

OPINION

Is democracy under threat in Victoria?

The change which is currently occurring in Victoria is unfortunately regressive and oppressive . . . changes that are occurring in Victoria clearly demonstrate that nothing is sacrosanct.

(1992) 17 *Alt.LJ* 258, Opinion.

The Kennett Government is displaying disturbing authoritarian tendencies in its determination to protect the Albert Park Grand Prix from public scrutiny, legal challenge and statutory impediments.

Age, Editorial, 17.9.94.

These quotes illustrate that in the intervening two years, the worst fears of some Victorians have been realised. The initial burst of autocratic energy displayed by the Liberal/National Party coalition on obtaining government was a reliable indicator of the Kennett style of government (see Giddings, J., 'A Bad Moon on the Rise', (1994) 19 *Alt.LJ* 179).

The manner in which the Kennett Government obtained and is organising the staging of the Formula One Australian Grand Prix (GP) at Albert Park provides a vivid example which supports an affirmative answer to the question, 'is democracy under threat?'. Since the announcement in December 1993, that the GP would be held at Albert Park (an inner suburban park and lake), the Government has placed itself above/outside the law.

The Government refuses to be accountable to parliament let alone the Victorian public. No specific economic details about the staging of the GP are available. Attempts by the opposition to use freedom of information legislation to obtain details from the government relating to the GP were basically unsuccessful. The AAT justified the lack of access to information on grounds of 'commercial confidentiality'. However, normal business practices like the formulation of a business plan and economic strategy have not been implemented by the Government in relation to the GP. This has drawn criticism from the Auditor-General but to no avail despite the fact that at least \$100 million of taxpayers' money is targeted to facilitating the staging of the GP at Albert Park. Similarly,

details of the proposed track design and alterations to the park were unknown until mid November 1994 when the worst fears of those opposed to the concept of turning a park into a race track were confirmed.

A more dramatic example of the vulnerability of the Victorian citizen is the *Australian Grand Prix Act 1994* (Vic.) proclaimed and assented to on 25 October 1994. The purpose of the Act is to establish the Australian Grand Prix Corporation and to facilitate the holding of an annual Formula One Grand Prix at Albert Park (s.1). In the process of fulfilling this purpose, the Act exempts race contracts from freedom of information laws; restricts the jurisdiction of the Supreme Court to award compensation and enables the responsible Ministers to declare the park and its confines 'a declared area' further limiting the rights of those individuals in the declared area.

The Save Albert Park group claims the legislation is anti-democratic and a circumvention of normal statutory protections and common law rights and that it allows the Government to pass regulations banning protests during the race. The Victorian Council for Civil Liberties and the Bar Council also expressed concerns about the legislation, in particular, at the exclusion of the Supreme Court jurisdiction. In the past two years the Government has amended the State's Constitution 34 times to prevent citizens seeking redress for wrongs or reviews of its decisions in the Supreme Court.

These views are reinforced by findings of the bi-partisan Scrutiny of Acts and Regulations Committee of the Victorian Parliament. Three of the five Government members joined with the Labor members to find that several sections in the Act trespass unduly on rights and freedoms and make rights, freedoms and obligations dependent on insufficiently defined administrative decisions or non-reviewable administrative decisions.

The extent to which citizens' rights are being infringed is illustrated in the following example. Legal proceedings were commenced in the Supreme Court, on behalf of a local resident. He claimed the Government breached principles of natural justice — in particular, not allowing the public to be heard — when it failed to carry out an environmental effects statement on the impact of holding

the GP at Albert Park and when it exempted the GP from the *Environmental Effects Act 1978* (Vic.) through the Governor-in-Council. These proceedings were thwarted by an inclusion in the *GP Act* of a provision exempting the GP from the *Environmental Effects Act 1978* and a subsequent decision which reversed the Governor-in-Council's declaration. Normal avenues of legal redress and review are not available to individuals nor to affected communities.

Since February 1994 the Save Albert Park group, while not opposed to Victoria holding the GP, has protested that it is not appropriate for a motor car race to be held at Albert Park. The group argues that the GP is better placed elsewhere. Several large rallies (10,000 and 5000 people attended) have occurred. Non-violent protests against the destruction of the park and the construction of the race track have already begun. To date the relations between the police and protesters have been cordial, resulting in 74 polite arrests. However, the Kennett Government's response to protest has, in the recent past, been brutal and unprecedented for Victoria. Whether similar tactics will be used on this group is yet to be seen.

The campaign to save Albert Park is only one of many protests and community actions throughout the State. People are protesting at the loss of government representatives through the amalgamation of local councils, the interference in judicial independence, the politicising of government appointments, the expansion of freeways, the loss of local amenities including the Fitzroy swimming pool, the liberalisation of planning laws to allow take-away food chains to set up in residential streets and the dismantling of the health and education systems.

Many Victorian citizens now wonder how often an elected government (with a majority in both houses of parliament) can ignore or attack the fundamentals of democracy. A subsidiary and harder question is how, in our style of parliamentary 'democracy', do those concerned about this threat to democracy prevent it? Analysis of the activities and fate of the Save Albert Park group may shed some light on the answer.

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