Good morning, Senators, Ladies and Gentlemen.

As my colleague has already outlined, the whole **RCB deception** was put in place almost from the beginning of the Malaysian Second Emergency against the Communist Terrorists (CTs).

In 1973, the Defence Committee, recommended that the deployment of RCB could be **"presented publicly as being for training purposes"** This was confirmed in the last sentence of the Minutes of the Defence Committee, *which is an Enclosure to RCB submission 35.*

These seven words created the lie that the Defence has obsessively held to its collective breast for more than 50 years and it continues to hold to those seven words to this day.

But, RCB wasn't sent to Malaysia for training purposes. That was the cover story.

It was an infantry rifle company sent on an active war deployment to protect a joint the airbase at Butterworth.

Other witnesses who have appeared before you have expressed serious concerns about the Defence Department, and the *Defence Honours and Awards Appeals Tribunal* (the Tribunal). The RCB veterans also have concerns about both the Department and the Tribunal.

The Tribunal processes are not completely fair on a number of grounds, and it would have it that it enjoys statutory independence, which of course it technically does.

However, while the Tribunal does enjoy a state of *official independence*, we believe that has been culturally captured by the Defence Department. We assert this because after our experience of appearing before the Tribunal some things cannot, otherwise, be explained.

Although the Tribunal is not a Court of Law, it is an appellate body. Its hearings follow some of the processes of a Court. It takes evidence from appellants. Witnesses are sworn-in under oath or affirmation. And it observes other binding procedures in the conduct of reviews and inquires.

In the Tribunal's submission to this Committee Mr Skehill stated that the Tribunal "*is not adversarial*".

That the Tribunal believes this to be the case it is extraordinary to the veterans. Because, if it is not in theory, *we submit that at least it is in practice.*

It is our experience that veterans appearing before the Tribunal the process is often very confronting. The tactics and demeanour employed by Defence is sometimes borderline offensive. As an example, at the Tribunal, a Defence Department representative compared our service in Butterworth with a training exercise in Australia. He said this to our very face, and the contempt for our military service was on full display.

During the Tribunal's review of RCB service, Defence actually sat alongside of the veterans and aggressively prosecuted its position and cross-examined our witnesses. They did so with all the power and legal might of the State against ex-Diggers who have little in the way of legal or financial resources.

I would remind this inquiry, that those ex-servicemen and women who face the Tribunal are appellants, not defendants.

What's more, the RCB veterans who made submissions gave evidence to the Tribunal were the actual eyewitnesses to historical events that were the subject of the Tribunal's Inquiry.

We were happy to defend our statements under oath. On the other hand, the functionaries representing Defence at the Tribunal were permitted to kibitz from the sideline. Not once did they provide evidence under oath, nor did they face cross-examination. *The Department were never challenged in a way that the Veteran's would have liked.* All their wrongful opinions entered the public record without objection - apart from those comments Mr Skehill chose to negate. Does this sound like procedural fairness to this inquiry? *And, if this state of affairs is not "adversarial" - what is the meaning off the word?*

One pertinent example of the *structural imbalance* between the Defence and the veterans was illustrated by the fact that the RCB veterans produced a comparison matrix between RCB service and other ADF deployments. The intent of this matrix was to understand the criteria used by Defence to classify the nature of service for ADF deployments.

This matrix, (**Attachment 1 to RCB Submission 35**,) is pretty straightforward in demonstrating like-for-like service. It was designed to compare and highlight the **differences and similarities** in circumstances between like-deployments?

By way of one example, the comparison matrix examines the service of ADF personnel deployed to Diego Garcia from 2001 to 2002. In this more modern conflict the Australians were based in the middle of the Indian Ocean 1600 km from Afghanistan.

Obviously there was no risk of enemy attack, yet their service was classified as warlike. **Whereas RCB service in the defence of the airbase at Butterworth where there was *a clearly identified risk of attack,* was classified by Defence as peacetime service.** *This is a pretty simple example.*

But, the *Defence Department not only refused to comment on the RCB matrix* - they *also refused, when asked by the Tribunal, to produce one of their own.*

Clearly, Defence realised that if they were to respond to a comparison it would leave them exposed to criticism that its approach was purely subjective. Complying with the Tribunal's request would terminate its long-held argument that RCB service was peacetime in nature. **Yet, Defence told the Tribunal they would not abide by the Tribunal request.** This strange response was not overturned by the Tribunal by way of direction.

Indeed, the Tribunal Chair stated in his final report of the Inquiry "*The Tribunal had no power to force Defence to meet these requests*."

The Tribunal Chair - could have - **and should have** issued a direction, because this was a compelling and demonstrative point for the RCB veterans.

Instead Defence was let off the hook by the Tribunal. Yet ***Section 110XC**, **Subsection (1)** of the **Defence Act 1903 states:***

*"The Tribunal may summon a person to attend before the Tribunal to give evidence, or **produce documents for the purpose of a Tribunal proceeding"**.*

To its credit, the Tribunal's final RCB report details the long sordid history of previous inquiries into RCB service. As a whole, it really has been a dog's breakfast and completely unfair. The devil is in the detail, and there is a lot of detail. What shines through very clearly, is that the RCB veteran's version of events has not changed a jot since we first started petitioning the Government for recognition 19 years ago.

In fact, our claims have *become increasingly supported by documentary evidence* as time rolled on. On the other hand, Defence - *and other inquiries by other Tribunals* - reflect the Department's changing positions – that, *and a general mishandling of its responsibilities.*

Defence has even failed, on one occasion, to register a ministerial instrument related to RCB service. It was supposedly an oversight – but an oversight that negatively impacted upon a rare *upgrading* decision awarded to the veterans.

If veterans and their families are to have their confidence in the Tribunal, **the role Defence plays in the Tribunal's inquiries must be reformed**. Of course, the Defence Department plays a part in the process, as do the veterans. **And naturally, as does the Tribunal itself.** But the Defence Department **should not be permitted to assume an adversarial role – even an informal one**.

If Defence makes submissions to a Tribunal it should be compelled to defend its assertions under oath, and, if need be, undergo cross-examination - just as other witnesses are required to do. Nor should the Department act as a defacto prosecutor during the proceedings.

Its very submission to this senate inquiry suggests that the Defence Department sees independence and transparency as *interference to its preordained right to determine outcomes.* **The thousands of surviving RCB veterans appeal to this inquiry to hear our voices on this matter - because it seems that the bureaucracy just wants us to go away. We are not.**

Senators, ladies and gentlemen, thank you for the opportunity in responding on behalf of the RCB Veterans Group.