# Preparing for crisis? Morrison's secret regime

*By Elisa Barwick*

Former Prime Minister Scott Morrison's actions to secretly make himself minister of five government departments cannot be interpreted through the lens of his prime ministership or Australian politics alone. It must be seen against the backdrop of the building global economic and financial breakdown. Was Morrison preparing for that superseding reality with mechanisms of control for an extended period of crisis and social chaos?

Apart from Morrison's personal actions, which seem to have been set into motion well before the advent of COVID-19 in early 2020 (see David Solomon's comments below), an erosion of legislative accountability was also well under way. A number of means to avoid parliamentary scrutiny of legislation were increasingly being deployed, in an environment where members of parliament rarely have time to read bills thoroughly. These include: Delegated legislation—legislation made by a minister or Governor General which is normally able to be overturned ("disallowed") by parliament within 15 days; Exemptions from delegated legislation being disallowed (meaning elected members can't overturn the legislation in that 15-day time frame); Henry VIII clauses, which enable delegated legislation to amend primary legislation, i.e. to change the previously existing body of law; deferral of sunset clauses, under which laws are supposed to expire within a timeframe set at their enactment; and the increasing use of other legislative instruments such as "regulations" that add conditions to existing legislation, interpreted at the discretion of the minister. In 1970 there were just three kinds of legislative instruments, but by the 1990s there were over 100. The following articles, originally published by *AAS* in 2020 and 2021, explain these extra-parliamentary functions more thoroughly.

The final report of the "Inquiry into the exemption of delegated legislation from parliamentary oversight", released 16 March 2021, indicated growing concern over the increase in legislation that is not scrutinised by the elected parliament. Chaired by Liberal Senator Concetta Fierravanti-Wells, with Labor Senator Kim Carr as Deputy Chair, the Standing Committee for the Scrutiny of Delegated Legislation reported that "The volume of delegated legislation made each year is increasing over time. From an average in the mid-1980s of around 850 disallowable instruments tabled each year, it currently sits around 1,500 each year."

The committee noted that this was accompanied by increasing levels of delegated legislation that is exempt from disallowance. "In 2019, delegated legislation exempt from disallowance stood at nearly 20 per cent. In 2020, 17.4 per cent of delegated legislation was exempt from disallowance, continuing the upward trend over time." (See table.)

**Table 1: Instruments exempt from disallowance 2014–2020**

| Year | Exempt | Disallowable | Total | Percentage exempt |
|---|---|---|---|---|
| **2020** | 299 | 1,416 | 1,715 | **17.4%** |
| **2019** | 330 | 1,345 | 1,675 | **19.7%** |
| **2018** | 256 | 1,630 | 1,886 | **13.6%** |
| **2017** | 265 | 1,436 | 1,701 | **15.6%** |
| **2016** | 347 | 1,698 | 2,045 | **17.0%** |
| **2015** | 361 | 1,840 | 2,201 | **16.4%** |
| **2014** | 277 | 1,609 | 1,886 | **14.7%** |

### Morrison moved in 2018

Writing for *Pearls and Irritations* on 24 August, former Queensland Integrity Commissioner (2009-14) David Solomon reported that when the Morrison government published its list of government ministers, *a document dated 28 August 2018*, it contained a footnote stating that ministers "may also be sworn to administer other portfolios in which they are not listed". According to comments from Solicitor-General Stephen Donaghue QC, this language does not appear to be standard. Though he noted it could be due to the practice whereby "Ministers may be appointed to administer one or more departments of state without those appointments being published", it nonetheless appears to have stood out as unusual. And Mr Morrison's name did not appear against his additional five ministries held in 2020-21, he added.

In Solomon's opinion, one possible explanation is "that the change was made very deliberately in contemplation of the Prime Minister being able to appoint himself or another minister if he chose, to administer departments in secret." This was well ahead of the COVID-19 crisis, wrote Solomon, which was supposed to justify Morrison's manoeuvres.

Such prior planning fits with the picture provided by the journalist who revealed Morrison's multiple ministries, Simon Benson, who wrote (with Geoff Chambers) in the *Australian* of 6 December 2019 that after the May 2019 election Morrison had conducted a deliberate and methodical shake-up in Canberra. In "Network of influence: The Prime Minister has assembled a team to drain the swamp his way", Benson wrote that Morrison planned to restructure government departments and rebuild governance structures around his network of friends.

"Scott Morrison is building a new power bloc around his leadership, dismantling the old 'Canberra club' with a network of friends, confidants, bureaucrats and trusted allies tasked with reshaping Australia's political, cultural and policy direction", noted the article.

"The shake-up marks a generational shift in the power

base of the mandarins and political class who have ruled over economic, environmental and social policy, national security and the role of business in government decision making."

Morrison put together a "hard-nosed clique of reformers" led by Department of Prime Minister and Cabinet head Phil Gaetjens, Home Affairs secretary Mike Pezzullo, Treasury Secretary Steven Kennedy and Cabinet Secretary Andrew Shearer, whom Morrison had brought back from Washington for the job. (Many of these roles were once non-partisan. Note that the role of Cabinet Secretary was once held by elected MPs, but PM Malcolm Turnbull had abolished that in 2017.) Assistance was also recruited from cabinet members, political advisers, private secretaries, diplomats, intelligence chiefs, the business community and media.

### The war factor

Other mechanisms of control for a period of crisis come with preparation for war, and certainly the Morrison government's war "drumbeat" was palpable. Construction of an external "enemy" is a key factor, as pointed out in a 1988 paper written by American and Russian academics which stated that "the hysteria about the outer threat is often used as justification for secrecy and suspicion, covert actions, policies creating 'mobilised' societies, artificial national unity, 'witch hunts', and policies suppressing dissent, all ignoring domestic problems and distracting attention from them."

Indeed, Russian President Vladimir Putin, in his 16 August address to the 10th Moscow Conference on International Security (p. 9), pointed out in similar vein that recent provocations by "Western global elites", such as the visit to Taiwan by Speaker of the US House of Representatives Nancy Pelosi, "are attempting, among other things, to divert the attention of their own citizens from pressing socio-economic problems, such as plummeting living standards, unemployment, poverty, and deindustrialisation. They want to shift the blame for their own failures to other countries, namely Russia and China…."

## Documentation

# Governing by decree

*By Elisa Barwick*

In March and April when parliament operated in a reduced capacity due to the coronavirus outbreak, the government dramatically expanded its use of a number of measures typically used to reduce parliamentary oversight.

The Senate Standing Committee for the Scrutiny of Delegated Legislation, which had already "raised significant concerns about the increasing exemption of delegated legislation from parliamentary oversight" during a 2019 inquiry, in April 2020 launched a new inquiry into the increased use of various such legislative procedures deployed in response to the COVID-19 crisis.

According to the committee, delegated legislation "is law made by a person or body other than Parliament (such as the Governor-General or a minister), under authority granted to that person or body by the Parliament". Usually, any member of the relevant parliamentary chamber can give a notice of motion to disallow the law within 15 days, whereupon the law is repealed. However, delegated legislation can be exempted from this process, preventing it from being disallowed.

The Senate Standing Committee for the Scrutiny of Bills made a submission to the new inquiry, which detailed three legislative tricks that are removing parliamentary oversight over lawmaking:

### Exemptions

Bills can contain a provision exempting them from being disallowed, but there is a lack of guidance on what is required to justify such exemption under the *Legislation (Exemptions and Other Matters) Regulations 2015*. A submission to the inquiry from the Attorney-General's Department declared that "disallowance is not appropriate in a number of cases including: where matters are appropriate for Executive control, where the proposed provisions are based on extensive consultation, scientific or technical considerations, and where government action needs to be decisive and certain."

Examples of delegated legislation exempted from parliamentary oversight in 2020 include Advances to the Finance Minister, which allows the Finance Minister to allocate additional funds during the health crisis; and National Security Legislation, including new coercive questioning powers contained in the Australian Security Intelligence Organisation Amendment Bill 2020 ("Dutton moves to expand police state under cover of COVID-19", *AAS*, 28 May).

There have been 219 pieces of delegated legislation implemented in response to COVID-19, so far. Of those, 45 were exempt from disallowance, many of which were instruments forming part of the *Biosecurity Act*. That's over 20 per cent exempted. The Department of Home Affairs, in its submission to the inquiry, admitted that six of the seven instruments it has legislated to implement its pandemic response were exempt from disallowance.

### Sunsetting

The committee also noted that "the Coronavirus Economic Response Package Omnibus Bill 2020 provided that a minister could defer the sunsetting date of both delegated legislation and primary legislation sunsetting before 15 October 2020 by up to 6 months". Again, there is a lack of guidance on when this is appropriate, the committee observed.

### Henry VIII clauses

The so-called Henry VIII clauses raised by journalist Karen Middleton in a 4 July article in the *Saturday Paper*, "Morrison ruling by 'Henry VIII' clauses", take this a step further. As the committee explained, "A Henry VIII clause is a provision that enables delegated legislation to amend or modify primary legislation." In other words, a new law passed by a single individual and often exempt from being disallowed, can have the effect of automatically changing another piece of legislation passed by the democratically elected parliament. Several of the COVID-19 response bills, reported the committee, have included "broad Henry VIII powers to amend a number of Acts" including the *Corporations Act 2001* and social security legislation. Together with the rapid passage of bills, this all amounts to an incredible lack of limitations and safeguards, and "The committee considers that this has deprived Parliament of a crucial opportunity to have oversight of legislative changes being made during a period of emergency."

*—Reprinted from* AAS*, 15 July 2020.*

# Senate inquiries demand legislative accountability

*By Elisa Barwick*

A Senate Inquiry conducted by the Legal and Constitutional Affairs References Committee is promoting parliamentary committees as a means of engaging citizens in the political process. The inquiry into "Nationhood, national identity and democracy" studied the decline of trust in legislative bodies and other public institutions observed in many liberal democracies including Australia. In an article on the committee's findings published at johnmenadue.com, Committee Chair and ALP Senator Kim Carr reported a "fall in public satisfaction with democracy from 78 per cent of survey respondents in 1996 to 41 per cent in 2018".[1]

The collapse of faith in governments has coincided with the increased use of bureaucratic parliamentary procedures, rather than those that receive direct scrutiny from elected officials, and by extension those who elected them. One of those procedures is "delegated legislation". "Nearly half of all legislation is now delegated legislation", said Carr, "i.e. made by ministerial orders, and some of it cannot be disallowed by Parliament." In other words, these are laws which are not made by parliament, but are decreed by a minister or other member of the executive branch, under the authority of the governor-general. Such laws can be rejected or "disallowed" by parliament within 15 days, *unless marked as being "exempt" from this review process*. Some 20 per cent of laws "made by the executive" in 2019 were exempt from disallowance, and this rate kept up in 2020.

Another committee, the Senate Standing Committee for the Scrutiny of Delegated Legislation, is currently examining in greater detail the increasing exemption of delegated legislation from parliamentary oversight in the context of the Australian Government's COVID-19 pandemic response. Its interim report proposes a host of recommendations to limit delegated legislation being exempt from parliamentary disallowance except in extreme circumstances.

The committee singles out the notorious *Biosecurity Act 2015* which "confers extraordinarily broad powers on the executive branch of government, including powers to make delegated legislation which trespasses significantly on personal rights and liberties and overrides any Australian law. Of particular concern", states the report, is that "the *Biosecurity Act* exempts all such delegated legislation from the disallowance procedure." In other words, all 27 legislative instruments made under the *Biosecurity Act* in response to the pandemic were exempted from disallowance. The committee demanded the parliamentary system be provided "the opportunity to scrutinise and, if necessary, repeal" any such law.

While MPs may not be inclined to use the powers of scrutiny even when applicable, oftentimes not even aware of what is in any given piece of legislation, they can at least be forced to do so by public outcry, including via the process of parliamentary committees, as shown by the popular opposition to the $10,000 cash transaction ban and bank bail-in legislation.

In 1970 there were just three kinds of legislative instruments but by the 1990s there were over 100. This includes "regulations", such as that which accompanied the cash ban bill. That regulation contained the exemptions for personal transactions including deposits and withdrawals from banks, and as such could be changed at the whim of the minister, trapping people's money in banks.

### Factors in falling trust: world order and economy

The foreword to the inquiry into Nationhood, national identity and democracy's final report, written by Carr, notes that public confidence in governments fell in conjunction with crises such as the 11 September 2001 terrorist attack on the USA and the 2007-08 global financial crisis. Interestingly, Carr acknowledged that the USA and its Western allies cast aside the "international order based on respect for human rights" in favour of fighting terrorism and other threats with "enhanced surveillance and the restriction of liberties, but also with measures that terrorists themselves would use—kidnapping, torture and arbitrary detention. Internationally, this hypocrisy fuelled a cynicism that is perhaps the deepest reason for the decline in trust."

The other big factor is the economy. A number of submissions to the Nationhood inquiry maintained that there is a link between growing socioeconomic inequality and declining trust. The Uniting Church, for instance, presented research showing a greater proportion of people who have been "left behind economically" exhibited deep distrust of government and politicians.

### Outsourcing government

One submitter to the Nationhood inquiry, Monash University Professor Dr Colleen Lewis, raised the problem of "the 'rising influence' of ministerial advisers over the public service as a source of advice to government". Ministerial advisers are in many cases sourced from and represent interests in the private sector, and therefore not necessarily acting in the public interest. In a September 2020 investigative report, "Outsourcing Government Itself: the hidden privatisation of the public service", published by Michael West Media, Geordie Wilson revealed that many ministerial advisory roles and senior department staff are now filled by private business or consultancies.

Talking to ABC News on 12 July 2018, award-winning journalist and former tax inspector Richard Brooks, author of *Bean Counters: The Triumph of the Accountants and How They Broke Capitalism*, described the extensive control of government policy by the Big Four accounting firms, KPMG, PricewaterhouseCoopers, EY and Deloitte. "There's no major policy change without the big four involved", he said. "Major infrastructure investment, transport policy, nuclear policy—almost everything you can think of is being driven by advice from the big four accountancy firms." They promote certain projects knowing it will provide "years of consultancy work for them".

In his final report, Carr says the use of delegated legislation "must be reduced if the government is to restore trust in its accountability to the people's elected representatives". He promotes the committee process as a key part of the pathway. This is backed up by the Senate's key procedural text, Odgers' Australian Senate Practice, which describes public engagement as a key function of senate committees. This is not a common perception, but the Citizens Party, working with collaborators in other political, industry and interest groups, has proven the effectiveness of this process—if people are alerted and mobilised. Indeed, in some cases, such as the current Australia Post inquiry, it was such a grassroots mobilisation that provoked the inquiry in the first place.

*—Reprinted from* AAS*, 17 March 2021.*

1. Based on data compiled by the Democracy 2025 Project, an initiative of the Museum of Australian Democracy and the Institute for Governance and Policy Analysis at the University of Canberra.

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# The dictatorial powers of the Queen– and her Governor-General

*Special to the AAS*

The scandal of then-Prime Minister Scott Morrison being a secret second Minister in the most powerful Ministries of the government involves two officials: the PM, and the Governor-General. The claim by some commentators that Morrison's actions subverted democracy ignores the fact that they were legal under Australia's Constitution. That is because his actions were executed under the powers of the Governor-General, who holds executive power in Australia's political system on behalf of *the* Executive, the Queen.

Most Australians are surprised to learn there is no office of Prime Minister in the Australian Constitution. The executive powers of the Commonwealth Government are the Queen's, exercised through her Governor-General, while the person we call the Prime Minister is the leader of the Executive Council, a.k.a. the Cabinet, elected by Parliament to "advise" her. While the Constitution spells out the areas of responsibility of the Commonwealth Government, it does not codify all the powers of the Queen and Governor-General in the way, for example, the US Constitution codifies the powers of the US President; in fact, two undefined words in the Constitution, "reserve powers", assign the Crown virtually unlimited power.

The so-called "checks and balances" on executive power are mostly not codified, but, in the British tradition, are conventions. The thing about conventions is they can be broken, legally. For example, the convention in Australia is that the Governor-General only exercises the Queen's powers on the advice of the Executive Council, which in practice means the Prime Minister is the functioning Executive, and the G-G merely signs off on his or her decisions. Except, in the case of G-G Sir John Kerr dismissing Labor PM Gough Whitlam's government in 1975, Kerr wasn't acting on the advice of the PM—clearly. The convention was therefore not a check on power, but a fig leaf, and no protection at all against the Crown sacking a democratically-elected prime minister whose policies had become a threat to ongoing Anglo-American control of Australia's economy and foreign policy, as the Citizens Party has documented.

In a 1976 article in literary magazine *Meanjin*, the future Attorney-General Gareth Evans commented on the powers the G-G had displayed the previous year, noting that it was entirely in keeping with the way the Australian Constitution is written. "Indeed, if the literal language of the Constitution were to be believed", Evans wrote, "the Governor-General had all the status and power of an Ottoman sultan. He could, for example, dismiss at will both Parliaments (s. 5) and Ministers (s. 64), refuse to appoint any Ministers at all (s. 64), allow Parliament to meet but one day a year (s. 5) and not spend any money when it did (s. 56), and take over the personal control, as commander-in-chief of the army, navy and air force (s. 68)."

Newly elected Prime Minister Anthony Albanese has reopened the republic debate in Australia, by appointing Matt Thistlethwaite as Assistant Minister for the Republic. To make a fully informed vote in any future referendum, Australians need to be aware of the real powers of the Crown, including the Queen's personal powers in the UK, and in Australia.

Her Royal Dictator Queen Elizabeth II.

### The Queen's powers

The Citizens Party documented the powers of the Queen in an article in the Oct.-Nov. 2011 *New Citizen* newspaper titled "The Real British Empire"; abridged excerpts of which follow.

The idea of a "constitutional monarchy" is a myth. All that exists are "oaths of allegiance" to the monarch. Without any requirement to invoke parliamentary authority, Queen Elizabeth has royal Prerogative Powers. The following partial list of those powers is reported in Burke's Peerage and Baronetage:

- the Queen alone may declare war at her pleasure;
- as commander-in-chief, the Queen may choose and appoint all commanders and officers by land, sea, and air;
- the Queen may convoke, adjourn, remove, and dissolve the Parliament;
- the Queen may dismiss the Prime Minister and choose whom she will as the replacement;
- the Queen can choose and appoint all archbishops (including the archbishop of Canterbury, who is *primus inter pares* in the Anglican Communion), bishops, and high ecclesiastical dignitaries;
- as "the Sovereign is first in honour, dignity and in power—and the seat and fountain of all three", the Queen may bestow all public honours, including creating a peerage for membership in the House of Lords or bestowing an order of chivalry;
- the Queen alone may conclude treaties;
- the Queen may initiate criminal proceedings, and she alone can bestow a pardon.

Some of these powers are exercised on the advice of cabinet ministers or others. The principal vehicle through which the Queen receives such advice—apart from weekly or more frequent meetings with the Prime Minister—is a body known as the Privy Council.

### The British monarch's power in Australia

The Crown is most careful to disguise the awesome extent of its powers over Australia, as the Australian constitutional lawyer and historian Anne Twomey summarised the matter in her book, *The Chameleon Crown: The Queen and Her Australian Governors*:

"Like a chameleon, the Crown is a unique and unusual creature within Australia's constitutional law. It takes great care to protect itself by blending into its background so carefully that its presence is barely perceptible. It can, of its own volition, change its colour to suit its environment and deceive others as to its nature.

"The history of the Crown ... shows that despite being a fundamental institution in Australia's constitutional system it has been little understood and the subject of widespread misconceptions. …

"Its capacity to deceive is surpassed only by its capacity to adapt to meet the circumstances of new environments. ... Whatever its current status, one can be sure that the Crown will continue to transform itself to blend in with the changing times. It is truly a chameleon Crown."

Being a federation "under the Crown", the Crown is at the apex of the Australian Constitutional structure and is the head of the Executive (in fact, it is the Executive), must consent to and may disallow legislation, is the head of the armed forces, appoints the judiciary, appoints (and removes) ministers, and prorogues Parliament. How all this functions in practice is determined by unwritten "conventions" derived from British imperial practice, which are not specified in the Australian Constitution, but are simply "understood" and may be changed as the oligarchy sees fit.

### The Crown's lock grip

That Australian Federal Constitution provides that:

The States are united "in one indissoluble Federal Commonwealth under the Crown".

The legislative power of the Commonwealth is vested "in a Federal Parliament, which shall consist of the Queen, a Senate and a House of Representatives…." (Section 1, or s. 1)

The Governor-General shall be appointed by the Crown and "may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time … prorogue the Parliament, and ... dissolve the House of Representatives." (s. 5)

Every senator and member of the House of Representatives shall swear an oath of allegiance to the Crown. (s. 42)

When a law has been passed by the Parliament it is to be presented to the Governor-General for his assent in the name of the Crown and he may "declare, according to his discretion ... that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure." (s. 58)

"The Queen may disallow any law within one year from the Governor-General's assent…." (s. 59)

"The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth." (s. 61)

"There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure." (s. 62)

"The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish. Such officers shall hold office during the pleasure of the Governor-General." (s. 64)

"The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative." (s. 68)

"The Justices of the High Court and of the other courts created by the Parliament: ... Shall be appointed by the Governor-General in Council; Shall not be removed except by the Governor-General in Council…." (s. 72)

"[T]he collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth." (s. 86)

All of this immense, actually dictatorial power is exercised to a single end: that Australia, like the rest of the "self governing" colonies of the British Empire, be ruled by the British imperial monetary system, as opposed to a sovereign, historically American-style credit system, as had been desired by the best of the old Australian Labor Party in the debates leading into Federation in 1901. The American System, as the latter was known, was even implemented, for a time, with the establishment of an American-style national bank: the Commonwealth Bank, founded in 1911 by American immigrant King O'Malley, who proudly proclaimed himself "the Alexander Hamilton of Australia".

### A credit system vs. a monetarist system

The unique credit system established by the US Constitution adopted in 1787, and developed by the first Treasury Secretary Alexander Hamilton through his establishment of the First National Bank and related measures, built upon the tradition of credit creation, dating back almost to the founding of the American colonies. The Massachusetts Bay Colony, for instance, already in 1652 authorised its own Pine Tree shilling to be struck, so as to free the colony from Britain's imperial currency control, exercised through the gold and silver bullion monopoly. In the 1690s, the Massachusetts colony issued its own paper money.

Among other things, such control of currency allowed the Americans to construct the Saugus Iron Works, the largest and most efficient such mill in the world at the time. The British repeatedly attempted to intervene against such control of credit, the necessity for which Benjamin Franklin established in his 1729 "A Modest Inquiry Into the Nature and Necessity of Paper Currency".

The fear that the ability to create and direct national credit would promote industrial progress was reflected in the passage of two British Parliamentary Acts against the Americans, the *Iron Act* of 1750 and the *Currency Act* of 1751. The first forbade the construction of an iron industry in the colonies, which was vital not only for any kind of industry, but even for agricultural production; the second declared that no "paper bills or bills of credit, of any kind or denomination whatsoever, shall be created or issued under any pretense whatsoever".

The First Article of the US Constitution, Section 8, assigns to the US Congress sole control over the national credit, specifying Congress's unique power "to coin Money, regulate the Value thereof, and of foreign Coin".

As for Australia, judging by Part V ("Powers of the Parliament") of Chapter I of our Constitution, our sovereign control over our own credit creation through our popularly elected national representatives would seem to be guaranteed under Section 51, which grants the Parliament

Prime Minister Gough Whitlam (left centre) was sacked by the Queen in 1975.

control over "Currency, coinage, and legal tender", as well as over "Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money".

These authorisations, however, are vitiated by later sections. Section 56, for instance, specifies that no measures "for the appropriation of revenue or moneys shall" be valid except by recommendation of the Queen's Governor-General. Section 58 specifies that, even though passed by both Houses of Parliament, no bill whatsoever shall become law until the Governor-General "assents in the Queen's name". Furthermore, against the almost unthinkable eventuality that the Governor-General might act independently of the Crown, there is the above-mentioned stipulation in Section 59: "The Queen may disallow any law within one year from the Governor-General's assent…."

The Governor-General is therefore a virtual dictator on behalf of the Crown, as an astonished Gough Whitlam and the nation discovered in 1975, over the question, lawfully enough, of "supply" (government appropriations).

The sacking of Whitlam was not the Crown's only blatant intervention into Australia's affairs, despite the "conventions". That same year, Queensland premier Joh Bjelke-Petersen tried to get the Queen to extend the term of the Queensland governor. She simply refused to assent. In a 3 March 2011 article in *The Australian*, constitutional lawyer Anne Twomey reported on similar subsequent actions by the Crown:

"Neville Wran [Premier of NSW, 1976-1986] was so alarmed at British involvement in state affairs that he proposed to break off links with Britain unilaterally. In 1979 he proposed the enactment of laws terminating Privy Council appeals from state courts and requiring the Queen to act on state advice in appointing state governors. The British foreign secretary, at the insistence of Buckingham Palace, sent a dispatch to the governor telling him the bills would have to be reserved for the Queen's assent and that he would advise her to refuse assent. The Privy Council bill had already been passed by both houses of NSW parliament with bipartisan support. It was quietly buried in the governor's desk drawer rather than being reserved and refused assent. The other bill did not proceed. Most Australians would have been shocked to know that the British government was telling NSW what laws it could or could not pass in 1979. But the Australian people were not told. It was all too embarrassing."

### The Queen's Privy Council

The dictatorial powers of the Queen are usually exercised by the "Queen-in-Council", meaning the Queen together with her Privy Council. The latter is the shadowy, secretive, but all-powerful administrative ruling body of the Empire.

Australians got a taste of the Privy Council when it overturned Prime Minister Ben Chifley's plans to nationalise the Australian banking system in order to continue the credit system established during World War II, which had served the task of industrialising Australia overnight and contributed mightily to winning the war in the Pacific. The Privy Council is no longer formally the highest court of appeal for Australia, but given that the Queen rules an empire, and Australia is a mere colony in that empire and she is the Queen of Australia, it is in fact the ruling body of Australia as well.

In the 1980s Gerald Reaveley James, chairman of the leading British ammunition and weapons manufacturer Astra Holdings, complained bitterly that his company had been taken over and broken up by the British Intelligence Services, MI5 and MI6. By virtue of his occupation, James had had great experience of how the British Empire really functions, as opposed to the fairy stories about "Parliamentary rule" or the Queen's figurehead role as a "constitutional monarch", and so forth. In a 1996 book called *In the Public Interest* and the paper quoted here, "My experiences, the Scott Inquiry, the British Legal System", James sketched the power structure of the real British Empire:

"It has also been clearly demonstrated that Parliament has no control or knowledge of events and that a vast apparatus of permanent unelected Government exists. This permanent Government consists of senior civil servants, intelligence and security officers, key figures in certain city and financial institutions (including Lloyds of London), key industrialists and directors of major monopolistic companies, senior politicians. The Lord Chancellor's Office which is responsible for the appointment of Judges, Clerks of the House of Commons select Committees and approval of Chairmen of such committees and the approval of the Queen's Counsel, holds a total control of the legal administrative framework and has strong connections to the security and intelligence services. … The armed forces … swear their allegiance to the Monarch not to Parliament as do Judges and the Intelligence and security services—the latter are totally unaccountable as is the Lord Chancellor's office, which controls Courts and Judges".

The ultimate coordinating body for this vast apparatus, James concluded, is the Privy Council of the Crown. No other conclusion were possible: the Privy Council is indeed the formal administrative ruling body of the British Empire, through which the Sovereign exercises his or her dictatorial Prerogative Powers. It is composed of some 600 individuals, with representatives from all branches of the

Benjamin Franklin was "summoned" to appear before the Privy Council in 1774 to discuss a petition by the colony of Massachusetts. He was so disgusted that he refused to wear the same clothes again.

British oligarchy, including: Peers from the House of Lords, the Prime Minister, the Law Lords, all cabinet officers, leaders of the Loyal Opposition in Parliament, prominent individuals in the City of London, and leading members of the established Anglican Communion, the state church headed by the monarch. Once sworn, a member is in for life, and is sworn to perpetual secrecy regarding any Privy Council matters, which cover virtually everything.

**The Crown-in-Council**

The Privy Council began in the wake of the Norman pillage of Saxon England in 1066, when only the most trusted retainers were allowed to approach the sovereign when he was seated on the commode: hence the Council's name. It underwent various transformations over the centuries, emerging in its modern form under King George I (ruled 1714-27).

While the members of the Privy Council constitute the administrative apparatus of the Empire, it is, in effect, a subset of a higher level of power besides the Crown, the complex of great oligarchical families which have wielded power in the Empire for centuries. They require no formal structure or elaborate rules of secrecy to wield that power.

In addition to the Royals, these powerful people include titled oligarchs such as the Dukes, Marquesses, Earls, Viscounts, Bishops, and Barons. The more exalted of these carry the title "Right Honourable", as do all Privy Councillors. Most of these aristocrats are grouped into the elite orders such as the Royal Orders of the Garter, of the Thistle, of the Bath, and of St. Michael and St. George, into which selected colonials may also be inducted, as were Sir Garfield Barwick and Sir John Kerr (the two toadies who oversaw the sacking of Whitlam) into the Order of St. Michael and St. George.

The monarch functions as the "Crown-in-Council". The order of precedence in the Privy Council begins with the Queen, then Prince Philip [now deceased], then Prince Charles, followed by the top Anglican prelate the Archbishop of Canterbury, the Lord High Chancellor, the Archbishop of York, and so forth.

The Cabinet, headed by the Prime Minister, is merely a committee of the Privy Council, and all Cabinet members, some junior ministers, the head of the Opposition in Parliament, and assorted other "senior MPs" are all its members; they must be sworn into the Privy Council upon taking office.

The chief officer of the Privy Council is the Lord President of the Council, who is the sixth highest officer of State, a member of the Cabinet and, usually, the leader of either the House of Lords or the House of Commons.

Upon being inducted into the Privy Council, its new members have to swear an oath to the Crown (to the person of the Crown, rather than to a generic "Head of State") similar to a freemasonic oath of undying loyalty upon pain of a gruesome death. The oath commands that Privy Councillors "will keep secret all matters committed and revealed unto you, or that shall be treated of secretly in Council." Given that this oath has generated adverse publicity and suspicion, the Privy Council complains on its website that, really, there is "nothing at all 'secret' about Privy Council meetings", and that the unfortunate "myth that the Privy Council is a secretive body springs from the wording of the Privy Council Oath". It then admits, however, that, yes indeed, that oath "requires those taking it to 'keep secret all matters … treated of in Council'", and that "The Oath" is no historical curiosity, but "is still administered and is still binding" today.

Confidential discussions, whether within the Cabinet or involving senior politicians of opposite parties, may be specified as being held "on Privy Council terms", meaning that anyone involved in them is forbidden to divulge anything of the discussion. Not only are all of the senior members of Parliament Privy Councillors, but their entire deliberation process is formally overseen by the Privy Council Secretariat.

As indicated above, the Crown-in-Council has unlimited powers. The following are those usually formally attributed to it, often through one or another of its "standing committees", of which the Cabinet is only one. Another, the Judicial Committee of the Privy Council (JCPC) was for centuries the highest court in the British Empire, from which there was no appeal. For cosmetic reasons, a Supreme High Court was established in 2009, as ostensibly the UK's highest court, but its justices are members of the JCPC, and the two bodies are housed in the same building.

Other specified "responsibilities" of the Privy Council include control over all coinage; all higher education; all national healthcare; all matters concerning the Church of England, an imperial-style state church; all matters of the offshore UK islands (including Sark, Guernsey, Jersey, the Isle of Man etc.) and for all British overseas territories including Bermuda, the Cayman Islands, the Falkland (*sic*) Islands, and Gibraltar, many of which are notorious money-laundering centres for the world's trillion-dollar per annum drug traffic; all statutory regulatory bodies covering most professions; the appointments of High Sheriffs for England and Wales and many Crown and Privy Council appointments to governing bodies; all scientific associations, and for all corporate bodies holding a Royal Charter, without which it is difficult to get far in the UK.

There are over 400 of these entities holding a Royal Charter, the full list of which is posted on the Privy Council's website. A Royal Charter is a very serious affair, "since once incorporated by Royal Charter a body surrenders significant aspects of the control of its internal affairs to the Privy Council", and no amendments can be made to these bodies' functions without the consent of the Crown-in-Council. Beginning with the chartering of the universities of Cambridge (1231) and Oxford (1248), these include: The Royal Society (1662), and subsequently its colonial spin-offs, such as the Royal Society of New South Wales (1866); Hudson's Bay Company (1670), a pillar of the British Empire for centuries ; Bank of England (1694); Society for the Propagation of the Gospel (1701); London Assurance (1720); Royal Exchange Assurance (1720); Royal Asiatic Society (1824); Royal Zoological Society of London (1829), provider of all the early leaders of both the eugenics and the environmentalist movements; Royal Astronomical Society (1831); Peninsular and Oriental Steam Navigation Company (1840), a mainstay of the British Empire's worldwide drug trafficking; Chartered Bank of India, Australia and China (1853), now known as Standard Chartered Bank, historically a major institution of the British world; London and Eastern Banking Corporation (1854); University of Sydney (1858); University of Melbourne (1859); Royal Geographical Society (1859).