

9th November , 2005

Dear Senate Legal and Constitutional Legislation Committee,

I urge you to take immediate action to protect theatre makers from the seriously detrimental potential impact of the proposed amendments to the sedition offence set out in sch 7 of the Anti-Terrorism Bill (No. 2) 2005, introduced to the House of Representatives on Thursday, 3 November 2005. The ability for artists to freely and publicly express their ideas, critiques and opinion is bedrock in our society and vital to the existence of the theatre industry.

The legislative response to the threat posed by terrorism should be proportionate and appropriately adapted to ensure the safety and preservation of our society, whilst balancing the rights and liberties of individuals.

The new sedition offence will jeopardise theatre makers' freedom of expression and action and unfairly theatre makers' rights and liberties. It is cast so widely as to catch theatre makers engaged in their professional activities and is in breach of the guarantee of freedom of expression under the International Covenant on Civil and Political Rights.

It is appropriate that the Government should limit the ambit of the new offence to ensure that freedom of expression is protected. I join with Theatre Arts Network Queensland, the National Association for the Visual Arts Limited and Australian Lawyers for Human Rights and urge you to:

- act to secure the removal of the Proposed Amendment from the Bill; or
- as a minimum, ensure that the changes proposed by the National Association for the Visual Arts Limited and Australian Lawyers for Human Rights (attached) are made immediately. PDF Attached.

As a professional theatre maker, I regard the Proposed Amendments with the utmost concern.

Thank you in anticipation for your support of artists' rights.

Yours sincerely

Kurt Duval

Proposed Amendment to the Anti-Terrorism Bill 2005

Omit sub-sections 80.2(7), (8), (9)

Insert after 80.2(6) the following:

" 80.2A Exemption

Sections 80.1 and 80.2 do not apply to anything said or done reasonably and in good faith:

- (a) in the creation, performance, exhibition or distribution of an artistic work; or
- (b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or
- (c) in making or publishing:
 - (i) a fair and accurate report of any event or matter of public interest; or
 - (ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment."

Change clause 80.3 Defence for Acts done in good faith, to require the onus of proof to rest with the prosecution rather than the accused.

(The provision is based on s.18D of the *Racial Discrimination Act 1975* exemption from racial hatred.)