

# **LEGISLATIVE COUNCIL**

## **ORAL HISTORY PROJECT**

**LC Members Ante-Room, Parliament House, Sydney, Friday 20 July 2018**

**The discussion commenced at 11.00 a.m.**

### **PRESENT**

Mr David Blunt  
Dr David Clune  
Ms Patricia Forsythe



**Mr CLUNE:** Can you tell us how you became a member of the Legislative Council?

**Ms FORSYTHE:** I had been a member of the Liberal Party for 23 years when I was preselected. In 1984 I stood for the lower House in Newcastle and sought a couple of other preselections but partly because of the influence of Virginia Chadwick in my life—my mentor and role model—somehow or other the Legislative Council seemed where I was destined. It was reasonably assumed within the Liberal Party after 1988 that I would be in the next group that might get selected. At that point the Party was quite determined to have women prominent on the Legislative Council ticket. By that time, in 1988, I was seen after the selection of Helen Sham-Ho and Marlene Goldsmith as the next likely woman. I had been on the State Executive for eight years. At that time I was quite well known across the Party having served on a number of key committees. From my own point of view, I had also done some of the things that I had set out to do years before as a student when I announced a determination to become a parliamentarian, that is, to do the normal things like have a career. In those days being a political staffer was not seen as a career in the way it has become today. First, I wanted to succeed—and I did as a teacher—and I wanted my family to be of a certain age before I stepped up to Parliament.

In 1991 it came together but the Legislative Council was not new to me as by then I had three years on the staff of the Minister for Local Government and Minister for Planning, David Hay, and spent probably far too many hours around the Legislative Council. It was a fascinating time and I learnt much.

**Mr CLUNE:** What were your impressions of the Legislative Council and its effectiveness when you became a member in 1991?

**Ms FORSYTHE:** For me, you would really have to start that answer from 1988 because being on a Minister's staff I really engaged with the Legislative Council from then. I particularly say that because the portfolio had some quite controversial legislation in the period from 1988 to 1991 and we often seemed to be at the centre of controversy in the Upper House. I spent a lot of time around the House talking to the crossbench. The Call to Australia, as Fred Nile's team was known then, would usually vote with the Government but one of his MLCs, Marie Bignold, had broken with him and become what I would call an unguided member and would choose to do her own thing. Then there were the Democrats. In the case of particularly Elisabeth Kirby, she always seemed to have the best staff, and her analysis of bills was first rate. You needed to talk to each of these members; you could not assume if you talked to one you had their party colleagues on the one side. In terms of effectiveness, from 1988 to 1991 the Council had been very effective, probably too effective as a house of review in the eyes of government, but we clawed back some numbers after the 1991 election. After 1991 legislation was usually able to be passed with the support of the Niles. In those days it was genuinely doing what I believed Upper Houses were meant to do in the sense of review.

I came into the Legislative Council with a sense that, if I had no power on the backbench, I was at least able to be a contributor. Nothing was taken for granted. You always felt you were going to earn your money. To go back to early 1988, John Hannaford before he became a minister was chairing my Minister's backbench committee. He and I wrote some legislation together—I learnt from him how to do that. We also did much negotiating on the minister's legislation. By 1991 he had become a Minister. In the three Council Ministers—Ted Pickering, Virginia Chadwick and John Hannaford—I had three close friends and three people who had in different ways worked with me either in the party, personally in the local scene in Newcastle or in the political sense. I felt that I was stepping into a place where I was going to be valued and useful and I had a role to play, which not every backbencher would sense on arrival.

**Mr CLUNE:** How did your perceptions change when you went into Opposition in 1995?

**Ms FORSYTHE:** It was different from 1991 to 1995. It was a really interesting period from 1995 to 1999. It was a strong period for the Carr Government in the Assembly but we were also starting to see the power of the crossbench due to the number that had been elected and as an Opposition we were working together as an effective team. We knew how to work with the crossbench in that period and we did.

I will give you an example of why I think it was really effective through the eyes of the Government. Planning legislation was always complex. Planning and environment legislation were often key agenda issues for the Democrats and The Greens. The Government was able to achieve most of its environment agenda working with a number of the Crossbench, but planning legislation was more complex and it was not so easy for the government to guarantee it could get its agenda passed.

There was a stage later in the period from 1995 to 1999 when Craig Knowles was Minister. I was managing planning bills in the upper House and Ron Phillips was the shadow minister in the lower House. Craig Knowles came to us and said, "We will discuss this bill outside the Parliament. We will work out what the Opposition can support and not support and we will agree on what the position will be." This was probably when we were not using the power of the upper House, more the threat, but the Government was terrified of the power

of the upper House to amend bills. The minister said, "I will pull the bill"—and it obviously had general Opposition support—"if this bill is amended in the upper House." We had quite a long debate about some of the issues but effectively we had agreed outside of the Parliament. That was the only time I recall it happening but that does show, firstly, how the Government perceived the power of the upper House; and, secondly, if the Opposition was willing, you could step around its power, at least that of the crossbench. It did not take away from the length of the debate on the legislation but in the end the Government achieved what they wanted. It said something about the power and the prominence of the crossbench at that period of time.

**Mr CLUNE:** What is your view on the rise to prominence of the crossbench and how did that change the nature of the House?

**Ms FORSYTHE:** We have a system that was designed around an Opposition and a Government and tolerated the crossbench but, particularly when we reached 13, I am sure the system was not designed for that, and there were unintended consequences or amendments to much of the legislation. For government the solution was to try to negotiate with each of them to meet some of their agenda but I do not think that was what parliament was ever meant to be about. People being elected on less than 2 per cent of the popular vote was to me far from a desirable outcome. The single-issue person once elected is never going to be able to be there for only one issue because that is not what government is about. I found that outcome less than desirable and disappointing. On the other hand, legitimate minor parties—The Greens, the Fred Nile group, and the Democrats, when they were a force—had a role and a place.

Does that give rise to better outcomes? It does when governments can fulfil their agenda but there were certainly some bills when they would trade-off support with unusual amendments proposed from a crossbench member. Because some did not have a firm philosophical base sometimes it was difficult to try and guess how the crossbench would vote. I spent a lot of my time as a shadow minister trying to negotiate with them and sometimes it was frustrating because they had agreed with the Government on what they would do on various issues, even though they might have said, "We think you are right but we are going to get this or that from the Government." The Government could deliver for them. That was hard, but they did not all fall into that trap. The Democrats were pretty straightforward; there was far less horse-trading so to speak, from them I thought. Arthur Chesterfield-Evans more or less held true to his philosophy but I would not have said that for all the minor party members.

**Mr CLUNE:** What was the mechanism for consulting and negotiating with the crossbench? Did you have formal regular meetings?

**Ms FORSYTHE:** I remember the crossbench created a formal meeting time and you could go and present to them on your position as shadow minister on bills. That was fine as a start but the truth was the real negotiation was always one on one. The crossbench regularly split even within their own parties so the best way was to visit each of them and talk through your position. For me that was not difficult when I had the community services, ageing, disability portfolio because social issues had appeal to most of the crossbench and they were open to hear my perspective. It was with this portfolio that I was able to make use of their legislation committee. I thought it was the right way to operate and I assumed the Government was doing the same. The difference is, particularly as shadow ministers, we had the back-up of just one staff member and keeping on top of all the issues was quite a challenge. At different times I was shadowing three ministers. There was, so to speak a lot of balls in the air so to always have the time to negotiate was not easy. At least when we sat well into the night you could find time to talk to the crossbenchers. Most of them were genuine and interested in other perspectives.

The trouble was, after you had gone to speak to them, the Government would follow you in the door. I do recall at least one of the crossbench who looked me in the eyes and said, "You are right, Patricia. I will be with you." But in the division that followed not long after he was sitting opposite looking at me. I said afterwards, "What was all that about?" He just shrugged his shoulders. What had happened was that one of the ministers had gone in and put up a better case or offered him something. I do not mean that in a corrupt sense but they all had agendas. Anyway, I think I said, "You might have given me the courtesy of telling me." I am not going to name the crossbencher but there were frustrations. At other times there were those who would say to you, "You are right, Patricia, but I cannot support you", so at least you knew where you stood.

**Mr BLUNT:** You mentioned the constraints as a shadow minister of having only one staff. You also mentioned earlier Elisabeth Kirby's staff and the important role they played. What was it about them that helped to make that office an effective one?

**Ms FORSYTHE:** I think being a shadow minister in a team you are often working within the team, so your own staff had a range of tasks. However Lis and her staff did it, it worked. But I also assume that there must have been support from some of her diligent party members who undertook research to support them. When I look back now, I guess in the early days we probably did not do enough as shadow ministers to use our backbench.

There was something about Lis. She was a very diligent and interesting member of Parliament. I think she was highly focused and I suspect by then the crossbench had more staff resources than we of the Opposition.

**Mr BLUNT:** In the period from 1988 to 1991, when you were dealing with the Legislative Council so closely but not yet a member, you were working for a Minister who was a member of the Legislative Assembly. Clearly you saw the importance of the Legislative Council and working closely with its members but what sort of perspectives did you encounter from elsewhere during that period?

**Ms FORSYTHE:** In the period from 1988 to 1991 the high point was first question time in the Legislative Assembly but for the rest of the day the high point was what was happening in the Legislative Council. I spent every question time in the lower House sitting on the advisers' benches—as it happens I used to sit with Barry O'Farrell. That was an exciting time. I think the Opposition were well and truly on their game and Bob Carr was a good Leader of the Opposition. It was an interesting time but the task of passing legislation and the long debates was happening in the Legislative Council. You certainly needed to be there—particularly for the committee stage on bills—and be ready as an adviser. You were needed less as an adviser in the lower House for bills because that is not where the bills were generally being amended. There was not a lot happening at that time in the lower House; the action was in the upper House. I looked at the Legislative Council as being highly effective and there were giants in the upper House in that time—Ted Pickering, Virginia Chadwick, John Hannaford, plus Bob Rowland Smith. They were giants and very effective Ministers, those three were forceful and interesting to watch. They were joined by Robert Webster in 1991.

The Legislative Council was very well served by its ministers. I also say the same of Michael Egan when he became leader of the House in 1995. I was reflecting that I would have engaged far more with the crossbench in the Legislative Council in the 1988 to 1991 period than with the Labor Opposition of the time. I know that because when I came to be sworn in—given that all the Liberals and Nationals from 1988 knew of my ambition—Jack Hallam who was still the leader of the Labor Party on that day clearly by his reaction knew me but did not know that I had been elected. That was an interesting moment—from the point of view of the Labor Party we were all just staffers.

When I gave my first speech I made the connection with Ted Pickering and Virginia Chadwick, all Liberal Party moderates from Newcastle, though Ted had long lived in Wollongong. In those days no-one ever interrupted a first speech. I made a quip about the lost tribe of Liberals from Newcastle, and Ian Macdonald from the other side went, "Oh", or something like that, as in "another one". He came and apologised afterwards but what that said was neither Jack Hallam or even somebody who was politically engaged like Ian Macdonald had done their homework. They had no idea over the three years I had been advising in the House that I was likely to join at the election. That suggests I had limited engagement with the Labor Opposition 1988 to 1991 but I know I had much engagement with the crossbench.

**Mr CLUNE:** The number of amendments to legislation increased exponentially with crossbench control. Do you think that was a good thing? Did better legislation result from that process?

**Ms FORSYTHE:** I do think that we elect governments to get on with their agenda. I am not sure that every amendment was about improving the legislation or that it was about overcoming some deficiencies and unintended consequences that a bright member of the crossbench or the Opposition had spied and sought to fix. When the government lacked a working majority in the House the more political the House became and the role of the crossbench at different times has made the politics of it even starker. I am a great believer in the review process and at different times we certainly challenged the power of governments. There were times when the Government found money, found resources to solve problems, or changed tack or recognised that there were things that could have been done differently and accepted amendments or shifted policy. However, I have become somewhat disdainful in recent years of some of the antics and attitudes demonstrated in debates and question time.

I made the point earlier about agreeing outside the Chamber on some legislation with one of the ministers in the early Labor government period. The Minister was open to hearing our perspective and might have, therefore, amended the bill in the lower House. To the threat "I will pull the bill if it is amended", perhaps we could have said, "It does not matter to the Opposition. You can pull your bill." But it was in the area of planning and we probably were in agreement that they needed to solve some of the bottlenecks and that we needed to keep reforming the planning system in New South Wales. The Government would have known the view of the Opposition and each of us would have been lobbied by various interest groups saying, "Unless you fix this, the development will be happening in Melbourne or Brisbane but it will not be happening in Sydney because it is costing too much to do anything." We would have heard from the same stakeholders as the Government and it would not have done us any good to be seen to be the reason that the bill failed on the floor in the Council. The Government was in a strong position.

We were all exposed to the same stakeholders and you did have to listen. I think one of my successes as a shadow minister particularly in the community services sector was that—unlike a minister whose time is controlled by their staff and the nature of government business—my door was open to individuals as well as to broad peak groups and my phone number was available. I would also travel halfway across the State to sit down with people who had a story to tell. I have run into ministers in recent years who have said, "We always would have loved to know about your sources." I said, "Quite frankly they were often just people who had not had a hearing from government but I was open to hearing them." We were all exposed to many of the same people; it depended on what you did with the information. That would have also applied to backbenchers in the lower House who were picking up material and giving you information. But at least in Opposition if you were prepared to be diligent, and given that the crossbench was hearing some of the same stuff, you could often work together. The same thing applies around peak bodies. Peak bodies are smart if they have an open dialogue with governments and oppositions, and, depending on the nature of where you are at, with the crossbench as well.

**Mr CLUNE:** Obviously a key role of the Legislative Council is to scrutinise the Executive. Do you think that has improved with the crossbenchers having the balance of power?

**Ms FORSYTHE:** No. I have thought about this one for a while and I have seen it through different lens at different times. I think those with the numbers have frequently used them just for more political ends rather than true scrutiny—base politics rather than proper scrutiny of government. I genuinely believe in the power of good public policy. Look at Nick Greiner's premiership. Nick was about good government and good policy. I don't think he accepted that not everybody was on the same journey, as he saw it. Certainly as the numbers on the crossbench have grown I think it has become very easy just to round-up numbers from the crossbench to—it is more than scrutiny—embarrass the government, rather than to get a genuinely improved outcome from the government. I think it makes the job of opposition easier when you can round-up enough of the crossbench.

It seems to me it is often about scoring the headline, rather than genuinely making for better government. From time to time committees of the House have been used that way in particular. In my time out of parliament I have sat on a variety of government boards and I have sat on a number of committees with government—when I think of the executive and staff in the public sector it translates through to the impact on them and the extraordinary amount of resources that go into the preparation for Estimates, the calls for papers, even the preparation of House folders. I keep saying, "Is that creating better government? Is that deflecting the public sector from doing what they are meant to be doing—delivering the services—when so much of that material is not used?" I do see it from that side from time to time.

**Mr BLUNT:** We asked one of our most recent interviewees, your good friend and former colleague, John Ryan, to reflect upon his successful public service career post-politics and what he would like to reflect back to the Legislative Council from that. He commented about the great respect with which members of Parliament are seen, how carefully their words are listened to and responded to, and indeed the resources that are put into preparation of responses.

**Ms FORSYTHE:** In some ways John and I are saying the same but perhaps from a slightly different perspective. I worry about how much in resources go into preparing for Estimates because of the regard for the parliamentary process but committees can easily be side-tracked and hours of preparation are wasted. Of course the public sector must take the role of Parliament seriously, but I just wish everybody saw both sides of it and reflected on the impact of their actions. Is it to get a headline or is it to improve outcomes? If it is about the headline then it is just to embarrass the Government. If it is to get a better outcome then that is useful.

I acknowledge that as a shadow minister, of course, you are out to get that headline and to embarrass the Government but at different times there were other motivations. I knew there was under-resourcing of a department, there were poor systems and that things could be improved. Getting the headline, which I often did, was on some occasions less about the headline and more about the outcomes. I got the outcomes. Indeed, the effect of one of the inquiries I chaired was that the Government supplied additional resources and made some changes, reflecting on the fact that they were embarrassed by some of the evidence that had come forward. You have to hold government to account and scrutiny, but it is a balance between genuinely getting a good outcome, and better public policy, or whether it is just about the headline. There were members at times about whose motivations I was quite cynical.

**Mr CLUNE:** It is also about two conflicting imperatives: The Government's right to govern and the Legislative Council's right to scrutinise. Do you think the right balance has been achieved?

**Ms FORSYTHE:** I think we got there some of the time. Some committees were majority government and some were majority opposition and crossbench. We used them in different ways and the outcomes were obviously influenced by the nature of and numbers on the Committee. There was the role of the standing committees doing the genuine, longer term inquiries and reflecting on deeper policies than the day-to-day business

of government. There was a definite difference in approach between standing committees and special purpose committees.

**Mr CLUNE:** Crossbench parliamentarians have a duty to the people who elected them but they also have a duty to everyone in the State as well. Do you think they have balanced those two imperatives?

**Ms FORSYTHE:** There were some who had no idea. They might have had a duty to those who elected them but people were elected with under 2 per cent of the vote. It was the preference flow and the luck of where they happened to be drawn on the ballot paper. I am not sure they had any idea who really elected them. The system has been tightened so at least you now have tougher requirements for the registration of political parties. That at least starts to put some checks and balances in place. Anybody elected to Parliament owes a duty to the people of the State—government or opposition. It would have been hard for those micro parties to understand who they represented.

**Mr CLUNE:** It appears that things have worked a lot better in New South Wales than in the Senate with crossbench balance of power. Do you have any thoughts on why that might be?

**Ms FORSYTHE:** It is probably about the size and the nature of the New South Wales Parliament. We are much physically closer, we see each other at very close range. As we all know, the problem for the Federal Parliament is that it is designed to create beautiful spaces, offices in which people can retreat and close the door and never have the engagement that was a part of our daily existence. There is no mixing around the water cooler so to speak. It is also just the different size and the nature of the Senate. We see each other across the Chamber literally at eye level—we can so to speak tell the colour of the eyes of other members. The Senate is different and there is a lesser sense of commonality.

**Mr CLUNE:** What is your view of the effectiveness of the Legislative Council committee system?

**Ms FORSYTHE:** I am particularly positive about the standing committees, which were the first to be established. You have to give credit to the establishment of those standing committees. Thinking of the Social Issues Committee's early inquiry into adoption, we look back now and ask: How was that such a vexed issue? Maybe people still have a passionate view about it but the idea of not being able to have any contact with birth parents virtually had people out in the streets in protest; it was resolved in a thoughtful non-partisan way through the work of the Standing Committee. The idea of those standing committees was about investigating issues that were not necessarily at the high point of the politics of the day but were fundamental public policy issues about which some thoughtful analysis needed to be done. I was appointed to the Standing Committee on State Development and the issues were of interest to me, such as cities and what makes the economy work.

My first inquiry, regional business development, is one of those issues about which I still have a passion and it comes up in my job frequently. I often think that the tax-payers did quite well out of me or at least I did quite well examining some key issues because it is still a vexed policy question particularly when people propose decentralisation as a solution to the growth of cities. One of Nick Greiner's decisions was to end a special tax break for city industries that relocated to country NSW. It was his fundamental view that if there were good locational factors for an industry to be located in a place it would be there and it did not need special assistance to locate in a place. That issue gained prominence in the Inquiry. I have reflected on some of our findings since then which seem to have stood the test of time. The Law and Justice Committee was then subsequently created. I have watched at different times the Standing Committees. I think they have been a very positive addition to the work of the Legislative Council as a genuine House of review, taking a longer view, allowing issues to be examined, then debated in the Parliament and then used to inform government.

Separate to the Standing Committees are the various General Purpose Standing Committees. We had good outcomes from some of them but sometimes it was more about mustering the numbers to initiate an inquiry to embarrass the Government, we did a bit of that—I did a bit of it. It is not necessarily the best scrutiny but, having said that, sometimes governments did act on the issue of the day. Naturally governments don't want to be called out and they will take action. I recall we initiated an inquiry into post-school options for young people with a disability. We took a thoughtful approach and the Government responded. It was embarrassed by public hearings and evidence that we took. By the time we finished the Government made, I think, a \$5 million additional allocation in the area. It went back and started to have a serious review of the policies and how they were managed that area. The fact that when a committee is due to report to Parliament and debate, the Government goes out and finds some additional resources is testimony of the power of committees, but it also was a really positive outcome. This was very much about individuals disadvantaged because of their disability. These were generally moderate to high needs people and we did focus the mind of the Government on that. There was a measure of headline grabbing but the outcome was good. It was not just about resources into the portfolio; it was how the Government was managing the policy.

I had two periods on the Standing Committee on State Development. There were two inquiries of which I was very fond—I have mentioned one. There was another one with Tony Burke as chair about science and its commercialisation. One of our recommendations was to establish the office of NSW Chief Scientist and the government of the day did that. Interestingly, I worked with the first Chief Scientist, Professor Mary O'Kane. We sat on a board together for a couple of years and we became very good friends. I look now at the role and place of the Chief Scientist and say, "That was a good call."

Another good call in that inquiry was identifying the importance of medical research. That is now one of the strengths of the New South Wales economy. At the time it was still emerging for NSW as an opportunity but our research institutes are first rate—up there with the world's best—but the understanding that they were a pillar of the economy was not fully grasped. The Government was heading in that direction and that is why it supported the inquiry. The first Minister for Medical Research was then appointed. We had a Science Week to encourage an uplift in student and school interest. That one was non-controversial. It was complete boredom to the media but of interest for us.

I do remember an inquiry into Eddie Obeid. As a consequence of his pecuniary interests declarations changing year on year, we managed to have an inquiry. The evidence was interesting and the instincts of some of us turned out to be right. If that inquiry had gone another way, history might be different. We could use the committees of the Parliament to inquire and it is interesting to reflect on that.

The other thing about the committee system is that you had to work and travel with people from the Opposition or the other parties. You had to work together and the experience generally broke down party barriers.

One of the things you do if you are ever in opposition is to reflect on what precedents you might be establishing, which was some of what we reflected on in the creation of the various committees. What goes around, comes around. That is something about which an opposition should reflect, the crossbench rarely have that need.

**Mr CLUNE:** What about the Estimates committees?

**Ms FORSYTHE:** As a shadow minister I enjoyed the challenge but it was an issue having adequate resourcing to do the appropriate digging before the committee met. Ministers will answer the questions you ask but it seems to have become the habit to put many questions on notice and, as I said earlier, I now see the time it takes up for the public sector. Not all agencies are large agencies, many of them are on small budgets but they still have to appear with the minister. Whether they are a massive agency or a small agency it is not much different in terms of the preparation for Estimates. Nonetheless, as a shadow minister I would want the Estimates committees maintained.

**Mr CLUNE:** Do you think the committee system could be improved?

**Ms FORSYTHE:** I do not. I was always in awe of the quality of the support of the staff who worked for the committees. We had some first rate PhDs and others and I absolutely valued the background briefing papers and the way that we were then informed as committee members. I think we did get some positive outcomes, and over a long period of time the Legislative Council has achieved much about which to be proud in terms of what has come from some of those committees.

**Mr BLUNT:** Have you had any involvement in the work of committees wearing your current hat as an advocate on behalf of the business community?

**Ms FORSYTHE:** I have just recently made a submission to the new one called Public Accountability around the light rail project. Interestingly, when I reflected on the terms of reference, I thought it was not looking at improving the system; what might be the positive lessons to be learnt about procurement or how to do improve a project as complex as that one. Having said that, I took it seriously and put in a submission. For example, there is an implication in the way the terms of reference are written that there has been poor communication from Transport for NSW to local businesses. There has been so much communication from well before the project commenced and I wanted to make that point. I guess my judgement will be informed by the nature of the public hearings on the issue, if they choose to have them, and then the writing up of the evidence. I was a bit disappointed in the terms of reference. I think they have narrow cast it.

**Mr BLUNT:** As someone who was in the House and a shadow minister at the time of the Egan cases, what are your general recollections about the events that ultimately led to those matters being tested in the NSW Court of Appeal and the High Court of Australia?

**Ms FORSYTHE:** It was a fascinating time, partly because none of us quite knew where it was going. It was definitely uncharted waters. That was one of those times where you reflect: How far can you go from opposition? It is very interesting because the issue has just come back as we know. The power of the executive



relative to the power of the Parliament is a really crucial issue. I do not think we knew where that was going at the time and maybe it might have gone too far.

**Mr BLUNT:** Do you think that the judgements of both the High Court and the NSW Court of Appeal in the Egan cases were a positive or a negative development in relation to the Legislative Council's powers?

**Ms FORSYTHE:** At some point the Government has to be able to govern, and there is a danger of undermining the role and place of the Cabinet. There are legitimate issues with Cabinet-in-confidence and commercial-in-confidence that ought to be taken seriously. The government has every right to claim that. Sometimes it is commercial; there are contracts. People engage with government in a belief that they are not putting their intellectual property in general public view. I am accepting that there is a place for Cabinet confidentiality. It all comes back to parliament and the executive acting responsibly, I think.

**Mr BLUNT:** Who were the party leaders in the Legislative Council that impressed you the most and what was it that made their leadership effective?

**Ms FORSYTHE:** Obviously both Pickering and Hannaford, in part because I just worked so closely with them. They believed in the role, power and the place of the Legislative Council. They had both spent enough time in opposition to have a sense of the rights and responsibilities that came with government. I was always a huge fan of Michael Egan. Michael was a person for his time. He was certainly an upper House person, definitely not a lower House person. In fact, he was not a great one for confrontation, which is the irony of him in the High Court cases. He would seek to resolve things. In his own style, we would be diverted by a "dog ran away" story or something of equal humour that would deflect the heat in the chamber at the time and relax things. He was very approachable. He had time in both opposition and government. I think the people I mostly worked with were those who had seen it from both sides and in their time as leaders were thoughtful, genuinely believed in the place of the Parliament and understood their role as leaders.

**Mr BLUNT:** Which other members of the upper House impressed you and why?

**Ms FORSYTHE:** I would definitely mention Ministers like Robert Webster and Virginia Chadwick. I have indicated my admiration for Lis Kirby. I have some grudging respect for Fred Nile because I think he has been extraordinary in the history of the Parliament of New South Wales. At least he was consistent and approachable. He never said one thing and did something else, so there was consistency. Tony Burke while he was there. He passed through momentarily but you knew from his first speech that he was a person of substance and intellect. It was a pity that he was biding his time until his election to Federal parliament. He would have been a very, very strong member if he had stayed for a long period of time. There were others on the Labor side I got on with like Carmel Tebbutt. We have seen each other and stayed in touch since then. I had respect for Jeff Shaw. I think his intellect was outstanding. I would ask him a question with a political tone. I would phrase it that way and he would roll his eyes, look at me and say, "I am going to ignore that part of your question. I am just going to deal with the substance." He got away with it because that was Jeff. He was completely a fish out of water in the sense of the politics but excelled in terms of giving wise counsel to his colleagues and being an Attorney-General of substance—we have, in fact, been quite well served by the Attorneys-General over time. Among my own colleagues: John Ryan, Brian Pezzutti, and, of course, Duncan Gay, Jenny Gardiner and Richard Bull from The Nationals. I am a Coalitionist—and I gave support and received it from them. There was camaraderie. I guess I am a bit old school because I liked those who genuinely understood or had a love of the Parliament. I do not see that in every member of Parliament. I think some of them wonder what they are doing there. I think the ones that I have identified had a genuine love of the place.

We also benefitted from the extraordinary ability of our "Machiavellian" John Jobling, an outstanding Whip. "Jobbo" would come up with a strategy to get people out of the House at the right time or to get people in for a division. I remember a very late night sitting—we were very good at that from 1988 to 1991—and Marie Bignold had gone off to have a rest. I was on duty as a ministerial staffer. John said, "At a certain time I will give you an instruction and you have got to go and get her out of her room." It absolutely terrified me that as a staff member I was going to have to get this crossbench member down into the House because we were going to need her vote. Fortunately, she came down about 20 minutes before the vote so she must have been listening to where it was going. Jobbo said, "I looked over and I have never seen such relief as on your face."

We tried mind games. When we were in opposition, the Government lost control of timing of debates and we had to sit very late on quite a few occasions, which is never what they wanted to do because they wanted to be able to adjourn. If we were going into late night sittings we played our own mind games—and I do not think they ever worked it out. At a certain time Jobbo would order raisin toast and the hot chocolate, in the days of room service, and we would all be refreshed, another lease of life. I would say to my female colleagues, "We have all got to go and refresh the make-up." We would then come back down to the chamber and none of us ever appeared dishevelled. No, no, no! If they wanted to sit all night then let's look like it is not going to bother us! Meanwhile

the government was getting into trouble from their own backbenchers for sitting late. You will not read about that in history books but that was a mind game we enjoyed and a little of what was going on behind the scenes.

**Mr BLUNT:** What do you see as the most significant changes in the Legislative Council during your time here?

**Ms FORSYTHE:** From 1991 we started to see the rise of single issue party MLCs. They were temporary, they had no real base. It was eight years and they were gone again. There was not the same sense of continuity—most major party people get at least two terms. It often means in government and opposition and you get a perspective about the role of the parliament. I think that was one of the early changes. Another change I saw was the way in which the members of the House would treat each other. In the question times of, say, 1988 to 1999, ministers were asked questions and ministers answered questions; then it changed. There were a couple of members who came in and were suddenly ministers—it is not hard to work out who that may have been.

In fact, one was shocked to discover that he was actually meant to answer the questions and it did not take long before we had a motion of no confidence regarding his complete disdain of the House. What changed was that those people who came in as instant ministers had no sense of the respect and the place of the Parliament and once that starts it is really hard to pull back. Instead of people working their way up, being in the House on the backbench, a committee chair perhaps and then becoming a minister, it changed. I think that has underpinned some of the lowering of the level of the debate I sense and I regret I am therefore not being terribly complimentary.

The other thing that changed is when we went from four ministers to maybe one or two in the House. You cannot expect a single minister or two ministers to have a grasp of all the portfolios they represent on behalf of lower house ministers. Question time lost its sparkle, it became just taking the questions and passing them on. Ministers became a "mailbox" for the other place. That was a term in fact used by a Labor Minister on one occasion, which gave rise to a *Daily Telegraph* headline and cartoon soon afterwards.

In other words, there is a danger that question time in the House is not taken seriously by the government of the day and the ministers do not have the time to manage the load appropriately to be able to have the depth of knowledge to manage the range of portfolios. Much flows from the traditions of the House. There has been a demonstrable shift—the acknowledgement of the Chair is not as obvious as I recall, and I do not think that enough of the backbench take cognisance of the standing orders. I used to read them from time to time. I recall I took delight in catching out the Government on the first government question of the day because the question was out-of-order according to the standing order. Some of that that still happens, and it highlights the power of the House over the government of the day.

**Mr BLUNT:** How effective was the Legislative Council as a House of review when you left Parliament compared to when you first became a member?

**Ms FORSYTHE:** I think it was strongest earlier, notwithstanding that the 1991 to 1995 period was one where the numbers had shifted in the Assembly. It was a hard time to be in government. The upper House had a role to play even though the numbers were with the Government. I count that period 1988 to 1999 as a very strong period. In the early years of the Carr Government the upper House was full of people with strong ministerial memory and a few hungry shadow ministers. I do regard that as a very strong time for the upper House in general.

**Mr BLUNT:** What is your general assessment of the Legislative Council and its role today? Also since your retirement you have gone on to a very successful career as an advocate for the business sector, what are your thoughts on the role of the Legislative Council in view of that experience?

**Ms FORSYTHE:** I am a little disdainful of the Legislative Council these days. I do not think the quality of debate, the thoughtfulness, some of the things I just talked about, are there. I find myself coming in to watch the debate less than I might have a few years back. However, there would not be a day in the week that I do not engage somewhere with the Government of New South Wales. Some of it is at ministerial level, but much of it is at agency level, also with the Opposition, with shadow ministers. When I invite a minister, particularly in a year leading to an election, I also invite the shadow minister at another time. I certainly have an emphasis on balance. I engage at the parliamentary level, in particular with the Legislative Assembly.

**Mr BLUNT:** Do you have any suggestions about how the effectiveness of the Legislative Council could be improved?

**Ms FORSYTHE:** I would certainly like to see at least three ministers from the Legislative Council at all times. I think that would give a better standard of debate, a better engagement and take some of the time pressure off ministers when the House is sitting. We know that bills originate in the lower House by and large but I am sure there would be a better debate, in the committee stage and in the work of the Legislative Council.

The best thing is to have parliaments that reflect broadly the community, which in the lower House is partly achieved by the electorate system. Parties have their own responsibilities in the balance of candidates and I encourage all to consider the composition of the House when selecting candidates.

I mentioned in my farewell speech that from time to time it would be good to see members—we have actually just had one—crossing the floor. I was not as it happened complimentary of his actions. Certainly as a Liberal you should believe in the right of somebody if they strongly believe in something to be able to act that way but there is a party process. I am not sure that that process was duly followed by the member in question. Some issues of course go beyond party. I both enjoyed yet found complex the so-called free vote, or conscience vote issues, on big social issues of the day. You really, really have to think about your position. I thought it always made for very good and thoughtful debates. Maybe that is something the Legislative Council can do more, assuming the House reflects the broader community by the luck or chance of democracy.

I remember when Ian Cohen brought in his bill on euthanasia. It was quite early in community debate on that issue. I was unlikely to support it but I really reflected on the issue. What I said at the time was that I could not support, just because a member, Ian Cohen, had brought this bill into the Legislative Council, that we were effectively being asked to change what was going to be a fundamental position of this State. A better start would have been for an inquiry by a committee to give the bill credibility, rather it was just the action of one person. The debate did highlight the extraordinary range of issues involved. We did then start to hear from experts in the field and certainly many people with an opinion wanting to share it with us. Ian was just a little bit ahead of the curve in bringing in the bill. That was one issue where I felt detailed discussion was essential. To me euthanasia was a fundamental issue of human rights that I wanted to see more broadly explored. I thought it was good to see the beginning of a conversation that the community wanted to have.

**Mr BLUNT:** Finally, what do you believe were your main achievements during your career as a member of the Legislative Council?

**Ms FORSYTHE:** I spent far too long in opposition but I held some ministers to account—quite definitely. We did see one Minister shifted out of a portfolio because the Government suffered one too many embarrassments. That was never about the person; he was a perfectly nice individual. The Government then found more resources for that portfolio in the next budget. I did force the government to make policy changes. I recently encountered one of the ministers of the day and the minister reflected that when I asked a question the minister was often very nervous about what I may have on the government because I was known to have done my homework.

I did my job as a shadow minister and I think I forced some changes for the better. I certainly forced the Government to change the policy on class sizes in kindergarten, year 1 and year 2. That was something on which I worked with the NSW Teachers' Federation. Even though the experts now say that class sizes alone are not the determinant of outcomes, for me as much as anything it was about my experience as a mother as much as my training as a teacher. I said to somebody if I had the choice of 10 or 20 children at my five-year-old's birthday party that I would prefer the 10. I was going to be more in charge and get better outcomes, whereas it did not make so much difference with a class of 15-year-olds. At that time the Government responded to what the Opposition was saying and promising. I can reflect that I was an effective shadow minister. I am proud of that achievement because I think it is for that I will be known.

**Mr BLUNT:** Patricia, thank you for coming today. Thank you for your thoughtfulness and the unique insights that you have given us. Also on behalf of my predecessors who supported you as Clerk of the Parliaments, John Evans and Lynn Lovelock, and all the staff of the Department of the Legislative Council, including some who are still here who supported you, including in your work in chairing committees and in your work in the House, I thank you for your service to the Legislative Council and to the people of New South Wales.

**Ms FORSYTHE:** Thank you. I say to anybody about being a member of Parliament at any time that many people aspire to it, few of us get chosen and you must never lose sight of the fact that it is a privilege to have served. I never found a reason to really dislike the other parties of the day. Some I liked more than others as people but I certainly never saw a need to develop a hate for those I opposed. You need to have a bit of cunning to do the role effectively but you can still do it without hating people.

**Mr CLUNE:** Thank you very much for giving us some great insights and putting some wonderful material on the record for history.

**Ms FORSYTHE:** Thank you.

**Discussion concluded.**