

# Keneally in new bid to silence power inquiry

SEAN NICHOLLS AND BRIAN ROBINS

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KRISTINA KENEALLY has made a fresh bid to derail an inquiry into the government's power sale by declaring it illegal, prompting the Opposition Leader, Barry O'Farrell, to accuse her of trying to intimidate potential witnesses.

A day after the Premier was accused of shutting down Parliament to avoid an inquiry into the \$5.3 billion sale of NSW electricity assets, a parliamentary committee defied her by resolving to continue its investigation.

The inquiry, which is planned for January 17 and 18, will ask for evidence from the eight directors of Delta Electricity and Eraring Energy who resigned in protest over the sale, as well as serving board members and public servants.

The committee plans to deliver its findings on January 31, less than two months before the state election. But the government has left open the possibility of a legal challenge, based on advice from the Crown Solicitor in 1994, which suggests committees cannot function when Parliament has been prorogued, or shut down.

At a news conference, Ms Keneally said the advice meant "such committees have no legal standing and they cannot afford parliamentary privilege or parliamentary protection [and] they cannot summon witnesses".

Asked if she believed the inquiry would be illegal, Ms Keneally responded: "The advice we have from the Crown Solicitor is, yes."

However, the clerk of the Legislative Council, Lynn Lovelock, has argued that the Crown Solicitor's view is "restrictive".

The uncertain legal status raises questions about whether witnesses, particularly company directors, would appear voluntarily to discuss sensitive commercial matters if they are not covered by parliamentary privilege.

Mr O'Farrell said he believed the government was trying to discourage witnesses from attending the inquiry by leaving open the option of a legal challenge.

"What we've seen today is both the Attorney-General and the Premier leave open the option of challenging this inquiry and therefore challenging the privilege which might apply to the evidence of people who might front up," he said.

"That's a clear attempt in my view to try to silence witnesses. It's a clear attempt in my view to try to discourage people from attending this inquiry."

Mr O'Farrell rejected Ms Keneally's argument that an upper house inquiry was unnecessary because the Auditor-General would report on the sale process. He said the Auditor-General was unlikely to report before September, well after the election.

The chairman of the committee, the Christian Democrat MP Fred Nile, said the inquiry aimed "to find the truth - facts, information - that will benefit the public and in the long term be of benefit to the taxpayers of this state".

Mr Nile released a letter sent to him by Mr Roozendaal's acting chief of staff, Michael Galderisi, the day before Parliament was prorogued, warning the "uncertainty" created by an inquiry could jeopardise the sale of electricity assets.

Mr Nile described the concerns as "valid" but said the committee decided to proceed because of Ms Lovelock's advice. A LEGAL LIMBO

Q: What does "to prorogue" mean?

A: To discontinue the meetings of a legislative or other assembly for a time, without dissolving it.

Q: Is there specified date Parliament must be prorogued by? A: No.

Q: Do any activities of Parliament continue?

A: Apart from statutory ones, all committees are dissolved after prorogation. Yesterday the clerk of the Legislative Council determined otherwise.

Q: With Parliament prorogued, will witnesses appearing in committee hearings have parliamentary privilege?

A: No.

Q: Can a parliamentary committee compel witnesses to give evidence once a Parliament is prorogued?

A: No.

Q: Once Parliament is prorogued, are its members and ministers on holidays?

A: No. Parliamentary deliberations cease, but all other work of the government and its MPs continues.

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