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Public Administration
Australia NSW**

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1



INSTITUTE OF PUBLIC ADMINISTRATION AUSTRALIA

NSW Spann Oration 2010

Title If I were Premier of NSW in 2011

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30 September 2010

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Ladies and gentlemen,

It is fitting that the 2010 Spann Oration should be associated with the celebration of 75th Anniversary of the foundation of this Institute.

Professor Dick Spann made an extraordinary contribution to public administration in NSW and Australia through his academic leadership, his teaching, his research and to the Institute through his editorship of our Journal.

His major book, *Public Administration in Australia* was compulsory reading to those of us who aspired to leadership in the Public Service in the fifties and sixties.

Dick Spann was a modest, reserved person. He did not force his views on his audiences but his analytical and intellectual qualities were exhibited in his speeches, his papers and his editorship of the Journal.

I first became associated with him through this Institute about 1963 and closer when I was a Member of the NSW Public Service Board (PSB) and he chaired the Board's Administrative Research Committee. This Committee identified and sponsored research geared always to the improvement of public administration in this State. This was his passion. I shared this passion with him. I still have that passion in retirement.

It is appropriate then that this Oration is dedicated to the continual pursuit of improvement in public administration.

The current picture presented of the NSW government in the media is not a pretty one. I am shocked and dismayed about the current state of affairs.

The standard and reputation of public administration depends on the political environment in which it practices. Over the past few years we have had four Premiers, scandals and Ministerial misbehaviour, regular reports of poor performance, inefficient practices, misconduct and dramatic headlines and television scenes from ICAC.

This unstable environment must make it very difficult for Departmental leaders both to manage and to maintain high morale. And 2011 might be worse because NSW may well have a minority government and a situation similar to 1992.

I have chosen the title of this Oration to be "If I were Premier of NSW in 2011". I know that this is presumptuous but 2011 must be the time for NSW to restore its reputation as a well managed State.

Renewal requires looking back at the significant changes and practices that occurred under former Premiers so that we have a better understanding of how we arrived at where we are today.

Askin

The Askin years 1965-1975 they were really golden times for senior public service executives. There were no faxes, no emails, no mobile phones, no 24/7 media cycle, no



talk back radio, no ministerial advisers, few lobbyists and state rights were sacrosanct. The Cabinet system was loose.

With few exceptions public servants and parliamentarians travelled to work by public transport. The Yes Minister television series was close to capturing the culture of the times; a culture that is not entirely buried. The failure of Ministers to give any rational reason for the Metro to Rozelle reminds me of Sir Humphrey Appelby saying “in the great restaurant of government, civil servants are the cooks and politicians are the waiters. We prepare all the dishes and they serve them up to the customers”.

Another quote that has stood the test of time was “The ship of state is the only vessel that leaks from the top”.

In this State there were two powerful forces in the bureaucracy – the Treasury and the NSW Public Service Board. Through its financial muscle and its expertise the Treasury was the key unchallenged policy adviser.

The Board as a result of earlier Royal Commissions had been established because of concerns about inefficiencies in Departments and widespread nepotism in appointments under Ministerial influence.

In addition to controlling all staff appointments the Board had the authority to inspect Departments and carry out efficiency audits. My own bleeding in public administration following a teaching career, was serving as an Inspector at the Board. The Inspectorate was the breeding ground for future leaders across the Service.

Board Members could only be dismissed by a resolution of both Houses of the Parliament. Thus they were able to be truly independent and able to resist Ministerial pressures on appointments and salary determinations.

The Board appointed Departmental Heads. The Minister could refuse to sign the Executive Council Minute but he could not substitute another.

To my knowledge there was only one case where a Minister refused to sign. In the wash up he lost his portfolio.

The Board had no direct policy responsibility. This was with the Minister and Departmental Head within the financial constraints imposed by the Treasury, but its influence was always there.

Wran

The real winds of change in public administration in NSW came with the election of Neville Wran in 1976. He was suspicious of the Board from the outset and he had a healthy scepticism about Treasury advice.

He quickly found that the Premier’s Department was like a suburban post office through which Cabinet submissions passed through without alternative advice to that of the Treasury and the submitting department.



His dissatisfaction led to several significant changes. The Treasury functions and role were left in place but a small economic advisory unit was established in his private office to challenge the Treasury. Secondly I was invited to resign from the Board to become Secretary and Head of the Premier's Department with the objective of making the Premier's Department an effective source of policy advice to balance the Treasury and Departments and to establishing an effective Cabinet system.

His direction to me was "don't allow the Government i.e. the Ministers to repeat the mistakes of the Whitlam Government". Translated he meant keep close supervision on the actions of Ministers and their Departments in the pursuit of their individual agendas.

He legislated to amend the Public Service Act. The main changes were:

- § Department Heads to be appointed by the Government and to be responsible to the Minister for efficient and effective management of departments
- § The PSB to lose its inspection function but continue to be responsible for efficiency audits on behalf of Heads and Minister
- § The PSB to conduct special inquiries at the request of Minister
- § The PSB to provide management support and consultancy advice
- § Provision for separate management and strategy reviews of the PSB
- § Auditor General to maintain financial audits but not efficiency audits

Wran placed high expectations on Ministers and Departments to develop and implement new policies. Wran was a centralist who wanted a strong Premier's Department and an effective Cabinet system. He wanted the Board to drive management improvement.

He was a strong defender of State rights and expected NSW officials to be leaders in Commonwealth and interstate matters. All in all he took a balanced incremental approach to reform of the public service.

Greiner

Nick Greiner came to office in 1988. He was an economic rationalist, a devotee of private sector practices.

His mantra was 'let the managers manage'. Ministers and Departments were given more authority. He was critical of the strong centralist role of the Premier's Department. Ironically if he had had a strong Premier's Department in 1992 then he may not have run foul of ICAC and lost the Premiership.

Greiner succeeded in changing the culture of the Public Service but at a price to its previous cohesion and unity of purposes.

He abolished the Public Service Board and left a vacuum. He introduced the CES and SES, permanency was out, short term contracts were in. He encouraged outsourcing, privatising and the greater use of consultants. He introduced FOI legislation. He established ICAC and became its first major scalp. He established the Cabinet Office as a separate Department from Premiers. He streamlined the budget processes.

The Auditor General was empowered to carry out efficiency and performance audits.



It was no surprise that in the new culture the SES became bloated in both numbers and remuneration.

Carr

Bob Carr became Premier in 1996. He was critical of the size of the SES. He reduced the numbers but had a policy of no forced redundancies – hence the bad practice developed of having hundreds of SES officers unattached.

He wanted to restore some independence to making senior appointments by appointing a Commissioner for Public Employment but after a short period he gave this role to the Director General of Premier's Department.

This dual appointment continues to the present day under the title of Director of Public Employment but I doubt its effectiveness.

But looking back except when glaring inefficiencies arose there was little effort to promote management improvement practices. He allowed Ministerial Offices to increase the number of policy advisers, and he fostered outsourcing, private public partnerships, and use of consultants. In effect he followed the Greiner ideological bent.

However he made a very significant contribution to public administration by granting financial support to Sydney University to provide masters programs aimed at the development of talented public officials

The Present

I now move to the second part of this Oration, namely the current state of public administration in NSW.

There are three overarching issues: Commonwealth State relations, the unstable political environment and the influence of Ministerial Offices.

Both political parties seem determined to diminish and erode the powers of the States in whatever field appeals to them. They appear determined to use their financial muscle and High Court decisions to achieve these aims.

When Whitlam pushed his national programs in 1973-1975 there was broad community opposition and concern about Commonwealth intrusions into traditional State areas.

There are few external barrackers for State rights today.

The climate is dramatically different. Opinion polls show increasing support for extending Commonwealth powers. The public simply want better delivery of services without regard to whether they are provided by State or Commonwealth.

A significant minority in the polls even support the abolition of the States in favour of Commonwealth and regional governments. They question seriously the need for three layers of government.



State Governments must accept that there will be continuing intrusions by the Commonwealth into matters that were formerly regarded as the prerogative of the States. They must accept also that COAG will play an increasingly important role in the formulation of national policies that impact on the State, such as health and education.

However State administrators must not abdicate policy development to the Commonwealth, or to other States for that matter. NSW must be represented at COAG committee meetings by highly talented officers with passion and purpose to ensure that NSW gets a fair go. We must be leaders and not followers.

NSW must demonstrate to the Commonwealth that it is highly efficient in the implementation and delivery of services.

They will need to do a lot better in service delivery than that performed by the NSW Education Department in the BER school building program. Further, it was a disgrace that NSW did not qualify for other infrastructure grants due to poor submissions.

The second overarching issue to which I have already referred is the unstable political environment. The media continually fosters the perception that NSW is a basket case.

The Government is portrayed as being unfit to govern, but there appears to be little enthusiasm for the Opposition.

This portrayal is simply unfair to the thousands of public servants in this State who perform with great credit in difficult circumstances. Fostering morale, maintaining and enhancing pride in this environment must be very difficult for CEOs.

The third overarching issue which is not spoken about but which has a significant influence is the role and actions of policy advisers in Ministerial Offices.

The development of sound working relations between Ministers, political advisers, CEOs and department personnel cannot be left to chance. The performance of the Minister depends upon a healthy cooperative relationship

The proliferation of advisers can lead to tensions, arguments, differences of opinions and often resentments. Political advisers should be carefully chosen as they were in the early days of the Carr Government. However they are now often chosen for political reasons with inadequate qualifications and experience in the portfolio area. They have a privileged position, close to the ear of the Minister. They are the entry point for lobbyists.

I believe the Carr Government made a bad mistake in allowing Ministers to relocate their offices from the Departments to the Governor Macquarie building to be adjacent to the Premier.

Any advantage from this arrangement is outweighed by the loss of regular immediate face to face contact with the CEO and Departmental officers.

It has diminished the role of the CEO, it has enhanced the authority of advisers, it has impaired the communication links between CEO and Minister.



I will now move to more specific aspects of public administration in NSW.

The Greiner changes, perpetuated by Carr, remain. I refer to the power of Ministers to hire and fire without explanation. The power to appoint political advisers even though they may lack qualifications and experience for the particular portfolio. In turn, the CEO has unfettered power to hire and fire. This is no external mechanism to prevent nepotism, favouritism and to safeguard against Ministerial pressures and to ensure the integrity of selection committees.

There appears to be a lack of capacity in Departments and more importantly across the Government for strategic policy and review.

This in turn leads to the excessive use of private consultants which only further diminishes the contribution and status of the Department. How can we attract and retain highly talented staff when the intellectually challenging and most satisfying work is outsourced?

Regrettably, Ministers feel more comfortable with recommendations of consultancy firms. They feel that it gives them protection against criticisms.

Further, there appears to be a lack of regular constant management improvement programs in Departments. The Auditor General carries out about 15 performance reviews each year. These are valuable, on major areas of administration, but they hardly scratch the surface, and they are well after the event. Management improvement programs must be ongoing and persistent and able to solve problems in the short term.

Also there appears to be a lack of systematic service-wide approach to identifying the highly talented and to creating special opportunities for them to broaden their experience.

There is an increasing tendency, that I deplore, for Government and Opposition Parties to endeavour to use ICAC, the Ombudsman and even the Auditor General for their particular political agendas.

One recent example was the Commonwealth Auditor General reviewing the BER School building programs and having terms of reference so narrow as to exclude reporting on whether value for money had been achieved. Another example was the Commonwealth Government using the Auditor General to approve of political advertising.

ICAC is used by both Parties. The Government uses it to get issues off the headlines and hence stifle debate while Enquiries are made. The Opposition uses it to make headlines. ICAC must act with greater expedition and not leave officers under clouds of suspicion for months. This is simply not fair.

There was the spectacle earlier this year where the Head of the Planning Department was the subject of a three-day Enquiry, even though the Commission began with the statement that there was no substance to the allegations against him. This treatment of a reputable Chief Executive was a disgrace.



I observe that within the Government there still seems to prevail the attitude that private sector practices are best, and that by definition outsourcing is more efficient than in-house delivery. Outsourcing can be a convenient recipe for avoiding responsibility and accountability. Ministers take the credit when things work well but outsource the blame when they fail.

Further, the projected savings can often be illusory. Regrettably there appears to be few follow up reviews to report on whether the projected efficiencies, economies and value for money have been achieved, particularly with private public partnerships.

Finally, in my assessment of the present I am concerned that the power and authority of the Treasury has again risen to the very top.

Treasury advice is essential for good government, but Treasury control is not. Departments are more in tune with and better understand community needs and concerns.

The Future

I now come to the third part of this Oration and discuss what I would do if I were the Premier of NSW in 2011. First at the personal political level and secondly the departmental level.

Firstly, I would strive to be recognised by both supporters and opponents as being a Leader who always acts honestly, with integrity, open and straight forward, being trustworthy, compassionate, and reliable, one who tells the story without spin, and one who is respected without necessarily being loved by the electorate.

I would ensure that Cabinet genuinely acts as a Cabinet, that major policy issues are debated frankly.

Secondly, subject to ensuring that I got the best six Ministers, I would have Caucus elect the Ministry. The servility and docility of the Rudd Cabinet shows what can happen when the leader selects the Ministry. I would respect the views of Caucus and ensure that they are heard by Ministers. I would expect frank advice from my Department.

I would require the Party to provide me with better candidates. Both political parties should be ashamed of their inability, particularly at the State level, to attract and find places for persons with better qualifications, better work experience and capacity and frankly better intellectual fire power. Since 1996 there has not been a Treasurer from the House of Assembly because of a lack of talent.

Backbenchers are being promoted to Ministerial and Parliamentary Secretary positions despite their lack of experience and qualifications.

I would not wish the Party to provide so-called celebrity candidates who join the Party just prior to the election, unless they have shown great competence and interest in politics and community service and a commitment to Party policies. Being an



outstanding sportsman or TV personality does not necessarily lead to being a good Parliamentarian.

Thirdly, I would seek, with Opposition support, to reform the Legislative Council. Many forget that up to 1978 the Council was elected by the Parliamentarians themselves and not by the people. It was Neville Wran who won a referendum to democratise the Council. To obtain Opposition support to the Referendum, concessions had to be made for proportional representation that now provides for the election of 21 persons at each election for an eight year term. There is no threshold vote required and successful candidates can be elected without obtaining the quota of 4.5%.

This results in minority parties, such as the Shooters Party, being able to hold the Government to ransom and extract dubious deals. My major concern is that the present system is a recipe for mediocrity.

The above-the-line voting system ensures that. Electors do not know for whom they are voting and do not know where their preferences are going.

Yet when vacancies occur the Parties ignore those on the list.

The elected do not represent a constituency. They are beholden only to their party.

I believe that the Legislative Council should be reformed so that members represent a constituency and can be judged by the electors on their performance.

Fourth, over the past decade I have observed the increasing involvement of Ministers in industrial matters, and wage and salary determinations.

This is not an area in which they are generally well skilled. The Unions prefer Ministerial involvement knowing that the Union can put much political pressure on Ministers. Industrial relations is a specialised area and there needs to be a central agency with competent experienced officers able to assist the Government and individual Departments.

Fifth, as Premier I would favour the full public funding of elections. When Premier Wran introduced public funding it was anticipated that the Parties would be able to reduce their fund raising activities.

This has not happened. Indeed spending on elections has increased enormously. I would place a cap, well below the current spend, on total spending by each Party, and a cap on private contributions and a ban on corporate and union donations.

I commend the Premier for her recent announcements in this area.

Business groups feel obliged to take tables at fund raising dinners to buy access to Ministers and shadow Ministers.

You can even buy a lunch or dinner with a Minister at an Auction.



This is demeaning of the Minister. State and Commonwealth leaders keep promising legislation – it never comes – we are told it is too difficult to close all the loopholes. This is simply an excuse for inaction.

The Public Service

I now move on to the Public Service, where the reputation of senior executives has been damaged by the perceived lack of competence within the Government.

In 2011 I would set as a priority the restoration and enhancement of integrity, morale and pride in being a public servant in NSW.

Ministers have not been as active and diligent as they should have been in giving credit and praising the good work that is being done in many Departments. Our schools are top class and we should be proclaiming this; despite media criticisms the public hospital system provides a great service; the staff in DOCS need commendation for handling such difficult situations - and I could go on with other Departments.

The four challenges in the public sector are: policy development, prioritising its implementation, performance, and the selection and promotion of talented personnel.

The most important of these is getting the policies right. No more irrational proposals like a metro to Rozelle. Public transport must have priority over roads. The Barangaroo development should not be allowed to abandon basic principles for foreshore developments to satisfy the greed of the developer.

Priorities must not be jettisoned because of financial assistance from the Commonwealth, for example the Epping to Chatswood rail.

Departments must be at the forefront in developing public policies. They must not abdicate this role to the Minister's political advisers.

Departments must be fearless and frank in giving advice, but to do this requires greater security of tenure.

The private staff come and go at a fast rate. I understand that since 2006 the turnover has been more than 300.

Departments provide stability; the corporate memory is in the Departments. But Departments must earn the respect of Ministers and advisers by the quality of their advice and by working cooperatively with them.

I have been disappointed this year that NSW does not appear to have had a strong voice on major policies being debated at Commonwealth level.

On the mining case we were silent. On the health and hospitals debate we seem to have settled for extra money, but under a structure that does little to eliminate the blame game.



On infrastructure the Commonwealth made it known that NSW made a poor submission, an inadequate business case, and as a result we missed out badly in funds.

In vocational education we have abdicated to the Commonwealth. TAFE has lost out to the private providers.

As Premier I would act to ensure that the Department of Premier and Cabinet has the capacity as the lead Department to perform its chief role as policy advisor and coordinator. I would make changes to the management of the Public Service. I would not describe them as reforms because this is an overused word, like sustainability. It is used by Governments to make them feel that they are making things better; it's the feel good syndrome.

The changes introduced by Greiner and Carr effected positive improvements within the public sector, such as the budget process and FOI, although the release of information has been strictly controlled by Ministers. Also ICAC is a body that is now an essential feature of modern governments.

It is my belief that expecting government departments to act like businesses as in the private sector fails to recognise that departments exist in order to provide services and to regulate services for the common good; and that departments generally cannot be self sustaining financially.

The driving motives must be the public interest and value for money, not profit.

It follows that I believe that the Greiner/Carr reforms went too far away from the balanced reforms of the Wran government. The abolition of the Public Service Board left a vacuum that has not been filled.

They went too far with the SES by including an excessive number of positions with the resulting loss of permanency to many hundreds and the consequent instability. They went too far in the unfettered power given to Ministers and CEOs in the selection and promotion of staff.

They went too far in the removal of a body whose function was to promote management improvements and a body with the task of identifying and nurturing talented personnel.

As a consequence, the NSW Public Service, once regarded as one of the leaders in Australia, has lost its coherence, its stability, its unity of purpose, and with tenure so tenuous has lost its capacity to be a genuine source of frank and fearless advice.

The Department of Premier and Cabinet must concentrate on the coordination of policy across the whole range of government activities. This is its key function. It should get out of service delivery but supervise the delivery given by Departments. The Premier's Department should also supervise closely the regulations imposed by Departments to ensure that they are fair, reasonable and kept to a minimum.

It must ensure that NSW plays an effective role at COAG ministerial meetings.



I would abolish the current administrative arrangements that have the Department of Premier and Cabinet responsible to twelve Ministers. A bizarre arrangement. The super Department concept would be abolished.

DPC must ensure that advice from the submitting Department and from the Treasury receives a balanced appraisal. It must ensure that we have an effective Cabinet system. Each Department must strengthen its policy development ability. There can be a tendency for departments to concentrate on delivery rather than the development of the best policy.

The Director General of the Department of Premier and Cabinet should be designated as head of the Public Service, with a clear line of accountability to the Premier for the good management and leadership of the Service.

CEOs must have a leader in whom they can place their confidence and trust, a leader who can assist them with advice and assist them in coping with difficulties that may arise in their relationship with their Minister.

The CEOs currently have no protection against an irresponsible or truculent Minister.

I would establish within DPC a small unit responsible for developing longer term strategic policy advice.

This Unit would work on references from the Premier but not on day to day issues.

What I am proposing is an “in house think tank”. One immediate task could be to develop a set of principles for dealing with the continuing intrusions into traditional State areas of responsibility. Another is the long term transport plan by taking this away from the individual Departments with vested interests. It could also be given a reference on the control and limitation of Poker machines and on hotel hours.

It could also report on the effectiveness of Public Private Partnerships about which I have not lost my scepticism. It should question the continuing relevance of the Commonwealth Grants Commission.

Personnel Recruitment Training and Development

I note that this Institute continues to make a significant contribution to staff development.

But I suspect that we lack a focal point within the Service for driving this activity.

This is not a function for the Department of Premier and Cabinet, but you cannot leave training and development to individual Departments. There needs to be an agency for ensuring that Departments select and then promote the best persons available and a mechanism also for ensuring that the talented in one Department can move to another to broaden their experience.



Performance and Efficiency

CEOs have the primary responsibility for ensuring and directing improvement in management practices. To ensure high standards of service delivery to meet community expectations there must be continuing reviews of methods and practices and the use of modern technologies. Large Departments should have internal units, empowered to review and promote management improvement programs.

But reviews of management practices and performance cannot be left solely in the hands of Departments.

Management improvement programs must be driven regularly and constantly and that an external mechanism is often needed to ensure this.

NSW needs a separate agency to promote management improvement and to provide external consultancy services to Departments. The Agency should build up expertise over the range of government services. The availability of this in-house capacity would reduce the use of private consultants who come and go, who have no continuing interest in implementation and who charge exorbitant fees, and often tell what you wish to hear so as to ensure another commission.

The recent Moran Report on the Commonwealth Public Service has recommended periodic external reviews of agencies capabilities covering strategy, leadership, workforce capability, delivery and organisational effectiveness.

Separate to efficiency audits, in 1975 the NSW Public Service Board initiated Management Strategy Reviews of Departments. These external reviews were to be carried out about every 5 years on the overall capacity of a Department covering strategy, staffing needs and general organisational effectiveness. These were dropped after 1988.

A Public Service Commission

From what I have already said you would be entitled to believe that my views on public administration practices in NSW are stuck in the eighties.

I have serious doubts about whether changes introduced by Premier Greiner and perpetuated by Premier Carr have increased the efficiency and effectiveness of service to the Government and to the community.

What I am putting tonight is that the pendulum has swung too far from the provisions of the 1979 Act.

I argue for the establishment of a NSW Public Service Commission with responsibility for management improvement, for ensuring ethical standards in the public service, for staff training and nurturing the talented; for strengthening the policy development function of Departments, with expert advice on industrial relations, with management consultancy functions.



It must have a significant role in the appointment of senior staff. While I would retain the CES I would abolish most SES positions and return them to a permanent Public Service.

If you think that this is old hat and a return to the past then I suggest that you read the Moran Report which is aptly titled "Ahead of the Game".

This report from a well qualified and experienced committee was accepted in full by the Commonwealth Government. It is a Report that recommends:

"A new Public Service Commission to drive change, and provide strategic planning and take a leadership role with the APS. This central agency would provide expertise, guidance, performance monitoring and some centralised services to agencies. It would play a role in staff recruitment, development and retention, pay and employment conditions".

Recommendations in this report recognise the need for a more cohesive Public Service, the need for leadership and an enhanced role for the Secretary of the Prime Minister's Department.

It recommends mechanisms to drive external periodic capability reviews similar to what NSW began in 1975 but were abandoned in 1988.

Let it be clear I am not suggesting that we pick up the Moran Report and simply adopt it for NSW.

The Report however confirms my view that the agenda begun by Premier Greiner which spread to the Commonwealth simply went too far. It gave Departments greater freedom to manage, but at a cost to performance.

If Premier I would immediately review the Public Service Act to establish a NSW Public Service Commission.

The Institute of Public Administration

This Institute can look back with pride at its contribution to Public Administration in NSW and Australia, and I congratulate the current Council for its continuing leadership.

However, because almost the entire membership is employed by a Government authority it means that the Institute is constrained in its public comments. As a former President I felt that constraint.

I suggest that you consider an aggressive drive to encourage retiring senior executives to continue active membership and play a role in representing the Institute publicly on issues of public polices where appropriate



Conclusion

I will conclude with hopes for the new government in 2011, irrespective of which Party governs.

I hope that public administration in NSW will regain its reputation as a leader in the nation.

I hope that Ministers will demand high quality policy advice and effective service delivery from their Departments to achieve the desired outcomes.

I hope that Departments will meet these demands with dedication and determination, and that in return Ministers will abstain from interference in the internal day to day management of Departments.

I hope that the central agencies – Premier's, Treasury and a new Public Service Commission - will cooperate to provide leadership that ensures ethical behaviour, high morale and pride in the Public Service.

Finally I hope that this Institute continues to play a significant role in the enhancement of public administration as it has done over the past 75 years.

Thank you.

