean War qualifying service;
- Personnel with subsequent Indonesian confrontation qualifying service;
- Personnel with subsequent Vietnam qualifying service;
- Personnel who discharged from the RAN, joined the Army or Air Force and subsequently qualified for repatriation benefits with that Service;
- Personnel who are over 65 years and are already in receipt of the aged pension;
- Personnel who have left the work force and who will be excluded by the reason of assets and income testing; and
- Personnel who have died since their Strategic Reserve service.

A conservative estimated of these exclusions is approximately 5,000, which leaves about 2,000 personnel who would benefit from any extension of full repatriation benefits to those who served in ships deployed to the Strategic Reserve, 1955-1960. In the scheme of things, a small price to pay for the dedicated service of thousands of naval personnel (Attachment 61a to 61b).

In April 1998, the HMAS QUIBERON Association held a reunion in Brisbane. One hundred and eighty (180) past members of the ship’s company responded to an invitation to attend. A survey conducted to ascertain the qualifying (war) service for that 180-person sample, has revealed that 28 of that group, or 15.5% are without any qualifying service. If this survey finding is applied to the 7,000 personnel, noted above, the approximate number of navy personnel depending on the result of this review for benefits is a little over 1085. As this survey result was from a relatively small sample, prudence suggests the figures should be doubled to 2170.

In a letter to Noel Payne from the Minister Veterans’ Affairs June 1995. The Minister advised that the government had issued 8,500 Australian Service Medals (ASM)1945-1975 (FESR) to personnel who served between 1955 and

1971. As the period subject to this submission from 1955 to 1960 (Malaya Emergency) it would appear that the above estimate of numbers could be greatly overstated as, evidenced by the small number of applicants for the ASM, many veterans will not be aware of their entitlements and will never apply. (Attachment 77). Notwithstanding the numbers, what ever they may be, the matter of justice must be addressed.

Neither the General Directive nor the Naval Directive detailed the RAN's involvement in 'Top Secret' intelligence operations where enemy signal traffic was intercepted by ships operating in Malayan waters, particularly when close to the Thailand border. In February 1951 the Australian Army deployed a small signals unit, No. 1 Wireless Detachment, 101 Wireless Regiment, RACS, to the Far East Land Forces (FARELF) Signals Base at Chia Keng, Seletar, in Singapore. In 1953, half (12) of this intelligence-gathering unit was sent to Kuala Lumpur to set up an operational post. All Army signal intelligence gathering operations, together with their Naval counterparts were highly sensitive and a closely guarded secret. All RAN ships deployed to the Strategic Reserve participated in these important intelligence-gathering operations, in conjunction with their Army and RAAF colleagues ashore. This intelligence was used to identify, locate and kill the enemy, thus being 'operations' against bandits.

From 1956 until the emergency ended in 1960, their families accompanied army and air force personnel serving in Singapore and Malaya.

When committing the land-based forces to Malaya and Singapore in 1955, only a limited number of married quarters were available for army and air force married personnel. This caused dissatisfaction. Archival file show that both services were concerned for the morale of their men if they were required to be separated from their families for 12 to 15 months. Recruiting was also seen as a problem. Hundreds of thousands of additional pounds were quickly approved to provide additional married quarters for the land-based forces.

Army and air force personnel had good quarters, full amenities, including servants, schools, a relatively easy life (if not actually deployed in the jungle), and every member received maximum benefits for their service; GSM, RAS Badge, full repatriation benefits and War Service Homes Loan.

Army and RAAF personnel were awarded the Campaign Medal, Returned from Active Service Badge and full Veterans' Entitlements after 24-hours. In the case of accompanied personnel this involved unpacking their gear, settling their families into new accommodation with servants and spending the night with their wives. The Navy spent months patrolling at sea in ships designed for arctic conditions, they received no recognition or entitlements.

Exclusions & Inequity

In 1956 the Repatriation (Far East Strategic Reserve) Bill and Act were introduced to the Parliament, it excluded the Navy. The Opposition opposed the exclusion; they asked questions of Dr Cameron, representation the Minister for Repatriation in the House, some of his replies were:

"they were only doing the job for which they have engaged",

"they were in no danger, because the enemy lacked the ability to react to Naval Gunfire".

"they had no additional operational risk".

This was further use of the Departments initial reason for exclusion in 1951 and 1956. It should be noted that the enemy had no ground or air capability against aircraft either; this was not considered a reason to deny RAAF entitlements.

Rear Admiral Forrest told Vice Admiral Sir Richard Peek that the ships were on Active Service while the guns were firing but not when they stopped. After Sir Richard put forward, that by the same logic, the Army would only be on Active Service when shooting at the enemy but not when being shot at, Rear Admiral Forrest admitted that the statement was stupid. A letter dated 26 October 1996 to AVM Cox from VADM Sir Richard Peek refers (Attachment 38a to 38b).

When the maritime 'operational area' was removed in August 1957, there was still the territorial boundaries, accepted at International Law, and endorsed by the High Court of Australia (Bonser v La Macchia (1969) 122 CLR 177.), these determine that waters 3 nautical miles from the high water mark form part of the 'Territorial Boundaries of a Country'. In light of this, the Australian ships were in the 'operational area' when they were alongside in Singapore, as well as when patrolling the coast of Malaya.

A 1997 letter from the office of the Minister for Defence Industry Science and Personnel advised that the RAN FESR (Malaya) 1955/60 were not "Allotted for Special Duty in an Operational Area" This requirement was introduced in 1962, the Malayan Emergency ended in 1960. Yet another example of the flawed advice.

Commonwealth Naval Order No. 81 of 1951 promulgated the details of repatriation benefits to ships and establishments of the RAN.

Since late 1995, as relevant facts have been retrieved from the Australian Archives they have been forwarded to Defence (Navy Office) and the Department of Veterans' Affairs (DVA).

On 21 August 1996 Rear Admiral Forrest, head of Naval Personnel Branch, told representative of the Naval Association that; "Navy would help R.A.N. FESR personnel get equity with the Australian land forces".

Over the last four years considerable independent research in the Australian Archives has produced the real reason for denying recognition of naval service in 1955, which was, as stated, to save money. A considerable amount of the documentary evidence has been passed on to both departments.

The recent excuses; "no Real Expectation of casualties" and "not totally warlike", are amplifications of the opinion expressed by Dr Cameron in 1956, which had three elements, all negative and simplified as 'not subjected to additional operational risks,' 'only doing the job for which they engaged, and 'the enemy had no means of engaging ships'. Just as "not totally warlike" is a new way of saying, "not subjected to additional operational risks", so too is "no real expectation of casualties". Again the claims are negative.

Dr Cameron was also wrong when he allied "not subject to additional operational risks" and "only doing the job for which they engaged". All servicemen, in all campaigns run a risk of becoming casualties, regardless of what may be said by politicians in parliaments.

Forty plus years after the event, people who have, in the last Review, demonstrated they have little or no understanding of the guerrilla war in Malaya and who failed to review the archival facts, have justified their lack of knowledge by finding new negatives in support of Dr Cameron. Had the last Review analysed all the Australian casualties whether killed in action or otherwise, they might have been better informed on the subject of casualties.

Nowhere in Veterans' Legislation is there any requirement for any member of the Australian forces to expect to become a casualty.

THE 'FACTS' ARE:

1. members of the R.A.N. met 3 of the 4 criteria for Active Service when only one is required;
2. they were "allotted for duty" according to both the Minister for the Navy and the Secretary to the Department of the Navy;
3. the myths arising from the political exclusion have been proved wrong by archival evidence provided to both departments. Instead of querying the myths against the contrary evidence, the last Review accepted them, apparently without question.
4. If Navy Office was sure no member of the R.A.N. had legal qualifying service for the Naval General Service Medal clasp 'Malaya', a campaign medal, which would attract qualifying service under the Veterans' Entitlements Act, there was no need to over-ride the Conditions of Award for the medal, which had royal assent. All that was needed was to assess the documented claims submitted by those who served.
5. There is no evidence in the Report of the last Review that those carrying it out, especially the Navy Office representatives, understood very much about either the Malayan Emergency or the R.A.N. role.
6. The Review made no mention of benefits given to the land forces, the glaring anomalies and inequities between service ashore and afloat, or that the land forces were also required to exercise.
7. All service personnel in all conflicts can expect to become casualties, whether they do or do not is beyond their control.
8. Of the fourteen paragraphs in the last Review Report, nine, starting with the second paragraph, are negative.

Annex A to the last Review defines "warlike" service. Nothing in that definition makes provision for "not totally warlike", which was included in the last Review when referring to navy service during the Malaya Emergency. The second definition of "warlike" service shows;

conventional combat operations against an armed adversary.

That definition, when assessed against the primary role for the defence of Malaya and the duties performed by the Navy, quite clearly defines naval service in Malaya. As an example; would the soldier carrying the rifle qualify, while the soldier carrying the ammunition does not qualify? The role given to the R.A.N. in Malaya and the duties performed were warlike.

There is no definition of “not totally warlike”. By maintaining the denial of full benefits, the last Review succumbed to the considerable nonsense, which has prevailed in the past. Instead of solving the injustice, it has compounded it and ensured it will not go away until properly addressed and redressed.

Actual combat against the enemy. Both Departments were also made aware of the Full Federal Court definition of ‘actual combat against the enemy’ in the case of *Repatriation Commission v Ahrenfeld* (1991) as:

The expression ‘actual combat against the enemy’ would include conduct, which answered the description of integral participation in an activity directly intended for an encounter with the enemy, whether offensive or defensive in character.

Subsequent legal decisions have agreed with that definition. It describes R.A.N. service during the Malayan Emergency.

In a letter to the Prime Minister in August of 1997, the Federal President of the Naval Association of Australia, Admiral M.W. Hudson, AC, RAN (Rtd.) wrote a precise assessment of R.A.N. Malayan service (Attachment 53a to 53c):

“The Malayan Campaign was no different to any other theatre of operations. There are some who actually face hostile enemy fire; there are some who have to engage in the routine of patrol and interdiction; there are some who conduct naval gunfire support against the enemy but may not run the risk of return fire; there are some who provide essential support from the rear.”

Between 1 June 1955 and the end of the Emergency on 31 July 1960 the RAN deployed 13 ships as part of the Strategic Reserve. All ships, except HMAS SYDNEY, were deployed more than once, making a total of 35 deployments in all. The period of deployment varied from thirteen months for the first deployment of HMA Ships ARUNTA and WARRAMUNGA to less than six months for some others. The average deployment was nine months. When attached to the Strategic Reserve, HMAS MEBOURNE generally remained on station for a lesser period as their tactical deployment, was more concerned with satisfying the wider strategic role of the Strategic Reserve. Most personnel completed two tours of duty. For some individuals, four tours of duty were not uncommon and many served in more than one ship during the five-year period of the Emergency. A list, in alphabetical order, of RAN ships deployed to the Strategic Reserve is as follows (Attachment 70a to 70d):

HMAS ANZAC
HMAS ARUNTA
HMAS MELBOURNE
HMAS QUADRANT
HMAS QUEENBOROUGH
HMAS QUIBERON
HMAS QUICKMATCH
HMAS SYDNEY
HMAS TOBRUK
HMAS VAMPIRE
HMAS VENDETTA
HMAS VOYAGER
HMAS WARRAMUNGA

There is no doubt that the Prime Minister and the Government of the day, in 1955, deployed equally elements of the Navy, Army and Air Force to the Strategic Reserve. These units were committed to the same area of operations in consideration of the same strategic factors, which was the genesis for establishing the Strategic Reserve.

In light of the above, equity in entitlements and recognition of the three arms of the Australian Defence Force committed to the Malaya Emergency must be forth coming.

Answering CIDA Part 1

This section of our submission has its genesis in the Committee of Inquiry into Defence & Defence Related Awards (CIDA) Report, which seemed not to understand Royal Australian Navy (RAN) service with the Far East Strategic Reserve (FESR). It is the result of years of research, which looked at records in the Australian Archives, as well as past and present Departmental documents and policies.

It draws on the experiences of those who served at sea and whose input is acknowledged with respect for their service and their continuing efforts to have that service recognised.

Archives records are included which CIDA may not have known about. As would be expected in a time of war when military operations were involved, some records of the period were highly classified regarding activities which, were not common knowledge.

The period involved being during the Malayan Emergency from 1 July 1955 to 31 July 1960 when the Emergency ended.

This submission contains evidence that the RAN was allotted for duty during the Emergency. For reasons known to the Prime Minister of the day and the Treasury, the RAN then appears to have been secretly unallotted. If a campaign medal had been issued to the RAN, the unallotment would have failed.

The unallotment was secret as is shown by a Repatriation Department Headquarters Minute on file CON.23. (now renumbered G 5/4/13) dated 27 July 1956, i.e. about a year after the Navy was allotted.

Paragraph 12 shows that the Repatriation Commission did not know why the Navy had been unallotted and was clearly surprised by the move.

When the Minute was originated in July of 1956 the Repatriation (FESR) Bill 1956 was almost certainly with the Parliamentary Draftsman. The Bill was sponsored by the Repatriation Department but the Repatriation Commission did not know what was going on, or why the Navy was to be excluded from benefits. That Bill became the Act of the same name, which excluded RAN service from eligibility for repatriation benefits, the only honourable active service to be so excluded.

CIDA found that if the NGSM clasp Malaya had been issued to the RAN, the RAS Badge would also have been issued. What CIDA may not have known is that the Medal and Badge would have undermined the political decision to deny benefits for naval service on the Strategic Reserve.

This submission looks at the excuses given for denying the campaign medal for the RAN and asks the question: Why, if there is one honest reason, are so many excuses required to continue the denial?

On 28 November 1995 a group including Vice Admiral Sir Richard Peek, KBE, CB, DSC, RAN (Rtd.), a former Chief of Naval Staff who also served on the FESR, met with Mr. Gary Punch, the Minister for Defence Science and Personnel. The delegation was seeking equity and comparative treatment for ex-members of the RAN with their counterparts who served ashore in the FESR.

Such equity requires recognition by full repatriation benefits, campaign medal, RAS Badge and the inclusion of RAN FESR casualties on The Honour Roll, Australian War Memorial casualty lists.

The main aim of the delegation to Minister Punch was to seek retrospective allotment for RAN ships, which served, on the FESR during the Malayan Emergency, 1955 to 1960.

A secondary aim was to convince the Minister that an injustice had been done to Australia's seaborne contingent of the FESR by the failure of CIDA to adequately consider RAN FESR service, during the Emergency.

During a 1996 meeting with the then Minister, Mrs. Bishop, she directed that an appointment be made for the delegation to meet with the Inter-Departmental Committee (IDC) for Honours and Awards and put its case for recognition by way of award. Arrangements were made for the delegation to meet with the IDC on 16 February 1996.

On 2 February 1996 the appointment was cancelled by the IDC on the grounds that the incoming Governor-General would be sworn in on that day.

The submission to IDC was to assist them by presenting the case in writing.

Material retrieved from the Australian Archives forms the factual basis of this submission. Much of the Archives material was previously classified Top Secret, Secret or Confidential. As such, access was not available to the public before it was declassified after 30 years. This material is essential to show that in 1955 there was a period when RAN FESR service was being treated equitably with Army and Air Force service in Malaya.

The purpose of the research in the Archives was to find out why RAN service on the FESR was the only honourable overseas service, in a war zone, by Australians, to have been specifically excluded by legislation from eligibility for repatriation benefits. The research was triggered by the CIDA Report and by what appears to be several injustices in that Report.

Files found in the Canberra Archives show that the Navy was excluded from repatriation benefits by a decision made by the then Prime Minister, who was Acting Treasurer at the time, on 11 November 1955 ((end note.) 1). The only way in which FESR service was to differ from service on the Australian Station was for wages to be paid in sterling. That was normal practice when RAN ships served with the RN or used RN ports.

By contrast the conditions of service for the shore-based forces were extremely generous and consequently extremely expensive.

In both land-based and maritime service, the appropriate GSM played an important part. With the land-based forces, the campaign medal ensured their benefits, with the Navy, the lack of a campaign medal ensured they got no access to benefits. To maintain the denial of recognition by medal for Naval service, a web of administrative practices has evolved.

Land-based forces qualified for the GSM 1918-62 (GSM) Malaya after 24 hours ashore. When in receipt of the campaign medal, they qualified for the RAS Badge. With both, they could not be easily denied benefits and an early decision not to provide full benefits for service during the Malayan Emergency was overturned (2), as a direct result of the Medal and RAS Badge.

As will be shown, if the NGSM Malaya had been issued to the Navy, the recipients would qualify for the RAS Badge. With both, they would be in a strong position to challenge the subsequent exclusion from the VEA.

The way to ensure that the exclusion could not be challenged was to ensure the campaign medal was never issued.

Today, the Conditions of Award for the NGSM Malaya and the lack of the medal for RAN FESR service are quoted in a Department of Veterans' Affairs (DVA) document (Schedule 2, VEA) as reasons why ex-members of the RAN are ineligible for repatriation benefits, yet the Conditions of Award have no legal standing and should have no influence on the VEA.

The NGSM Malaya was to have been issued to the ships' companies of any RAN ship, which qualified for the campaign medal after 28 days, at sea in support of operations against bandits. Not one ship has so far been acknowledged as qualifying. The logic behind the difference between 24 hours and 28 days was supposed to be based on the premise that danger ashore in a war zone was continuous.

Some soldiers and airmen qualified after spending 24 hours or more sightseeing in Singapore or settling their families into serviced accommodation, while waiting for transport to their units in Malaya. Singapore was in the operational area (3). Other members of the RAAF qualified by spending 24 hours at RAAF Butterworth whilst going to, or returning from two year postings, with their families.

No Australian shore-based garrison, barracks or married quarter came under attack between 1955 and 1960. The supposed danger to land-based units who were not engaging the enemy in the jungle was no different to that which might be experienced by ships' companies when they went ashore in the very same designated war zone. Indeed it was occasionally greater, because the Navy put into ports and went ashore in other parts of Malaya where there were no land-based forces, in addition they were required to wear uniform at all times.

The RAN was sent to the FESR as part of the Australian contingent during the Malayan Emergency in 1955/60.

During those years, members of ships' companies were:

- tasked with the Primary and Secondary roles of defending Malaya from external and internal threats;
- attached to the operational command of the Royal Naval (RN) Commander-in-Chief (C-in-C) Far East Station (FES);
- tasked with the protection of British merchant shipping from Chinese Communist and/or Nationalist forces;
- participants in bombardments of Malaya when a real operational need existed (4);
- engaged in blockading Malaya to prevent enemy re-supply by sea;
- the first named part of the Order of Battle for Australian Forces during the Emergency (5);
- sailing in an operational area which when the political decision to ensure members of the RAN received no benefits for their service was made, saw the maritime operational area removed completely (6). That has not been done before or since;
- allotted for duty as the RAN component of the Strategic Reserve on 1 July 1955 and then apparently secretly unallotted in order to save money and be denied eligibility for repatriation and other benefits;
- killed and injured by star shell and not issued with the NGSM Malaya in contravention of Condition 6 of the Conditions of Award for the medal (7);
- drowned (8);
- caught ashore in so-called race riots during the guerrilla war in Malaya (10);

- in Singapore Naval Dockyard during a grenade attack on the Dockyard (11);
- at genuine action stations at different times and in different seas (12);
- closed up at action stations when unidentified submerged submarines were detected during the whole period; and
- serving in crowded, hot steel boxes, full of explosives, where asbestos was extensively used, where water was limited and often rationed, in all sorts of sea and climatic conditions, plus other unpleasanties.

This submission will firstly concentrate on CIDA's Principles and how RAN FESR service was not properly evaluated.

As CIDA's Principles are applied to RAN FESR service, it becomes apparent that the decision to legislate to exclude eligibility for repatriation benefits in the VEA led to, and relied on:

- the need to remove the maritime operational area, which was done;
- the need to ensure no ship was allotted, which was apparently done;
- the need to ensure the RAS Badge was not issued, which was done by ensuring the medal was not issued; and
- the need to ensure the medal was not issued, which was done by not promulgating the necessary administrative order and by ignoring the original allotment.

In the prelude to the Statement of Principles, the CIDA Report spoke of the values influencing the Principles: "These values include a sense of fairness, equity and compassion, and an egalitarian commitment to acknowledge the quality of service and substance of action without regard to status or class."

The Report further claimed: "The Committee has also been conscious that in considering service in defence and defence-related areas, it is important to maintain the distinction between warlike and non-warlike service, as well as the distinction between service in operational theatres and service in non-operational areas."

None of these concepts appear to have been applied by CIDA to RAN FESR service. Instead, the exclusion in the VEA appears to have dominated CIDA's approach to the situation.

CIDA is claimed to have conducted the most comprehensive review ever undertaken of awards for Australians involved in defence and defence related activities, yet the CIDA Report does not refer to ANY of CIDA's ten principles when it deals with the RAN on the FESR Malaya.

There is no evidence of any attempt by CIDA to demonstrate fairness, compassion, acknowledge quality of service or substance of action. Why?

The CIDA PRINCIPLES

Principle One said, recognition of service by medal should, as a general rule, be reserved for recognition of service in military campaigns.

CIDA did not deny that the RAN had been involved in the same campaign as the Australian Army and RAAF. Instead, it said, "Defence had identified a document showing approval by the Minister for Defence and the Naval Board that members of the RAN who earned the NGSM Malaya should also qualify for the RAS Badge." It found eligibility for a campaign medal but made no mention of the allegation that the RAN was never allotted for duty. It made no reference to Principle One when referring to RAN FESR service.

For many years the Departments of Defence and Veterans' Affairs have steadfastly claimed that no RAN ship was allotted for duty for operational service in an operational area. Research has shown that claim to be false. Two documents prove the RAN was allotted for duty.

On 4 August 1955, Josiah Francis, Minister for the Navy (and also Minister for the Army at the same time) wrote to the Prime Minister and the Minister for Defence. He sought equity for the Navy with the land-based forces, and referred to: "The estimated annual additional cost of payment of the allowances recommended is approximately £38,000 Aust. in respect of the units at present allotted to the strategic Reserve (emphasis added) but this will vary dependent on the class of ships present in the area and on their complements."

On 11 November 1955, Mr. G. H. Vivian, acting for the Secretary of the Department of the Navy, wrote to the Assistant Secretary, Department of the Treasury (Defence Division). He was making a case for Income Tax concessions for the Naval Component of the Far East Strategic Reserve. The letter is Number 011448.

He pointed out the unpleasant conditions experienced by RAN ship's companies as:

1. Ships are steel boxes almost entirely unlined, sub-divided into small compartments.
2. Ships carry large internal sources of heat – the boilers, engines and associated steam pipes.

3. Naval ships are crowded with men and material particularly when available for operational services as part of the strategic reserve.
4. Water is usually rationed and bathing is impossible in shark infested waters.
5. Even in harbour men in the Malayan Area are usually required to sleep onboard because of operational requirements.

In paragraph 6 he stated: "The date on which the RAN Ships were allotted for duty as the RAN component of the Strategic Reserve was 1 July 1955." The statement is specific.

Other documents strongly suggest that the RAN must have been originally allotted.

These are:

- the Secret Directive for the Attachment of Her Majesty's Australian Ships to the Far East Fleet for Service with the Strategic Reserve, which authorised the C-in-C FES to:
 - use RAN ships "as are ships of the Royal Navy, for anti-terrorist operations in Malayan waters, and to prevent infiltration by sea of Communist agents of armed bands.";
 - be used in the Primary and Secondary defensive roles in Malaya; and
 - "...form an integral part of the Far East Fleet and be treated in the same manner as their counterparts in the Royal Navy."
- the Restricted Appendix to the above Directive which tasked RAN ships with the protection of British shipping against Chinese forces;
- the two Secret documents which requested and received Prime Ministerial approval to bombard terrorist positions in Malaya, "if a real operational need existed.";
- the RAN appears as the first force in the Top-Secret Order of Battle (14).

Even without the document which gives the date on which allotment began, the evidence that they were part of the Order of Battle, directed and permitted to engage in warlike activities against the enemies of Britain and Malaya, plus the fact that CIDA knew that a campaign medal and RAS Badge had been approved, proves the RAN was part of the Malayan campaign.

Did the Minister and the Department of the Navy know what 'Allotted' meant? Both Departments certainly knew what allotted meant.

Next Section Answering CIDA Part 2

Answering CIDA Part 2

A recent DVA document, prepared after Davis & Doessel won their claims for allotment in two separate Federal Court cases, states;

"...the meaning of allotment was then well understood by the Defence force and the Repatriation Commission, as it had been in use since 1950 in the context of the Repatriation Act 1920. Written instruments were provided by the relevant arm of the Defence Force stating which units had been allotted for duty for the purpose of the legislation."

Having been allotted, it seems the ships were later secretly unallotted to prevent them upsetting the Prime Minister's decision of 11 November 1955 that their crews should receive no reward for their service.

Previously, ships had been allotted by issuing a Commonwealth Naval Order (C.N.O.). The simple way of unallotting the RAN could have been by not issuing a C.N.O. No C.N.O. is known to have been issued for RAN ships serving in Malaya. Neither was a C.N.O. issued for the Conditions of Award for the NGSM Malaya, which will be considered below.

Allotment is made by the Department of Defence, which advises the Department of Veterans' Affairs. As the Minister for the Navy and the Assistant Secretary for the Department of the Navy had, in August and November 1955, both referred to naval ships being allotted, the records of such allotment must be with either or both departments.

However, when Navy Office was asked for details of allotment, it directed the researcher to the Australian Archives Melbourne (14). There are no files to be found in the Melbourne or Canberra Archives under the term allotment (meaning being sent to an operational area). The Archives have been scoured for relevant material.

On the advice of the department of Defence, CIDA accepted the Navy Office claim that the C-in-C FES had never informed the ACNB of which ships qualified for the NGSM Malaya.

It would appear that either:

- one or both Departments misled CIDA, or
- CIDA was aware of the allotment and the un-allotment and made no mention of it.

Other facts affecting principle One. RAN FESR crews had Active Service as defined on page 163 of the CIDA Report.

They had active service because:

- they were allotted for duty;
- they were part of the Order of Battle;
- they were tasked by the government with the Primary and Secondary defence of Malaya;
- they were authorised by the Prime Minister on 30 November 1955, to engage in anti-terrorist bombardments of Malaya when a real operational need exists; and
- they engaged in operations against an enemy, in a country partly occupied by an enemy.

They were involved in Warlike Operations as defined on page 163 of the CIDA Report.

They saw Actual combat against an enemy as defined by the Full Court of the Australian Federal Court, in the case Repatriation Commission vs. Ahrenfeld (G547), 7 June 1991, as "integral participation in an activity directly intended for an encounter with the enemy, whether offensive or defensive in character."

Quite clearly Principle One should have been applied to their service and equally clearly it was not. Had CIDA carried out any research into the RAN allotment it would have threatened the VEA exclusion. By ignoring the allotment the exclusion was not threatened.

Principle Two was used to deny Australian recognition of many areas of service as well as RAN service on the FESR.

CIDA left the matter of RAN service during the Malayan Emergency to Britain for a decision.

Principle Two is a modern version of the British class attitude that men are only doing the job they have been trained for. That attitude is exemplified on page xii of the Report where the:

"Committee believes that a formal word of thanks at the time the service was rendered might have gone a considerable way to reducing the depth of feeling which has been expressed to us during our deliberations."

There is no need to record here the response, which that patronising opinion has received from Australian ex-servicemen who experience the actual service.

Principle Three refers to 'inherent fairness', 'integrity', not 'overlooking' or 'degrading' service by some, 'need for consistency', and standards which 'must be transparent and fair in the eyes of the community'.

It is worthwhile remembering that members of the RAN signed an agreement on enlisting that they would go where their ships went. Such was not the case with Army and RAAF, who had to volunteer for service in Malaya.

If a standard of measurement for service is applied to both conditions of Service for the land-based forces and sea forces, a remarkable discrimination is apparent. Estimated capital costs alone for land based forces in 1955 were almost £7 million sterling (15). Actual costs exceed the estimates. The services, which cost the most subsequently, got the most.

There were no capital costs for the RAN in Malaya (16).

As well as the increasing costs for the land-based forces in Malaya, repatriation payments for Second World War and Korean War veterans were also rapidly rising at the time of the naval exclusion.

The naval service, which cost little more than the cost of operating on the Australian Station, got nothing other than a War Service Homes Loan (which the government stopped by removing the operational area off the coast of Malaya from 31 July 1957).

RAN service was considerably degraded. CIDA made no recognition of the service at all, even though in its own words it received "numerous submissions" about a matter "which has caused confusion and anxiety among some affected RAN personnel for over 30 years."

Although there was originally no intent to provide married quarters for all married members of the land-based forces, the Army promulgated an order that should married quarters not be available for all married members, unaccompanied married members would only serve 12 to 15 months. This was seen as a morale and recruiting problem. The government then turned around and agreed in the interests of morale and recruiting to provide married quarters for all married personnel (17). The cost for renting married quarters was a quarter of a million pounds sterling per annum. A fortune in those days.

Air Marshal David Evans wrote 'A Fatal Rivalry – Australia's Defence at Risk', which was published by McMillan in 1990. In that book he looked at inter-service rivalry, between the three services and between civilian and uniformed personnel. It may yet be found that a possible contributing reason for denying equitable recognition to the RAN was the inter-service rivalry, which existed in Canberra in the 1950's.

Savings made from denying recognition to the Navy could have been used to offset the huge costs of establishing and maintaining the land-based forces.

Because of the different nature of service in Malaya during the Emergency, described as 'garrison duty with some operational service', there was originally no intention to provide repatriation benefits unless death or disability occurred on duty. By mid 1956 it was understood that death or injury were equally possible whilst off duty in the guerrilla war zone and the original intention was amended (18). Unfortunately for the RAN crews, who also had to go ashore on and off duty, by the time Canberra realised the inherent danger of serving in a guerrilla war zone the Navy had been excluded from consideration because of the decision to deny any form of benefits.

Archives files show a clear possibility that when the original decision not to provide the same benefits for Malayan service as had been provided for WWII and Korea was taken, the bureaucracy may not have been aware that a campaign medal plus a RAS Badge would upset that decision. When the decision was upset and land-based service guaranteed benefits, action to ensure the Navy did not receive the medal would have had considerable appeal to the Treasury.

Principle Three was applied to RAAF service on Labuan Island:

"Those serving on Labuan Island qualified for the General Service Medal in all respects except that they were well outside the stipulated geographical area (i.e. within 12 miles of Malaya or Singapore). Their work was clearly in support of operations in Malaya, the headquarters of their unit was in Singapore, and they were living under spartan field conditions."

Such terminology also applied to RAN FESR service but only about 100 members of the RAAF were involved at Labuan, as against several thousand members of the RAN.

CIDA then found: "The Committee believes that on balance the denial of the GSM Malaya to RAAF personnel serving on Labuan is unfair as they served on the strength of units posted to the qualifying area for the award and worked in direct support of operations".

There appears a double set of standards between RAAF Labuan service and RAN FESR service. It turned out that the government did not extend full entitlements to Labuan personnel. With the exception of RAAF personnel on Labuan, the land based forces enjoyed considerable preferential treatment.

RAN service on the FESR between 1955 and 1960 was both overlooked and downgraded. Contrary to Principle Three, inherent fairness and integrity were not applied.

Principle Four looked at recognition for civilian service by medal. A worthy practice of long standing.

Next Section - Answering CIDA Part 3

Answering CIDA Part 3

Principle Four looked at recognition for civilian service by medal. A worthy practice of long standing.

Since the Navy was excluded from eligibility for repatriation benefits, many Ministerial Determinations have been issued to provide eligibility for repatriation benefits for canteen staff on HMA ships which served on the FESR (19).

Recognition of civilian service is commendable. When considered against RAN FESR service, eligibility to access repatriation benefits for non-combatants on ships whose combatant crews were denied those benefits is unbelievable and seems to be a case of the left hand not knowing what the right hand was doing.

Principle Five speaks of 'confirming the accuracy of claims and identifying the eligible participants', 'the proportion of total persons eligible' brings 'integrity' into play once more, and acknowledges: "that generally those who rendered the service should be the ones who enjoy personally the celebration of that service through a decoration or award."

When applied to RAN service, another oddity emerges. For the FESR, the confirmation of eligible participants for the NGSM Malaya was left to Britain to decide. The same Britain which had done nothing about the matter in the past. Yet on Page 57 of the CIDA Report, Navy Office provides detailed records of HMAS DUCHESS's qualifying service for GSM Borneo, GSM Malay Peninsula and RAS Badge, which shows that Navy Office knew where its ships were and when.

To help Britain decide, Navy Office provided: "Additional information from Defence conveying the names of RAN ships and their ports of call with arrival and departure dates has already been passed to the British High Commission through the Committee's Secretariat."

Navy Office is thought to have provided additional information on more than one other occasion since then. Navy Office must therefore know which of its ships qualified between 1955-60.

If there had been an intention to issue the NGSM Malaya by Navy Office, such records of eligibility would have been kept by Navy Office.

If Navy Office has detailed records, why did Navy Office not decide?

Navy Office never issued a C.N.O. for Conditions of Award for the NGSM Malaya.

On 30 November 1995, the Naval Staff Officer (Medals) Mr. K. Freemantle advised Vice Admiral Sir Richard Peek, that no C.N.O. had been issued for the medal. Mr. Freemantle is acknowledged as supporting the work of CIDA on page xv of the Report. CIDA may, or may not, have been advised of the lack of a C.N.O. but it had the expertise to find out what mechanism was used by Navy Office to issue a medal and why no C.N.O. was issued for the NGSM Malaya.

The other two services issued Orders for the GSM Malaya. Those being Military Board Instruction (MBI) 14/59, which was a reprint of MBI 9/56 and the RAAF Defence Instruction (DI) Air Force (AF) Pers 10-6.

The lack of a C.N.O. to promulgate Conditions of Award for the NGSM Malaya strongly suggests that after the decision to deny recognition of RAN service was made, it was followed by a decision not to issue a C.N.O. for the Conditions of Award for the NGSM Malaya.

However, the Treasury and the Australian Taxation Office required information on which ships were serving in Malaya in case they did qualify for benefits. The Electoral Office may also have needed records of men serving overseas. No matter what Navy Office may claim, full sets of records were held. Indeed, Department of the Navy Minute 4389/11/93 of 2 May 1957 states: "The Treasury (Defence Division) has directed that records of personnel serving in ships allotted to the Strategic Reserve be maintained in case eligibility for Repatriation Benefits may accrue, together with other entitlements due to service in Malayan waters."

The requirement for such records to be kept would have been obvious to someone on CIDA with knowledge of how the Navy worked.

Principle Six deals with Imperial awards and says; "In relation to Imperial awards, the Committee will contemplate amendment to the terms and conditions governing these awards only under the most exceptional circumstances where a clear anomaly or manifest injustice can be established. Otherwise the Committee will seek to find solutions within the established terms and conditions for these awards and will address situations where an anomaly or injustice in application may have occurred".

Part of the explanation to Principle Six states: "In cases where the Imperial system did not provide recognition for a particular service but where the committee believes recognition is warranted, it should be made under the Australian system."

To consider firstly the period 1955 to 1960 when the NGSM 'Malaya' was available for the RAN, despite recent excuses from Britain and Australia that it was not.

CIDA said:

- “The committee is pleased with this response (from MoD) which represents important progress in resolving a matter which has caused confusion and anxiety among some affected RAN personnel for over 30 years.”
- That Defence had provided Britain with ships movements to help it reach a decision which CIDA avoided making.

CIDA found approval to issue the NGSM ‘Malaya’ and RAS Badge but did not recommend issue. It made no comment on the apparent injustice.

CIDA did not acknowledge or pursue either the anomaly or the injustice. Instead it found its own two possible explanations for the failure of RAN ships to qualify as:

- a breakdown in communications between the Commander in Chief (C-in-C) Far East Station (FES) and the Australian Commonwealth Naval Board (ACNB); or
- RAN ships did not render qualifying service.

And then referred only the second possible explanation of the anomaly or injustice to someone else.

To deal with the first of CIDA’s possible explanations. A breakdown in communications between the C-in-C FES and the ACNB is based on an “assumption” that the RN did not notify the RAN. There is nothing in the CIDA Report to show whether the assumption was tested. Instead CIDA appears to have accepted what Navy Office told it and failed to follow the matter further. The CIDA Report says: Although many submissions supposed the first, the Committee has no evidence of this. Neither can it be assured that there was no breakdown in communication or some other administrative failure. That statement makes no reference to CIDA actively attempting to prove, or disprove, an assumed breakdown.

There may well have been a critical breakdown in communications, but not of the nature suggested in the Report. The most likely breakdown is considered later in this document.

“The most comprehensive review ever undertaken of awards for Australians involved in defence and defence related activities” accepted an assumption; apparently failed to prove, or disprove it; and wrote the assumption into Australia’s naval history.

Repatriation benefits were re-introduced for RAN service for Borneo and the Malay Peninsula campaigns, both had a campaign medal. These campaigns were identical with RAN service during the Malayan Emergency, with a blockade, which saw more action because Indonesia could only launch and support both campaigns by sea and air, and with more and longer bombardments in Borneo.

CIDA made no comment on Borneo service being almost identical with service during the Malayan Emergency. Neither did it comment on two other threats, which made service at sea during the FESR years similar; China and Indonesia. All RAN FESR service had the potential recognised threat from either or both of these major powers in the area, with someone on CIDA with experience from the period, or even a limited recollection of the political power plays by both countries, should have been aware of.

Mainland China remained a constant threat which affected military planning until the end of the war in Vietnam. In June of 1954 the United States administration had approved the use of atomic bombs on China if ‘overt unprovoked Chinese Communist aggression’ was used in Southeast Asia, the Pacific being regarded as an ‘American Lake’ (20).

Early RAN FESR allotments were made with the acknowledged possibility of involvement against China in both Southeast Asia and Indochina (21) and Korea (22).

In the past, when the lack of medal recognition for RAN FESR service has been raised, the usual response from Navy Office was that no RAN ship had qualified and the terms for issuing the medal could not be changed. That response was made even when there had been no suggestion of changing the conditions of award. By using both excuses, a smoke screen was thrown up and the matter not examined further.

It should be pointed out that this submission is not asking for the conditions of award for the NGSM ‘Malaya’ to be changed, but for RAN service to be seen as qualifying service for the Medal.

The excuses provided by Britain for not issuing the NGSM ‘Malaya’ to the RAN are:

1. 31 July 1992, from the British Ministry of Defence (MoD): “To qualify for the NGSM with Clasp Malaya you had to be a member of the UK Armed Forces or Malayan Armed Forces And served 28 days etc.”
- In fact, by inter governmental agreement, Imperial medals used to apply to Australian and Dominion armed forces when Australia and the Dominions accepted Imperial medals.

Next Section Answering CIDA Part 4

Answering CIDA Part 4

Excuse No. 1 is false.

2. 27 July 1993, from MoD:

"In fact, Admiralty Fleet Order (AFO) 612 of 11958 shows ships and squadrons which did, and did not, qualify for the NGSM 'Malaya' from 4 July 1948. AFO 612/58 is held by Navy Office.

- MoD told CIDA that RAN ships figured in the lists of qualified vessels right up to the confrontation with Indonesia.
- AFOs appears for all other issues of the NGSM during the period.

Excuse No. 2 is also false.

3. It is understood that the 'definitive response' provided by MoD after a 20-month delay was to the effect that the NGSM 'Malaya' was not issued to anyone after 1955.

If there is one valid reason for not issuing the NGSM 'Malaya' to the RAN, why are so many false excuses required?

This submission asks that an accurate assessment of the service of all members of the RAN who served on the FESR during the Emergency be made.

If that is not, or can not be done, then this submission contends that the government has the power to issue a Notice of Intent to the Ministry of Defence UK, stating that if Britain makes no objection within 30 days, the NGSM 'Malaya' will be issued to RAN personnel who aggregated 28 days service in the operational zone, between 1 July 1955 and 31 July 1960. Navy Office has been advised accordingly but has so far ignored the advice.

The last sentence of Principle Six uses the term: 'what is fair and reasonable today'. The fairest and most reasonable way to solve the problem against yesterday's and today's standards would be for Australia to take control to its past overseas service and issue the Notice of Intent, the NGSM 'Malaya' and RAS Badge for the period of the Emergency.

Principle Seven deals with Imperial awards to Australians being considered as Australian awards. It says: "All such awards are an expression of gratitude from a grateful people and nation for services rendered, and have been granted in this light."

A logical assessment of that statement leads to the conclusion that the people and nation were not grateful for the services rendered by the RAN on the FESR.

As governments decide the issue of campaign medals, the 'nation' referred to in Principle Seven means the government. The government decided that naval service would not be rewarded. Therefore the Australian Government, using the Defence Forces to implement its foreign policy in Asia, was grateful for the 24 hours service ashore by land-based forces, accompanied by their families, with all facilities and generous conditions and amenities but was not grateful for the Naval participation.

Principle Eight seeks to assess recognition for past service against the terms and conditions currently attached to an award of the Australian Active Service Medal (AASM).

If the terms and condition of the AASM had applied during the FESR, that service would have been eligible service for the medal.

Had the terms and conditions of award for the AASM been objectively applied to RAN FESR service by CIDA awards would have been made.

If CIDA had wanted to compare RAN FESR service with a recent RAN campaign, it had the Gulf War in 1991 for comparison. That campaign saw the AASM and the ASM issued to the RAN. This confirms that both can be issued for the same campaign.

There is no evidence in the CIDA Report to suggest that Principle Eight was applied to RAN FESR service.

Principle Nine claimed in part that the Committee would not be constrained by previous decisions and interpretations on awards made by the Australian Government and military authorities.

The CIDA Report appears to show that the Committee did not apply its own Principle Nine to RAN FESR service because it:

- failed to fully investigate previous decisions and interpretations;
- accepted or made assumptions based on government and military authorities submissions; and
- wrote those assumptions into naval history without properly examining them.

CIDA was clearly, and completely, either constrained or misguided by the treatment given to the RAN for political expediency in the past. Either intentionally or through a lack of knowledge, CIDA then perpetuated that treatment.

Principle Nine further claimed the Committee would take a “fresh look” at all the issues referred to it by public submissions and claimed it had sought to deal with them fairly and equitably.

It is difficult to understand how a submission could have been dealt with fairly and equitably when it was made in accordance with the six published terms of reference, then assessed against ten criteria, which were not known to persons making submissions. Such an assessment was not fair, nor could it be said to be equitable, or likely to attract submissions, which directly and accurately addressed the Principles.

When CIDA encountered the lack of medal for service, the fair and equitable way of handling the question, from a purely medal perspective, would have been to look for the C.N.O.s dealing with the NGSM ‘Malaya’. As the Department of Administrative Services administers medals, it is not unreasonable to expect that Department to have looked for the administrative foundations for the medal. As there was no C.N.O., an anomaly should have then been apparent.

There is no evidence in the CIDA Report of a ‘fresh look’ at RAN FESR service, or any evidence that such service was dealt with ‘fairly’ and ‘equitably’.

Principle Ten seems to be the major stumbling block to the issue of the NGSM ‘Malaya’ to the RAN because of the legislated exclusion.

Principle Ten claims matters should have been considered on their merits in accordance with the other Principles, and that these considerations should not have been influenced by the possible impact, real or perceived, on veterans’ entitlements.

If the NGSM ‘Malaya’ was issued the RAS Badge would follow. With both a powerful challenge could be launched against the exclusion in the Veterans’ Entitlements Act.

Was CIDA fully aware of efforts made in the past to maintain the exclusion?

Was CIDA fully aware of the Davis and Doessel cases in the Federal Court in 1990, or was the Committee only given the Departments’ point of view on those cases?

Was CIDA aware that the Repatriation Commission, having appealed against Davis as far as the Federal Court, did not then appear?

Was CIDA aware that as soon as Davis and Doessel had beaten the Commission in two Court cases on opposite sides of Australia, before different judges, the legislation which two courts had found defective was then amended to “...have the legislation reflect the fact that it was intended to continue the policy behind the express exclusion in the previous legislation...” (24).

That statement has a footnote, which reads: “Without the express exclusion it would have been theoretically possible for the Navy to retrospectively allot persons or units contrary to the previous policy. Thus the amendments were inserted to reduce the prospect of political pressure being put on the Navy Office by certain lobby groups to make such allotments.”

CIDA may or may not have been aware of that. If it was not, CIDA may not have been fully informed by the Department of Veterans’ Affairs.

In the last paragraph of the second Federal Court case, which found sailors, had been ‘allotted’ (Doessel – dated 14 September 1990) Judges Lockhart, Pincus and Ryan JJ said, in part:

“If the result of refusal to give the ‘allotted for duty’ the special meaning suggested below, or the different special meaning suggested in this court, is to enlarge the class of those entitled to certain benefits beyond what was truly intended. It is to the legislature, not this court, that pleas to qualify the entitlement under the statute must be directed.”

In the Hansard record of Veterans' Affairs Legislation Amendment Bill 1990 (a remarkable swift response to the second Federal Court finding just 8 week beforehand) Mr Humphreys, Minister for Veterans' Affairs said:

"To restore the intended purpose of 'allotted for duty', this Bill will give a special meaning to references in the Act to that term. In addition, the amendments would confirm that allotment may be in accordance with retrospective arrangements most often necessarily followed by the Department of Defence. The changes would also provide that allotment would be by written instrument, that it can be retrospective or otherwise and that such instruments will be issued by the Defence Force for use by the Repatriation Commission in determining a person's eligibility for entitlements under the Veterans' Entitlement Act."

- In acting so swiftly, Mr Humphreys' Department refused to accept two separate decisions of the Federal Court a refusal, in fact, to accept the umpire's decision.
- Did CIDA understand that the Department took no steps to retrospectively allot those whom the Courts had found to have been 'allotted'?
- Did CIDA understand that the Amendment was used to retrospectively 'unallot' sailors whom the Courts found had been "allotted" (and whom we now know were "allotted" from 1 July 1955)?
- Was CIDA aware that retrospectivity normally used to provide benefits for military personnel after they have been deployed, was for the first known time used not to provide benefits for service but to remove a legal entitlement which the Federal Court had found ex-sailors had had for 35 years?

What exactly was the 'original intent' of the exclusion? When DVA was asked the question, a representative said: "However, I have been unable to locate any document that would shed light on the reasoning for the exclusion of the Naval service apart from the following statements made by Ministers in Parliament." (25)

DVA admits it does not know what the 'original intention' actually was.

The reasons given in parliament were:

- the navy was only doing the job for which its members had engaged; and
- as the enemy lacked the ability to retaliate against ships, sailors were in no danger.

As shown, the real reason was to save money. Ironically the intent to save was the result of the huge costs associated with the land-based forces in Malaya, which included building an aerodrome and barracks and renting married quarters. As shown the increase in repatriation benefits was also a reason and a perhaps a powerful stimulus for denying recognition for the Navy.

In a Budget Submission of 27 July 1955 the Treasurer stated: "What we have, too, to consider the proposals for increased civil pensions, war pensions and other repatriation benefits. The estimated additional expenditure in 1955-56 involved in those submissions of the Ministers is approximately 12 Million pounds".

Answering CIDA Part 5

The enemy in Malaya also lacked a 'ground-to-air capability' to retaliate against aircraft (26) but all members of the RAAF qualified for a campaign medal and all benefits after twenty-four hours ashore.

DVA does not have a definition of "danger" but uses the lack of danger as an excuse for not being eligible for benefits. However, if a member is 'allotted' there is no need to experience 'danger'. (27)

Some Notes:

- The RAN was excluded for reasons, which the DVA cannot find.
- It was claimed not to have been "allotted for duty" when it was.
- As it was claimed not to have been allotted, personnel would have had to have incurred "danger" to become eligible for repatriation benefits.
- There is no definition for "danger" in the VEA.
- If a member is allotted there is no need to experience danger.

Although CIDA was precluded from considering issues relating to the Veterans' Entitlements Act, it must have been aware of the exclusion because of Mr. Tanzer's (Secretary DVA) previous employment, and because of the advice it received from Mr. Topperwein of DVA (28). Mr Topperwein is the author of the statement that no written reason for the exclusions can be found (2).

Nothing in the CIDA Report suggests the Committee sought to challenge the exclusions.

By not addressing the exclusion, CIDA was completely constrained. It did not operate according to the normal standards of fairness, it did not take a "fresh look" at the nexus between medal and the exclusion, and did not apply Principle Ten.

DVA has a computer-based document which is used within the Department to determine eligibility for pensions. Part 7 of that document deals with Malayan and Associated Service, Part 7.5 deals with Naval Personnel.

The Department acknowledges that the document is 'internal reference material only and cannot be quoted as authority for anything'. The document has no legal standing as legality is vested in the Veterans' Entitlements Act.

The VEA has no definitions for 'operations' or 'danger' and there is no requirement for personnel to take part in operations or be endangered. The only requirement is that the member or unit be 'allotted for duty'.

The term 'operations' appears in the Conditions of Award for the medal, not the VEA. By not appearing in the VEA the term has no legal power.

Part 7.5.2 records HMAS ANZAC, QUEENBOROUGH and QUICKMATCH taking part in bombardments. It makes no acknowledgment of additional bombardments by HMAS ANZAC on 26 July 1957 (30) or HMAS TOBRUK on 29 September 1956 (31). All RAN ships were prepared for bombardments.

Part 7.5.3 says: "Department of Defence did not consider that personnel serving in these ships were placed in personal danger so the ships were not allotted for duty in an operational area." Allotment is again dependent on danger, which is nonsense.

When requesting approval for the C-In-C FES to use HMA ships for bombardments, the Secretary of the Navy said the Chief of the Naval Staff assessed the risk to crews as 'very slight'. There is a clear difference between 'no personal danger' and risk or danger, however slight.

Part 7.5.4 introduces the Conditions of Award for the NGSM as a reason to deny RAN service, saying:

"Ships of the Royal Navy were engaged in patrolling the coast. Members of those crews qualified for the Naval General service Medal Clasp Malaya if they were engaged in these duties for a period of 28 days or more".

Some Australians may have served on those ships but if they did, they would have been granted the Naval General Service Medal (NGSM) Malaya Clasp. Department of Defence has advised that only three members of the RAN so qualified. In fact eight members of the RAN are recorded by Navy Office as having qualified when serving with the RN.

The Directive for the Attachment of the RAN to the Far East Fleet provides for those ships to "form an integral part of the Far East Fleet and be treated in the same manner as their counterparts in the Royal Navy". The service by members of another country should have no bearing on eligibility for Australians.

Part 7.5.5 states: "Ships were frequently involved in exercises in the area or visited Singapore for refuelling, etc. but such service was not operational service."

Singapore was the headquarters of the C-in-C FEF. RAN ships did not 'visit' Singapore but were based there under the terms of the Order of Battle which attached them to RN command.

Warships require regular access to repair, refit, and maintenance facilities. The best place to find those facilities is in dockyards. The Singapore Naval Base was the largest in the region. Its total area is one and a half square miles. It has 22 square miles of anchorages. The main graving dock could hold a ship up to 1,006 feet (306.6 metres), the floating dock had a 858 foot capacity. There was shore accommodation for 3,000 men. RAN ships were ammunitioned from the dumps in Singapore.

Singapore is 1.2-km from the coast of Malaya, therefore within 18.5-km operational area from the coast.

Thus the conditions of Award for the NGSM 'Malaya' are used as excuses within the DVA for excluding the RAN. The lack of a campaign medal is actively promoted as argument to support the exclusion.

It is wrong to try and assess eligibility by "ship". The Conditions for Award of the NGSM 'Malaya' make no mention of qualifying by ship. It makes provision for eligibility by "service" i.e. individual service. Which means that members of the RAN had to accumulate 28, not necessarily consecutive, days to qualify. (Attachment 42).

If a member served in two ships, each of which accumulated 20 days qualifying service, he would qualify by accumulating forty days but anyone who only served on one of the two ships would only have 20 days.

Admiralty Fleet Orders (AFO) were promulgated periodically during the Malayan Emergency to show the Conditions of Award for the NGSM 'Malaya'.

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All contain a paragraph headed "Issue". The first sentence of that paragraph states: "Where Commanding Officers are satisfied from appropriate records that the necessary conditions have been fulfilled, provisional issued of ribbon may be made." A survey of ex-Commanding Officers of RAN warships that served in Malaya at the time have so far shown that none were aware of the requirement.

The requirement for issue is for: "Each officer and man to whom ribbon is issued should be required to acknowledge receipt on a Form S.540 which he should complete in as great detail as possible to show the dates of service in the ship or area which he considers qualifies him for the award of the medal."

Individuals were required to complete Form S540 to apply for the medal, yet members of the RAN were not aware of that requirement, including commanding officers of HMA ships in the Strategic Reserve.

If the Australian Commonwealth Naval Board was waiting for advice from C-in-C FES, and if the C-in-C's advisers were aware that the medal issued required individuals to apply, hence making advice unnecessary, there was a clear lack of communication but not as suggested in the CIDA Report.

In finding their second possible explanation for the failure of RAN ships to qualify, CIDA did not understand the "Issued" requirement in the conditions of Award.

A term in the Conditions of Award for the NGSM 'Malaya' which CIDA, and many others, failed to understand is the term "in support of operations".

When the list of ships which accompany AFO 612/58 (and is relevant to point out here that other lists of ships which qualify for other NGSMs with similar eligibility criteria of so many days doing whatever) is studied, it immediately becomes apparent that the days of qualifying service could not be strictly interpreted as literally complying with the term 'in support of'. Rather the dates appear as blocks of consecutive dates, not every one of which would, in every case have ships acting directly 'in support of'. It then becomes apparent that the term is not literal but means that a ship or squadron was credited, by being in the area, as actively or passively 'in support of'.

By being in the area a warship was both a threat and a deterrent. Sailing, for example from Singapore to Penang, might take two days. During those two days, even if not actively engaging an enemy on either day, a warship was effectively blockading the area.

Next Section Answering CIDA Part 6.

Answering CIDA Part 6

The enemy in Malaya also lacked a 'ground-to-air capability' to retaliate against aircraft (26) but all members of the RAAF qualified for a campaign medal and all benefits after twenty-four hours ashore.

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Next Section Answering CIDA Part 7.

Answering CIDA Part 7

A blockade prevents an enemy being re-supplied by sea and sometimes by air and is 'in support of operations against the enemy'.

The accurate range of the guns of the RAN destroyers and frigates was about 18,000 yards, 9 nautical miles or 16.6 kilometres. This meant that the warships, in their role of floating gun platforms posed a threat to any target ashore within gunnery range and again were actively or passively 'in support of any operational task the C-in-C FES may have directed'.

Again, the Committee did not understand the Conditions of Award, which a member with naval experience would have been able to explain.

The 'bungle theory researcher suggests that CIDA was badly misled in its dealing with the UK.

CIDA wrote to the British High Commission, which conveyed to the Committee the following advice from the MoD in London: Firstly the RAN, the RCN (Royal Canadian Navy) and the RNZN worked so closely with the RN at the time in question that their ships figured in the list of qualified vessels right up to the confrontation with Indonesia in 1964-66.

The fact that no RAN ships are listed as being qualified for the NGSM 'Malaya' is most likely to indicate that none met the stringent criteria laid down in Command Paper 7097 (incorrect) dated March 1950. The number of the Command Paper is 7907.

Unfortunately CIDA accepted the statement on face value, something it appears to have done with all 'official' submissions regarding this service, despite the glaring inaccuracies.

Firstly the Royal Canadian Navy did not participate in the British Commonwealth Strategic Reserve. The Royal Malayan Navy did but was not acknowledged in the MoD submission which appears in the CIDA Report.

Secondly, MoD appears to have confused the Malayan Emergency with Confrontation and got the dates of that wrong too.

Thirdly, it would not have been possible for HMA ships to appear on Command Paper 7907, as it was promulgated in March 1950, five years before the deployment of the RAN to the Malayan Emergency. By accepting an irrelevant Command Paper, CIDA showed it did not understand matters naval and reinforced the false assessment that RAN personnel did not qualify for the campaign medal.

A casual inspection of AFO 612/58 will instantly show that the whole of the qualifying periods could not have been spent actively engaging the enemy but were most probably defensive operations. What also becomes apparent from AFO 612/58 is that rarely did RN ships appear on both the East and West Coasts on the same date. It was only with the introduction of the RAN and RNZN that the C-in-C FES was able to defend both coasts at the same time.

No C.N.O. was issued for the NGSM 'Malaya'. Navy Office states that they currently do not hold a copy of the Warrant for the medal.

All the AFOs which showed The Conditions of Award for the NGSM contain, at paragraph 6, 'Short Service' provisions for the medal to be awarded:

- (a) for gallantry; for a MiD or King's Commendation and:
- (b) If service is brought to an end before completion of the qualifying period by death, wounds or other disability due to service, the reduced period will qualify for the medal.

On 26 April 1957 elements of the FES fleet and allied units were exercising off the Malaya East Coast. During a night encounter exercise HMAS TOBRUK was hit by a star shell which had been fired by HMS COCKADE. To quote from the Archives file:

"The shell grazed the guard rail wire on the port side of the forecastle, passed through the forecastle deck, into the issue room, through the watertight bulkhead into No.3 messdeck where it struck a locker and a stanchion and into A Gunbay. There was no explosion in the Gunbay." Two Able Seamen were hit.

The surgeon's Report says: "Able Seaman R.W. Spooner, R49694 died about three minutes after being hit. Death was due to loss of blood following the loss of his left leg, hip and pelvic floor. The bowel was prolapsed through the wound".

2. Able Seaman J.R. Stevenson, R48320 suffered the following injuries:

- (1) Compound fracture of the femur.
- (2) The wound also opened directly into the right knee joint.
- (3) The patella was fragmented.

(4) The right knee joint appeared to be completely disorganised.

The wound was repaired as well as possible and the injured rating discharged to the British Military Hospital, Singapore at 0245 the next morning. His condition still dangerously ill.

Able Seaman R.W. Spooner was buried at sea on 27 April 1957. (32) (Attachment 62a to 62d).

The survivor was not eligible for repatriation benefits and although supposedly covered by the Commonwealth Employees Compensation Act, he received only a small Defence Force Retirement Benefits pension when discharged. He spent the remaining sixteen months of his naval service in hospital, before being discharged Physically Unfit for Naval Service (33). Despite being physically incapacitated thereafter, he only received a veterans disability pension after he retired from work at age 60 because of his injury, and then only because his injury was accepted against his service in Korea.

On Christmas Day 1957 Cook (O) A.C. Cooper, R51381 of H.M.A.S. ANZAC drowned at the Singapore Naval Base. He was not on leave at the time. The files show no compensation was paid.

Contrary to the 'Short Service' Condition of Award, the NGSM 'Malaya' was not issued to any of those who died, or who had their service cut short by injury.

Mr J.R. Stevenson applied for his NGSM early in 1995 and his claim was ignored. He then complained to the Director of Naval Staff – Personnel in about March of that year. He has not been issued with the medal.

As stated earlier, the RAN was serving in the 10 nautical mile 'operational area' provided for the small numbers of Army and RAAF personnel when they were sent to Malaya in 1950. As a result, some naval crews qualified for War Service Homes Loans by simply being in the area.

However, an Archives file shows that by July 1954 the Navy, the Repatriation Commission and the Treasury (Defence) had reached agreement 'in principle' on an operational area for the RAN in Malaya and the matter was 'with the Parliamentary Draftsman'. (34)

The last folio on the file shows that: "Advice has been received that the question is listed for consideration by the Treasury Finance Committee. No action can be taken therefore to expedite a decision until the TFC considers the question. N.F.A. required."

The second amendment to Repatriation Regulation 199 was issued after the RAN became involved in Malaya. It made no reference to the RAN, instead it provided coverage for "the Military and Air Forces in a part of the Queen's Dominions other than the Commonwealth".

No maritime operational area was promulgated, by amending the Repatriation Regulation, at the first opportunity, the maritime operation area was removed in its entirety in August 1957.

In his book "Mostly Unsung - Australia and the Commonwealth in the Malaya Emergency 1948-60", Lieut Col Neil C. Smith, AM asks the question "A War or an Emergency?". His answer is that it was a Guerrilla war, euphemistically called a "Police Action" or an "Emergency" but it was in fact a war. A guerrilla war, which, thanks to the Malayan and Commonwealth forces, failed to achieve even the first phases of the Malayan Communist Party's revolution.

He records the words of the Paramount Ruler of Malaya, the Yang di-Pertuan Agong, who told the Houses of Parliament in Kuala Lumpur, when announcing the end of the conflict:

"the debt which the people of this country owe to the Security Forces, both Malayan and Commonwealth, for their sustained and courageous effort over the twelve years of the Emergency cannot be over-emphasised."

A Victory Parade was held on 1 August 1960, the day after the conflict ceased. The Chairman of the Australian Chiefs of Staff Committee, Vice Admiral Sir Roy Dowling, KBE, CB, DSO RAN represented the Australian Armed Services at the celebrations. The then Australian Minister for Defence, the Hon. Athol Townley, MP, had felt it appropriate that the Australian Forces should be represented at the highest level. Senior officers of the Army and RAAF as well as Commander G.J. Willis, Captain of HMAS QUIBERON, then serving on the Reserve, also attended along with a ceremonial guard from his ship.

Mr Townley's press release summarized the extent of Australian participation in the Malayan Emergency. He placed the RAN's contribution first by referring to

“the RAN had maintained two frigates or destroyers in Malayan waters, as part of the Strategic Reserve, with an annual visit by an aircraft carrier. RAN units had taken part in the shore bombardment of communist terrorist hide-outs.”

He then went on to refer to the role of the Army and Air Force.

For the duration of the FESR, RAN ships' companies served Australia in the best traditions of the Navy. They have yet to receive an: 'Australian Fair Go'.

The Reasons for Denial

DVA, in 1994, said that they could find no written reason for the 1956 exclusion.

Three documents have a bearing on the exclusion:

- a. the Act;
- b. the computer-based information now used within the DVA to assist with decision-making. DVA Freedom of Information Section Melbourne stated on 18 August 1994 that “This information cannot be quoted as authority for anything. Detailed and definitive eligibility information can be found only in the Veterans Entitlement Act 1986 and its associated legislation.” Despite that statement, parts of the computer-based information are repeatedly quoted by Government Ministers and Departments as authority for exclusions; and
- c. while it should have no bearing on the Act at all, the wording from the Conditions of Award for the Naval General Service Medal Clasp 'Malaya' is repeatedly used in the DVA computer-based information as rationale for exclusion. The conditions for the medal demand 28-days. Qualifying Service under the DVA requires no specific period.

In 1956 the Government of the day decided to deny benefits for the men it sent to defend Malaya by sea. That political decision, the only such denial in Australian military history, required political excuses. Since then a number of the excuses have been nurtured into myths to defend the indefensible. During the past forty years the men denied equity with all other Australians sent overseas on Active Service have been told:

Myth 1 - they were not “allotted for duty”. - A claim now proved false by archival documents.

Myth 2 - it was Cabinet decision, which excluded them - This claim has now been proved false by Cabinet records and persistent research by a retired Australian Admiral who commanded the R.A.N. component in Malaya. Cabinet decisions are numbered and retained for historical reference. No such alleged Cabinet decision is recorded.

Myth 3 - there was no “operational area” provided for them - DVA now acknowledges that R.A.N. ships served in the “operational area” of the Malayan landmass, which extended 3 nautical miles seaward from the coast.

Myth 4 - they did not qualify for a campaign medal - Defence (Navy Office) twice in the last few years received approval from Britain to verify service and issue the medal. The approval was twice ignored and Navy Office has now decreed the men have “no case”. In so doing, Navy Office has over-ruled the Conditions of Award for the medal which had royal assent in 1948, and

Myth 5 - they were in no danger because, according to the Government, “they were doing the job they enlisted for”, the enemy lacked weapons to retaliate against their ships and they were not subject to “additional operational risks”. The “Cameron Excuse”, disproved by documents, logic and common sense but still preferred to the facts.

The Repatriation (Far East Strategic Reserve) Act was enacted in 1956 to provide disability pensions and other benefits for certain members of the Australian forces serving with the FESR. This Act expressly stated that it did not apply to “a member of the naval forces in the complement of a sea-going vessel”. In response to a question from a Government member as to why this was the case, Dr Donald Cameron, Minister for Health, replying on behalf of the Minister for Repatriation, stated:

“They are not regarded as being subjected to additional operational risks. They are subjected to the risks of the service for which they engage, and therefore their conditions are in accordance with the terms of their enlistment. The honourable member said that there might be a reply from air, shore batteries or sea, to their bombardment. That will not happen because the Malayan terrorists do not possess the resources to retaliate in that way.”

The Cameron statement has been used in support of the exclusion for forty years. The exclusion has now been removed from repatriation legislation but the canard continues to be used to deny Service Pensions for sailors who served in Malaya.

It is the only time in Australian history that an enemy was required to have specific types of weapons to retaliate against Australians. And, although it defies logic and common sense, the lack of aircraft, artillery and ships by guerrillas who operated mostly in jungle or urban conditions, continues to be used by Australians who appear not to understand guerrilla warfare.

A major principle of warfare is to use superior force against an enemy and conversely avoid engaging a superior force.

The Cameron excuse is therefore worthy of critical analysis and the first question, which must be answered, is "is it the real reason for the exclusion?" Overwhelming evidence shows it is not. The Government had a large majority in the Lower House; it could say and legislate as it wished, free of opposition. The decision to exclude had been made by the Prime Minister and his political colleagues on or about 11 November 1955.

Consider first the elements of the Cameron excuse. All servicemen are subjected to the risks of the service for which they engage, however, the land forces in Malaya were assured of repatriation benefits twenty-four hours after they arrived in country and their benefits could not be interfered with. Neither could they have been secretly unallotted because of the generous benefits and condition made for "morale" and "recruiting," reasons. They also received a campaign medal and RAS Badge after 24-hours ashore and it would have been politically impossible to deny them benefits.

Dr Cameron's reply only deals with bombardments, again the secondary role. It ignores the primary role for the external defence of the landmass, the sea-lanes and merchant shipping. It ignores the fact that sailors have to go ashore, at which time they are as vulnerable as any other serviceman or civilian in a country experiencing guerrilla war.

It ignores the fact that the enemy had no surface-to-air capability to use against aircraft and these points have all been made to both departments. Neither is there any requirement in repatriation legislation, or common sense, for any enemy to have any weapon. The DVA has said it can find no written reason for the exclusion, it is the only exclusion in Australian military history, the department responsible for the exclusion has no written reason but prefers the illogical political excuse to the contrary documentary evidence.

Clearly the Cameron Excuse should be reviewed against the evidence and not accepted as fact when it is demonstrably false.

The Cameron Excuse has now been manipulated, with the benefit of hindsight, to concentrate on the alleged lack of "danger".

The last Review stated that:

"The whole purpose of this series of bills is to provide benefits for risks additional to those involved in normal military service. When some service additional to normal military service is performed, the men become eligible for benefits".

It should be noted however, that for administrative purposes, all land based personnel, whether attached to operational units or not, were accorded Repatriation benefits. They are eligible under the Veterans' Entitlements Act 1986 for both operational and qualifying service, with one qualification. This qualification is that they must be eligible for a British General Service Medal with Clasp "Malaya" to be granted qualifying service.

In 1956 a Directive was conveyed to the Commander-in-Chief, Far East Station stating the conditions under which HMA ships allocated to the Far East Fleet for service with the Strategic Reserve were placed under his operational control. This Directive stated that:

"HMA ships under your operational control may be used, as are ships of the Royal Navy, for anti-terrorist operations in Malayan waters, and to prevent infiltration by sea of Communist agents or armed bands."

Four RAN ships were involved with bombardment of Malayan terrorist shore positions. HMA Ships ANZAC, TOBRUK, QUEENSBOROUGH and QUICKMATCH carried out these bombardments.

It is far more relevant that all R.A.N. vessels were fulfilling the primary role. The above Navy Office correspondence of 31 May 1995 went on to say, in part: "The research concluded that RAN vessels may have provided qualifying service on the following occasions", and quoted only four bombardments.

The Naval Directive referred to: was a secondary document, having its genesis in paragraphs 4 and 5 of the General Directive referred to earlier. Paragraph 5 of the General Directive and paragraph 1 of the Naval Directive

clearly make the Naval Directive subservient. Paragraph 1 of the Naval Directive states, in the last sentence: "None of the conditions set out below is intended to conflict with or over-ride the provisions of the basic Directive."

The Naval Directive was retrieved from the Australian Archives by one of the senior naval officers who commanded the R.A.N. contingent in Malaya. Its use in the last Review appears to have been highly selective. If that was not so, it would be reasonable to find references to the need for RAN ships to serve in Korean waters during their tours, where expectation of a resumption of operations in Korea is mentioned. The RAN was also required to be treated as an integral part of the Royal Navy for the Primary and Secondary roles. Past Reviewers do not appear to have understood what "anti-terrorist operations" & "infiltration by sea" meant.

Navy Office submitted to the last Review:

"Reports of Proceedings and log books for the relevant vessels have been examined at the Australian War Memorial and the offices of Australian Archives in Sydney. The period covered was May 1955 to July 1960 inclusive, thereby commencing with the initial RAN deployment to the Strategic Reserve to the cessation date for this award."

The alleged examination of all deck logs was not possible. Logs are held at the Australian Archives in Sydney and that organisation only holds them until December 1957 and does not know where the remainder, from January 1958 to August 1960 are. In the case of ANZAC, ARUNTA, MELBOURNE, QUIBERON, SYDNEY, VAMPIRE, VENDETTA AND WARRAMUNGA, no logs are available in the Sydney Archives. Which means that complete logs could only have been examined for 11 deployments, partial logs for 3 deployments and no logs exist for the remaining 21 of the 35 deployments (Attachment 69).

On many occasions the reason for denial has been stated as being because of the lack of 'danger from hostile forces of the enemy'. In supporting this position, reference has been drawn to Section 7 of the VEA. Two separate determinations by the AAT have found that Section 7 only applies to WWI and WWII Veterans (AAT Gibbs Vs RMA V98/747 and AAT Patterson Vs RMA V97/940). This is a further example of irrelevant excuses being offered for continuing denial.

Next Section Conclusions and Recommendations

Conclusions/Recommendations

In general terms, Australians have their active service recognised by repatriation benefits, campaign medal and RAS Badge, and their casualties placed on the Roll of Honour at the Australian War Memorial. But not navy personnel who served in the Malaya Emergency 1955-1960.

In 1997 members of the R.A.N. who served in Malaya between 1955-1960 officially became Australian "veterans" some forty years after their service. They were also given half repatriation benefits in the form of Disability Pensions, which have a direct relationship to their service.

The Australian War Memorial cannot put the names of those RAN personnel killed in the Malayan Emergency, because the Department of Defence claims the sailors were not on "active service".

The attached evidence confirms that neither the Department of Defence, nor the Department of the Treasury nor the Department of Navy considered the likelihood that the Navy would be excluded from recognition or entitlements. In fact, they had all planned for the usual implementation of benefits. The heads of the Defence forces could not have known of the intended exclusion, otherwise they would not have allotted the ships WARRAMUNGA and ARUNTA for duty in 1955. Therefore this was a political decision. Some have claimed it to be a Cabinet decision. However no Cabinet minute can be produced to support this theory. All Cabinet Minutes, since Federation, are available. However none address the exclusion of the Navy in Malaya. CIDA confirmed that this is the only exclusion of Australian Service personnel in our country's history.

This was a political decision, for whatever reason. It was against the normality of all preceding and subsequent treatment of defence personnel in this country.

Two separate divisions of the Federal Court found that this group of personnel was allotted for duty. Following that decision the Government of the day produced the only specific exclusion to be put into the Act, in our history.

The political decisions to exclude these people, along with the statement by Dr Cameron, representing the Minister, are the only reasons for the exclusion of this group.

A Joint Consultative Group (JCG) was established in 1998 under the chairmanship of Admiral Mike Hudson, AC, RAN (Rtd.) Federal President of the Naval Association of Australia. Admiral Hudson sought the support, assistance and participation of various groups and individuals, the following is a list of some of the volunteers who have participated in pursuing appropriate recognition and entitlements for the RAN personnel who served in the FESR during the Malayan Emergency 1955-60:

- Commodore H J P Adams, AM, RAN (Rtd)
President Regular Defence Force Welfare Association (RDFWA).
- Dr John Carroll, PhD
Secretary, HMAS SYDNEY and Vietnam Logistic Support Veterans Association (VLSVA).
- Commodore M A Clarke, AM, RAN (Rtd)
Vice President, Naval Association of Australia.
- Commander P J Cooke-Russell, RANR
Secretary, Naval Association of Australia.
- Roger de Lisle
Journalist
- Mr. Bob Gibbs
HMAS SYDNEY and VLSVA
- Major-General W Glenny, AO, RFD, ED
President, Defence Reserves Association.
- Rear Admiral G R Griffiths, AO, DSO, DSC, RAN (Rtd)
President, Australian Veterans and Defence Services Council.
- Admiral M W Hudson, AC, RAN (Rtd)
President, Naval Association of Australia.
- Rear Admiral D F Lynam, CBE, RAN (Rtd)
- Air Commodore G Michael, AO, OBE, AFC, RAAF (Rtd).
President, RAAF Association.
- Mr. Noel Payne
President, FESR.
- Vice Admiral Sir Richard Peek, KBE, CB, DSC, RAN (Rtd)
Commander of Australian Naval Task Force – Malaya 1957.
- Commander D J Robson, RANR
Federal Secretary of the RSL
- Mr. Michael O'Connor
Executive Director, Australia Defence Association.
- Major-General P Phillips, AO, MC
Federal President of RSL
- Rear Admiral D J Campbell, AM RAN (Rtd)
- Air Vice Marshall J Paule, AO, DSO, AFC
Regular Defence Forces Welfare Association.
- Commodore J D Goble, RAN (Rtd)

In addition to the above, many politicians from all sides support full recognition and entitlements for RAN personnel Malaya Emergency 1955/60. Most notable being, the President of the Senate, Senator Margaret Reid (Attachment 59) and the former Speaker of the House, the Hon. Bob Halverson OBE, MP (Attachment 49a to 49b).

Over the past three years the Senate has received numerous petitions containing thousands of signatories from members of the general public supporting this issue.

Summary

In our view, the evidence contained in this submission supports the notion that the initial decision to exclude the Navy was a political decision. It had no precedent, nor has its like been repeated to date.

Ex-Service organisations, retired senior military officers, parliamentarians from all sides, two divisions of the Federal Court and numerous members of the general public support full recognition and entitlements for this group.

It would seem to defy logic that three servicemen from the same country, serving at the same war, in the same foreign land, engaging in the same operations to kill the same enemy, at the same time can be treated differently in respect of recognition and entitlements, based on the uniform they were wearing at the time.

The injustice that surrounds this issue was identified very early on. During the debate on the Repatriation (FESR) Bill in 1956, Mr. J.P. Fraser, MP (ACT) rose and said:

"...I believe that the Minister should suggest that the measure be amended to include men serving in the sea-going ships of the Navy with the others who are to benefit from the measures...." (Hansard P2081/56).

Perhaps the person with the greatest foresight, was Mr. R.T. Pollard, MP (Lalor) when he rose to speak to the 1956 Bill and its exclusion of the navy, he said:

"...the State of affairs to which I have referred is disgraceful. It will rebound on governments in the future. These men will undoubtedly support political agitation. The returned soldiers' league will be pleased to take up their case for them. The Government will have to go to its draftsmen. There will be conferences with the Treasury. There will be talks in cabinet. The Government will be fiddling and messing about twenty years hence with a view to giving eligibility to those great fellows who served in Malaya and the territories adjacent to Malaya. I am glad to know that the honorable Member for Perth" (Mr. F C Chaney, MP, later became Minister for the Navy) has admitted that no eligibility is provided under this bill. I want to know in what respect the cases of many men in this force in Malaya differs from those of many men who served in the forces during World War I and World War II. Can you tell me?" (Hansard P2084/56).

It is sad that Mr. Pollard's 20-year prediction has turned into 44 –years.

Navy, under the new Chief of Navy Vice Admiral Chalmers, AO, RAN, are supportive. Many peak ex-Service organisations support full recognition and many senior military officers are behind the push for entitlements. It is time for 'justice to be done'.

Bibliography & Attachments

Attachment 1:

Extract from Naval Defence Act 1910-1949. (Definition of Active Service).

Attachment 2:

Admiralty Fleet Order 2466/60. (Naval General Service Medal 'Malaya'). (Where Commanding Officers are satisfied.....).

Attachment 3a to 3c - 3 pages:

Extract from Australian Soldiers Repatriation Act No. 34 of 1950. (Liability of the Commonwealth to pay pensions to certain male members of the Forces...). (Members of the Forces - Operational Areas - War Service).

Attachment 4a to 4w - 23 pages:

The Australian Soldiers Repatriation Act 1920 to 1949.

Attachment 5a to 5c - 3 pages:

Governor's General Declarations. (5th June 1952 declares active service zone in Malaya). (8th December 1960 declaring end of active service period).

Attachment 6a to 6 i - 8 pages:

Top Secret Document, report by Defence Committee 1954. (Outlining Australia's commitment to the defence of Malaya and the Navy's role).

Attachment 7a to 7ah - 34 pages:

Top Secret Document, ANZAM Planning for Defence of Malaya. (Outlining Australia's commitment to the defence of Malaya and Navy's role).

Attachment 8a to 8b - 2 pages:

Top Secret Attachment to Cabinet minutes 1954. (Outlining Navy's role in the event of global war).

Attachment 9:

Page 68 'Emergency and Confrontation' - Professor Dennis and Dr Grey. (Navy's deployment).

Attachment 10a to 10d - 4 pages:

7th June 1955 Secret letter from the Prime Minister to the Minister for Defence, the Hon. Sir Philip McBride, KCMG, MP along with attachment, cabinet submission 395, 15th June 1955 meeting of Chief's of Staff. (Outlining Australia's commitment to the FESR).

Attachment 11a to 11c - 3 pages:

Chief's of Staff minute.(Allotment of HMAS ARUNTA and HMAS WARRAMUNGA).

Attachment 12a to 12c - 3 pages:

4th August 1955, letter from Jos. Francis Minister for the Navy and Army, to the Hon. Sir Philip McBride KCMG, MP. (Concerning pay allowances for Navy FESR). (With attachment of letter to the Prime Minister, the Rt. Hon. R.G. Menzies CH, QC, MP on the same subject).

Attachment 13a to 13d - 4 pages:

19th August 1955 letter, from Department of the Treasury (Defence Division) to Department of Army and Department of Air. (Concerning conditions of service FESR).

Attachment 14a to 14b - 2 pages:

11th November 1955 letter, G.H., Vivian Assistant Secretary of the Navy to the Assistant Secretary Department of the Treasury (Defence Division). (Confirming navy allotted for duty 1st July 1955)

Attachment 15:

30th December 1955 letter, from the Assistant Secretary of the Treasury to the Commissioner of Taxation. (Conditions as they applied to navy FESR).

Attachment 16a to 16c - 3 pages:

27th July 1956 minute, to the Deputy Chairman of the Repatriation Department from the Assistant Commissioner of the Repatriation Department. (Repatriation benefits Strategic Reserve Malaya).

Attachment 17a to 17b - 2 pages:

8th November 1956, report of proceedings HMAS TOBRUK and HMAS ANZAC. (Details of successful bombardment etc.).

Attachment 18a to 18c - 3 pages:

1956 Top Secret Directive for British Commonwealth Far East Strategic Reserve. (Detailing primary and secondary role and the combined role of the FESR).

Attachment 19a to 19d - 4 pages:

20th May 1960 letter to the Commanding Officer HMS TERROR from the Commanding Officer HMAS HARMAN, with copies to the C in C FES. (RAN personnel drafted for duty to Kranji W/T Station).

Attachment 20:

1st November 1967, letter to Lance Barnard MP from the Deputy Director of War Service Homes. (Regarding the entitlement of A.W.N. Daniel to a loan under the War Service Homes Act 4(2)(b), as he had complied with war like operations).

Attachment 21:

3rd November 1967, letter from Lance Barnard MP to A.W.B Daniel. (Confirming War Service Home entitlement).

Attachment 22:

Veterans' Entitlement Act Number 27 of 1986, Schedule 2, page 489. (Outlines Operational Area Malaya and Singapore 1955/60).

Attachment 23:

House of Representatives Hansard 8th November 1990, page 3680. (Introduction of the exclusion after the Federal Court victories by Doessel and Davis).

Attachment 24a to 24e - 5 pages:

2nd November 1990, Department of Defence letter from the DGPSC-Navy. (Outlining recognition and entitlements for Gulf War Veterans).

Attachment 25a to 25b - 2 pages:

Extract from Defence Service Homes Act, October 1993. (Declaring RAN FESR Malaya 1955/60 ships were 'allotted for duty').

Attachment 26a to 26c - 3 pages:

6th October 1994 letter, to Mr. R.A. Murray, from K.R Freemantle for Director of Naval Personal Services (DNPS). ('you may be eligible for the award of the NGSM').

Attachment 27:

25th October 1994 letter, to the British High Commissioner, Canberra from Commander D.A. Hobbs MBE, RN for the Second Sea Lord, C in C. (Inviting applications for the NGSM from Australians).

Attachment 28:

10th November 1994 minute, to the CIDA report (FESR) from D.G.P.S.C.-Navy. (Recommending two options, for the issue of the NGSM).

Attachment 29:

22nd November 1994 minute, to D.G.P.S.C.-Navy, from Air Commodore C.E. Bradford DGSP. (Preferring navy support a claim for NGSM with the UK).

Attachment 30a to 30b - 2 pages:

8th March 1995, Department of Defence letter to Commander M Robbins RN, Director of Naval Service conditions UK, from KR Freemantle for the Director Naval Personal Services. (Seeking suggestions for the issue of the NGSM to RAN personnel).

Attachment 31a to 31b - 2 pages:

2nd April 1995 letter, to KR Freemantle, Staff Officer Medals, from Commander M Robbins RN. (Approving the issue of the NGSM to RAN personnel Malay 1955/60).

Attachment 32a to 32b - 2 pages:

3rd May 1995 minute, to ACPERS-N from J.C.L Foot Capt. RAN DGPSC-N. (Regarding RAN FESR qualifying service).

Attachment 33a to 33b - 2 pages:

30th June 1995 letter, to Mr. L Suur, Interdepartmental Committee on Honours and Awards, from Squadron Leader J.A. Kendrick. (Navy support proposal that a new clasp to the ASM 1945-1975 be pursued).

Attachment 34:

28th February 1996 letter, to Mr. Noel Payne from Kevin Isaacs, Senior Adviser Office of the Minister for Defence Science and Personnel. (Acknowledges submission regarding allotment of members of the Navy serving aboard ships with the FESR). (Furthermore, the letter then states that given the forthcoming Federal election, the issue will be a matter for the incoming Government).

Attachment 35a to 35j - 10 pages:

7th August 1996 letter, to Dr Jeffrey Grey, Naval Historian Defence Forces Academy, Canberra 2600, from Mr. B Gibbs. (The letter identifies errors in the book "Emergency and Confrontation" by Professor Peter Dennis and Dr Jeffrey Grey and offers constructive factual archival supporting evidence").

Attachment 36a to 36b - 2 pages:

27th September 1996 letter, to Vice Admiral R G Taylor AO RAN, from Admiral Sir Jock Slater GCS LVO ADO, Ministry of Defence, Main Building Whitehall London. (Stating "We will be unable to let you have the definitive advice you are seeking"). (Advising that the Naval Historical Branch were not in a position to conduct research into qualifying RAN vessels for the grant of the NGSM (Malaya)

(Letter also added that the research work would be conducted if funded by the RAN).

Attachment 37a to 37b - 2 pages:

1st October 1996 letter, to Mr. A.M. Shultz, from Mr. C W Bradshaw, Head of NPP (Acs), Ministry of Defence, Gosport. (Similar reply to attachment 36a to 36b, however, letter added that a veteran, who has evidence that would qualify him for the award, should make an application to the RAN).

Attachment 38a to 38b - 2 pages:

26th October 1996, letter to AVM Cox RAAF AO, Assistant Chief of Defence Force - Personnel, Department of Defence, from Vice Admiral Sir Richard Peek KBE, CB, DSC, RAN. (Offers unequivocal proof that "The date on which the RAN ships were allotted for duty as the RAN component of the Strategic Reserve was 1 July 1955).

(Ships on active service when bombarding).

Attachment 39:

September 1996, Amendment to GOSP, Eligibility for Service Pension. (States that an Australian veteran that served in Malaya is not required to satisfy the Commission that he/she 'incurred danger' from hostile forces of the enemy to have rendered qualifying service).

Attachment 40a to 40e - 5 pages:

1997 Budget Schedule FESR. Instrument for Determining Eligibility under the Veterans' Entitlements Act 1986, Section 6D VEA 1986.

(Sets out Schedule of each unit of the Defence Force (RAN) attached to the FESR).

Attachment 41:

Jan 1997, extract from the CIDA Report, Attachment 2 Recommendation. (Recommends that Government continue to pursue with the British Government the eligibility of RAN vessels serving in the FESR for the NGSM clasp 'Malaya').

Attachment 42:

30th January 1997, letter to Mr. Noel Payne, from Miss M.J. Barwick NPP (Acs) IC, Ministry of Defence, Directorate of Naval Pay and Pensions (Accounts). (Advises that no records were held about Military Police Units in Malaya).

Attachment 43:

21st February 1997, letter, to Mr. B Gibbs, from Colin Hassall Privacy/FOI Officer, Commonwealth Department of Veterans' Affairs. (At common Law, the territorial waters of a country extend to three nautical miles: High Court in *Bonser v La Macchia* (1969) 122 CLR 177).

Attachment 44:

27th February 1997, letter to Mr. B Gibbs, from C.W. Bradshaw, Head of NPP (Acs) 1, Ministry of Defence, Gosport.

(Few detailed navy records kept regarding sea support against anti-terrorist operations. Ministry of Defence unable to confirm RAN eligibility for the NGSM).

Attachment 45a to 45b - 2 pages:

10th March 1997, letter to Mr. N Payne, from M.B. Forrest, Rear Admiral, RAN, DoD (Navy Headquarters) Assistant Chief of Navy - Personnel. (Letter advised Mr. Payne that as he is not affected by FESR decision, Navy Headquarters would only correspond with those directly affected. This was In reply to a request - concerning lack of entitlements available to RAN personnel who served with the FESR in Malaya 1955/60).

Attachment 46:

19th March 1997, letter to Mr. N Payne, from Minister for Defence Industry Science and Personnel. (In response to a request about recognition of naval personnel who served in the FESR. Minister stated that "Authoritative advice has been received from the First Sea Lord, Royal Navy, that no Royal Navy ships rendered qualifying service for the NGSM, refer Attachment 36a to 36b).

Attachment 47a to 47b - 2 pages:

15th May 1997, Research Memorandum to Senator O'Brien (Attention: Michelle), from Susan Downing, Department of the Parliamentary Library (Information and Research Services) Law and Bills Digest. (Opinion that advice contained in Senator Newman's draft answer to the Question on Notice No314 is wrong). (There is a strong case that sailors who served in ships in Malaya during the 'Emergency' were on active service).

Attachment 48:

3rd April 1997, letter to Mr. B Gibbs, from Vice Admiral R.G.Taylor AO RAN Chief of Navy. (Taylor declined to provide Mr. Gibbs with a copy of the letter from the First Sea Lord, Royal Navy; claiming the 'Authoritative Advice' was a personal letter and could not be released).

Attachment 49a to 49b - 2 pages:

4th April 1997, letter to The Honorable Bronwyn Bishop, Minister for Defence Industry, Science and Personnel, Parliament House, Canberra. From The Hon. Bob Halverson OBE MP, Member for Casey and Speaker of the House. (Writing as an ex-serviceman, Mr. Halverson found the argument put forward by Mr. B Gibbs regarding

FESR recognition to Bishop - compelling). (and, I feel that these ex-servicemen have been done a grave disservice by their country.....).

Attachment 50:

23rd May 1997, letter to Mr. N Payne, from Miss M J Barwick, NPP (Acs) Ic Armed Forces Personnel Administration Agency RN. (It has always been the case that personnel, not ships, need to fulfill the required conditions in order to receive and award; ships are listed as being in the qualifying area, personnel need only prove that they served on the ship for the qualifying period). (Records are "non-existent after 1954").

Attachment 51a to 51c - 3 pages:

5th September 1997, letter to the Hon John Howard MP, Prime Minister, from Vice Admiral Sir Richard Peek KBE, CB, DSC, RAN (Rtd.) supported by a group 24 senior retired officers. (Deep concern expressed about ministerial policy, that there will be no further consideration of the discrimination against naval personnel, who served in the FESR during the Malaya Emergency 1955-1960). (Letter signed by 24 retired Senior Naval Officers, who served in Malaya).

Attachment 52a to 52b - 2 pages:

Senate Hansard 22 October 1997 Page 7775 - /2. (VA Legislation Amendments Bill 1997). (Senator Tambling; "If any individual members of the Far East Strategic reserve can prove that they incurred danger from the enemy,...").

Attachment 53a to 53c - 3 pages:

10th November 1997 letter to the Hon. Bronwyn Bishop, from Admiral Mike Hudson, AC, RAN (Rtd), Federal President of Naval Association of Australia. (Recommending and offering Naval Association of Australia support for full recognition of RAN FESR Malaya 1955-60).

Attachment 54a to 54b - 2 pages:

15th December 1997 letter to Noel Payne, from the Office of the Prime Minister. (Informing of Government decision to extend Operational Service and Home Loans to FESR Veterans).

Attachment 55a to 55b - 2 pages:

22nd December 1997 letter Ken Staff from Stephen Edwards, Adviser to the Minister for Veterans' Affairs. ("In a land based guerilla style campaign even the simplest of weapons can assume such threat... personnel of the RAN may be considered to have been in danger from hostile forces of the enemy. Equally, members of the ships companies may have spent some time ashore, while still notionally part of the seas-going complement").

Attachment 56a to 56e - 5 pages:

Confidential extract from the CIDA Report. (The Committee recommends that the Government pursue the British in effort to identify ships.....).

Attachment 57a 57c - 3 pages.

Defence Legal Office - Canberra minute DLO291-98 from K.S.J. Old.

(Legal opinion regarding relevance of the Defence Act 1903, the Naval Defence Act 1910, and the opinion that personnel serving in the FESR were on Active Service).

Attachment 58.

28th January 1998 letter to Mr. N. Payne from the Office of the Commonwealth Ombudsman.

(Ordering the Minister Bronwyn Bishop to release the authoritative of advice).

Attachment 59:

26th May 1998 letter from Senator Margaret Reid, President of the Senate to the Hon. Bronwyn Bishop, Minister for Defence Industry, Science and Personnel. ("I beg to disagree with your assessment that the matter "is closed", or that the whole affair has been handled properly.....).

Attachment 60a to 60b - 2 pages:

General Orders for the Assessment of Service Pensions - Australian Veterans of the Malayan Conflicts 1950 - 1973. ("**Note: 1 An Australian Veteran that (sic) served in Malaya is not required to satisfy the Commission that he/she 'Incurred danger' from hostile forces of the enemy to have rendered qualifying service).

Attachment 61a to 61b - 2 pages:

Assessment of personnel numbers effected by 'Allotment' of Naval forces who served in Malaya 1955/60.

Attachment 62a to 62d - 4 pages:

Photograph of the burial at sea of Able Seaman Robert Spooner with full military honours. Robert Spooner was killed during an operational exercise in the Active Service area of Malaya, his name is not on the Honour Role at the Australian War Memorial.

Attachment 63a to 63c - 3 pages:

Extracts from chapter 11 of the book Malaya Emergency, Confrontation and Vietnam, Professor Geoffrey Grey 'an Official History'. (RAN ships were available for operations against the insurgents in Malaya.....).

Attachment 64:

H & A 13/58; EFO 853/59 - 23rd Sep. 1960. (Conditions for the Award for the Naval General Service Medal for Service in Malaya since 16th June 1948).

Attachment 65:

Photograph of the RAN Crest hung in the Malaysian War Memorial for being contributors to the defence of Malaya and Singapore during the Malayan Emergency 1948 to 1960.

Attachment 66a to 66d - 4 pages:

H.D.4431 - Committee on the Grant of Honours Decorations and Medals - Cmd. 7907 - by Command of his Majesty March 1950. (Terms of the award of THE NAVAL GENERAL SERVICE MEDAL and.....).

Attachment 67a to 67d - 4 pages:

Extract from 'SPINK' , Joslin, Litherland and Simpkin. (The Naval General Service Medal 1915-1962).

Attachment 68a to 68f - 6 pages:

Extract from CIDA Report.(RAN Service with Far East Strategic Reserve).

Attachment 69:

Advice on availability (or lack of) of ships' Logs. (Highlights the fact that many ships' Logs are missing or unavailable).

Attachment 70a to 70d - 4 pages:

Veteran's Entitlements Act Section 6D. (List of RAN ships that served in Far East Strategic Reserve 1955 to 1963).

Attachment 71a to 71i - 9 pages:

Federal Court of Australia Graham v Repatriation Commission (1999) FCA 66 (NG 1017 of 1998). (Sets aside decision by AAT to deny Graham a Service Pension. Refers matter back to the AAT for re-assessment with consideration of the law. Namely Section 93 of the Act).

Attachment 721 to 72c - 3 pages:

Veteran's affairs Legislation Amendment Act 1997. (Australian's who were assigned for service....).

Attachment 73:

16th January 1957 letter to J.R. Carlyon from Commander Peel RAN, Commanding Officer HMAS ANZAC. (On 29th September, the ship was engaged in an operational bombardment on Communist Terrorists in the State of Jahore, Malaya).

Attachment 74:

19th June 1996 Letter to Deputy Commissioner, Department of Veterans' Affairs from T.C. Hardie applying for a Service Pension. (This application was for service while a member of the Guard that marched in Kuala Lumpur 1 August 1960).

Attachment 75:

26th June letter to T.C. Hardie from Deputy Commissioner for Veterans' Affairs granting eligibility to apply for a Service Pension. (As an example of the ambiguity that surrounds this service. The other members of the guard were refused).

Attachment 76:

20th January 1976 letter to T.C. Hardie from Regional Director of War Service Homes granting him a War Service Homes loan. (Again, this was not granted to any other member of the group involved, yet another anomaly).

Attachment 77 a to 77b – 2 pages:

10 June 1999 letter to Mr. Noel Payne from the Minister for Veterans' Affairs, Mr. Bruce Scott. (Advising that the Government has issued 8500 ASM's to Veterans' who served in FESR between 1955 and 1971).

Attachment 78a to 78b – 2 pages:

Naval headquarters minute CN97/24073 from Vice Admiral D. B. Chalmers, AO, RAN, Chief of Navy. (Informing the Minister that advise given to the Minister by the department, regarding service in the Malayan Emergency by RAN personnel, may not always have conveyed an accurate impression).

There were 232 pages of attachments to the submission; hopefully the entire submission will soon be available in Acrobat PDF [downloadable file].