

**SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
REFERENCES COMMITTEE**

INQUIRY INTO DEFENCE HEALTH ARRANGEMENTS

SUBMISSION

Submission No: 1

Submittor: The Returned 7 Services League of Australia
Limited

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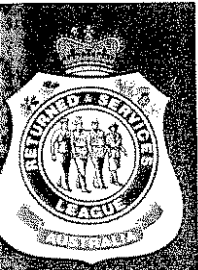
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Attachments:

THE RETURNED & SERVICES LEAGUE OF AUSTRALIA LIMITED

NATIONAL HEADQUARTERS

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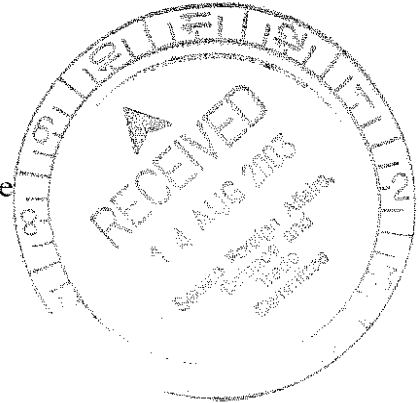


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12 August 2003

NP 366/03

Mr Brenton Homes, Secretary
Senate Foreign Affairs, Defence and Trade Committee
Parliament House
CANBERRA ACT 2600



Dear Mr Homes

Please find enclosed the RSL submission to the Senate inquiry into 'current health preparation for the deployment of Australian Defence Forces overseas'.

Should your committee require any clarification on our submission, Mr Bruce Tunnah in the RSL National Headquarters on telephone 6248 7199 will be able to assist.

Yours sincerely,

PETER R PHILLIPS AO MC
Major General (Retd)
NATIONAL PRESIDENT

Cc: Chairman RSL National Veterans' Affairs Committee

BEST WE FORGET

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THE PRICE OF LIBERTY IS ETERNAL VIGILANCE

RSL SUBMISSION TO THE SENATE INQUIRY INTO CURRENT HEALTH PREPARATION FOR THE DEPLOYMENT OF AUSTRALIAN DEFENCE FORCES OVERSEAS

BACKGROUND

The Terms of Reference for this inquiry cover six matters. The first four of these, listed as (1) (a) (b) (c) and (d), generally address matters of internal administration within the ADF upon which the RSL does not wish to make a submission. However, two matters, namely:

- (1) (e). the engagement in this process of the Department of Veterans' Affairs and the Repatriation Medical Authority for the purpose of administering and assessing compensation claims; and
- (1) (f). the adequacy of the current research effort focussing on outstanding issues of contention from the ex-service community with respect to health outcomes from past deployments and the means by which it might be improved are matters the RSL would like to address.

The aim of this submission is to explain and highlight the problem that exists for both veterans and serving ADF members who have been exposed to a raised level of ionising radiation and for whom it is virtually impossible to make a successful claim. This situation has arisen because the RMA SoPs covering diseases for which ionising radiation is a factor make it extremely difficult, if not impossible, for a claimant to gather medical evidence to satisfy the SoPs. On top of this the Repatriation Commission has, so far, refused to use the power it has under S180A to resolve such a dilemma. This means that there is a class of veterans who, having been exposed to a raised level of ionising radiation, and who have experienced the onset of a disease for which exposure is a causative factor, are quite unable to gain compensation and other associated benefits.

The submission will recommend action to overcome this unsatisfactory state of affairs.

WHO ARE THESE PEOPLE?

Some Members of BCOF

The Advance Party of the Australian component of BCOF arrived in Hiroshima in early February 1946, some five months after the explosion of the Hiroshima bomb. There is ample evidence to suggest that US Forces who occupied Hiroshima Prefecture prior to the Australian arrival, kept well clear of the devastated city. The bulk of their force was situated on the island of Eta Jima in the Inland Sea, safe from exposure. The 34th Australian Infantry Brigade initially concentrated at Kaitaichi, an outer suburb of Hiroshima, some seven kilometres from ground zero. From then on movement into and through Hiroshima was commonplace. They all drank the local beer supplied by the Hiroshima Brewery and freely used the reticulated water supply from the city reservoir. Food rations were from poor, wartime stocks and every opportunity was taken to procure local produce including the famous Hiroshima Bay oysters.

This submission contends that, by any measure, there is a reasonable hypothesis that until 30 June 1947, at least, those Australians occupying Hiroshima Prefecture were exposed to a significantly raised level of ionising radiation. Just how elevated it was is extremely difficult to say.

Bearing in mind the propensity the US Forces had to keep clear of Hiroshima until the Australians arrived, some US attempt was made to measure the amount of residual radiation in Hiroshima. History records that a "team" from the Manhattan Engineer District spent from 3 to 7 October surveying Hiroshima and, later, a "team" from the Naval Medical Research Institute spent 1 and 2 November also surveying the city. The relatively short periods concerned, the primitive nature of radiation measuring equipment available and the size of the city suggests that these surveys were fairly token activities. Unfortunately the data they collected is what present day analysts have to rely on.

Those members of BCOF who arrived at Hiroshima in February and March 1946 are unique Australians. They are amongst the only servicemen and women who have ever occupied a city attacked by a nuclear weapon and such an event has not occurred since. The great majority of them came from battlefields in New Guinea and Borneo. They had vague ideas about the dangers of "radiation sickness" but willingly and cheerfully went where they were needed on the traditional basis that, whatever happened to them, they and their dependants would be cared for.

Participants in British Atomic Testing in Australia

It is now generally recognised that the danger from ionising radiation to some Australian service personnel who participated in the British tests is quite real and, to their credit, the Department of Veterans' Affairs has for some time been conducting a health study on those involved. The results of this study will clarify to some extent the degree of radiation exposure involved. However, there are already clear indications that the record keeping of the activities of participants leaves something to be desired.

The problem facing these veterans is that their service is not covered by the Veterans' Entitlements Act and to seek compensation for disabilities arising from their participation they have to use other, non beneficial legislation.

The Clarke Committee of Inquiry has recommended that their service be covered by the VEA and that their service be classified as Non-Warlike (Hazardous). If granted, this would entitle them to the "reasonable hypothesis" degree of proof. RSL policy fully supports the Clarke committee's recommendations. As yet the Government has not made a decision on these matters.

However, the problem is that, even if the Government does decide to implement the Clarke recommendations, claimants would have great difficulty in obtaining specialist medical evidence to meet the appropriate SoP. Thus, they would be in the same limbo as BCOF veterans.

Veterans of the Gulf War

It was after the Gulf War that it became generally known that the US Forces involved had used depleted uranium during that conflict. Depleted uranium is a by-product of the nuclear weapons industry. It is abundant and cheap. Uranium is a very hard material and when used as a coating on the sharp end of a projectile (tank and artillery shells and aerial bombs) it significantly enhances the ability of these projectiles to penetrate their targets. Its usefulness against enemy tanks is obvious but it is also useful when used on bombs to penetrate reinforced concrete structures.

Unfortunately uranium is radioactive and has a relatively long half life. The use of depleted uranium on the battlefield will, inevitably, result in local pockets of residual radioactivity which by direct radiation or by ingestion of residual material (e.g dust) could inflict harm on humans.

Australian participation in the Gulf War was predominantly by RAN personnel and their chances of being harmed are lessened by being at sea. Nevertheless the possibility exists.

Veterans of the Iraq War

It is likely that the use of depleted uranium in the Iraq War was much more widespread than in the Gulf War and, of course, Australia deployed significant ground forces. The risk of Australian exposure to raised levels of ionising radiation cannot be discarded.

Much has been written and said about whether or not the battlefield use of depleted uranium poses a serious risk to combatants. Quite naturally Governments involved are reluctant to make decisions until exhaustive scientific evidence is available. The RSL view is that the jury is still out and, in the meantime, our servicemen and women are aware of the distinct possibility that human harm could result. They would like assurance that any such harm is covered by compensation legislation.

Veterans of Future Warfare Involving US and Australia in Coalition

It is highly unlikely that the US will cease using depleted uranium. In fact its use is more likely to increase. Thus, whenever Australian forces are engaged on future battlefields with US forces, the risk of elevated levels of ionising radiation will be present. Indeed, if Vietnam is an indicator, the US would supply its coalition partner with high-tech ammunition and Australian forces would use depleted uranium.

In other words the problem is not going to go away.

THE MORALE OF AUSTRALIAN SERVICEMEN AND WOMEN

Since World War I Australian servicemen and women have acquired a deserved, high reputation for prowess in battle. Their participation in recent warlike events has demonstrated that this reputation is no myth. There are a number of good reasons for this happy state of affairs but one of the important ones is the fact that, instinctively, on entering battle Australians have at the back of their minds the thought that whatever happens to them they or their dependants will be cared for by

the Government that sent them to war. They know that all Australian Governments in the past have shown concern and generosity towards veterans who have been put in harm's way.

Australians know that while they are on operational service it does not matter whether they are damaged by friendly fire or by pure accident or as a result of enemy action or even simply picking up a disease, the Government will not quibble about caring for them. But it seems that the Government cannot cope with the situation wherein, on operational service, Australians are exposed to elevated ionising radiation and later in life develop one of the disease which are known to be caused by ionising radiation. The barriers raised in these cases are high indeed.

The Government's negative position on exposure to radiation could seriously dent the current confidence Australians have in being cared for whatever happens to them in battle. This could erode a wonderful Australian attribute.

The cost of solving this problem would not be great. Most of the diseases caused by ionising radiation are cancers. The cost of treatment is automatically met by the Government now. What is missing are the benefits of compensation – usually arising late in life.

A SOLUTION

The main stumbling blocks in this situation are the RMA SoPs dealing with diseases which are known to be caused, inter alia, by ionising radiation. Originally these SoPs listed a factor which read:

“having been within four kilometres of the epicentre of the atomic bomb explosions on Hiroshima and Nagasaki within seven days of the explosion on those cities, before the clinical onset of (the relevant disease).”

However, this factor completely precluded BCOF veterans from claiming. Knowing that the US Government recognises that certain cancers are service caused based on a simple proximity to Hiroshima in the early stages of occupation, the RSL requested the RMA to review the relevant SoPs. The RMA decided to replace the factor described above with one spelling out the dose of atomic radiation, measured in Seiverts, that an individual must have received to satisfy the SoP. The dose varied from one disease to another. The problem here is that it is virtually impossible for a specialist to give evidence in these precise terms bearing in mind the paucity of medical scientific data about residual radiation in Hiroshima following the explosion. Indeed, it would be unfair to ask the specialist to seek such evidence.

The RMA is unlikely to provide a solution to the problem. The RMA appears to have difficulty in balancing the need for sound scientific-medical evidence with the fact that a veteran has no onus of proof under the existing and draft legislation, plus the fact that the whole system is supposed to be beneficial to veterans. The RMA seems to be driven by the need for sound scientific-medical evidence. The solution lies elsewhere.

The Veterans' Entitlements Act 1986, in all its wisdom, makes provision for such problems. S180A of the Act allows the Repatriation Commission to intervene if a class of veterans is being disadvantaged by the system. It can make a determination in favour of those veterans which, in effect, excludes them from the relevant RMA SoPs

and lays down the circumstances under which medical conditions can be accepted as being service caused. So far the Repatriation Commission has refused to make such a determination for those veterans who have been exposed to elevated levels of ionising radiation and have gone on to suffer from a radiation related disease.

The sole purpose of this submission is to ask the Senate to encourage the Repatriation Commission to exercise its power to solve the problem.

CONCLUSION

This submission is not intended to be a medical-scientific treatise on ionising radiation and its effect on the human body. That is not the point. The point is that there is a class of veterans who, having experienced operational service, are entitled to the reasonable hypothesis degree of proof but cannot make a successful claim based on exposure to ionising radiation. Raised levels of ionising radiation are most likely to be part of the environment of future battlefields, so the problem will be on-going until it is solved.