



## RIFLE COMPANY BUTTERWORTH REVIEW SUPPORTERS GROUP

46 WOODEND ROAD SHEIDOW PARK SA 5158

### PART THREE

#### COMPLAINT THREE

1. We contend that under the Duty of Care responsibilities of Senior Defence leadership at the time in 1973 are guilty of dispatching armed troops to protect Australian personnel and assets at RAAF Butterworth in Malaysia, from a known enemy (communist terrorists), but intentionally withheld the true role and mission from the troops involved and the Australian people under the public guise of it being a training activity. Subsequent senior officers and officials have continued to support this lie.

The obligation of a person to exercise reasonable care in the conduct of an activity. Breach of a duty of care which causes damage or loss to another may give rise to an action in tort (q.v.).

2. SECRET AUSTEO Minutes of the Defence Committee Meeting on 11 Jan 1973 stated “when the Australian Battalion is withdrawn (from Singapore) the requirement for a company for security duties at Butterworth will be met by providing the unit, on rotation, from Australia. This could be presented publically as being for training purposes”.

3. Definition of Security Duties “freedom from danger, something that secures or makes safe, and something given as a pledge that a person will fulfil some duty or promise”.

#### 4. THE MODERN TORT OF NEGLIGENCE

A DUTY IS IMPOSED ON A PERSON BY LAW TO ACT WITH CARE TOWARDS OTHERS. IF THIS DUTY EXISTS AND THERE IS A FAILURE TO ACT CAREFULLY AND ANOTHER SUFFERS LOSS, THEN A TORT OF NEGLIGENCE IS COMMITTED.

5. SECRET AUSTEO Minutes of Defence Committee Meeting 11 Jan 1973. Para 25 Attached as Ref 2.2 “Opportunities for exercising with Malaysian and Singaporean ground forces on a significant scale do not at present exist. Exercise by visiting small Australian ground units could take place (Provided Malaysia continued to make facilities available) on an Australian-only basis or in conjunction with UK and NZ units if available. But the international political value would be questionable.

6. Para 28 (e) of the same reference stated, “When the Australian battalion is withdrawn the requirement for a company for security duties at Butterworth will be met by providing the unit, on rotation, from Australia. This could be presented publically as being for training purposes”.

**Comment:** *First evidence of the deceptive behavior in the deployment of RCB.*

7. Those in attendance at that meeting Sir Arthur Tange CBE, Secretary Department of Defence, Admiral Sir Victor Smith KBE, CB, DSC Chairman Chiefs of Staff Committee, Vice Admiral Sir Richard Peak, KBE, CB, DSC Chief of Naval Staff, Lieutenant-General Sir Mervyn Brogan, KBE, CB Chief of General Staff, Air Marshall C F Read CB, CBE, DFC, AFC Chief of Air Staff, Sir John Bunting, CBE Secretary Department of Prime Minister and Cabinet, Sir Keith Waller, CBE Secretary, department of Foreign Affairs and Dr R S Craik, OBE Representing Secretary of the Treasury.

**Comment:** *What is not known was the opinion of PM Gough Whitlam at that time, but I would suggest that the training excuse would have been used by officials to brush the topic under the carpet and one need's to look at Whitlam's reaction to the 1975 airlift from Saigon when he found members of the RCB on the first flight to gauge his real feelings on the issue.*

**"Security Duties"** A dictionary quotes "freedom from danger, something that secures or makes safe, and something given as a pledge that a person will fulfill some duty or promise".

8. Further documents that prove training was not the real reason for deployment and that the Communist threat was real include The CONFIDENTIAL document VCGS Visit Report Dated Nov 73 Reference 2.3 as attached stated "The deployment of this company to Butterworth has in recent years assumed a real importance because of somewhat increased concern about possible threats to base security. Although the Malaysians may be expected to have assumed that this is the case, publically and privately the position is maintained on both sides that the deployment is for exercise purposes".

9. **Comment:** *Again evidence to prove continuation of deceptive behavior in the deployment of RCB at a high level*

10. CONFIDENTIAL document Minutes of the Chief of Staff Committee Meeting held on 17 Oct 1973 attached as Reference 2.4, discussion centered around the difficulties in finding training areas and MAF elements to train with. Discussion centered on the proposal to train in Johor whereupon the Chief of Air Staff (CAS) supported the Chief of Naval Staff (CNS) commented "that in moving away from Butterworth for training, the Committee was losing sight of the primary task of the company".

**Comment:** *Again confirmation at a senior level of what the RCB true role at BAB.*

11. A further CONFIDENTIAL document Minutes of the Chief of Staff Committee of 24 Oct 1973 attached as Reference 2.5, in discussing the previous document that if training did occur in Johor, Plan Asbestos may need to be revised. The CGS undertook to look into this aspect, adding that some qualification on remaining remote from CT areas might be necessary. A hand written side note stated, "recognizing that CT areas existed". Further in the document a hand written note in regards to the primary task of the company stated, "Yes a telling point". Further on in regards to being able to deploy overseas stated "an added benefit of training to the primary task – security".

**Comment:** *Again confirming "Security" was the prime role of RCB not training.*

12. Letter from the Office of the Minister for Veterans Affairs and Minister Assisting the Minister of Defence dated 21 Jan 2003 attach as Reference 2.6. "The RCB was established in 1970 as a quick-reaction force to provide protection for Australian assets within the perimeter of RMAF Base

Butterworth, due to the continued threat of Communist terrorism within Malaysia. Besides securing protection for the two fighter squadrons within the perimeter of the RMAF base Butterworth, the role of the RCB was to a quick reaction force to meet the Communist threat, and be responsible for internal security within the Air Base”

**Comment:** *A straightforward statement from the Minister of Veteran Affairs confirming RCB operational role.*

13. Email communications between Mr. C J Duffield on the 11 Aug 2000 and response from Dr Allan Hawke Secretary Department Defence on 4 Sep 2000 attached as Ref 2.7. Mr. Duffield asked questions in regard to RCB. Dr Hawke responded to most questions by deferring to current reviews being undertaken at the time, but to two direct questions, he answered as follows:

a) Is it true land forces carried live ammunition due to the threat of Communist Terrorist (CT) attack during this period? Answer – YES

b) Is it true that land forces were issued rules of engagement during this period? Answer – YES

14. Restricted Minute 801 of 207/5/14 to the Secretary of Defence and Army on the 4 October 1973 by Group Captain Hoare RAAF Services Advisor attached as Reference 2.8, recounts a conversations with Brig Gen Mohd Abdullah Samsuddin 6 MIB at Sungei Patani, in regard to joint training that “ he did not see much prospect at present of engaging in combined exercises”. He further stated his forces are committed to operational tasks and have little time for training”

He also warned in para 5 in regard to the Gurun Range training area, that it had been declared an operational area and many restrictions existed in the area. Not of least was his troops had been cleared to open fire on-sight on anyone found in the area and not wearing the appropriate MAF uniforms”. He also stated there was no room for two sets of rules and accordingly discounted the thought of the Company carrying out jungle training the area”

**Comment:** *The Malaysians saw no opportunity for joint training and warned on the hazards of training in close proximity to BAB.*

15. The ability to train in Malaysia was limited to Section Size (10 men) up to Platoon Size (30 men) and was limited by available training ranges and safe available close training areas to BAB as well as the CO RAAF BASE BUTTERWORTH giving permission for elements of the RCB being absent from the base and neglecting their prime role.

16. A Coy 3 RAR conducted the first training with the Malaysian Armed Forces (MAF) in 1977, which required the company to move to Malaysia one month prior to taking up RCB duties, as it was clear it could not conduct effective training and fulfill RCB Security Duties at the same time. Therefore the lie about training being the prime role was already being exposed and acknowledged by Army. In later years any training with the MAF was undertaken prior to taking up RCB duties. It should be noted that this exercise converted into a live MAF operation, which A Coy 3 RAR participated in.

17. Also documentary evidence shows that OC RAAF Butterworth consistently refused limited training options by RCB based on security concerns at the base. A much more cost effective method of training would be to conduct training in Australia where more expansive facilities and environments were available for a fraction of the cost.

18. A major telling point was that RCB activities were commanded and funded by HQ Field Force Command (Operations) not Training Command as they would have been if they were had it been a training activity.

19. In a document recommended by the CDF ADML C Barrie RAN and approved by the Minister Assisting the Minister for Defence B Scott MP:

RECOMMENDATION OF THE REVIEW OF SERVICE ENTITLEMENT IN RESPECT OF THE ROYAL AUSTRALIAN AIR FORCE BASE AND ARMY RIFLE COMPANY BUTTERWORTH SERVICE 1971-1989 dated 18<sup>th</sup> April 2001 attached as Reference 2.9 stated:

“The RCB was established in 1970 as a quick reaction force to provide protection for Australian assets within the perimeter of the Royal Malaysian Air Force Base Butterworth due to the continued threat of armed Communist terrorism within its borders. It was initially provided from the ANZUK Australian Force and was formally under operational command of the Commander ANZUK Forces. Besides securing protection for the two jet squadrons within the perimeter of the Air Base, the role of the RCB was to provide a quick-reaction force to meet the communist threat, and be responsible for internal security within Air Base Butterworth. The RCB was not to be involved in local civil disturbances or to be employed in operations outside the gazette area of the Air Base. Rules of Engagement (ROE) for the RCB were specific on ‘Orders to Open Fire’ if threatened and security was breached, but were applied within Air Base Butterworth only, regardless of curfew, periods of increased security, air defence exercises or time of day or night. Although it may have involved patrolling, its ROE was defensive only, not unlike those during UN Peacekeeping operations.

**Comment:** *No mention of training here.*

20. In the document Implementation of the Recommendations of the Review of Service Entitlement Anomalies in Respect of South East Asian 1955-75 included in Ref 2.1 and noted as Ref 2.1 1. Signed by A/CDF Lt Gen D Mueller and endorsed by minister B Scott MP on the 9 Aug 2000 stated: Butterworth will no doubt continue as an issue, particularly for the Rifle Company (RCB). This should be investigated further, with the possibility of an extension to 1989 when the terrorist threat from The Malaysian Communist Party finally concluded with the signing of the Peace Accord with its leader, Chin Peng. RCB service was to protect the base against terrorist insurgency and it may therefore be difficult to argue that this service was not non-warlike for medal purposes.

21. **Comment:** *The A/CDF saw the service as potentially “War Like”*

## 22. **CONCLUSION**

By engaging in deceptive behavior on the real purpose of the deployment of RCB in Malaysia, senior Military Officers and Defence Officials have caused a loss of Repatriation Benefits and Medallic rewards for those who served in RCB Malaysia from 1970 to 1989 and therefore are guilty in the Tort of Negligence.

