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The Chair
Select Committee on COVID-19
c/- Committee Secretary
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

[by email to: covid.sen@aph.gov.au]

Dear Select Committee Members

RE: INQUIRY INTO THE RESPONSE TO COVID-19

Thank you for the opportunity to make a submission to your inquiry into the response in Australia to COVID-19.

While Civil Liberties Australia (CLA) welcomes this inquiry, we note that at the time of writing the response is ongoing and therefore any inquiry at this stage is going to be partial. We have therefore limited this submission to a set of related issues about which we believe this Select Committee can make definitive findings now and can make recommendations for immediate action.

Recommendation 1:

Australian parliaments at both the federal and state/territory levels should take urgent action to ensure that, in times of emergency, they are able to continue their functions – and intensify them.

Australians were surprised to discover that, in response to the COVID-19 pandemic, parliaments at both the federal and state/territory levels were suspending sittings and in other ways reducing their normal functions. Businesses and service organisations around the country were quickly able to activate business continuity plans and maintain essential services. Yet, despite two decades of passing a raft of national security laws to deal with the threat of terrorism and other catastrophes, parliaments had seemingly given little thought to the continuity of their own work. They were apparently taken by surprise and had little by way of back-up plans.

More than ever, Australia needs fully functioning parliaments in times of national emergency. Federal and state/territory governments were immediately able to constitute an emergency 'National Cabinet' to ramp up consultation and policy coordination. Similarly, parliaments needed to ramp up their role in scrutinising legislation, examining the evidence base for government actions and questioning public officials about policy implementation. But, at just this time, parliaments were ramping *down* their functions.

In some jurisdictions, a lack of appropriate videoconferencing and other facilities was cited as the reason. In others, it was claimed that standing orders did not allow for virtual sessions of parliament.

CLA therefore recommends that presiding officers of houses of parliament at both the federal and state/territory levels examine and address the impediments – technological, logistical and legal – that prevent parliaments from maintaining and ramping up work in times of national emergency.

Recommendation 2:

Australian parliaments at both the federal and state/territory levels should create arrangements to activate dedicated, cross-party committees of parliament in time of emergency.

Around Australia, federal and state/territory parliaments responded in widely divergent ways to the COVID-19 pandemic: some created special parliamentary committees, some re-purposed existing committees, while others seemingly had no such arrangement at all.

In a federal system, CLA recognises that different jurisdictions are entitled to adopt different approaches. However, these approaches should reflect careful thought and planning, not be made up on the fly.

Recommendation 3:

Arrangements for the continuity – and intensification – of parliamentary work should be properly rehearsed and tested.

Around Australia, governments and emergency response agencies rehearse their emergency response plans in ‘exercises’ so that the plans are tested, everyone understands their role in the plan, and modifications can be made to the plans if flaws in them are revealed.

CLA recommends that presiding officers at both the federal and state/territory levels similarly take responsibility for testing their emergency response plans – including the business continuity arrangements outlined above. Among other things, they should insist that parliaments be involved in national and state/territory exercises.

Yours sincerely

Dr Kris Klugman OAM
President

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Civil Liberties Australia is a not-for-profit association which reviews proposed legislation to help make it better, as well as monitoring the activities of parliaments, departments, agencies and forces to ensure they match the high standards that Australia has traditionally enjoyed and continues to aspire to.

We work to keep Australia the free and open society it has traditionally been, where you can be yourself without undue interference from 'authority'. Our civil liberties are all about balancing rights and responsibilities, and ensuring a 'fair go' for all Australians.