

Australian court rejects bid to obtain letters on 1975 “constitutional coup”

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24 March 2018

A Federal Court judge last week rejected an application by history professor Jenny Hocking for the release of secret letters between the British Queen and John Kerr, the Australian governor-general, in the lead-up to Kerr’s dismissal of Prime Minister Gough Whitlam on November 11, 1975.

In an extraordinary decision, the judge ruled that the correspondence was not a public record under the Archives Act, but remained the personal “property” of Kerr and the Queen. Therefore, it could be withheld from public view indefinitely.

The case points to concerns at the highest levels of the Australian and British ruling classes to cover up the role of the royal family and other elements within the state apparatus in the “Canberra Coup” that removed the Labor government.

Equally critically, it indicates that much is at stake for the ruling elites in protecting, and shielding from public scrutiny, the anti-democratic and potentially dictatorial powers of the governor-general. These powers include “reserve powers” to dismiss elected governments and dissolve parliaments in times of political crisis.

Hocking, a biographer of Whitlam, challenged the National Archives of Australia’s decision to withhold the palace letters by classifying them as “personal and private” correspondence between Kerr and the Queen. This designation took them outside the reach of the Archives Act, which requires all “Commonwealth records”—and those of “the official establishment of the Governor-General”—to be made public after 30 years.

By arrangement between Kerr and the Queen, the correspondence was lodged with the National Archives, and the Royal Archives in Britain, with instructions that it not be released for 60 years after the end of Kerr’s term of office, that is, until 2037. That embargo was later reduced to 50 years, on the Queen’s instructions.

But the British monarch’s private secretary and the governor-general’s official secretary can still veto any release. In other words, the letters might never be disclosed to the public. Moreover, even if the Archives Act were to apply, access can be banned permanently to documents that might, in the opinion of the government and the intelligence agencies, “cause damage to the security, defence or international relations of the Commonwealth.”

Justice John Griffiths, in his judgment, quoted a September 1976 “personal and confidential” letter that Kerr sent to the Queen’s Private Secretary, Sir Martin Charteris, about the need to keep his papers, “especially about the [1975] crisis,” under embargo “for a very long time.”

Kerr wrote: “Having regard to the probable historical importance of what we have written, it has to be, I think, preserved at this end as well as in the Palace.”

Clearly, the letters contain critical information about how Whitlam’s dismissal was organised. But the judge did not confine himself to the events of 1975. Citing a 2013 decision by the High Court, Australia’s supreme court, he emphasised the “wide range of powers and functions” of the governor-general.

Griffiths did not refer explicitly to the “reserve powers,” which have remained in the hands of the monarchy and its vice-regal representatives for centuries. But he stressed, as the High Court had done, that some of these powers “involve conduct and actions taken other than on the advice of the Prime Minister, a Minister or the Executive Council.”

The judge said the governor-general’s “unique” role included “providing personal briefings to The Queen, which briefings are made by the Governor-General without reference to, or advice from the government.”

That is, acting in the name of the monarchy, the

governor-general has powers to defy, overrule, or remove, an elected government.

Both the two long-time ruling parties, the Liberal-National Coalition and the Labor Party, have strongly backed keeping secret all the politically sensitive aspects of the governor-general's role.

In 2015, on the 40th anniversary of Whitlam's dismissal, Liberal-National Prime Minister Malcolm Turnbull said he would ask the palace to release the letters. Since then, he has said nothing publicly on the issue. Instead his government, via the Australian Government Solicitor, vigorously opposed Hocking's Federal Court application.

Back in 1983, when the Hawke Labor government introduced the Archives Act, its attorney-general, Senator Gareth Evans, assured parliament in his second reading speech that its provisions did not apply to the governor-general's "private or personal records."

In its government-backed submission, the National Archives insisted that the correspondence was "highly sensitive." Treating all such material as "totally confidential," it told the court, was "consistent with convention."

It is already known that from early September 1975 Kerr, who was secretly consulting the chief justice and another High Court judge, wrote to the palace up to three times a day, reporting that he was considering using the "reserve powers" to oust Whitlam.

The Queen, in effect, gave the green light to proceed. Just one week before the dismissal, her private secretary, Charteris, told Kerr that if Whitlam requested that the Queen remove Kerr from his vice-regal post, the Queen would "try to delay things" for as long as possible, to allow Kerr to strike first.

What is not yet documented is the part played by key figures in the British and Australian political, military and intelligence establishments, all of which have close ties to Washington. There is no doubt that the CIA and the US ambassador to Australia, Marshall Green, were actively involved in the intrigues.

Kerr himself had intimate links with Australian, British and US spy agencies, dating back to World War II. US intelligence whistleblower Christopher Boyce reported that senior CIA officials referred to Kerr as "our man Kerr."

Whitlam was a loyal supporter of the US alliance and the capitalist profit system itself, but he was

removed because of the anxiety in ruling circles, both in Australia and the US, that his government had failed to stem the powerful movement of the working class that had brought it to office in 1972, after 23 years of conservative party government.

These volatile political conditions were part of the international upheavals that erupted between 1968 and 1975, shaking the foundations of capitalist rule. A global upsurge of the working class had begun in France with the May-June general strike in 1968. Strikes and social struggles erupted in Australia in 1973-74, just as the US defeat loomed in Vietnam and US President Richard Nixon faced impeachment over the Watergate affair.

The ruling class's determination to prevent any public access to the 1975 correspondence is a warning that conditions are emerging once again in which the authoritarian powers of the governor-general could be used. Since 2014, Peter Cosgrove, an ex-chief of the armed forces, has held the post.

Today, the situation is even more unstable than it was four decades ago. Widening social inequality, mounting global economic and military tensions, and decades of suppression of working-class struggles are propelling youth and working people worldwide into battle against the worsening living conditions, shredding of basic democratic rights and threat of war.

There is also intensifying pressure on the Australian corporate, political and military-intelligence establishment to align ever-more closely with the US as it prepares for trade war and war against its rivals, particularly China.



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