Speech by

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PUBLIC SERVICE AMENDMENT BILL

Mrs LIZ CUNNINGHAM (Gladstone—IND) (5.02 p.m.): It is with some misgivings that I rise to speak to the Public Service Amendment Bill because, to me, the quandary is the issue of the value of the principles of five-year contracts and the theory of political neutrality versus the political realities. Since 1989 in particular, there has been a significant change in chief executives whenever there has been a change of Government. Chief executive positions appear to have been very stable until 1989. I suppose that is borne out by the fact that the Government was, as well. However, according to the statistics that I could find—and these are not conclusive; they are as good as I could get in the time available—in 1989, 16 chief executive positions changed. In 1996, at the change of Government—I have had two figures given to me: one was 13 and the other was 16. In 1998, 12 chief executives changed. I have to acknowledge that, in 1998, those positions were not changed because contracts were terminated; they changed because contracts matured, that is, under the previous Government the maturity date coincided with the election.

In his response to the debate on the second reading, the Premier said that the rationale for the use of five-year terms for CEO appointments is that they put Queensland on the same footing as all other public sector jurisdictions; they advance the public interest by allowing more strategic and longer term planning and visioning for public administration beyond the three-year term of office of a Government; and they improve Queensland's ability to attract and retain high-quality CEOs from other jurisdictions and organisations, both public and private. Yet history over the past 10 years flies in the face of those values.

The member for Toowoomba South said that if the three-year contracts are law, a good DG will be reappointed on the basis of an impartial and sound record. I ask the sponsor of this Bill, the Leader of the Opposition: if the three-year period does become part of Queensland law, how will a DG appointed at the change of Government prove to non-Government members that he or she is impartial? At the moment, they have the advantage of potentially being in their positions during the terms of several political parties in Government.

It is fair to say—as the Premier stated—that when the Public Service Act was passed in this House in 1996, it contained a clause that stated that the maximum tenure— not necessarily the mandatory tenure—for a chief executive officer was five years. The Premier said that if the motivation for this private member's Bill was sincere, the policy that the Opposition is now endeavouring to introduce would already have been included in legislation. Given the close proximity to that debate, it is a fair question to ask. Two years ago, five years was an appropriate term for CEOs. Members on both sides agreed with that. I have not consulted the Hansard record, but I cannot recall a great debate about the five-year tenure, so I would be interested to hear from the Leader of the Opposition as to why the change is necessary now.

In a press release to the Courier-Mail, the Premier said that some of the DGs appointed by the Borbidge/Sheldon Government were nothing more than a Dad's Army. I understood that statement to mean that they were reappointed; that they had previously been directors-general or had held senior positions in a previous coalition Government. The Premier went on to say—

> "But fortunately for us, almost all of the director-general contracts expire in June next year—at about the time an election is most likely to be fought."

So in that statement it was acknowledged that the previous Government did target the tenure of its director-general appointments to coincide with the election. It also indicated that the then Leader of the Opposition, the current Premier, had looked at the people in those positions and was certainly going to review their positions—and, as it turned out, with a view not to reappointing them. I would be interested to know how many of the current directors-general who were appointed in June of this year have previously worked for the ALP Government.

Comments were made about a Public Service Commissioner's discussion paper on merit protection for senior executives. Some concern has been expressed that, should the Bill be passed, it will introduce a regime that is neither fair nor equitable; it does not reflect consistency across Australia. I ask a question, though, and it will be difficult because I should be posing this to the Premier. Whether or not this Bill is passed, it does not preclude that merit protection discussion paper continuing. And if the objective results of that discussion paper can clearly show changes—whether it be to tenure or to anything else in the Public Service—there is no preclusion to that being brought before the House for consideration.

I acknowledge and thank the Premier for the information and the briefing that I was able to receive quite recently on the Public Service Amendment Bill. I appreciated the perspective that was offered. I will refer now to some of the points that were raised. It has been said that the five-year contract period is consistent across Australia. I think it was the member for Toowoomba South who replied by saying that Queensland does not have to do everything in the same manner as everywhere else. However, consistency is a good thing unless there is a valid reason for that not to occur.

The other issue that was raised with me related to the impact of this legislation on the public sector. It was said that the key reason to oppose the Bill is that it legitimises political appointments. That is a concern. Theoretically—and it is theoretically—Public Service appointments, right across the echelons of the Public Service, are non-political. They are neutral appointments. That would be wonderful if it were true and if it were borne out in history. We have a dichotomy of what is right in theory and what is borne out in practice. The comment was made that it will undermine the ability to attract and hold high-quality executives to maintain the professionalism and impartiality of the Public Service and to ensure that strong leadership is provided in the medium and long term. Again, that is a very good sentiment and it is expressed well. However, history shows that it is not adhered to. We have had significant turnover. In every change of Government, over half of the chief executive officers have had contracts terminated, their employment terminated or their contract has matured and they have been replaced.

Another point that was raised is that the Public Service wants stability and certainty. I have no doubt about that. It was said that the Bill encourages turnover of senior management and encourages instability. I agree; however, I cannot get past the fact that, historically, a significant number of directors-general are changed at a change of Government—whether it is through the much-vaunted Gulag system, a clean-cut cessation of contract in which a payment is made to the director-general who is terminated and a new appointment is made or, as in this most recent change of Government, the directors-general's contracts were specifically made to mature at the time the election occurred. I have a concern—and it should be directed to the Premier—arising from the comments by the member for Warwick. He pointed out that there has been a significant change effected by a directive under the hand of the Premier, but activated by the Public Service Commissioner, that allows for appointments to CEO positions and the Public Service Commissioner position to be made without the normal advertising and merit-process adherence.

Mr Borbidge: Directive 8/98.

Mrs LIZ CUNNINGHAM: Perhaps there will be more information to come, but that is a concern. We have argued today and in the past that employment must be merit based and that it must be transparent. Part of that transparency was open advertising and an interview panel. All of that process was to ensure a merit-based appointment. Through one action that can be overturned by the directive that states that, although that is the procedure, for a number of CEO positions and the Public Service Commissioner, that process can be laid aside and a direct appointment can be made by the Premier. That flies in the face of much of the argument that has been put today against this Bill being enacted, that is, that transparency, openness and accountability in the employment process are essential. I would be interested to receive some more information on that.

One Nation members have foreshadowed an amendment to remove retrospectivity. Although I can understand the Leader of the Opposition's inclusion of retrospectivity in the Bill, there is always a problem with retrospectivity. It will reflect on the current Premier's contracts that have been made with the current directors-general. I have a great deal of sympathy for the removal of the retrospectivity part of the Bill.

I was also concerned about something that occurred at the Mundingburra election. It is my understanding that it was not a by-election. The original election was voided by the decision of the

Court of Disputed Returns and the election in early 1996 was effectively the legal election for Mundingburra. Many statements were made about the fact that some contracts were renegotiated or renewed just prior to that election being held. I was seeking a protection to ensure that, if the three-year term of contract were implemented, there was not a loophole for whoever was in Government to renew those contracts just prior to an election, thus avoiding the review clause. My advice was that section 53(4)(f) covers that. I am not 100% convinced that it does. That clause states that a contract may be terminated by one month's notice by the Premier. I wanted to ensure that, should a contract be renegotiated just prior to an election, that contract would be viewed as a fresh contract and, therefore, subject to review by an incoming Government.

In an ideal world where CEO and directors-general appointments were made and filled by people who had full impartiality we would not be debating this issue. My quandary is the idealistic and theoretical position versus political reality. I would be interested in the Leader of the Opposition's comment as to whether he foresaw that, if this Bill were passed, it would automatically see the end of impartial directors-general. I believe that a number of DGs have been returned when a Government of a different party has been elected. I would be interested to see whether the Leader of the Opposition has considered the possibility that this Bill will completely remove the opportunity for impartial directors-general to be retained. Part of that answer will be in his response to how directors-general appointed at the change of Government would show their impartiality, because there have been some DGs who have held their positions for quite some time. There are not many, but there are a couple. Part of his answer will be in his response to whether they will be able to maintain that impartial status given that, whereas the five-year tenure did give some cross-party contact, the three-year term—election to election—ensures that there is none. I will be interested in the Leader of the Opposition's response. It is a difficult Bill. I will be listening to the response from the Opposition Leader. I can understand the sentiments behind the Bill being introduced.