



Website: www.thecomunityforum.com.au

Email: bob_mann@thecomunityforum.com.au

Mobile: 0490 823 400

ABN: 33 497 866 231

The Honourable Members
Legislative Council
Victorian Parliament

Dear Members

28th September, 2020.

RE: Omnibus (Emergency Measures) Bill currently before you in the Legislative Council

I refer to the Omnibus bill that is currently being considered by the Legislative council of the Victorian parliament. As an elected member of that chamber, I am writing to you to encourage you to reject this bill in its entirety.

The good people of Victoria have already been forced to endure too much pain through these COVID-19 lockdowns and to further impose on their liberties through these draconian proposals is clearly a breach of their human rights.

I would like to point out to you the code of conduct for Ministers and parliamentary secretaries for the Victorian parliament which you can find at <https://www.vic.gov.au/sites/default/files/2018-09/Vic-Code-of-Conduct-Ministers-Parliamentary-Secretaries.PDF>

In particular, I would like to point out to you clauses 2.1, 2.2, 3.4, 3.5 and 3.6 from within that code of conduct. For your convenience, I have listed these clauses below and highlighted appropriate sections that I believe are appropriate to this new bill.

2.1 When taking decisions on or in connection with their official capacity, Ministers and Parliamentary Secretaries must do so in terms of advancing the public interest – that is based on their best judgement of what will advance the common good of the people of Victoria through honest, efficient and effective government.

2.2 In carrying out their duties:

- *Ministers and Parliamentary Secretaries must ensure that they act with integrity – that is, through the lawful and disinterested exercise of the statutory and other powers available to their office and by appropriate use of the resources available to their office for public purposes.*
- *They must observe fairness in making official decisions – that is, to act honestly and reasonably, with consultation as appropriate to the issue, taking proper account of the merits of the matter, and giving due consideration to the rights and interests of the persons involved as well as the wider community.*

They must accept accountability for the exercise of the powers and functions of their office – that is, to ensure that their conduct, representations and decisions as Ministers and Parliamentary Secretaries, and the conduct, representations and decisions of those who act as their delegates or on their behalf – are consistent with the particular responsibilities of their office noting that Ministers exercise greater authority than Parliamentary Secretaries.

3.4 Whatever the motivation it is the democratic right of a citizen to raise issues and to have them dealt with on their merits and it is the responsibility of the Minister or Parliamentary Secretary to consider those issues appropriately.

3.5 Irrespective of the context, and whomever the person or business, community group, association or entity involved, Ministers and Parliamentary Secretaries should always ensure they act in accordance with their overall obligations to the people of Victoria for honest, efficient and effective government.

3.6 It is important that anyone in the community be able to raise issues and make representations to Ministers and Parliamentary Secretaries and/or their offices if they have matters meriting attention.

While this code of conduct is specifically for Ministers and parliamentary secretaries, I believe it also applies to every Member of Parliament who could at some time hold these positions. If any of you would dispute that, I suggest to you that would be an act of both political and ethical cowardice.

So I believe that along with every member's oath of office, that these codes of conduct are applicable to every Member of Parliament and should be taken into consideration, whenever a bill potentially lessens Victorian citizen's liberties or rights.

There should be enough references within these codes along with listening to the concerns of the Victorian public for all members of parliament to give serious and due consideration to rejecting this bill entirely. In fact, if you sit in this chamber to serve in the best interest of the wider Victorian community, as you should, then you have no other choice but to reject this bill. Any legitimate consideration should raise serious doubts with any Member of Parliament, no matter your political allegiance, about passing this bill.

As members of the legislative council, you recently had the opportunity to relieve the onerous burden being forced upon Victorians when you collectively failed to reject the government's extension of State of Emergency powers for a further six months.

The very next day after those powers were extended, we witnessed how those powers were to be used by the government when Victorians were mortified to see a pregnant Ballarat mother placed in handcuffs for having the temerity of sharing a Facebook post.

Now we discover in a further attempt to lessen Victorians rights and liberties, this Omnibus bill will provide police and other government-appointed individuals the power to arrest and detain indefinitely people with the potential to break COVID-19 restrictions.

Thought police in Australia? Could anybody have ever even imagined that? Yet now not only have a majority of Legislative members shamefully voted for this, but many in your chamber are actually giving this serious consideration.

This is not just the concern of "batshit crazy, tinfoil hat-wearing citizens" that were disgracefully labelled by Assistant Police Commissioner Luke Cornelius. It has been of so much concern to some of the brightest legal minds within our state and country that they have gone to the extraordinary effort to write to you to warn against the dangers of this bill.

From the Age Newspaper

“The letter from Victorian Bar president Wendy Harris, QC, to Attorney-General Jill Hennessy outlined the organisation's concerns with the Omnibus (Emergency Measures) Bill, which would hand power to Health Department-appointed authorised officers to detain anyone they “reasonably believe” may negligently spread the virus. to warn that proposed laws to detain potential spreaders of coronavirus could breach the state's human rights charter and allow citizens to be placed in arbitrary detention.

A separate letter on Tuesday from a group of retired judges and leading QCs, who warned Premier Daniel Andrews against the emergency measures, which they say would result in “unprecedented, excessive” powers. In the letter to Ms Hennessy on Tuesday, Ms Harris wrote that “potentially untrained and unprofessional” people appointed as authorised officers could be enforcing rules that “cannot be justified” under the Victorian Charter of Human Rights and Responsibilities Act.

“Unconstrained and undefined subjective powers naturally invite the tendency to exercise them to the fullest, and in breach of human rights,” Ms Harris wrote.

Even further;

“Vice-president of the Australian Bar Association (ABA), Mathew Collins QC, said the ABA “shares the concerns expressed by the Victorian Bar”. He said the ABA would issue a joint statement with the Victorian Bar on Wednesday morning opposing elements of the bill.

The Omnibus (Emergency Measures) Bill, which passed the government-controlled lower house on Friday but faces opposition in the upper house, would allow the government to expand its ranks of authorised officers to include PSOs, WorkSafe inspectors and non-government workers.

People suspected by authorised officers of being likely to spread the virus if they are COVID-positive or a close contact of an infected person could be detained – potentially in hotels or other locations where they could be monitored – if the bill is passed.

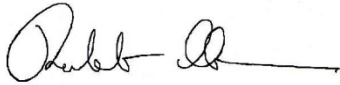
The rules could be applied to people who refuse to self-isolate or severely drug-affected or mentally impaired people deemed unable to safely quarantine”

How could any politician take the unheard-of step to implement what can only be considered Orwellian measures on top of ones that are now already widely considered draconian? All this is amplified with COVID-19 positive test numbers falling dramatically. Many wiser heads than mine are arguing that current lockdown measures should be drastically reduced rather than further harsher measures being introduced. At what point do you demonstrate faith and confidence in the people you have been given the privilege to govern as opposed to treating them like inmates in a detention camp?

Every Member of Parliament should think long and hard before passing this bill. The only way any member could pass this bill is to cowardly embrace petty party politics and partisanship, while abandoning any regard for their fellow citizens rights. In the case of crossbenchers, any vote in favour of this bill could only mean you are honouring some form of murky backroom deal instead of instead honouring your responsibly to the wider Victorian community.

Every Victorian and more widely every Australian will be watching keenly as to your vote in this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bob Mann', with a long horizontal flourish extending to the right.

Bob Mann
Director/Owner
The Community Forum online newspaper

Sources for this letter.

<https://www.legislation.vic.gov.au/bills/covid-19-omnibus-emergency-measures-and-other-acts-amendment-bill-2020>

<https://www.theage.com.au/national/victoria/people-who-refuse-to-self-isolate-could-be-detained-under-proposed-victorian-law-20200914-p55vm0.html>

<https://www.theage.com.au/national/victoria/unconstrained-powers-top-legal-minds-warn-andrews-government-bill-enables-arbitrary-detention-20200922-p55y6f.html>