

23 January 2006

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Mr Owen Walsh  
Committee Secretary  
Senate Legal and Constitutional Legislation Committee  
Department of the Senate  
Parliament House  
CANBERRA ACT 2600

Dear Mr Walsh

**Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005**

I refer to your email of 14 December 2005, inviting the Society to provide a submission to the Inquiry by the Senate Legal and Constitutional Legislation Committee into the above Bill. The Society appreciated the opportunity to consider this matter, and that it was granted an extension of time to provide a response.

I advise that the Society has now considered the Bill and notes that it follows closely behind the recently passed anti-terrorism legislation. The Society opposed the anti-terrorism legislation on a number of grounds, and supported the views of the Law Council in that regard. To the extent that the effect of the *Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005* could be to support measures of the Anti Terrorism legislation, we reflect the concerns expressed by the Law Council.

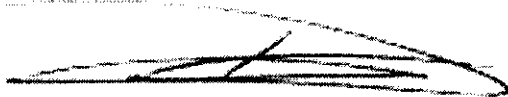
We are also concerned that the complexity of the legislation could cause difficulties for the Australian Defence Force (ADF) members who have to operate under it, for example the judgements to be made in proposed s51SE are likely to cause difficulties. These pressures would be exacerbated by the circumstances in which these powers would have to be exercised.

Whilst we appreciate that the use of the ADF including reserves is a last resort, the powers and obligations placed on those members pursuant to the legislation are onerous. Members are liable to penalties as a consequence of this Bill if they are called out. As these are not the members' primary duties, how will the Government ensure their training on these involved legal concepts is maintained? Protection should be granted to these members as well as the general public and the persons against whom they would be deployed.

We also note that the legislation contemplates circumstances where these powers would be necessary in internal domestic situations. Is there a perceived threat level at present, or one reasonably anticipated? If not, can the proposers of this legislation assure us why this legislation is necessary?

We support any legislation that protects the members of the ADF in the discharge of their duty. We are concerned that this legislation could have the reverse effect without adequate training and instruction of those members.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D J Eszenyi', written over a horizontal line.

D J Eszenyi  
**PRESIDENT**