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**THE DISMISSAL OF THE WHITLAM
GOVERNMENT**

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“It’s time for a new government—a Labor Government”

Gough Whitlam, November 1972

The Dismissal of the Whitlam Government – a defining moment in Australian history

By Siobhain Galea

The dismissal of the Whitlam government, or constitutional crisis of 1975, was a point of political contention that changed Australia's government. The dismissal took place on Remembrance Day 1975 in Canberra. It was a defining moment in Australian history as it led to the alteration of Senate procedures which could determine the fate of governments. The dismissal posed fundamental questions about the respective powers of the Senate and House of Representatives and is therefore also called the 1975 Australian Constitutional Crisis. This essay will discuss the background of the dismissal, the key events contributing to it, and the constitutional issues involved. It will also examine what affect the dismissal has had on how government functions today and how it was resolved.

Edward Gough Whitlam became the 21st Prime Minister of Australia on 5 December 1972. Whitlam, known to all by his second name, was born on 11 July 1916 to a family that encouraged political involvement for the benefit of Australia. Although born in Melbourne, Whitlam had his primary, secondary and university educations in Canberra and Sydney. His father Fred was a federal public servant who later served as Commonwealth Crown Solicitor. Fred Whitlam was involved in human rights issues and was a powerful inspiration to his son. Gough himself later took up human rights when as Prime Minister he expunged the last traces of the "White Australia" policy, which had discriminated against immigrants from certain countries and races.

After the outbreak of World War II in 1939, Whitlam enlisted with the Sydney University Regiment as part of the Army Reserve. In 1941, with just a year left of his legal studies, he volunteered for the Royal Australian Air Force. Shortly afterwards he married Margaret Dovey, the daughter of a barrister who later became a justice of the NSW Supreme Court. Ten years later, in 1952, Whitlam entered parliament as ALP Member for Werriwa in south Sydney, retaining the seat in 11 more federal elections over 25 years.

In 1960 Whitlam became Deputy Leader of the ALP and in 1967 assumed the position of Leader of the Opposition on the retirement of Arthur Calwell. Whitlam was elected Prime Minister five years later in 1972. During his 1972 campaign policy speech, he discussed equality in Australia:

"We want to give a new life and a new meaning in this new nation to the touchstone of modern democracy – to liberty, equality, fraternity."¹

¹ The Relevance of the Whitlam Government Today

By the early 70s, in the years prior to Whitlam's election, many Australians had grown exasperated by what they considered the lack of change in Australia under the conservative Liberal government: the ALP's campaign slogan was "It's Time". Whitlam's Labor government had been elected in 1972 with a majority of nine seats in the [House of Representatives](#), but with the Opposition left in control of the [Senate](#). This was the first Labor Government in twenty-three years, replacing coalition government by the Liberal and Country parties. Perhaps mindful of this twenty-three year gap, Whitlam decided to launch into a wide-ranging reform program for Australia.

One of Whitlam's first acts of the new government was to end conscription for military service. He raised concerns in the economy, however, by revaluing the Australian dollar by 7.05%. Social and ethical changes, such as the elimination of capital punishment and equal wages for women in all situations, were implemented by the Whitlam government. The institution of free universal health care (Medibank) and free tertiary schooling were successful campaigns (although the former has since been replaced by Medicare, and the latter by government loans). In the Labor Budget, social rather than economic importance was stressed. Many within and without the government were apprehensive. The problem of inflation became severe and Australia, along with many other countries, went into recession and unemployment was 5%. The Labor Party's seats in the 82-member Queensland State Parliament dropped from 33 to 11. Prior to this Whitlam had extensively canvassed for the Queensland state election and so the disaster was a great blow.

This was a sign that the Labor Party's popularity was declining. In 1974, following obstruction in the Senate, Whitlam was forced into a double dissolution of the Parliament. Gough Whitlam did win the 1974 election, but with a reduced majority of five seats. In the House of Representatives the Coalition and Labor each had 29 seats with the balance of power in the Senate held by two independents.

During 1975, the 'Overseas Loans Affair' put a strain on the Labor Government. The Senate had threatened to block the supply bill and Whitlam decided to seek further finances elsewhere. This was when Rex Conner, Minister for Minerals and Energy, and Treasurer Dr. Jim Cairns, among others, tried to raise an overseas loan of \$4 billion. This loan had been intended to fund natural resource and energy projects. Instead of the loan being requested from traditional sources such as America and Europe, it was sought from the Middle East,

[Keynote Address by the Hon E.G. Whitlam AC QC](#)

[Thirty Years Later: the Whitlam Government as Modernist Politics](#)

[Old Parliament House, Canberra, 2 December 2002, 0930hrs](#)

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which had become increasingly wealthy with 'petrodollars' following the quadrupling of oil prices in 1973-74. A Pakistani broker named Tirath Khemlani handled the loan. It was predictably never obtained: Khemlani was found to be unreliable, Cairns was removed as Treasurer, and the Australian Labor Government was seen as reckless.

The government had lost control of the Senate after one ALP Senator, Lionel Murphy, was appointed to the High Court and a Queensland ALP Senator, Bert Milliner, died. Despite a strong convention that the vacancies should be filled from the same party, neither senator was replaced by a person recognised by the ALP. This gave the coalition a majority of one seat in the Senate, allowing it to block any legislation of Whitlam's. More than thirty pieces of legislation were blocked, including the passing of the budget. This meant that the government was unable to fund itself. With Parliament unable to resolve the deadlock, the Governor-General dismissed the government on 11 November 1975 and triggered a new election. This was a defining moment.

Two people who contributed to the Gough Whitlam dismissal were Lionel Murphy and Albert Field. Lionel Murphy resigned as NSW senator early in 1975, and Liberal Premier Tom Lewis refused to replace him with a Labor nominee, as convention dictated, instead appointing Liberal Politician Cleaver Bunton, Mayor of Albury, to fill the vacant seat. Bunton had led a relatively quiet political life until being appointed to the Senate. Lewis' decision to appoint him was highly nonconventional, as Bunton was not affiliated with any political party . . . In a way, he continued in this fashion, preferring to act independently, remaining neutral to both Labor and Liberal parties. However, he did side with Labor in support of the supply bills during the Constitutional Crisis. The requirement of the Constitution that casual Senate vacancies be filled by a member of the same party did not come about until 1977. This is another defining moment as it would prevent any future dismissals in similar circumstances to the Whitlam dismissal.

Albert Field was a member of the ALP, but a known opponent of Whitlam. When Queensland ALP Senator Bertie Milliner died suddenly in mid-1975, the Labor Party nominated Mal Colston to replace Milliner. It was a time-old tradition that when a vacancy occurred in the Senate, the relevant party would nominate a replacement to the state premier, who then allowed the state parliament to formally appoint the nominee. However, on this occasion in 1975, the Country Party Premier Joh Bjelke-Petersen requested a list of three names, from which he would personally choose a replacement Senator. Although this was not a usual practice, a list of names had also been requested by Bjelke-Petersen's predecessor Frank Nicklin in 1962, and Bjelke-Petersen was possibly relying on this instance as grounds that it was a feasible option. The Labor Party refused to make him a list, insisting that Colston should be appointed. Bjelke-Petersen, in opposition to Whitlam, then appointed Field who, while being a longstanding member of the ALP, was also highly critical of the Whitlam government. Because Albert Field accepted the position, knowing that it would frustrate Whitlam, he was soon expelled from the ALP. Because of the controversy surrounding Field's and Bunton's appointments, the Constitution was amended, requiring that casual Senate vacancies be filled by a member of the same party.

The Governor-General, Sir John Kerr, was one of the principal contributors to the dismissal. Kerr had graduated from the University of Sydney in Law in 1938 with first class honours. He

went on to lead a long public career including being the Directorate of Research and Civil Affairs during World War II, Principal of the Australian School of Pacific Administration, and the first Secretary-General of the South Pacific Commission. Kerr returned to the Bar in 1948, representing [trade union](#) clients, and was a member of the ALP. Before the 1951 election he intended to seek Labor endorsement for a parliamentary seat but withdrew in favour of another candidate. In 1966 Kerr was appointed a judge of the Commonwealth Industrial Court and in 1972 Chief Justice of New South Wales. He was knighted in the New Year's Honours of 1974 and in February was appointed Governor-General.

1975 was actually the first time the Governor-General stepped in to such a situation and used the powers he holds as representative of the Queen. Ordinarily the Governor-General acts only on the advice given by the government; but in extreme cases he can employ the reserve powers which allow him to make executive decisions. However, Sir John Kerr's decision to dismiss Whitlam's government was nonconventional. For one thing the Constitution states that the Governor General should only appoint and dismiss when advised to do so by members of the Federal Executive Council, the body holding executive authority under the Constitution of Australia. Evidently the 1975 dismissal did not follow this convention.

Kerr appointed Malcolm Fraser, leader of the opposition, as caretaker Prime Minister until the election. Fraser, like Whitlam, had a family history of political involvement. His grandfather, Simon Fraser, had emigrated from Nova Scotia in the 1850's and became a successful pastoralist as well as a member of the Victorian Parliament, the Federation Conventions (a federal movement which promoted national organizations and federal leagues), and the Australian Senate.

Fraser, having gained an early reputation as a right-winger, had a long wait for a ministerial position. He was finally appointed Minister for the Army by Liberal PM Harold Holt, in 1966. Under Liberal PM John Gorton, Fraser became Minister for Education and Science, and in 1969 was made Minister for Defence, at that time a challenging post during Australia's involvement in the Vietnam War. When Whitlam's ALP won the 1972 election, Malcolm Fraser became a member of the opposition front bench under the leadership of Billy Snedden. In March 1975, Fraser replaced Snedden as leader of the opposition.

When Whitlam came to power in 1972, the Labor Party had a majority of 9 in the House of Representatives. In the Senate there were 26 Labor members and 26 Liberal Members, with 8 independent members. After Senator Murphy's replacement by Bunton, Labor had 25 Senators, Liberal 26 and 9 Independent. Whitlam had been relying on the majority of independents siding with Labor. At that time the Senate consisted of ten members from each of the six states, elected by proportional representation. Whitlam fell short by allowing the Labor majority to become so small, relying solely on the support of independent members.

“It’s time for a new vision of what we can achieve in this generation for our nation and the region in which we live. It’s time for a new government—a Labor Government.”²

Whitlam’s ambitions for his Labor Government certainly were impressive. His party had not been in power for the past two decades, and Labor supporters were thrilled by his successful campaign and election. However, Whitlam easily became overconfident and disregarded the crucially close numbers of Labor vs Liberal in the Senate. Between 1972 and 75, when Whitlam was in power, the Senate rejected over 30 major pieces of legislation and forced hundreds of amendments to other bills.

When the Senate blocked the supply bill, the government was put at a standstill. Fraser had sought the advice of the retired Liberal PM Sir Robert Menzies about taking this action, to which Menzies replied, he found the tactic “distasteful but in this case necessary”. It was then, on Remembrance Day 1975, that Sir John Kerr had to dissolve both houses of Parliament, a double dissolution, and issue the writs for a new election. This election resulted in an overwhelming majority in favour of the Coalition, who held 91 seats compared with Labor’s 36. This could be seen as the people’s support of Sir John Kerr’s decision, and their altered views regarding Whitlam’s government. Through these words Whitlam expressed his outrage at having been dismissed as Prime Minister by Sir John Kerr:

“Ladies and Gentlemen, well may we say ‘God Save the Queen’, because nothing will save the Governor-General.”³

He had been confident that the voters would share his outrage and vindicate him in the election following the Dismissal. The Dismissal raised crucial questions about Australian democracy, centring on the disagreement between Whitlam and Fraser over the powers of the Senate and the House of Representatives. While Whitlam argued his right to govern so long as he retained a majority in the House of Representatives, Fraser asserted that a government denied supply by the Senate should resign.

This dispute raised fundamental questions: how the Government derives its legitimacy; whether the States’ House (the Senate) has an independent legitimacy; the scope of the Reserve Powers; and the legal enforceability of constitutional conventions. The powers of the Senate and Governor-General were not amended following the 1975 election: the Senate retains its power to block supply, and the Governor-General the power to dismiss a government. However, a 1977 referendum sponsored by Fraser and supported by the ALP, which required State Parliaments to fill casual Senate vacancies from the same party, was carried; a defining moment following the dismissal. As well as this, informally, opposition parties have, since 1975, committed not to block supply in the Senate.

The dismissal of the Whitlam Government was ultimately necessary since it was the only choice Sir John Kerr could make. The correctness of his decision in terms of the conventions

² From the opening words of Gough Whitlam’s speech at Blacktown Civic Centre, November 1972

³ A quote from Gough Whitlam following his dismissal, 11 November 1975

has been questioned, but there was no other constitutionally defensible way of resolving the deadlock outside Parliament. Whitlam's scheme to bring about a half-Senate election was quite unworkable: while the Constitution offers double dissolutions as deadlock-breakers, neither it nor parliamentary convention permits half-Senate elections to be used in this way. Had Kerr dithered, and Whitlam become aware of the possibility of dismissal, he could have replaced Kerr with a more secure supporter, which may have resulted in even greater breaches of convention. Whatever the good intentions of the Whitlam government, and the virtues of reforms such as equal pay for women and the inquiry into land rights for Aborigines, scandals such as the Khemlani affair had left many convinced that Whitlam was prepared to sacrifice the constitution rather than compromise.

Sir John Kerr's solution, to hand the matter back to the Australian people, was really the most democratic one. The question then arises as to whether such constitutional contention could ever occur again – would Quentin Bryce consider taking the action that Kerr did? It is highly unlikely that such a dismissal will become necessary again, because of the 1977 referendum requiring State Parliament to fill casual Senate vacancies from the same party. The 1977 referendum is ultimately what makes the Gough Whitlam dismissal a defining moment in Australian history, as it significantly decreases the likelihood of it ever happening again.

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