

SCRUTINY HAS LEFT VICTORIA

By **DAVID DAVIS**



WHAT is it about Daniel Andrews and his grab for unchecked, authoritarian powers?

First the State of Emergency Extension Bill that provided a clutch of sweeping new powers and doubled the length of time a state of emergency could remain in operation, and now the COVID-19 Omnibus Bill adds even more powers, broadening the class of authorised officers and giving them virtually unchecked authority.

Both these bills have been brought to the parliament in haste, without the required scrutiny, without proper checks and balances. The watchdog of the Victorian parliament, the scrutiny of acts and regulations committee, is meant to examine bills and regulations, checking for infringements on rights and liberties on behalf of the Victorian community.

The omnibus bill was passed this week by the Legislative Assembly without a report or scrutiny from SARC just as two weeks ago the state of emergency bill was crunched through both houses in a week, also not having been fully examined and reported on by SARC.

The Liberal-Nationals have been deeply concerned about both bills and the increasingly draconian and authoritarian tone of the Andrews government and, whatever the merits of otherwise of these pieces of legislation, sensible, balanced Victorians would be horrified to realise these basic checks and balances on their rights were bypassed. To this end, I have introduced into the Upper House the Parliamentary Committees Amendment (SARC Protection Against Rights Curtailment by Urgent Bills) Bill 2020.

For some time the scrutiny of acts and regulations committee has struggled to meet its important role to scrutinise legislation in a timely way and advise parliament of likely rights infringements or breaches of the Charter of Human Rights and Responsibilities. This bill is a modest attempt to improve those protections.

There are clear weaknesses recently identified in SARC's capacity to examine bills brought to the chamber as urgent or otherwise in need of expedited treatment. This came into sharp focus in August when the

Public Health and Wellbeing Amendment (State of Emergency Extension and Other Matters) Bill 2020 was introduced in the Legislative Council and passed in a single day, having been declared urgent.

It was subsequently passed in the assembly three days later. SARC did not consider the bill in detail and did not report in a timely way, certainly not before the passage of the bill. So, a bill that legislated the potential for massive curtailment of the rights of citizens and provided sweeping powers that clearly engaged with Charter of Human Rights and Responsibilities matters was passed without full or even adequate comment by parliament's human rights watchdog — a toothless watchdog that did not even bark.

Other weaknesses were also exposed during this process. The government released an exposure draft a week before debate commenced, but despite being alerted of the need to undertake these examinations, SARC appeared unable under the Parliamentary Committees Act 2003 to fulfil what logically should have been its responsibility. This loophole needs to be closed.

Some would say the rapid passage of the state-of-emergency legislation necessitated the truncation of processes given the emerging deadline, but in fact, such impactful legislation, which clearly infringes well understood human rights is a case where, despite short time lines, examination is more important, indeed critical, to safeguard longstanding rights and liberties.

The bill opens a mechanism where exposure drafts can be examined by the committee, where ministers or proponents of private members bills are able to request that SARC examine a bill. This will mean more timely, considered and thorough examination for infringement of rights.

The bill will also encourage the rapid examination of bills being expedited through the chambers or where they have been designated urgent. In such circumstances SARC will be encouraged to meet swiftly, conduct a brief examination, and report to the chambers as soon as is practicable. Best practice would suggest in most circumstances a bill should not pass, even when being expedited, without even a cursory examination of its impact on the rights of Victorian citizens.

In a democracy the parliament must not only legislate but also act as a check on the infringement of the rights of citizens and the encroachment on those rights by the executive. An enhanced role for SARC will help achieve that role of checking the executive's encroachment on the rights of citizens.

The Andrews government has crunched the COVID-19 Omnibus Bill through the lower house, with no examination by SARC of its infringements on the rights of Victorians, clearly demonstrating the very real need for my amendment, which will be debated in the upper house when it next sits in coming weeks.

Victorians understand the legitimate need for proper government powers during the COVID-19 pandemic, but many Victorians are watching with increasing disquiet, indeed concern, at both the new powers the government is demanding on a wide front, and its increasingly arrogant and dismissive approach to the parliament.

First it sought to close down the parliament for extended periods to avoid scrutiny. Second, when the upper house did sit, refusing to answer questions. Thirdly a trenchant opposition to proper independent committee scrutiny. Fourthly, the bizarre imposition of a curfew which had neither health nor police input, repudiated this week by the Legislative Council.

Finally, the disturbing habit of introducing urgent bills that strip rights from Victorians, forcing them through the parliament without scrutiny by parliament's rights watchdog.

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