



PRIME MINISTER

PRESS RELEASE NO. 226

13 APRIL 1974.

The Prime Minister, Mr. Whitlam today released the text of his correspondence with the Governor-General, Sir Paul Hasluck, about the dissolution of the Twenty-Eighth Parliament on Thursday.

Mr. Whitlam's letter to Sir Paul of April 10 read:

"I write, further to our discussions, to advise you that a situation has arisen between the Senate and the House of Representatives which not only provides the conditions precedent to the exercise of the dissolution power vested by the Constitution in the Governor-General but also represents an unprecedented interference in the processes of popular and democratic government through the denial by the Senate to a Government elected in December 1972 the money it needs to carry out its program.

In the view of the Government the situation now can be resolved only by a double dissolution of Parliament in accordance with the provisions of Section 57 of the Constitution and an appeal to the electors of Australia.

The purpose of this letter, therefore, is to recommend that you exercise the power of the Governor-General under Section 57 and dissolve simultaneously the Senate and the House of Representatives.

I now set out the grounds on which I make that recommendation.

The provisions of the Constitution for a double dissolution are set out in the first paragraph of Section 57 which reads -

"57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time."

I submit that the record of the Senate since the Labor Government took office in December 1972 is such that all the conditions justifying a double dissolution have been established progressively over a period of time.

In recent months the Senate has twice rejected, failed to pass or unacceptably amended several proposed laws which are integral parts of the Government's program of reform and development, endorsed by a majority of electors on 2 December 1972.

The manner in which the Senate has dealt with these proposals brings them directly within the provisions of Section 57 and your power to dissolve both Houses.

The bills which brought these proposals before the Parliament are:

- Commonwealth Electoral Bill (No. 2) 1973
- Senate (Representation of Territories) Bill 1973
- Representation Bill 1973
- Health Insurance Commission Bill 1973
- Health Insurance Bill 1973
- Petroleum and Minerals Authority Bill 1973

The first three bills listed above provide for electoral reform, an objective to which the Government is deeply committed, and which it is pursuing also with the proposed referendum on democratic elections.

The Australian Labor Party's Platform on Constitutional matters makes this clear. It proposes amendment to the Constitution:

"to ensure that the House of Representatives and each State House of Parliament is composed of members directly elected from electorates in each of which the number of people is as nearly as practicable the same."

The Platform also contains a plank to the effect that:

"The Northern Territory and the Australian Capital Territory be represented by Senators with full voting rights."

It is against this background that the three electoral bills were introduced last year.

The Commonwealth Electoral Bill (No. 2) 1973 seeks to ensure that electorates are more equal in population, and therefore more democratic, by varying the permitted difference in enrolment from the existing one-fifth to one-tenth. This is a matter that was before the Parliament in 1971 when my colleague the Hon. F.M. Daly introduced a private member's bill entitled "Commonwealth Electoral Act 1971" on 1 April 1971. The then Government did not allow the bill to proceed.

The Senate (Representation of Territories) Bill 1973 seeks to establish for the people of the Australian Capital Territory and the Northern Territory the right, long-held by their fellow citizens in the States, to representation in the Senate. The proposal is that each Territory should have two Senators with full voting rights.

The Representation Bill 1973 is a companion bill to the Senate (Representation of Territories) Bill 1973. It seeks to amend the Representation Act to exclude Territory Senators from the formula for determining the number of members of the House of Representatives to represent the States.

These three bills have all twice failed to pass the Senate. Their progress in the Parliament is summarised below and set out in detail at Attachment 'A'.

(a) Commonwealth Electoral Bill (No. 2) 1973

passed by the House of Representatives on 4 April 1973  
refused a second reading by the Senate on 17 May 1973  
passed by the House of Representatives for the second  
time on 23 August 1973  
refused a second reading by the Senate for the second  
time on 29 August 1973.

(b) Senate (Representation of Territories) Bill 1973

passed by the House of Representatives on 30 May 1973  
refused a second reading by the Senate on 7 June 1973  
passed by the House of Representatives for the second  
time on 27 September 1973  
refused a second reading by the Senate for the second  
time on 14 November 1973.

(c) Representation Bill 1973

passed by the House of Representatives on 30 May 1973  
refused a second reading by the Senate on 7 June 1973  
passed by the House of Representatives for the second  
time on 27 September 1973  
refused a second reading by the Senate for the second  
time on 14 November 1973.

I submit to Your Excellency that the way in which these three proposed laws have been dealt with by the Houses - passed by the House of Representatives, failed to pass the Senate, again passed by the House of Representatives after an interval of three months in the same session and again failed to pass the Senate - undoubtedly bring them within the provisions of Section 57 of the Constitution.

Accordingly, a situation now exists in which Your Excellency has power to dissolve the Senate and the House of Representatives simultaneously.

The two Health bills I have listed were treated in the same way.

The Health Insurance Commission Bill 1973 proposes the establishment of a statutory authority to plan and develop an organisation to administer the Government's health insurance program.

The Health Insurance Bill 1973 provides for payments for medical benefits, hospital and other specific services.

These bills are designed to implement proposals contained in Chapter XI of the Platform of the Australian Labor Party and outlined in my election policy speech on 13 November 1972.

Their progress in the Parliament is summarised below and set out in detail at Attachment 'A'.

(a) Health Insurance Commission Bill 1973

passed by the House of Representatives on 11 December 1973  
refused a second reading by the Senate on 13 December 1973  
passed by the House of Representatives for the second time  
on 4 April 1974  
refused a second reading by the Senate for the second time  
on 10 April 1974.

(b) Health Insurance Bill 1973

passed by the House of Representatives on 11 December 1973  
unacceptably amended by the Senate on 12 December 1973  
passed by the House of Representatives for the second time  
on 4 April 1974  
refused a second reading by the Senate on 10 April 1974.

Heare again, a situation now exists in which Your Excellency has power to dissolve the Senate and the House of Representatives simultaneously.

The Petroleum and Minerals Authority Bill 1973 to which I have already referred also comes within the provisions of Section 57.

This bill seeks to empower the Authority to explore and develop petroleum and mineral resources and assist in advancing the Government's policy of promoting Australian ownership and control of our natural resources and resource industries. The creation of an authority to achieve these purposes is foreshadowed in Chapter VIII of the Platform.

Its progress in the Parliament is summarised below and set out in detail at Attachment 'A'.

Petroleum and Minerals Authority Bill 1973

passed by the House of Representatives on 12 December 1973  
failed to pass the Senate on 13 December 1973  
refused a second reading by the Senate on 2 April 1974  
passed by the House of Representatives for the second time  
on 8 April 1974  
refused a second reading by the Senate for the second time  
on 10 April 1974 by means of an amendment (Attachment 'B')  
which in effect would defer the Bill for a period of 6 months.

These six proposed laws are all of importance to the Government, and on this basis I submit to Your Excellency that the constitutional requirements for a double dissolution of Parliament have been met.

I wish, in addition, to draw to your attention further evidence to show that the Senate has delayed and obstructed the program on the basis of which the Government was elected to office in December 1972.

Of 254 bills put before the Parliament in the first session of the twenty-eighth Parliament, twenty-one have been rejected, stood aside or deferred by the Senate. Most of these embodied proposals of considerable importance and, in many cases, were put forward in fulfilment of the Party Platform and of promises made to the electors in my policy speech.

In addition to those bills which I have already identified as providing a basis for a double dissolution, I set out in Attachment 'B' a summary of the handling in the two Houses of other measures which have in one way or another been the subject of unreasonable obstruction in the Senate.

I summarise the main features of these measures below:

Conciliation and Arbitration Bill 1973

This bill is a significant attempt to transform industrial relations in Australia and to ensure that policies and procedures for handling labour relations were suitable for the current situation. The Government's objectives were set down in my policy speech.

Compensation (Commonwealth Employees) Bill 1973

The purpose of this bill is to provide for improvements in the legislation governing workers' compensation for employees of the Australian Government and its authorities. It accords with the Platform of the Australian Labor Party.

Superior Court of Australia Bill 1973

This bill would establish a new Federal Court, an institution first mooted by a previous Government more than a decade ago and referred to in both your speech opening the Parliament on 27 February 1973 and in Her Majesty's Speech on 28 February 1974. It was foreshadowed in my policy speech.

In this connection I bring to Your Excellency's attention the words of the then Attorney-General in the House of Representatives when introducing the Commonwealth Superior Court Bill 1963 on 21 November 1968 -

"This Bill is the first step in putting into effect the proposal, outlined by me in the House last year, to set up a new Federal court, to be called the Commonwealth Superior Court. Complementary legislation for the amendment of a number of Acts will also be necessary and will be introduced at a later time. The project is not new. Since 1961, a very considerable amount of work has been done, first by Sir Garfield Barwick as Attorney-General, then by the present Minister for Immigration (Mr. Snedden) when he was Attorney-General, and more recently by myself, on proposals for the establishment of a new court to relieve and forestall the pressures of the existing arrangements for the exercise of the Federal jurisdiction. I pay tribute here to the foundation work done by my predecessors on this project."

Trade Practices Bill 1973 (No. 2)

This bill proposes improved control of restrictive trade practices and monopolies and protection of consumers. The proposal was foreshadowed in my policy speech and in Chapter V of the Platform of the Australian Labor Party.

Constitution Alteration (Inter-change of Powers) Bill 1974

This bill is intended to facilitate an interchange of powers between the Australian and State Governments as discussed and agreed in principle with five of six heads of State Parliament delegations to the Australian Constitutional Convention in September 1973.

The Australian Industry Development Corporation Bill 1973

This bill would allow the Corporation access to increased funds with the objectives outlined in my election policy and the Platform of the Australian Labor Party; Chapter VIII. It would facilitate our policy objective of increasing the proportion of Australian ownership in important national industries.

National Investment Fund Bill 1973

This bill proposes establishment of a fund to be administered by the Australian Industry Development Corporation which will provide the means of financing the new functions of the Corporation.

Two other measures which have been obstructed by the Senate are:

Lands Acquisition (Australian Capital Territory) Bill 1973

Seas and Submerged Lands (Royalty on Minerals) Bill 1973

I also recall that Your Excellency has already accepted the advice contained in my letter of 21 March 1974 that, using the procedures provided for in Section 128 in the case of rejection in one of the Houses, the following proposed Constitution Alteration laws be put to the people on 18 May because of their rejection by the Senate -

- Constitution Alteration (Simultaneous Elections) 1974
- Constitution Alteration (Mode of Altering the Constitution) 1974
- Constitution Alteration (Democratic Elections) 1974
- Constitution Alteration (Local Government Bodies) 1974

The attempts of the Senate to prevent these proposals being put to the electors is further evidence of delay and obstruction on the part of the Senate.

Secondly, I draw to Your Excellency's attention the position put upon my Government by the Opposition parties in failing to pass -

- . Appropriation Bill (No. 3) 1973-74
- . Appropriation Bill (No. 4) 1973-74
- . Appropriation Bill (No. 5) 1973-74

(For details of consideration by the House of Representatives and the Senate see Attachment 'C'):

Briefly, the effects of the Opposition's decisions are that funds for the payment of salaries (Appropriation Bill (No. 3) (1973-74)) will be exhausted by the end of this month and that funds for certain capital works, payments to or for the States and other payments, including some elements of pensions and like payments, will begin to run short as early as the end of this month (Appropriation Bill (No. 4) 1973-74 and Appropriation Bill (No. 5) (1973-74)).

Appropriation Bill (No. 3) was introduced into the House of Representatives by the Treasurer on 12 March 1974. The second reading speech was delivered that day and debate took place on 19 March 1974. No indication was given by the Opposition parties that they would reject it in the Senate.

Appropriation Bill (No. 4) 1973-74 and Appropriation Bill (No. 5) 1973-74 were introduced into the House of Representatives by the Treasurer on 2 April 1974 and the second reading speech was delivered on that day. When debate was resumed on 4 April 1974, the Leader of the Opposition, the Rt. Hon. B.M. Snedden, indicated that the Bills would be opposed in both the House of Representatives and the Senate.

He went on to say that if the Bills failed to pass both Houses there must be a dissolution of the House of Representatives (House of Representatives Hansard, page 1048). He continued -

"Then we would make appropriate arrangements for the moneys to be made available after the Prime Minister has announced a dissolution of this House..." (Hansard, page 1054).

I draw to Your Excellency's attention my response on behalf of the Government to this threat -

"If the Senate rejects any money bill - the first time the Senate would have rejected a money bill in the history of our nation - I shall certainly wait upon the Governor-General and I shall advise the Governor-General not merely to dissolve the House of Representatives, but to dissolve the Senate as well." (Hansard, page 1054).

I took this course to impress upon the Parliament the seriousness of the actions the Opposition were proposing.

They were not only without precedent, but in my view they go to the very heart of the operation of our Parliamentary system of government.

It is, I suggest, unthinkable that the Upper House comprising Senators elected six and a half and three and a half years ago should seek, in respect of bills coming within the scope of Section 53 of the Constitution (text attached), to impose its will on the Lower House, a House elected only sixteen months ago and in which the Government, composing the majority, has not been defeated in a division.

This afternoon Appropriation Bills Nos. 3, 4 and 5 were brought on together in the Senate. The Opposition moved that the debate be adjourned. When the Minister in charge of the bills moved that debate be resumed at a later hour this day, the Leader of the Opposition in the Senate moved an amendment that the debate should not be resumed "before the Government agrees to submit itself to the judgement of the people at the same time as the forthcoming Senate election". This amendment was supported in the Senate by the Leaders of the Australian Country Party and the Australian Democratic Labor Party.

The Leader of the Government in the Senate then stated -

"...it is clear that the Opposition is again, by this ridiculous and hypocritical device, endeavouring to avoid voting on the measure itself.... To put an end to it, I tell you that I intend to move that the question be put, and if that question is not carried - if it is defeated - the Government will treat that as a denial of supply."

The motion that the question be put was lost Ayes 26 - Noes 31.

I must, therefore, advise Your Excellency that the Senate has by its attitude brought about a position where the normal operations of government cannot continue.

I would expect, however, that appropriate arrangements could be concluded with the Opposition parties following a decision by you on dissolution of the Parliament.



All the matters I have referred to, the Government, with a program approved by a majority of electors, has been delayed and frustrated by a Senate which, in political complexion, is at variance with that elected at the latest poll.

It is time the situation was resolved and this can best be assured by the whole of the Senate and the House of Representatives being dissolved and new elections called.

It is appropriate that, having regard to the continuing intransigence of the Senate, to which regretfully I can see no prospects of improvement in the foreseeable future, the whole of the Senate and the House of Representatives should now submit themselves to the electors.

Only in this way can the obstruction of the Senate in the face of the reform policies of my Government be dealt with.

In my letter of 21 March I proposed that there be an election for half of the Senate on 18 May 1974. Your Excellency agreed with that course and asked State Governors to take the necessary steps.

I shall propose, if Your Excellency accepts my recommendation that there be a double dissolution, to make later a recommendation on the date on which elections for both Houses and the four referendums should be held.

This will avoid the further possible inconvenience to electors of a later election, will permit the referendum proposals to be put as already determined, and will of course result in the saving of considerable public expense.

Your Excellency will recall that the power of double dissolution under Section 57 of the Constitution has been exercised on two previous occasions - leading to elections on 5 September 1914 and 28 April 1951.

In 1914 the then Prime Minister (Mr. Joseph Cook) was working with an evenly divided House of Representatives and a Senate in which the Opposition parties were in clear majority.

The grounds of his approach were basically that the Government was unable to function because the Parliament had become unworkable, particularly through obstruction in the Senate. The Governor-General accepted the point that a dissolution of the House only might well not resolve the political situation and that, a situation under Section 57 of the Constitution being in existence, a dissolution of both Houses should be ordered.

In 1951, the Prime Minister (Mr. R.G. Menzies) advised the Governor-General that there was one Bill - the Commonwealth Bank Bill - which represented an important part of the Government's policy and had been rejected by the Senate in such a way as to bring Section 57 into operation.

He mentioned that there had been difficulties with the Senate in relation to other proposed laws and that this indicated a continuing conflict between the two Houses. The Governor-General accepted his advice and granted a dissolution of both Houses.

It is the Government's view that the present circumstances are analogous to those in which the earlier dissolutions were granted, and that the range of obstruction of important policy measures is probably wider than in 1914 and certainly wider than in 1951.

On the question whether Section 57 of the Constitution is applicable in respect of more than one proposed law, I am attaching a joint opinion by the Attorney-General and the Solicitor-General (Attachment 'E'). As Your Excellency will see, their advice is in the affirmative.

I shall be available to Your Excellency to discuss these matters and any other aspects which you would wish to examine.

My recommendation to you is, however, as I have said, that you dissolve the Senate and the House of Representatives simultaneously, with a view to holding elections for both Houses and conducting the four referendums all on the same day."

The Governor-General's reply of April 11 read:

"I have carefully considered your letter of April 10 and the supporting documents concerning the situation which has arisen between the Senate and the House of Representatives.

I have also kept in mind our discussions yesterday morning and evening when you called on me at Government House:

It appears to me that the requirements of the first paragraph of Section 57 of the Constitution in respect of a double dissolution have been satisfied with regard to the following proposed laws -

Commonwealth Electoral Bill (No. 2) 1973  
Senate (Representation of Territories) Bill 1973  
Representation Bill 1973  
Health Insurance Commission Bill 1973  
Health Insurance Bill 1973  
Petroleum and Minerals Authority Bill 1973.

In reaching this view I have accepted the learned Opinion of the Attorney-General on the requirements for the exercise of the Governor-General's power under Section 57 and the Joint Opinion of the Attorney-General and the Solicitor-General on the question whether Section 57 is applicable to more than one proposed law.

As it is clear to me that grounds for granting a double dissolution are provided by the Parliamentary history of the six Bills listed above, it is not necessary for me to reach any judgment on the wider case you have presented that the policies of the Government have been obstructed by the Senate. It seems to me that this is a matter for judgment by the electors.

Having received your assurance that adequate provision exists for the carrying on of the Public Service in all its branches from now until the assembly of the new Parliament and that the electoral machinery is in a condition to allow the holding of an early election for both the Senate and the House of Representatives, I am prepared forthwith to dissolve the Senate and House of Representatives simultaneously under the provisions of Section 57 of the Constitution."