

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE No. 1

INQUIRY INTO THE GENTRADER TRANSACTIONS

At Sydney on Monday 24 January 2011

The Committee met at 9.00 a.m.

PRESENT

Reverend the Hon. F. J. Nile (Chair)

The Hon. G. J. Donnelly
The Hon. L. A. Foley
The Hon. K. F. Griffin
The Hon. Dr J. Kaye
The Hon. T. J. B. Khan
The Hon. G. S. Pearce

BARRY ROBERT O'FARRELL, Leader of the Opposition, and

MICHAEL BRUCE BAIRD, Shadow Treasurer, examined:

CHAIR: I welcome you all to the third public hearing of the inquiry into the gentrader transactions. I refer attendees of today's proceedings to the statement I made last Monday 17 January concerning the Committee's proceedings and the prorogation of the Parliament. As many of you would be aware, by order of the Committee I have issued summonses to the 10 former or current directors of Delta Electricity and Eraring Energy. The Committee has been advised by the legal representatives of these individuals that they will not be attending today's hearing. The Committee will consider this matter after today's hearing. The Committee also invited the current directors who did not resign from Delta Electricity and Eraring Energy to give evidence on Friday 21 January 2011. Those directors also declined the Committee's invitation. The Committee will also consider that matter after this morning's hearing.

Before we commence taking evidence I will make some comments about procedural matters. The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of the public proceedings. In accordance with those guidelines only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting these proceedings the media must take responsibility for what it publishes or what interpretation is placed on anything that is said before the Committee. Witnesses, members and their staff are advised that any messages should be delivered through the Committee clerks. I ask everybody to turn off their mobile phones during the proceedings. I am very pleased to welcome our witnesses today and thank them for their attendance, Mr Barry O'Farrell, Leader of the Opposition, and Mr Mike Baird, MP, shadow Treasurer. I remind you that you do not need to be sworn as you both have already sworn an oath to your office as members of Parliament. Do you wish to make an opening statement?

Mr BARRY O'FARRELL: We do, Chairman. Firstly, we thank you for the invitation to appear. Whilst we do not have firsthand or direct knowledge of the transaction, we certainly understand the community's concern about this whole deal and we welcome your activity. I congratulate you, Mr Chairman, on withstanding the pressure that has been applied and ensuring this Committee proceeds. We certainly hope that the eight directors do end up appearing because the Committee has done well to date but it will not be able to do all its work until it hears from those eight directors.

As I said, Mr Chairman, this inquiry has already uncovered a disgraceful trail of deceit, incompetence and cover-ups in what is quickly becoming known as the dud deal of the century. This inquiry discovered that there will not be \$5.3 billion returned to taxpayers out of this deal; it could be as little as 10 per cent of that amount. This inquiry has discovered that the real reason for proroguing the Parliament was to try to shut down this inquiry, to try to stop the people of New South Wales getting the facts about this transaction, the reasons for it and the proceeds from it. This inquiry has discovered that despite the Premier's alleged apology 10 days ago she is still prepared to deny eight directors the immunity they need to come in and give truthful and open evidence and satisfy the public about their reasons for resigning in protest at this deal.

This inquiry has discovered that the top Treasury officials do not believe that this deal was in the best interests of the State and yet, remarkably, the Treasurer, as confirmed in these hearings, is pressing ahead with a second sale of electricity assets. The Treasurer has ignored the advice of his most senior public servant; he is pressing ahead with further sales; he has misled the public and that is the reason I believe he should be sacked. I do admit that, whilst I welcome coming along to this inquiry, as I have come to previous parliamentary inquiries—I am always happy to assist to try to uncover the truth—I was to some extent a little surprised at the request to come to an inquiry that is focused on Labor's bungled sale of the State's electricity assets.

As Leader of the Opposition I have no firsthand knowledge of this transaction. Probably no-one in New South Wales was less likely to be briefed about the process over the past two years than the Leader of the Opposition. This inquiry, though, is about getting to the bottom of that stinking, steaming mess and I am happy to do anything I can to assist this inquiry in trying to achieve that. I realise just how important this inquiry is: it is examining the scandalous sell-off of the State's electricity assets and, importantly, looking at the impact of that sale on the electricity bills of families and small businesses across New South Wales. But I am not going to talk today about our policy, because we will not release our policy until we see the full extent of the damage that this Government's sale of the State's electricity assets has done to the New South Wales electricity sector. Can I just be clear about that—this inquiry is about the transaction, about the sorry, stinking mess that is that

transaction that Kristina Keneally and Eric Roozendaal have presided over. We will announce our policy in the fullness of this election campaign but we will not do so until we see the full extent of the damage wreaked by that lousy deal upon the State's electricity sector. There will be plenty of opportunity for policy release during the campaign. We will continue to do that very happily.

With just a few witnesses to this inquiry heard to date, we have now seen that the deal that the Premier and the Treasurer for a month said was in the public interest—had delivered \$5.3 billion for taxpayers—is a long way from that. We are determined to get to the bottom of this process. If we are elected we will appoint a special commission of inquiry, a judicial inquiry, to investigate it. We will seek to get all the documents before that inquiry. We will seek to get all the witnesses before that inquiry and we will get to the bottom of this whole matter. We are determined to bring people to account for what appears to be the dud deal of the century.

Mr Chairman, just to revisit some of the key dates of this sell-off, of course, the first key date is 14 December. That was the date when, whilst the Premier and 11 of her staff were at the *Oprah Winfrey Show* in the forecourt of the Opera House, Eric Roozendaal was presiding over perhaps one of the most important transactions in the State's history, with the Treasurer ready to give the final approval to that power sell-off. We know the Treasurer had an incentive to get it done quickly that day because he was off on his annual rendezvous to New York. What we need to know is whether the Treasurer agreed to sign off on this deal because of his desperation to avoid delaying his trip or whether there was some other reason why we had this extraordinary spectacle of a deal done, flogging State assets at a quarter to midnight.

The next key date, of course, was Sunday 18 December, which was when the New South Wales Liberals and Nationals argued in the face of the Kristina Keneally's refusal to appoint a judicial inquiry into this matter that there should be a parliamentary inquiry. As you know, Mr Chairman, I proposed this inquiry should proceed so that the public could get all the details on this deal, all the details on this sell-off, before the State election. There is no point leaving it to the Auditor-General. No matter the good office that he runs or the good person that he is, if that report is going to come down after the next election. Too many times over the past 16 years issues have not come to full light until after Labor has been re-elected and the public, the community, do not want that repeated in relation to this issue. That is the significance of this inquiry.

But of course what then happened after that Sunday announcement was the decision on 22 December by the Premier to prorogue or shut down early this Parliament, shut it down without warning, to shut it down in contravention of the memo prepared by her own department about the caretaker provisions about the months leading up to the next State election campaign. As you know, last week she admitted in this inquiry she knew that by shutting down Parliament early it would stop, in her view, this inquiry proceeding. We have seen when the Clerk, to her credit, gave contrary advice, when you, Mr Chairman, have stood behind the Clerk's advice, the Premier go to extraordinary lengths to try to curtail this inquiry, to intimidate witnesses into not appearing. She used outdated legal advice to try to intimidate not just this Committee not to proceed but to raise legal questions about the privilege that applies to the evidence that is being provided by people such as those eight directors.

She has refused point blank to provide an indemnity to those eight directors and she continues to take a stand that can only block the evidence, the information, the firsthand knowledge they have about this matter coming to light. Eventually, of course, after a public backlash 10 days or so ago the Premier conceded she has underestimated the public interest in the issue and agreed to the inquiry proceeding. Now I know the inquiry would have proceeded, but at least she agreed to come along. But, frankly, she has shown that she is like her predecessors: they are fantastic at apologies after the event but nothing ever changes. On the one hand, they apologise for underestimating the public concern about this issue, but on the next day, the first day she arrives at the inquiry, she snubs her nose at the public by refusing to offer that indemnity to those directors who clearly have relevant information for this inquiry, who clearly have information that could further inform the public about this whole sale process.

The next key date was Monday 17 January, the first day of this inquiry. On that day the Premier and the Treasurer claimed the value of the fire sale of electricity assets would be \$5.3 billion. That figure is now shown to be nothing more than fiction. It has since emerged that nearly all the proceeds of the sale will be taken up in costs and fees and that the people of New South Wales will be left with virtually nothing to show for the sale of such a significant State asset. The Labor Party is requiring taxpayers to chip in for a new coalmine, for dividends and tax equivalents, for compensation and heaven knows what else, although I commend again this inquiry for last week getting to the bottom of some of those issues.

As we have said before, this is like selling your car and then agreeing to pay the registration, petrol and maintenance charges for the new owner. It makes no sense. I note the Treasurer, who was proudly boasting about the \$5.3 billion proceeds from this sale when it first went through—a claim he made time and time again over the month after the sale—has now changed his tune completely. Now he is saying that the sale will protect ratepayers from future costs. Actually he is saying that the sale will protect taxpayers from future costs rather than generating revenue for taxpayers to use on basic services and infrastructure that have been allowed to be neglected and ignored over the past 16 years. That is simply not good enough.

On the second day of the inquiry, last Tuesday, we saw the Secretary of the Treasury come forward and give advice. The most crucial element of his advice was that he advised against this sale. He also admitted that most of the proceeds would be swallowed in fees, costs and other side deals to the transaction. We need to know, through this inquiry, why the Treasurer decided to proceed against the advice of Treasury and how much that decision has cost the taxpayers of New South Wales. We need to know what impact it will have on the power bills of those small business operators and families who are already suffering price increases of something like 60 per cent in recent years. And we need to know whether there is a hidden agenda in relation to this Government sell-off of assets. That is one of the other reasons I think the appearance of the eight directors is so critical.

We know those eight directors were Labor appointed directors. We know many of them have extremely close connections with the Labor Party. I have no doubt that some of them could share their own views, with their background in the Labor Party, on why Eric Roozendaal and Kristina Keneally have pressed ahead with a deal that has not only failed taxpayers but seems to have caused the Labor Party—that some of those directors and certainly Kristina Keneally and Eric Roozendaal are apparently supporting. We need to know if the Labor Government wanted to sell off the electricity assets at a bargain price to minimise the funds or to create problems for a future government should there be a change at the next election. That would not only be an abuse of trust; if that was the cause it would frankly be a crime against the State.

This inquiry has made enormous headway. We believe that we are still a long way though from discovering all the truth. We believe what you have uncovered to date is simply the tip of an iceberg. Every time a new witness appears before this inquiry more information comes to light. We need to hear from the eight directors who have first-hand knowledge about this matter. I note the release on Friday and Saturday of new advice from Bret Walker, SC, the leading silk before the High Court in this nation, someone who has done project after project, inquiry after inquiry for this State Labor Government. He clearly has backed the Clerk's view of this inquiry—that it can proceed, it is valid, and that the evidence that is provided is protected by privilege. That is critical advice because that advice from Mr Walker confirms not just the validity of this inquiry but the right of the public to demand to know what has gone on here. It is the right of the public to have that information before they exercise their democratic right on 26 March and cast a vote across this State.

I would urge this Committee to continue to press the Premier to stop trying to hide the facts of this deal, to stop the Premier trying to continue to block the appearance of those eight directors, and to ensure that the Premier does ensure that your request for papers is fully complied with. But if, as I suspect, the Premier refuses I will again say that, notwithstanding whatever work you are able to do should we be elected on 26 March, almost the first thing I would do is establish a judicial inquiry into this whole affair. That inquiry would have the power to call for all the papers and it would offer the privilege that all the witnesses need, to get to the truth because we are determined to get to that truth. Most amazingly though, the Treasurer came along last week and said they were continuing with a second round of asset sales. We are now just over a month before the Government goes formally into caretaker mode. What keeps me awake at night is the damage that Kristina Keneally and Eric Roozendaal can still do to the State before they go into a period where they are no longer able to make the sort of crazy, incompetent and misdirected decisions we have seen in recent times.

Thank you again for allowing me to appear today. This has been a sorry saga from the start. As the facts come out in this inquiry the outlook for the taxpayers of this State frankly gets worse and worse. As I said, the Coalition will soon unveil its energy policy but we will not do so, we cannot do so, until we see the full extent of the devastation of the damage wreaked by Eric Roozendaal and Kristina Keneally through this asset sell-off. We will establish a special commission of inquiry to get to the truth and to hold people accountable for whatever sorry dealings that will be exposed. We are ready to put the finishing touches to that energy policy but, as I say, we will only do so when the full extent of the damage and information is out there.

When I proposed that there should be a parliamentary inquiry there were three things on my mind. Firstly, whether proper value for money had been achieved in the sale of a State asset—because if you come to

sell a State asset you only get one chance on your obligation is to get the best possible deal for taxpayers. Secondly, why eight directors resigned in protest at the deal—not just eight directors but eight directors appointed by the Labor Party, some of whom have very strong Labor allegiance. It is not as if resigning on principle has been a characteristic of this government over the past 16 years. Thirdly, to try to shed some light for the consumers of electricity across this State: business, small business and families who are struggling now with power bills, who are struggling now trying to cope with power increases, and we need to know as a result of this inquiry or a judicial inquiry what impact the sale process is going to have on their power bills in the years ahead.

Chair, before I ask the shadow Treasurer to make an opening statement can I ask you a question, as rare as that is? With leave can I ask you a question? In the light of Bret Walker's advice, in the light of his certainty that the eight directors and others could come along and give evidence with the full protection of the privilege of evidence and the immunity that would apply, what steps are being taken to convince them to come, because I am concerned that without them being here this jigsaw that is the dud deal of the century will never be completed by this inquiry. We do need them to come forward to reveal openly and honestly what they know about the sell-off.

The Hon. GREG DONNELLY: Point of order—

CHAIR: As soon as the evidence is completed today the Committee will meet to consider that very matter. The Committee has not made a decision on that as yet. It now has the advice of Bret Walker before it. The Committee will make a decision at that time, which will then be made public. Mr Baird, do you wish to make some brief opening comments?

Mr MIKE BAIRD: Yes.

Dr JOHN KAYE: Before Mr Baird begins, I am looking forward to hearing from Mr Baird but I do have concerns about time. I understand Mr O'Farrell has to leave here at—

Mr BARRY O'FARRELL: I am happy to stay with you for as long as you would like to see me.

Dr JOHN KAYE: So you will stay until 11.00 a.m. if needed.

Mr BARRY O'FARRELL: Whatever makes you happy.

CHAIR: The Committee is scheduled until 11.00 a.m. If you could stay until then that would be very convenient for the Committee.

Mr BARRY O'FARRELL: Absolutely.

CHAIR: Mr Baird.

Mr MIKE BAIRD: Mr Chair, I reiterate my leader's affirmation of your role in this inquiry. We really appreciate you standing up for the people of New South Wales and looking for the truth in relation to this transaction against a government that has bullied and intimidated. We thank you for that. We thank you for your support alongside the eight directors who have done likewise. Barry and I are delighted to attend this Committee to give our views. Certainly I want to put down why I think this is a terrible deal for the people of New South Wales. I am very happy to do so and I appreciate the opportunity.

If you go through the New South Wales Government's energy reform process it has been a failure on any measure. Specifically, I think the process has failed for two key reasons. Firstly, the proceeds realised from the sale of this critical infrastructure are pathetically low and represent a shift of billions of dollars of value from the New South Wales taxpayer to the private sector. Secondly, the process itself did not achieve any of its stated objectives—that is, State Labor's stated energy objectives. It is these very objectives that the Government itself said it would achieve or it would not proceed. I will go into a bit of detail on why I think they have failed every single objective they have set themselves. Through these failures alone the transaction has failed the public interest test and the Government has further avoided its accountability to the New South Wales public by ensuring that there has been virtually no transparency around this process.

Specifically, the Government has refused to provide any detail or clarity on these critical points: the retention values, including calculations and assumptions, for either the individual assets or the bundled assets; the net proceeds actually received, which have already been marked down by over \$2 billion dollars; the ongoing risks to the New South Wales public under the gentrader contract, in particular the blackout risk and the risk of cost overrun; the risks in relation to the Government developing the Cobbora coalmine, in particular what is the risk of cost overrun and what penalties are payable if the development does not complete on time; what the embedded subsidy does to future competition and thus long-term electricity prices; the ongoing cost to the New South Wales public for the Cobbora development—what are the economics and why did no private sector participant want to develop the project; the ongoing tax liabilities for New South Wales, indeed, what this transaction does to the bottom-line position of the budget—Treasury is working on that but we are still not to know what that is; and the reasons why so many directors of Eraring and Delta West actually resigned. With no transparency on the risks, limited transparency on the process, substantial changes in the announced proceeds to the New South Wales public, and a complete denial of accountability, how can the New South Wales public possibly be expected to believe that these transactions are in their best interests?

I want to spend a little bit of time on Cobbora as this is a significant risk and we just have not seen some of the details come out on this. There are very significant risks and costs being imposed on the whole of New South Wales through the Cobbora development. By committing to this, New South Wales is going to re-enter the high-risk mining sector, an area in which they have no expertise. Furthermore, this is a direct contradiction to their stated aim of exiting the competitive energy market and represents a complete reversal in policy from the Government's decision to exit the mining sector in 2002. To be clear, the risks to the New South Wales public of committing to the Cobbora development are quite significant and include: firstly, a potential development cost blowout—the development cost was first estimated to be \$1.3 billion and it is now, through the Secretary of the Treasury, confirmed at \$1.5 billion. With the full costings report not yet released it is impossible to know how much these costs may rise or indeed how they will be funded. Secondly, there is a failure to complete on time—there is still no detail on what penalties the New South Wales Government will have to pay if they fail to complete the Cobbora development on time. These could actually completely destroy any remaining proceeds.

Thirdly, ongoing losses in the project—the market estimates that the total losses incurred from selling the coal at less than what it costs to mine the coal will be more than \$1 billion. A Merrill Lynch research report, which I am happy to table as part of this, even said that the coal costs at Cobbora—so basically the operating cost—will equate to about \$50 a tonne. This is a \$17 a tonne cash loss to the Government, and on 138 million tonnes that is a potential cost of up to \$2 billion, well above the market estimates, and that excludes what your long-term view on coal prices may be. The true costs really need to be understood. Fourthly, in terms of a long-term subsidy, if the Government had instead sold the coal on the open market it could have realised billions in additional revenues over the next 17 years—so it is a real opportunity cost in relation to that. Fifthly, there is no clear path to sale—the Government claims it will subsequently sell the coalmine, but who will buy a loss-making project? They have already tried to do it and it failed in a spectacular sale in the lead up to this.

I strongly believe the Government is also to blame for not managing the coal risk. About 40 per cent of the costs of the generators are actually in the coal, in the energy supply. Most of these key contracts are expiring in the next few years and any company that had this sort of risk would have been managing it in a professional and diligent way—long-term profiles, long-term expiries and diversification of tenure. You would not let the majority of these contracts collide not only with the sale; just collide full stop as they have, because that has exposed New South Wales to huge risk and I believe it is the fundamental reason we have had to go back into coalmining. It really does raise the question of what sort of risk management processes are in place under this State Labor Government because this is a huge risk, a fundamental risk, and it has been ignored at every turn.

Before I finish with the objectives, the sale values achieved to date are significantly below what is historically paid for similar assets—this is just market fact. The market believes the electricity generation and retail assets should have ultimately realised proceeds of closer to \$15 billion rather than the \$3 billion before coal commitments are realised from the current sales process. There are a couple of other independent reports, which I am happy to table. The independent expert report that Origin Energy itself commissioned in September 2008 and the Alinta Energy independent expert report from February 2010 showed that similar generation assets have historically achieved approximately 10 times earnings before interest, tax, depreciation and amortisation [EBITDA]. Given the combined EBITDA for the government-owned generation assets in 2010 was over \$1 billion, the proceeds achieved for all generation assets should be over \$10 billion.

Furthermore, the same independent expert report looks at the megawatt price per million and it showed since 2005 that has been running at about \$1.5 million, which was the first time the concept of an emissions trading scheme was formally tabled in the Federal Parliament for coal-fired generators. When we consider that the Government has sold the rights to the 5,400 megawatts currently of generation capacity at Eraring and Delta West, under this analysis they could well have realised up to \$8.5 billion for the generation assets sold. This latter analysis really highlights that the \$10 billion figure we are talking about for the generation assets is not only achievable but is likely to be conservative in relation to a proper process. Referencing the same independent expert reports for the sale of the retail customer bases since 2005 implies an average multiple of approximately \$1,350 per retail customer. Applying this multiple to over 3 million retail customers in EnergyAustralia, Country Energy and Integral Energy implies a valuation of over \$4 billion. Therefore based on recent—and this is not Opposition numbers—-independent experts across the market that look at these assets day in, day out on a professional basis, they believe the Government should have achieved close to \$15 billion for the State electricity assets that it has just sold. Instead, the Government to date has net proceeds of about \$3 billion—well below the \$5.3 billion—and that is before you deal with the very real cost of the Cobbora mine development which I have articulated. For me, this means nothing less than the State Government has undertaken a \$15 billion giveaway to the private sector.

The last point I want to finish with is the objectives. The Government has grossly failed to meet its own objectives. The four key objectives when it embarked on an energy reform process that State Labor set up for itself were simple. The first was to deliver a competitive electricity market in New South Wales specifically by ensuring at least one new market entrant is able to establish itself. That has not happened. Where is it? Where is the new entrant? There is no new entrant and the New South Wales energy and retail markets are now dominated by Origin and TRUenergy, with a combined market share of approximately 80 per cent. Those incumbents have therefore substantially increased their market power and reduced competition. Moreover, because Origin and TRUenergy will benefit from below market coal costs, thanks to the heavily subsidised contracts, there is almost no way that a new entrant can legitimately enter the market and compete with them. The Government has effectively put in place a huge barrier to new entrants and secured market dominance for Origin and TRUenergy for probably the next 20 years. I would be arguing that that has led to pressure on increased electricity prices and profits for the private sector.

The second objective is to encourage private sector investment into the New South Wales electricity sector as, according to the Government's own report, it is inhibiting the private sector in new New South Wales generation. If you just thumb through the transaction you can see that that is not the case. The Government is still an active participant in the competitive market. It continues to own some generation assets. It has the operational risk for Eraring and Delta West, over 5,250 megawatts of generation capacity, and 36 per cent of New South Wales generation capacity. Furthermore, with its decision to enter the high-risk business of coalmining, the Government has intentionally undermined its objective by committing at least \$1.5 billion to this development, which will obviously displace private sector investment.

The third objective is to ensure New South Wales homes and businesses continue to be supplied with reliable and efficient electricity. Again the Government has not delivered. The Government has itself admitted that no less than \$360 million of value is at risk and payable back to the bidders if there are unscheduled blackouts at the power stations. But if the costs allowed for maintenance are fixed under the terms of the gentrader contracts, as we are led to believe they are, this restricts the generators from performing more maintenance, which increases the risk of blackouts, which therefore further increases the risk of additional disruptions to supply of electricity homes and businesses in New South Wales. In addition, if the generators are restricted from completing additional maintenance required to avoid unscheduled outages, they will have to pay more liquidated damages to the bidders, thereby reducing the value to the New South Wales public. Either way, the separation of functions under the gentrader contract creates a dysfunctional situation under which the entity responsible for the security of supply does not have control over how much money it can invest to ensure reliable supply.

The final objective is to place New South Wales in a stronger financial position by optimising the sale value of public assets, reducing the Government's exposure to the electricity market, and reducing the State's public sector debt. It is on that objective that the Government has failed beyond all expectations. As previously discussed, the net proceeds of this transaction are insulting to the people of New South Wales and may well come out at almost nothing once you account for the significant risk with the Cobbora coalmine. Therefore, any reduction in the State's public sector debt, which currently stands at \$34 billion or close enough thereto, will almost be immaterial in the overall scheme of that objective. And, as opposed to the element of reducing the Government's exposure to the electricity market risk, well it is well and truly still front and centre of that.

Therefore, as I said, against all four objectives the Government set for itself this process has been an unprecedented failure. This deal is a disgrace, and the Premier and the Treasurer should be condemned for signing a transaction that will hurt New South Wales for decades to come. I am angry about this deal. I am furious that families across New South Wales will pay the price for this Government's incompetence and arrogance, and I am very happy to continue to help the Committee to expose what is a rotten deal for New South Wales that is going to hurt families for many years to come.

The Hon. GREG PEARCE: I think the witness wanted to table a document.

Mr MIKE BAIRD: Yes. I seek leave to table the document.

The Hon. GREG PEARCE: Do you want to table the chart on the four objectives as well?

CHAIR: Do you request that?

Mr MIKE BAIRD: Yes.

Documents tabled.

CHAIR: In view of the information the Committee has received in this inquiry, do you believe the eight directors were justified in resigning and not signing on the dotted line when demanded by the Treasurer?

Mr BARRY O'FARRELL: I think we are clearer, in some sense, as to the circumstance in which they resigned. I do not think until we hear from the eight directors directly that you will get to the real reason. My issue, having seen part of this inquiry, having read the transcript and having seen the media reports is that there are eight directors—they are diverse in terms of their experience and background, ranging from unionists, to a former Minister, to people that have spent a lifetime in the energy sector—and what is remarkable is that they have all done the same thing, and that is why I think they should have their day here. So, do I believe the Committee has got the answers yet? With all due respect, Chairman, no, but then you have had some pretty heavy opposition in the form of the Treasurer and the Premier up against you.

CHAIR: Mr Foley, do you have a question?

Dr JOHN KAYE: Normally questions come from Opposition, crossbench, Government.

CHAIR: Yes, but because we have the Opposition presenting the evidence I believe we should start with government members to respond to the opening statements.

The Hon. LUKE FOLEY: Do you think there has been too much privatisation here or not enough privatisation?

Mr BARRY O'FARRELL: That is an issue that we are determined to have a judicial inquiry get to the bottom of because until we see the full extent of the damage done by the Labor Government, until we see whether Eric Roozendaal is stupid enough to continue to press forward with a second round of sales, we will not know precisely what damage your colleagues have done to this State—to the State in terms of its current assets but, more importantly, to the power bills faced by families and small businesses across New South Wales.

The Hon. LUKE FOLEY: But I am asking about your principled position. This is a very long-running debate. There are two principled positions poles apart—

Mr BARRY O'FARRELL: What is the Government's principled position?

The Hon. LUKE FOLEY: Some advocate for privatisation—

Mr BARRY O'FARRELL: What is the Government's principled position?

The Hon. LUKE FOLEY: You are running for Premier. Some people advocate for a privately run electricity sector, some advocate for a State-owned and run electricity sector. What is your principled position as a Liberal?

Mr BARRY O'FARRELL: Our principles are outlined as they were in September 2008: principles that said that we have no difficulty with private sector involvement in any area of government activity providing it is in the public interest. What has been clear after two days of this inquiry is how on earth, how in hell could Eric Roozendaal and Kristina Keneally come in here, put hand on heart and say what we have uncovered, what we have seen revealed about this deal is in any one's public interest.

The Hon. LUKE FOLEY: In your maiden speech to Parliament, which I have read, you said:

Like Menzies I believe our first question is not whether the Government could do this thing but whether private citizens could. If the answer is that they could, our answer is that they should.

Well the private sector can run the electricity industry—it does in Victoria. Surely then you believe, given that statement in your maiden speech as a Liberal, that the private sector ought to run the electricity industry?

Mr BARRY O'FARRELL: I am not going to back away from a statement that says we should be encouraging citizens of this State to take maximum control of their lives, to be at the centre of what government does. But can I just get this right? You are not advocating for the full sale of privatisations?

The Hon. LUKE FOLEY: I am asking you the questions. You are running for Premier.

Mr BARRY O'FARRELL: You, the man who Rodney Cavalier calls one of the fellows of the anti-privatisation push, you who rang members of Morris Iemma's caucus telling them to cross the floor and become heroes in their own right; you who are named by Mr Cavalier, an excellent author, as the leader of the anti-privatisation push, are now putting questions that suggest that you have flipped and that like Mr Robertson you are now a key supporter of this deal!

The Hon. LUKE FOLEY: I am not running for Premier; you are. My position on electricity privatisation, against it, is in that book. Your position is a closed book. Why will you not tell the people of New South Wales what your position is? Do you support a privately run electricity sector or a State-owned and run electricity sector? Which one?

Mr BARRY O'FARRELL: We are very happy to tell the public about our electricity plans when we see the damage that your Government has done, when we see how much more of the State's electricity assets have been sold. If you can tell me that today we might be able to put the finishing touches to it but we are not going to unveil our plans—and they will be unveiled before the State election—until we see the extent of your damage. What we will not do is what you and your colleagues did before the last election. What we will not do is go into an election campaign promising not to sell an asset and then almost within minutes of winning that election start the process to sell it.

The Hon. LUKE FOLEY: Will you rule out the privatisation of electricity generation in New South Wales?

Mr BARRY O'FARRELL: As you know, we currently have a system—we currently have an industry that has private and public operations.

The Hon. LUKE FOLEY: Will you rule out full privatisation?

Mr BARRY O'FARRELL: As you know, we will unveil our plans when we see the extent to which—

The Hon. LUKE FOLEY: It is a simple question—

Mr BARRY O'FARRELL: With a simple answer—

The Hon. LUKE FOLEY: Yes or no, will you rule out full privatisation of electricity in New South Wales?

Mr BARRY O'FARRELL: The simple answer is that we will unveil our plans when we see the extent of the damage that your deal—and the future deal that the Treasurer is talking about—has done to this State.

The Hon. LUKE FOLEY: Will you rule out the privatisation of electricity transmission and distribution in New South Wales?

Mr BARRY O'FARRELL: You will see our policy—

The Hon. LUKE FOLEY: Why will you not rule it out?

Mr BARRY O'FARRELL: Mr Chairman, as I said before, I am happy to come along and help in any way to get to the bottom of this stinking, steaming mess that is Eric Roozendaal and Kristina Keneally's first sale of electricity. I am concerned about the second sale, a sale that I think should be just put on hold. But, Mr Chairman, we will use the election campaign to unveil our plans. I am looking forward to that but we will not put the finishing touches until we see where the Government gets up to. That is a reasonable position, and the position that we will continue to argue up until the time that your Committee reports, and up until the time that it is clear we will know how far Mr Roozendaal and Ms Keneally have got before the election.

The Hon. LUKE FOLEY: The fundamental principle of whether the sector is privately owned and operated or run by the State is more than a finishing touch. What is your principled position?

Mr BARRY O'FARRELL: The principled position is the same as it was, can I say, two years ago, which is, unlike Mr Roozendaal and unlike Ms Keneally, we will be guided by public interest. That is the principle that we applied and we announced in September 2008. We will do nothing that is not in the public interest and yet your Government, of which you are a key member, has signed up to a deal that on the basis of limited evidence given over two days, has clearly done the dud deal of the century!

The Hon. LUKE FOLEY: In 1999 as a member of the shadow Cabinet you advocated for full privatisation of the sector. In 2007 after assuming the leadership you advocated for selling the retailers. In 2008 you argued for the principle of privatisation but opposed it in practice in the Parliament. In 2010 you opposed the gentrader model. You have had more positions than the *Kama Sutra* on electricity privatisation! Why cannot you tell us the principle of whether you will privatise?

Mr BARRY O'FARRELL: Mr Chairman, we will unveil our plans but we cannot do so. And if Mr Foley wants to do something useful what he should do is sit down with his good friend Eric Roozendaal and get Eric Roozendaal to tell us the full extent of the deal. What he should do is sit down with his party Leader Kristina Keneally and tell her to indemnify the eight directors who will not appear because they are fearful about being sued by the Keneally Government so that we can get all the information on the table; so we can actually get an idea of the full extent of the damage that has been wreaked by this terrible deal—terrible on the basis, as I say, of just two days of hearings. I am not going to engage in the party political games that Mr Foley wants me to because, frankly, like Mr Baird I am angry. I am angry about the way this process has been done.

The Hon. LUKE FOLEY: Well, Barry, let us in on your plans. No more waffle. Tell the people of New South Wales—

CHAIR: Let the witness finish his sentence.

Mr BARRY O'FARRELL: I am angry about the woman from western Sydney whose husband works full time. She works part time. They have got three kids—

The Hon. LUKE FOLEY: Why don't you rule out full privatisation?

Mr BARRY O'FARRELL: They have tried the very best to decrease their energy use, to cut down on inefficient—

[Interruption.]

CHAIR: Let the witness finish his statement.

Mr BARRY O'FARRELL: What is their reward for it? Their reward is, even though they have used less electricity, their power bill has gone up by 20 per cent. That is the second thing that this Committee has to do: not just find out why this deal proceeded, not just find out how much taxpayers are ripped off, but frankly find out how much more ordinary people in this State are going to have to pay for the incompetence of Mr Foley

and his friends who continue to make the wrong decisions, and seem to want to do so until the writs are issued on 4 March.

CHAIR: Can we move on to other questions, Mr Foley?

The Hon. LUKE FOLEY: On 29 August 2008 you said in an interview, "The one guarantee the public have is that before the next election they will have our detailed energy policy". That was 879 days ago! The election is in 61 days. Where is it?

Mr BARRY O'FARRELL: It was also, I think, two years ago that Eric Roozendaal started a process that he said was well thought through and the best and brightest brains in government were working on it. However, we discovered last Tuesday, thanks to the Treasury Secretary, that it was not the best option and that Treasury opposed it. We also discovered that taxpayers will be lucky to walk away with a bob in cash as a result of the deal. I repeat: I will not use this inquiry today to release the Coalition's energy policy, as much as I would like to. We are going to wait to see the extent of the damage done and the future electricity deals done by this State Government. However, the principle that I espoused and the commitment that I gave in 2008 stands: As people vote on 26 March they will clearly understand the Coalition's energy plans and they will be able to contrast them with not only the deals that have been done that this Committee is investigating but also this State Labor Government's attempts to block the public getting the full details of those deals before the election. That is why the Coalition has committed in part in our policy to establishing a judicial inquiry that will get to the bottom of this and to putting the facts on the table.

The Hon. LUKE FOLEY: Mr O'Farrell, I invite you now to rule out the full privatisation of electricity generation, distribution and transmission. Will you do that?

Mr BARRY O'FARRELL: We will unveil our policy before the election and after we see how far Eric Roozendaal goes in his selloff of the State's assets. I invite Mr Foley to come to the judicial inquiry if we win the election and when we establish it to tell us what he knows about Eric Roozendaal's dealings on this whole matter.

The Hon. LUKE FOLEY: Mr Baird, on your blog on 15 December you criticised the Government as being "still involved in the generation sector". You support the Government getting out of the generation of electricity, do you not?

Mr MIKE BAIRD: I support very much what Barry just said—that is, the public interest. We have consistently said that we are open to private sector involvement in the industry on the basis of public interest and public value. What we have seen with this transaction—which I point out is the focus of this inquiry—is a complete erosion of both. We have seen the destruction of billions of dollars for the people of New South Wales. While you are being cute with your political nonsense now—

The Hon. LUKE FOLEY: I am simply asking what you will do.

Mr MIKE BAIRD: Every mum and dad—

The Hon. LUKE FOLEY: You are odds on to be Treasurer in eight weeks. Are you going to flog it or not?

Mr MIKE BAIRD: Every mum and dad will have to bear the consequences of your mismanagement of this transaction and this State for four years.

The Hon. LUKE FOLEY: You are going to sell the lot.

Mr MIKE BAIRD: No, let me finish; I am happy to do so. When you went through this process before in terms of looking at the actual sale under your second last Premier—Morris Iemma—it was very clear. You can use comments made in the market. The market said when you were trying to sell the assets and we opposed it on the basis of timing and the emissions trading scheme that it should be based on public value and public interest. That is what we stand up for on this side.

The Hon. LUKE FOLEY: So you have no in-principle objection to selling?

Mr MIKE BAIRD: No, we have no in-principle objection to private sector involvement at the right time, with the right structure and in the right place.

Mr BARRY O'FARRELL: It is private sector involvement.

The Hon. LUKE FOLEY: You do not have to cover for him, Barry.

Mr BARRY O'FARRELL: No, he is doing very well. He is stating a principle. If you stick to principles—

The Hon. LUKE FOLEY: What is your principled position—a private-sector or a State-run electricity industry?

Mr MIKE BAIRD: Whatever is in the interests—

The Hon. LUKE FOLEY: What is your principled position?

Mr MIKE BAIRD: We are open to private sector involvement where it makes sense at the right time and with the right structure.

Mr BARRY O'FARRELL: But it has to be guided by public interest. What is clear is that there has been no public interest demonstrated by anything that has come out of this inquiry to date.

The Hon. LUKE FOLEY: Mr Baird, in 2008 you argued that the Coalition should support the Iemma-Costa privatisation package; that is, privatisation of retail and generation. Are you telling us that you have changed your mind since then and that you now believe that electricity generation should be State owned and run?

Mr MIKE BAIRD: No, I never said that. You are putting words in my mouth. What I said at the time was exactly what our position was. I said we had huge concerns about the process and that is why we opposed it. We opposed it because of the onset of the global financial crisis. The head of the Deutsche Bank's Financial Sponsors Group, David Backler, said then that he had never seen the markets that bad. Annabel Hepworth of the *Australian Financial Review* reported that New South Wales, after years of reform inertia, had chosen the worst possible time to sell these assets. She stated:

The credit crunch and crisis among bond insurers known as monoline makes debt funding more expensive for possible bidders. That's not great news for trade sales. The turmoil on financial markets makes any initial public offering hard to price. And uncertainty about carbon policy isn't going away.

It was right to stand up for the people of New South Wales on the basis of public interest and public value. I tell you, Mr Foley, that has not changed today. Whether it be timing, structure or process, the Coalition will do what is right for the people of New South Wales full stop.

Dr JOHN KAYE: Have you read the Owen report?

Mr MIKE BAIRD: You are condemned for being part of a government that has thrown billions of dollars into the bin, and you are going to be condemned for that for years to come. That is not something with which you can play political tricks. They are the facts.

The Hon. LUKE FOLEY: What are you going to do about it? Tell us. Are you going to privatise it or not?

Mr MIKE BAIRD: We are looking at a judicial inquiry—

The Hon. LUKE FOLEY: Here is your chance to rule out full privatisation. The floor is yours. Will you rule it out?

Mr MIKE BAIRD: We are proposing a judicial inquiry that will look into the intricate detail of what you have done.

The Hon. LUKE FOLEY: Why will you not rule it out?

Mr MIKE BAIRD: Why are the directors not here?

Mr BARRY O'FARRELL: We will—

The Hon. LUKE FOLEY: Why will you not rule it out?

Mr BARRY O'FARRELL: Mr Chairman, I am not sure that we need this level of heat from Mr Foley. Perhaps he should run for a lower House seat. I cannot make it clearer: We will unveil our electricity plans during the campaign and before people vote. However, it will be after this Committee works out how far the Government has gone in selling off existing electricity assets.

CHAIR: We understand that. Parties will launch their policies during the election campaign. This is not the place for a policy launch.

The Hon. LUKE FOLEY: Mr Baird, who do you think should carry the cost of construction of further baseload generation capacity—the State or the private sector?

Mr MIKE BAIRD: Ideally that is something you want the private sector to do.

Mr BARRY O'FARRELL: I would like to add something to that. Of course, the private sector is building generation capacity now; it has been building generation plants and it has been involved in our State's electricity assets system for some time. I heard the Treasurer address that issue on radio last week. He said that he had saved electricity consumers the cost of future generation construction. I seem to remember something about the Treasurer's university career. I would have thought that if the private sector is involved in building additional or new generation capacity the people who will ultimately pay for it are the families, small businesses and big businesses across New South Wales. I have noticed that the private sector does not operate for altruistic reasons; it normally seeks not only to cover its costs but also to make a profit. Apparently the Premier can apologise for not understanding about the interests of families in this whole process. However, it beggars belief that the Treasurer is now pretending that those families will be assisted by his deal in some way because they will pay the cost of that future generation under his model.

The Hon. LUKE FOLEY: Do I take it that if you form a government the State will build new power stations and upgrade the existing energy assets?

Mr BARRY O'FARRELL: You can take it that we will announce our plans when we see how far you get. What you can also take from my answer is that the Treasurer clearly lives in another world—not just the eastern suburbs but another world and far away from the struggle families face in trying to pay electricity bills that are rising sharply even though they have curtailed their electricity use. I cannot believe that the Premier did not understand the significance of this. I have not been able to go anywhere for the past nine months without families telling me about how difficult it is to pay power bills. I met a senior woman who told me that she could not use her heater in winter because she was afraid she would not have enough money to pay for food.

The Hon. LUKE FOLEY: Mr O'Farrell, if you are concerned about families—

Mr BARRY O'FARRELL: I do not understand the Premier's and the Treasurer's isolation from those issues. I do not think that any other lower House member of Parliament has been anything other than aware of the enormous distress caused by significant power price increases—60 per cent over the past five years when the CPI has risen by 16 per cent.

The Hon. LUKE FOLEY: If you are so concerned about rising electricity prices—

Mr BARRY O'FARRELL: The Premier and the Treasurer do not understand.

The Hon. LUKE FOLEY: —you can rule out selling the lot now. Why will you not do that?

Mr BARRY O'FARRELL: We will announce our electricity policy during the election campaign. I suspect that we will do that after this Committee has done its job and reported, when we see how far this Government has gone and when we see what New South Wales electricity assets have not been flogged off by Mr Foley's colleagues.

The Hon. LUKE FOLEY: Mr O'Farrell, if you are so concerned about families, I invite you to rule out flogging off the electricity connection to every home and business in this State and electricity generation, transmission and distribution. For the fourth time, why will you not rule that out?

Mr BARRY O'FARRELL: The only people flogging off assets belong to the Labor Party. Anyone who wants favours should vote Labor. The only people who seem to have an inside deal are those dealing with the Labor Party. We will announce our plans in due course. However, we will not be lectured by you, Mr Foley, with your faux concern for families across this State. We will not be lectured by you given your false concerns about where the State is going. I have not heard you publicly over the past two years during which Mr Roozendaal has been proceeding down this flawed path raising a single public concern about the process. That stands in stark contrast to the Liberal-Nationals, who continue to stand up for public interest in this affair, who are determined to get to the bottom of it and to establish the full extent of the damage done and, critically, who are determined to see what lasting legacy this will have for the power bills of families across this State.

The Hon. LUKE FOLEY: Mr O'Farrell, you have told us this morning that the Coalition is "ready to put the finishing touches" to its electricity policy. Is it true that you have engaged a number of accountancy firms to provide policy advice to the Coalition?

Mr BARRY O'FARRELL: I think we have had advice from a number of firms in relation to issues that have come up in policy generally—absolutely. We make no bones—

The Hon. LUKE FOLEY: Is it not the case that the policy work being done by those firms includes consideration of privatisation options for an incoming Coalition government?

Mr BARRY O'FARRELL: I have not seen such work.

Dr JOHN KAYE: Mr O'Farrell, I am interested in your statement that you could not announce your electricity policy until you saw the full details of the devastation. I have some sympathy for that: I can understand where you are coming from. However, I want to get to the bottom of this. There are two aspects to what we do not know. The first is that we do not know just how bad this deal is, we do not know the numbers on the liquidated damages, we do not know the numbers on the cost of maintenance, and we do not really know, despite Mr Baird's I think quite accurate estimates, the full detail about Cobbora. We all agree that there is a lot more to find out about Cobbora.

The second aspect is what the Keneally Government will do with Delta's coastal operations and MacGen. Can you separate them for the Committee? Which is the barrier to your announcing what the Coalition will do with the electricity industry? Is it a lack of knowledge about the details, which you think we might get from the directors? I think we will get part of that from the directors. You said that you are committed to an inquiry anyway after the election. Or is it that you do not know what will happen with Delta's coastal operations and MacGen?

Mr BARRY O'FARRELL: We do not know what the full shape of the sector will be when people vote on 26 March, or as we sit here today. We want to know where Labor is taking us. However, as I said, the purpose of this inquiry is clear to me. First, it goes to that issue of what value has been received. As you know, you get only one chance to sell a public asset. The obligation should be to get the maximum return if you go down that path. The second purpose is to uncover the concerns of those eight Labor directors. Thirdly, it should shed some light on what electricity consumers can expect in their next quarterly power bill and the bill after that.

Dr JOHN KAYE: I will get back to the last issue. You still have not told us which of those two tranches—

Mr BARRY O'FARRELL: I think they are the same and that you are splitting hairs.

Dr JOHN KAYE: With respect, Mr O'Farrell, they are not and I am not. We could ask you what you would do if the Keneally Government abandoned Delta coastal and MacGen and what you would do if it went ahead. They are two separate issues and they can be dealt with. However, my concern about your statement is that you say you cannot make an announcement until you know the full details of the damage. You are also saying that we need a judicial commission of inquiry to get to the bottom of it. The logical conclusion from

those two statements is that you cannot tell the people of New South Wales what you are going to do until after the election and after the inquiry.

Mr BARRY O'FARRELL: We will unveil our plans before the election. However, as I have said, part of those plans is to have the judicial inquiry because it is important to get to the bottom of the whole process. Not only does the public have a right to get the answers but people must also be held to account for whatever wrongdoing has occurred, whether it be in terms of the advice or the outcome. I say it is the same process. We are happy to unveil our electricity plans according to our timing when we see the extent of this Government's actions in relation to electricity. We have seen one part of it, and incredibly Eric Roozendaal and Kristina Keneally are pressing ahead with the second sale process. Once the Committee has reported and it is clear where they are going, the plan will be out there. We are committed, as we said in 2008, to putting our plans on the table, but we do need to see the extent to which this Government has proceeded before we put those finishing touches there.

Dr JOHN KAYE: As I understand what you are saying, you could now write two policies.

Mr BARRY O'FARRELL: I am sure there is probably a variety of ways to do it.

Dr JOHN KAYE: Yes, I will finish the question, if you do not mind. You could write the one if Macquarie Generation and Delta Central are sold, and you could write the one if they do not sell. There are really two possibilities.

Mr BARRY O'FARRELL: I do not accept that contention, but the answer is the same. We will unveil our plans when we see the extent to which this Government continues to sell off State electricity assets.

Dr JOHN KAYE: You talk about what happens to electricity bills in this quarter, in the next quarter and the quarter after that. Would you accept the proposition that what happens in the next quarter and the quarter after that, and as the quarters proceed, becomes increasingly your issue? By the way, electricity bills are now monthly, not quarterly, but we will get to that in a minute. You would appreciate that the terms of reference for this inquiry, which talk specifically about what will happen in the future, relate directly to what you will do?

Mr BARRY O'FARRELL: I must change my retailer because I get quarterly bills, but that is okay. That is the choice we have. What I have made clear—I have said it endlessly at press conferences and in radio interviews—is that if we are elected we cannot undo the damage, the incompetence, the mismanagement of Labor over the past 16 years. What we have seen over the past 16 years are revenues from electricity in terms of dividends and tax equivalent payments to the tune of billions of dollars—almost \$960 million a year ripped out of those energy companies, which is something like 40 per cent higher in terms of dividends than in the last Liberal Government.

So dividends ripped out, the energy companies not able to engage in proper investment for the future, not able to engage in proper maintenance. What is now being proposed in terms of energy prices—those massive price increases that people are putting up with—is because of their incompetence, their mismanagement. And once again, as usual, when Labor gets it wrong it is the families of this State, it is the businesses that suffer the consequences. So the point is that we cannot undo that damage. What we can do, what we are committed to do, what the judicial inquiry will help us do, is ensure we never again make those mistakes, we never again contribute as a government to those massive price increases that families are currently hurting from—massive price increases due to Labor's incompetence, neglect and the sorts of deals that have been uncovered by this Committee.

Dr JOHN KAYE: Let us go to the issue of the two existing gentrader contracts. You have heard evidence—you have looked closely at this inquiry—that they were exceptionally bad deals. Mr Baird refers to it as the worst sale of the century. I think we are all agreed that it was a devastatingly bad set of arrangements. Will you look at undoing those contracts?

Mr BARRY O'FARRELL: We have said the judicial inquiry will have all options available to it. I am determined, through the judicial inquiry—a judicial inquiry that will be the very first action I take should we be elected to establish. That inquiry will report to this Parliament. That inquiry will have the right to recommend whatever course of action, whatever recourse that protects public interest, that defends public value, because we are determined to get to the truth of this matter.

Dr JOHN KAYE: If such an inquiry says that the loss of value in those—and presumably that inquiry will have access to the contracts?

Mr BARRY O'FARRELL: That inquiry will have access to anything and everything it wants. That inquiry will offer the privilege to witnesses who appear. That inquiry will get to the bottom of this because that inquiry will start to hold people to account for these sorts of decisions.

Dr JOHN KAYE: I think that is a good thing. If it recommends that the escape clauses in the gentrader contracts are less expensive than the long-term loss of value associated with the gentrader contracts will you commit to repealing those gentrader contracts, with legislation if necessary?

Mr BARRY O'FARRELL: I have said better than that; I have said that we will not give this commission of inquiry any limitations. We reserve the right to pursue whatever remedy will protect public interest and defend public value. That clearly includes your option but obviously includes other options, but we will not second-guess this. We will finally do what should always be done, which is have that independent judicial inquiry to get to the bottom of this deal and to make clear what recourse is in the best interests of the State, not with political spin that we have been used to for 16 years, not with any ideological view that you might have, but what is in the best interests of this community.

Dr JOHN KAYE: Certainly but you did not answer my question. Will you—

Mr BARRY O'FARRELL: No, no, no, I did. What I am saying is that I will not put limits either way. What I have said consistently—

Dr JOHN KAYE: If the inquiry recommends that we repeal the gentrader contracts, buy them back, pay whatever compensation is required, because that will be cheaper than continuing with them, will you say now that that is an option that you will pursue if that is the recommendation?

Mr BARRY O'FARRELL: I said on 15 December, when we announced firstly that we believed the Government should pursue a judicial inquiry, which not surprising given her record to date the Premier rejected, that we would establish a judicial inquiry, we would have the inquiry report to the Parliament and we would abide by that inquiry's recommendations because we wanted to protect public interest and defend public value.

Dr JOHN KAYE: You still have not answered my question.

Mr BARRY O'FARRELL: I think I have.

Dr JOHN KAYE: My question is very straight forward. Will you entertain the option of repealing those contracts?

Mr BARRY O'FARRELL: I have said that we will seek to abide by the recommendations put forward by the judicial inquiry. We are ruling nothing in and nothing out. We are putting no limits on that inquiry. We want to get to the bottom of this mess.

Dr JOHN KAYE: No, this is about you—

Mr BARRY O'FARRELL: No, this is about an inquiry.

Dr JOHN KAYE: The inquiry is important and I appreciate what you are saying but I want to know what you will do.

The Hon. GREG PEARCE: The question has been answered.

Mr BARRY O'FARRELL: I think it has been answered.

Dr JOHN KAYE: I have one last question. Will you rule out selling the wires and poles?

Mr BARRY O'FARRELL: Wait until our electricity plans are announced, but I say again: We are guided by public interest. The commission of inquiry, the judicial inquiry will have no restrictions placed on it,

because I want to get to the truth, I want people held accountable and I want recommendations that seek to protect the public interest.

The Hon. GREG PEARCE: Do you want to table that chart?

Mr BARRY O'FARRELL: I am happy to table that chart if you like, absolutely.

Dr JOHN KAYE: For the record, the chart shows revenue from electricity over the past decade and a half.

Mr BARRY O'FARRELL: Yes, \$13.5 billion worth.

The Hon. GREG PEARCE: Can you outline your reaction to the efforts of the Premier and the Treasurer to shut down this inquiry?

Mr BARRY O'FARRELL: I think the Premier's decision to prorogue Parliament was cowardly, it was contemptuous, it was corrupt. It was clearly designed to stop the public learning information that they are entitled to know. It was clearly designed to prevent, as regrettably to date it has, people fronting up to this inquiry. The public have a right to know. A Liberal-Nationals government would not shut Parliament down early. A Liberal-Nationals government would not seek to shut Parliament ahead of the issuing of the writs. Let us be clear about this. We are meant to have a four-year term. Taxpayers are entitled to get four years out of this Government, and that is what a Liberal-Nationals government, should we be elected, would pledge to do.

The Hon. TREVOR KHAN: You previously referred to the Premier's apology. Were you convinced by the Premier's recent apology regarding the electricity transaction sale?

Mr BARRY O'FARRELL: I was not convinced, and I think it was clear from her evidence on day one that she did not have her heart in it. As I said, you can't have gone around this State, you can't have gone out and talked to people over the last nine months unless you understood people's anxiety about rising power bills. Perhaps the Premier ought to spend some more time without the minders going into shopping centres, as I do, going on a walking tour in early January to have a chat to people, go to the Tamworth country music festival and walk Peel Street for the better part of the day on Saturday without any people beside you and see what they talk to you about. The number one issue is still power bills. Notwithstanding how well Kasey Chambers and Catherine Britt are singing, it is about power bills.

So I do not believe that her apology was sincere, any more than I believe that yesterday's apology was sincere. What we see from this State Labor Government, whoever the leader is, is a pattern of behaviour that after the event apologises and seeks to move on, where they express the same sort of distress that families feel except they do not feel it. They are clearly out of touch with it, and the Premier admitted as much two weeks ago. The concern I have is not just for the family from western Sydney I refer to, not just for the pensioner I refer to, but for what is happening to small businesses across this State that are facing massive increases. I read recently I think where Blacktown council has got a half a billion increase in its power bills. It is the ratepayers of Blacktown who are paying for that.

Dr JOHN KAYE: Half a million.

Mr BARRY O'FARRELL: Half a million dollars increase. It is the ratepayers who get stuck with that bill. I do not understand why the Premier has been kept away from that. It just reaffirms my view to appoint the judicial inquiry. It reaffirms my view to appoint an inquiry that will get to the bottom of it, that will uncover the truth, that will hold people to account and that will, in response to Mr Kaye's question, use whatever remedy is necessary in order to protect public interest, defend public value and try to avoid the sorts of massive price increases we have seen under this Labor Government.

The Hon. GREG PEARCE: I think we will reserve the rest of our time for the end of the inquiry because I am sure Government members want to ask some questions now.

CHAIR: Thank you. I have some general questions. You have mentioned a number of times about the directors who resigned and the legal advice we have had now from Bret Walker. Do you believe this Committee does provide that legal protection for witnesses?

Mr BARRY O'FARRELL: I do. I said, I think in late December, that in a sense the only independent person in this whole process has been the Clerk of the Parliaments. She has no vested interest. She is not running an agenda for you or for the Labor Party or the Greens or the Liberal-Nationals and she was very clear about her utterances. I know what the precedent federally is where another Labor Party, the Federal parliamentary Labor Party, during the Howard years, made the point—a point that was upheld by Harry Evans, the former Clerk of the Senate—that committees could proceed. We have seen our own advice, not just that the Committee was perfectly legal but advice suggesting that the Premier is in contempt of Parliament for her efforts at trying to intimidate witnesses, which regrettably to date appear to have worked.

So I say again what I said at the start. I congratulate you and the majority of the members of this Committee on pressing ahead because there is a public interest here. The public interest is to get the facts out. The only other suggestion I put on the table was that on 3 January I suggested that, given we are dealing in legal opinions—I am not a lawyer and we know that lawyers love opinions, but ultimately they are just that—they are opinions until such time as they are tested. What I suggested on 3 January was that there be a declaration sought from the Supreme Court so that the court would make a decision—a process that I understand would not take a lot of time, a process that could have been done before this Committee first met on 17 January. But, again, that was rejected by the Premier because the Premier, the Treasurer and the State Government have no interest in having all the facts on the table.

CHAIR: You have also announced that if you are elected on 26 March you will introduce retrospective legislation. Can you explain that?

Mr BARRY O'FARRELL: I simply wanted to put out there to try to support directors who want to front up, whether they are existing directors, continuing directors, or whether they are the eight directors in whom we are all interested, that if there were to be some legal doubt we would seek retrospectively to protect them. It is not something that I offered lightly because retrospective legislation is not something that is routine but it was something that I thought was important in order to give those directors the assurance. Now the concern I have is that we are still a number of weeks away from the caretaker provisions kicking in, which will kick in on about 4 or 5 March. My concern is that the offer of retrospective legislation may be of no comfort to those directors if they appeared and if straight after they appeared the Premier fulfilled her threat and they were sued for evidence that they gave. We have august lawyers around this Committee who could tell me how soon those proceedings would start, but I do not think anyone should come into any parliamentary committee and risk a penalty for simply telling the truth. Yet that is what the Premier has these directors under the belief of.

CHAIR: So obviously the Premier is using that as a threat to try to gag the directors who resigned en masse.

Mr BARRY O'FARRELL: I believe to rely on old advice in the first instance, to reject out of hand the advice of the Clerk of the Parliaments and to continue to talk about what at one stage she has termed an "unconstitutional committee" was designed to destabilise, designed to intimidate and discourage people from coming forward. Frankly, the two calls that I made late last year and early this year were for indemnity to be provided and for public servants to be told that they should come along and give the full unvarnished truth and they would not be penalised even if that truth and that evidence were politically inconvenient to the Government. What we have seen are two things. We have seen, over the past 16 years, not just the sort of approach of this State Government always knowing better than anyone else and attempting to shut down its critics, but we have seen within the public sector punishment for those who dare speak out.

CHAIR: Just following up that question: Would you therefore urge the Premier today to make a clear statement that she will indemnify the witnesses in the interests of natural justice and in the public interest of the State?

Mr BARRY O'FARRELL: The best result for the State today would have been for the eight directors to have appeared—not to have the games being played in relation to the Leader of the Opposition and the shadow Treasurer, but to have the eight directors appear. That can still be done this week, but only if the Premier finally understands that she needs to offer the indemnity, and only if the Premier finally understands that the interest here is beyond the Labor Party's interests on 26 March. It is about the people of New South Wales. But I fear, Chairman, given that the call has been made and given that that call overwhelmingly is supported by communities across this State and the Premier still persists in blocking people coming to this inquiry, that any offer that I make and any challenge that I lay down to the Premier will equally be ignored.

CHAIR: There is a strong belief in the community, and it has been stated in the media, that during the last six months the Labor Government has come to the conclusion that Labor will not win the next election, and that many of their actions and legislation they have put through the Parliament have been designed to tie the hands of an incoming coalition government. Do you see this rushed midnight sale in that category?

Mr BARRY O'FARRELL: I am aware of that view. I have seen it and I have heard it expressed. As I said in my opening statement, I wonder whether part of the reason that Eric Roozendaal has pressed ahead with the deal that this inquiry has so far found is not in the public interest is because, in some crazy way, he believes that tying an incoming Liberal-Nationals government, if that happens, to such a deal will cruel its chances—perhaps for the reason that Mr Kaye was alluding to earlier.

I believe what has been uncovered by this Committee to date makes some of those corporate cowboys of the eighties look like responsible citizens. I believe that what we have seen to date could well be a crime against the State. If it is confirmed that Eric Roozendaal has pressed ahead—against the advice of his Treasury officials, against the advice of industry which was publicly saying this was a lousy option simply—to handcuff an incoming government to a rotten deal, I have to say that he is one of those who should front up and pay for that crime against the State.

CHAIR: There also has been some criticism by some of the companies that could have tendered for the gentrader businesses that the whole sale was set up with a bias, that you needed already to have a consumer base or a customer base which gave you an edge, and any company that did not have that was competing unfairly with the other companies who already had that entrenched position. Do you have any view on that?

Mr BARRY O'FARRELL: I am aware of those. Mr Baird referred to some of those. My view, Chairman, is that ultimately, despite the obsession of the Greens and the Labor Party with ownership, what is significant in any of these issues is competition because ultimately it is competition that brings down prices, or at least keeps prices lower than they might otherwise have been. So that does not necessarily in any area of government mean that things are sold off. It means that you inject a contestability into the process.

I am aware of what you have outlined—Mr Baird has referred to it—but we need to see where you get to, or we may have to wait for a judicial inquiry before we get to the final evidence of that. In order to confirm that view you need witnesses to come along. You need witnesses to come along knowing that whatever evidence they give is not going to have them sued by the State Government because of some liability they may have created. People, whether they are directors of other energy companies or whether they are directors of unsuccessful bidders or whether they are Treasury officials or anyone else, should not be fearful about coming along to a Committee like this to give honest accurate information.

CHAIR: Do you have any views as to what others would have been the motivation for the Treasurer in ramming the sale through—

Mr BARRY O'FARRELL: I would not like to—

CHAIR: —at what for him was a most inconvenient time, as he had planned to go overseas and so on?

Mr BARRY O'FARRELL: Having read again the transcript of evidence, despite the protestations that the State-owned corporations knew all the way through what was expected, I was still scratching my head as to why on 14 December they left it until then to give them the full details, and why if there was so-called general agreement over the period leading up to it, this quarter-to-midnight rushed sale occurred. I think sometimes, Chairman, that whenever you think they could get no worse, they do. This has got to be the worst thing that I have seen in 16 years. What you unveiled last week makes it even more serious than that.

I do not know what was on Mr Roozendaal's mind. All we know is he said that he has persisted with it for two years. He claims that it had the best and brightest minds working on it and supporting it, yet you heard last Tuesday that the Treasury opposed it but he pressed ahead regardless. I do not know his motives, I do not know his thinking, all I know, on the basis of what has come out of this inquiry, is that the State is going to get something like less than 10 per cent of what the Treasurer and Premier claimed for a month they were going to receive. If there is nothing else this inquiry achieves, Mr Chairman—I certainly hope it achieves a lot more—it is the fact that you belled the lie, put out by Eric Roozendaal and Kristina Keneally from 15 December all the way through until 17 January, that taxpayers would benefit to the tune of \$5.3 billion as a result of this so-called sale.

The Hon. GREG DONNELLY: Mr Baird, in terms of looking at the issue of the electricity industry in New South Wales, I think the citizens of New South Wales can see that the position of the Coalition has fluxed and changed over time in terms of fully supporting privatisation sometime ago through to really not even knowing what the position of the Coalition is now. What is the position of the Coalition in terms of how the electricity industry in New South Wales should be operated?

Mr MIKE BAIRD: We have gone through this year in numerous ways and in numerous forms. It does not change, Greg. We all have some strong views. I cannot wait to outline some positive plans that we have, taking up Mr Kaye's point, while we are waiting to see what is left on the table. You are in the middle of still trying to pursue a sale in relation to this and still trying to change the dynamics. But we cannot wait to give some positive hope to the people of New South Wales because we do have some very strong ideas that again would absolutely make a difference day to day to the people of this State.

You know, it is a very different proposition from what we have seen from State Labor that, in the lead-up to the last election, signed letters publicly on television saying, "We're not going to sell the electricity assets", if you remember that. And yet, under various guises and forms, that is all you have been doing ever since, or trying. At every point and turn you have failed the public interest test, and that is the issue.

The Hon. GREG DONNELLY: There are about 61 days left between now and the State election. What you are saying is that you are going to be very crystal clear with the people of New South Wales about what your policy is as a coalition in terms of private sector versus public sector and its involvement in the electricity industry in New South Wales.

Mr MIKE BAIRD: You will see a stark difference; that is, we will articulate a policy that is taken to the election, as opposed to State Labor that articulated a policy, lied, and then did something entirely different for the next four years.

The Hon. GREG DONNELLY: The people of New South Wales would be generally aware that there is a need, looking to the medium term, for a new base load generator in New South Wales. Is the position of the Opposition that that base load generator should be run by the State or run by the private sector?

Mr MIKE BAIRD: In an ideal scenario, you would look to the private sector, but that does not mean—

The Hon. GREG DONNELLY: Can I ask you why you say "in an ideal scenario"?

Mr MIKE BAIRD: It is obviously going to be expensive. That is clear. With finances, if you go—

The Hon. GREG DONNELLY: How expensive?

Mr MIKE BAIRD: Can I just finish the answer to that question? If you go out to communities across New South Wales, as Barry suggested the Premier should do, and actually look for some of the infrastructure that is being built, it is not there. In terms of the finite balance sheet, ultimately what you want to do is, with each available dollar you can, start to build the infrastructure you need. In terms of if there is a capacity for the private sector to come in and meet that new generation that we are talking about—it has nothing to do with existing assets—it is new generation.

The Hon. GREG DONNELLY: That is right.

Mr MIKE BAIRD: In an ideal world, that is built. But it does not always work that way. The second thing you need to understand as well is that you actually start to look at some of the energy efficiency measures that are being run. I mean, basically California's energy consumption over the last 25 years compared with New South Wales' has gone up about 6 per cent whereas we have gone up 60 per cent.

The Hon. GREG DONNELLY: Are you saying now that there is not a need for a new base load generator in New South Wales?

Mr MIKE BAIRD: No, I am not saying that at all. I am just saying again that this State Labor Government, I think, was inept in its responsibilities by failing to pursue and push energy efficiency measures

far quicker and earlier than it did just a couple of years ago. We have not even touched the surface in terms of what we should have been doing. I mean, California was well advanced in relation—

The Hon. GREG DONNELLY: What is the Opposition's position?

Dr JOHN KAYE: I am sorry, I want to hear the rest of that answer.

The Hon. GREG DONNELLY: What is the Opposition's position?

Dr JOHN KAYE: The rest of the answer is really important, Greg. Could you continue? I am sorry, if you would—Mr Chair, through you?

The Hon. GREG DONNELLY: It is my line of questioning, John.

Dr JOHN KAYE: Well, I will take a point of order. I am taking a point of order. You have interfered with the witness giving an answer.

The Hon. GREG DONNELLY: You can take as many points of order as you like.

Mr MIKE BAIRD: I will finish it.

The Hon. GREG PEARCE: He loves references to California.

Mr MIKE BAIRD: But the point is—

CHAIR: Dr Kaye can ask that question in a moment.

Mr MIKE BAIRD: Yes. We can come back to it. But it was an opportunity, I think, when New South Wales could have been far more proactive in terms of energy efficiency, which would have taken pressure off future demand, and that is just a basic equation, okay?

The Hon. GREG DONNELLY: What would the cost of a new base load generator be, as you understand it?

Mr MIKE BAIRD: That is a hypothetical. You need to get to a position—

The Hon. GREG DONNELLY: Have you read the Owen report?

Mr MIKE BAIRD: I have read the Owen report.

The Hon. GREG DONNELLY: Do you accept the fundamental elements of the Owen report in terms of its parameters?

Mr MIKE BAIRD: I think you raise a good point because the Owen report talks about the supply and demand mismatch happening at about 2013 or 2014. Recent reports have actually pushed that out, which again becomes—

The Hon. GREG DONNELLY: What does the Owen report state—

Mr BARRY O'FARRELL: Hang on. He is giving you the answer. Let him finish.

Mr MIKE BAIRD: That again gets to my point. Once you have the full basis of the facts—

Mr BARRY O'FARRELL: Just make the point again because I think Mr Donnelly missed it in his repeated question.

Mr MIKE BAIRD: The Owen report refers to the supply and demand mismatch in 2013-14. That is when base load generation is required. That has been pushed out a few years.

Mr BARRY O'FARRELL: You are aware of that?

The Hon. GREG PEARCE: Out to 2018-19.

Mr MIKE BAIRD: Yes. So the question on that is: When do we need it? Your question was: How much does a generator cost? Well, when do we need it? My argument would be that we need to closely look at that timetable. But in terms of putting a cost on it, that is nonsense because we need to get to a position that we actually definitively—

The Hon. GREG DONNELLY: So just wait and see?

Mr MIKE BAIRD: No, you manage it. Well, this is again a fantastic State Labor case study because that is your approach to government—wait and see.

The Hon. GREG DONNELLY: It seems to me that that is the Coalition's approach.

Mr MIKE BAIRD: Not at all—no, no, no.

The Hon. GREG DONNELLY: They have moved from a model of privatisation a few years ago and we are now within weeks of the State election, but we still do not know what the position of the Coalition is.

Mr BARRY O'FARRELL: But we still do not know, Mr Donnelly, how far this Government is going in flogging off even more electricity assets. So if you can shed some light on match from your august position, we would like to hear it.

The Hon. GREG DONNELLY: We still do not know.

The Hon. GREG PEARCE: You do not know either.

The Hon. GREG DONNELLY: I mean, you come along here today—

Mr BARRY O'FARRELL: If you do not know, does Eric know? Does anyone know? "Who's on first?"

The Hon. GREG DONNELLY: In terms of the Opposition's position, I am trying to understand what the alternative government may well do in this area.

Mr BARRY O'FARRELL: With all due respect, Mr Chairman, this inquiry is about getting to the bottom of the deal signed off to.

The Hon. GREG DONNELLY: You have not read the terms of reference, Mr O'Farrell.

Mr BARRY O'FARRELL: The deal signed off to—

The Hon. GREG DONNELLY: Mr O'Farrell, the terms of reference—

Mr BARRY O'FARRELL: I hoped Mr Donnelly would know that.

CHAIR: Let Mr O'Farrell finish his sentence.

Mr BARRY O'FARRELL: Mr Chairman, the inquiry is to get to the bottom of this deal. I understand we have been called under the "other related matters" issue but, frankly, political point scoring and political gamesmanship at a time when families across the State are struggling with power bills is outrageous. If Mr Donnelly, Ms Griffin and Mr Foley were concerned about families, they would be demanding that their Premier release the Parry report—the report she commissioned last year, the report that was completed on 31 December.

That report was designed to look at ways that electricity bills could be lowered across this State and increases could be lessened. It sat there as we sit here for 24 days gathering dust in some office. The Premier would not call a meeting of Cabinet because apparently Cabinet Ministers are still on holidays. If they are concerned about the impact of energy costs on families, whether today or in the future, pick up the phone to the Premier, get her to have a meeting over the Parry report, get it out there so that those prices can be reduced.

The Hon. GREG DONNELLY: Mr O'Farrell, if you were so concerned about electricity bills of the families of New South Wales you would rule out here today in public the privatisation of the industry in New South Wales. You would rule that out.

The Hon. TREVOR KHAN: Ha! Oh dear.

Mr BARRY O'FARRELL: Mr Chairman, I find it a bit rich that that line comes from a member of the Labor Party who has just been part of what I think is the dud deal of the century, the biggest scam that this State has ever witnessed perpetrated by a Treasurer in its history. Mr Chairman, I do not know how many times I have to say it today, we will unveil our electricity plans—

The Hon. GREG DONNELLY: When are you going to do that, Mr O'Farrell?

Mr BARRY O'FARRELL: —but we are interested in this Committee's work. We are interested to the extent to which Eric Roozendaal does more damage.

The Hon. GREG PEARCE: Time is up, Greg, or it will be soon.

Mr BARRY O'FARRELL: It must have been terrible around Christmas time, Greg.

CHAIR: We will move on to questions from Dr John Kaye.

Dr JOHN KAYE: Mr Baird, I want to go back to your statements about the Owen inquiry report. Your criticism of the Owen inquiry report related to the fact that the date at which the supposed supply and demand balance tightens goes to 2018-19.

Mr MIKE BAIRD: No, it was not criticism. It was that their projection at that point was 2013-14.

Dr JOHN KAYE: Do you accept the Owen inquiry methodology of taking the market operators' reports and calling that a need for new baseload generation? Do you accept that?

Mr MIKE BAIRD: No, I do not accept that at all, John.

Dr JOHN KAYE: So you are critical of the Owen inquiry then?

Mr MIKE BAIRD: No, I am saying that in the Owen inquiry there was a forecast for when supply and demand were going to cross.

Mr BARRY O'FARRELL: And he is stating a fact.

Mr MIKE BAIRD: And that is the fact. The markets are now saying that it is not.

Dr JOHN KAYE: Do you accept the methodology used in the Owen inquiry to lead the State of New South Wales to a conclusion that there was a need for a new baseload generation?

Mr MIKE BAIRD: There are various questions that need to be answered. Recent events would suggest that more scrutiny is needed. That is another reason. A baseload generator is a significant amount of money. Before you make any decision in relation to that you need to be fully informed. At the moment—

Dr JOHN KAYE: Not to mention greenhouse gas emissions, but that is another story.

Mr MIKE BAIRD: Absolutely.

Dr JOHN KAYE: Mr Baird, what we want to know from you, and it is relevant to the third term of reference of our inquiry, is does a Coalition Government accept the methodologies, not the exact facts but the methodologies, within the Owen inquiry or would an incoming Coalition Government approach the issue of the energy needs of the State from a different and, might I say, more modern perspective?

The Hon. TREVOR KHAN: That is not loaded, is it?

Mr MIKE BAIRD: The point is, John: Is more work required? Absolutely. The more detail, the more analysis you can get into any decisions you make the better it is. The Owen report had a basis. There were broad issues raised in it. All I have pointed out is that the 2013-14 date has now been extended. Obviously that requires further scrutiny.

Dr JOHN KAYE: I want to ask you as the man who is most likely to be Treasurer in eight weeks time, what message do you have for the potential purchasers of the gentrader contracts at Delta Central and Macquarie Generation?

Mr MIKE BAIRD: With all things, my position is pretty clear on this. I do not like this deal. It is not in the interests of the people of New South Wales. Clearly, the preference is that we stop the sale in its current form. But that is not my decision to make. The Government is pursuing it relentlessly. The Government is, without rhyme or reason, happy to throw away billions of dollars. That is ultimately a decision for them.

Dr JOHN KAYE: As we sit here today, presumably—we can only guess this to be the case but it appears to be the case—Dr Gellatly and his crew, Mr Yeadon and co., are busy negotiating a contract with somebody, we do not know who and we do not know what the terms of those contracts are. You will be the Treasurer. You will be the frontline troops in terms of dealing with this contract. Are you prepared to say to those potential purchasers that they should be very wary of signing a contract?

Mr MIKE BAIRD: I think they have enough public statements and enough public view to draw their own conclusions. I do not think they need guidance from me. I will say that one of my remaining concerns is that one of the bidders, I understand the primary bidder, is a private equity firm which, for all intents and purposes, is a vulture fund. No wonder that a fund like that is lining up for these assets when you see the prices that are being paid. That is further concern for the people of New South Wales.

Dr JOHN KAYE: Would you accept that a statement from you now would have an impact on the likelihood of the sale going ahead?

Mr MIKE BAIRD: Again, that is totally up to the bidders and the Government. They are in the midst of it. I will also say about the Government signing up transactions like this, they do things well at midnight. We saw what the Treasurer did in relation to the sale and the directors at a quarter to midnight a few weeks ago. The financial close for the first tranche is supposed to be 1 March, which is three days before caretaker. What is the financial close going to be for this transaction? If ever a Government is out of mandate, this is it. We just have to go back to their comments before the election. They said they were not going to do anything. Yet here they are selling a deal like this, throwing away billions of dollars, an unknown impact on future electricity prices and impacts for families across the State. They are the ones who have lost the mandate. They will be held accountable for this transaction for many years to come.

Dr JOHN KAYE: Mr O'Farrell, you have been critical, quite rightly, of behind-closed-doors deals and not only the nature of the transaction but the way it has been carried out. Will you commit your government, when it comes into office, not to do that? Will you commit your government to be open and accountable—no more sudden shocks on things like liquidated damages and maintenance contracts that cost us millions of dollars? Will you commit to making sure that if you do change ownership in the electricity industry it will be with the agreement of both Houses of Parliament?

Mr BARRY O'FARRELL: I am happy to say, John, as I have said before, we will have a judicial inquiry and a report to Parliament and we will abide by its recommendations. They are not going to have any limits put on them in terms of the recourse that we need to undertake should we be elected to protect the public interest and defend the public value. I do not think I can be any clearer about this. We are committed to transparency and accountability. We do not believe that decisions behind closed doors are good decisions. A judicial inquiry will take public evidence, just as this inquiry is doing. Its work will be clearly seen by the community to be seeking out truth. Its work will be about ensuring that all the documents are available and that all the witnesses who want to come forward who have information can come forward with protection. It is about not only establishing that truth but also about setting out how we get that recourse that people talk about.

Dr JOHN KAYE: You are not prepared to give this inquiry a commitment that any change in ownership or any further privatisation will be done only with the approval of both Houses of Parliament?

Mr BARRY O'FARRELL: I respect the Parliament, I am happy to work with the Parliament. What we have said is that a commission of inquiry, the independent judicial inquiry we are committed to, will report to the Parliament.

Dr JOHN KAYE: That is not a commitment that you will go through both Houses of Parliament.

Mr BARRY O'FARRELL: Principally because I do not know what the judicial inquiry is going to report. You seem to have a lot of premonitions. Firstly, you seem to have already taken the election outcome for granted. We have not; we are working hard. Secondly, as I have said since 15 December when I proposed it, we are not going to put restrictions on a judicial inquiry which is designed to uphold the public interest and to defend public value.

Dr JOHN KAYE: With respect, Mr O'Farrell, this is not about a judicial inquiry. This is about what you will do after—

CHAIR: Do not interrupt the witness.

Mr BARRY O'FARRELL: We will not limit the recourse or the redress that it might recommend to the Parliament in terms of this whole sorry saga.

CHAIR: We will move on to one final question from the Opposition.

The Hon. GREG PEARCE: Mr Chair, today's inquiry was due to finish at 10.00 a.m. Mr O'Farrell and Mr Baird have other commitments. The Opposition is prepared to waive our time if we can allow them to get away.

CHAIR: Do you have a question?

The Hon. GREG PEARCE: The last question is to Mr O'Farrell. Is there anything you want to add to what you have said today?

The Hon. LUKE FOLEY: We all have to humiliate ourselves at times, Greg.

Mr BARRY O'FARRELL: I do not think so. With all due respect, Mr Chairman, to the great work you have done in your first two days of hearings, this has added nothing. This has been political point scoring and game playing.

The Hon. LUKE FOLEY: It has added a lot. You will not rule out selling the whole kit and caboodle, Barry. You have had six opportunities and you will not rule it out.

Mr BARRY O'FARRELL: Mr Chair, that is a classic piece of Labor scare. This is a bloke who is part of the party that has flogged off the State's asset in a fire sale. He now wants to go outside and run a scare campaign about the Liberal-National parties.

The Hon. LUKE FOLEY: There is no scare campaign if you rule it out.

Mr BARRY O'FARRELL: We will see lots of this between now and the election campaign. My answer is always going to be the same. Let them play their games. We will get on outlining the positive, practical plans we have. We will release our energy plan, particularly once we see how far this Committee gets to uncovering the details of the damage done by Eric Roozendaal. But we are not going to play the old politics of Labor.

The Hon. LUKE FOLEY: You are going to flog the lot.

Mr BARRY O'FARRELL: The fears, the smears, the attacks.

The Hon. LUKE FOLEY: People's electricity prices will go through the roof. You will not rule it out. You are going to sell the whole kit and caboodle.

CHAIR: Mr Foley, let the witness finish.

Mr BARRY O'FARRELL: We are going to set out how we can make a positive difference to this State, how we can make it number one again. We will unashamedly do that. We are not going to do it according to his timetable. We are not going to do it according to his wishes because this is a bloke, on the evidence of what Rod Cavalier said, whose inaction over the last—

The Hon. LUKE FOLEY: Ferries, ports, desal, trains, electricity, transmission and distribution, water—all on the block.

The Hon. GREG PEARCE: Scare campaign, there they are.

CHAIR: I want to ask a couple of questions before we finish.

Mr BARRY O'FARRELL: Mr Chairman, feel free.

CHAIR: You mentioned earlier your concern about electricity prices. Mr Baird may answer this question. Are you concerned there could be a monopoly situation with 80 per cent of the consumers in the hands of one gentrader? Do you have some concern that prices could increase?

Mr BARRY O'FARRELL: I will start and Mike can finish. We have seen recently in this very building concerns expressed about bank competition and the lack of competition in terms of bank customers. We have significantly more banks in the field than what the Government has just sold 85 per cent of the State's electricity assets to. So absolutely I am concerned about the lack of competitive tension that this is going to create. I am concerned about that because of what I hear and what I have continued to hear from families and small businesses across the State about just how difficult and how much they are struggling in paying their power bills, whether they get them monthly, according to Dr Kaye, or as the O'Farrells do quarterly.

Mr MIKE BAIRD: My concerns were articulated at the beginning. This is not a comment about the remaining participants. The reality is we have gone from about half a dozen down to really three in the sector. By any stretch that is fewer people, which is a natural concern. I am yet to be convinced by anything the Government says on how that is competition. I understand there will be competition amongst those three. But the underlying concern in all of that is how this coal subsidy, which is 40 per cent of the generation costs, impacts the competitive playing field. Is that a huge enough barrier to keep people out and their ability to compete on electricity prices? That is one of the fundamental concerns.

CHAIR: Thank you very much for appearing before the inquiry today. Does the Government have one final question?

The Hon. TREVOR KHAN: No.

CHAIR: I believe the Opposition just gave you a cue.

The Hon. LUKE FOLEY: They have had six opportunities to rule it out. They will not. We know where they are coming from.

Mr BARRY O'FARRELL: Mr Chairman, I just say again in relation to that interjection from Mr Foley, one of the so-called Sussex Street heroes of defeating Morris Iemma's privatisation—there was Mr Foley, Mr Robertson and Mr Riordan; one at least has now been electrocuted—this issue is far too important. This inquiry and the work that it is doing are far too important for those sorts of political games to be pursued. What the families want to know is why it was sold. They want to know what—

The Hon. LUKE FOLEY: Families want to know that their bill will not go up if you sell the lot, Barry. Give the commitment.

Mr MIKE BAIRD: What have you done?

CHAIR: Let Mr O'Farrell finish his comment and then we will conclude the hearing.

Mr BARRY O'FARRELL: I have said on more than six occasions and I will say again, we will unveil our plans and I am very happy to unveil those plans. They will give confidence to the public of this State about

the way in which we will manage the State's energy assets. The sort of political gamesmanship we have seen from the Labor Party today does them no service because it does not reflect the anger and the real distress in the community over electricity prices. For Mr Foley, who Mr Cavalier describes as the leader of the anti Morris Iemma push, to come in pretending that he is concerned when he said nothing against Eric Roozendaal's attempts, when he would not even tackle Eric Roozendaal on the Hunter coal issue—he would take it up to the Treasury Secretary but was not prepared to front his own Treasurer in relation to that issue—shows what a spineless creature he is.

The Hon. LUKE FOLEY: I am on the record, Mr O'Farrell, against electricity privatisation. I invite you to join me. Why won't you?

Mr BARRY O'FARRELL: Mr Chairman, I say again we will unveil our plans very happily. He might be on the record, but I notice he has been very quiet over the past two years, including since he joined Parliament, in standing up to his own Government on that issue.

CHAIR: Thank you again for appearing before the inquiry, Mr O'Farrell and Mr Baird. We will hear more from you in the future with the election day drawing closer.

(The witnesses withdrew)

The Committee adjourned at 10.45 a.m.