



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**Main Committee**

**DEFENCE LEGISLATION  
AMENDMENT BILL (NO. 1) 2010**

**Second Reading**

**SPEECH**

**Tuesday, 25 May 2010**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

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<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Robert, Stuart, MP	<b>Question No.</b>

**Mr ROBERT** (Fadden) (5.01 pm)—I rise to lend the coalition's support to the Defence Legislation Amendment Bill (No. 1) 2010. The bill will address five separate measures, notably the following: firstly, establishing the Defence Honours and Awards Appeal Tribunal by legislation; secondly, ensuring there is procedural fairness in the discharge and termination process which relates to a person who has returned a positive test result for a prohibited substance; thirdly, ensuring that section 58B determinations, relating to remuneration and allowances, are subject to tabling and disallowance; fourthly, amending the Defence Home Ownership Assistance Scheme Act 2008 to ensure that it covers all members of the reserves; and, fifthly, amending the Defence Force Discipline Act 1982 to enable the appointment of chief petty officers and flight sergeants as discipline officers. The coalition supports all five schedules, but I wish to restrict my remarks just to schedule 1. I thank the Parliamentary Secretary for Defence Support, Mike Kelly, for his and his office and department's assistance in coming to grips with the key areas of what the bill proposes.

The principal intent of schedule 1 of the bill is to insert a new part into the Defence Act 1903 to formally establish the Defence Honours and Awards Appeal Tribunal by legislation. I note that this is the fulfilment of a Labor 2007 election policy that stated:

A Rudd Labor Government will form a permanent independent tribunal to oversight Defence honours and awards, to take the politics out of medal policy.

Accordingly, in 2008 the government established the Defence Honours and Awards Appeal Tribunal—let us call it the DHAAT—to consider longstanding defence honours and awards issues. At the time, of course, this tribunal was not supported by legislation—hence the bill now. Thus the Department of Defence issued a directive outlining the roles and responsibilities of the tribunal. Notwithstanding that the authority for this directive is unknown—and, perhaps, a little dubious at best—the government, to the parliamentary secretary's credit, stated that they would abide by the tribunal's ruling, and there does not appear to have been any infraction of that. It appears that the government has indeed abided by the rulings of the tribunal.

Prior to the establishment of the current tribunal, there was no avenue of appeal open to Australian Defence Force members, ex-serving members, next of kin or others who had applied for medals and had their application declined, short of a ministerial application. There was also no permanent body that could independently consider broader recognition issues relating to defence service. The limitations of the current unlegislated tribunal are that it can only inquire into and make recommendations relating to issues referred to it by the government and clearly has no authority to make separate decisions or to independently review defence decisions concerning eligibility for defence honours and awards.

The establishment of this tribunal as a statutory body under the Defence Act 1903 will clearly legislate the current tribunal and will, in my opinion, strengthen the current tribunal's independence, which I think will actually assist in making the Defence honours and awards decision making process more transparent. I think it provides a clear and simple process for people seeking some degree of redress to go to a tribunal to seek that redress. People will still be able to appeal a decision of the tribunal through the Federal Court under the Administrative Decisions (Judicial Review) Act, as they should be able to.

To date the tribunal has ruled on a range of awards: the criteria for the Australian Defence Medal; the claims of the Merchant Navy, including the US Army Small Ships Section; 4RAR Malaysia; and the Battle of Long Tan inquiry. And I can say the tribunal has dealt with those four in a highly professional manner, producing a set of recommendations that I think meet the high standards of community awareness and concern.

The tribunal is also currently inquiring into recognition of contributions made by officers and instructors in the Australian cadet forces; recognition of unattached Australian entertainers in the Vietnam conflict; recognition of Australian Defence Force service for SAS counterterrorism and special recovery duties; recognition of service in Somalia; recognition for members of the ADF for service in Papua New Guinea after 16 September 1975; and of

course recognition for Defence Force personnel who served as peacekeepers from 1947 to the present. I note the tribunal will rule on all military medals, including Mention in Dispatches, Imperial awards and foreign awards, which I think is a fairly inclusive way of looking at it. The procedural rules will come down via legislative instruments.

The Defence Honours and Awards Appeal Tribunal is a sensible move forward. The only thing I would add, considering the parliamentary secretary is in the room, is that we still have no area for appeals for those who are outside the military. For example, if an AusAID worker was working somewhere in Cambodia and missed out on the humanitarian medal, there is nowhere they could go to seek appeal. There is also nowhere the Federal Police could go to seek appeal or redress for those types of awards and honours. There may be room in the future for the Defence Honours and Awards Appeal Tribunal to be expanded to include a whole range of other awards and honours, including humanitarian, police and other sectors that seek to serve. I offer that constructively. Otherwise, I lend my full support to schedule 1 and the establishment of a Defence Honours and Awards Appeal Tribunal.